Tab 1	**CS/CS/SB 324** by **CU, FT, Legg (CO-INTRODUCERS) Simpson**; (Similar to CS/1ST ENG/H 0347) Utility Projects

Tab 2	**CS/SB 440** by **CJ, Abruzzo**; (Similar to CS/H 0217) Care for Retired Law Enforcement Dogs

Tab 3	**CS/CS/SB 488** by **FT, CA, Flores (CO-INTRODUCERS) Margolis**; (Similar to CS/H 0277) County and Municipality Homestead Tax Exemption

Tab 4	**CS/SJR 492** by **FT, Flores (CO-INTRODUCERS) Margolis**; (Identical to CS/H 0275) Homestead Tax Exemption

Tab 5	**CS/CS/SB 534** by **CU, EP, Hays**; (Similar to CS/CS/CS/H 0491) Water and Wastewater

475318	A	S		RCS	AP, Hays	Delete L.58 - 90.	03/01 05:38 PM
613326	A	S		RCS	AP, Hays	Delete L.215 - 285:	03/01 05:38 PM
443752	AA	S	L	RCS	AP, Hays	Delete L.61:	03/01 05:38 PM

Tab 6	**CS/SB 668** by **JU, Stargel**; (Compare to CS/H 0455) Family Law

840512	A	S		UNFAV	AP, Joyner	Delete L.927 - 931:	03/01 04:06 PM
580642	A	S	L	RCS	AP, Lee	Delete L.469 - 637:	03/01 04:06 PM

Tab 7	**CS/SB 670** by **CF, Gaetz**; (Similar to H 0715) Child Protection Teams

Tab 8	**SB 746** by **Negron, Sachs (CO-INTRODUCERS) Latvala**; (Compare to CS/CS/H 0427) Vessel Registrations

322510	A	S		RS	AP, Negron	Delete L.103 - 104:	03/01 06:00 PM
577340	SA	S	L	RCS	AP, Negron	Delete L.103 - 107:	03/01 06:00 PM

Tab 9	**CS/SB 760** by **AG, Bean (CO-INTRODUCERS) Sobel, Soto, Flores**; (Similar to CS/CS/CS/H 0153) Healthy Food Financing Initiative

759432	PCS	S		RCS	AP, AGG		03/01 05:33 PM
220018	PCS:A	S		RCS	AP, Grimsley	Delete L.98:	03/01 05:33 PM
~~356836~~	~~A~~	S		WD	AP, Grimsley	Delete L.98:	02/29 05:20 PM

Tab 10	**CS/SB 766** by **FT, Flores**; (Compare to CS/CS/H 0499) Ad Valorem Taxation

152060	D	S		RCS	AP, Flores	Delete everything after	03/01 06:35 PM
~~323232~~	~~AA~~	S	L	WD	AP, Hays	btw L.524 - 525:	03/01 06:35 PM

Tab 11	**CS/SB 936** by **CJ, Ring**; (Compare to CS/CS/H 1043) Criminal Justice System Interviews of Persons with Autism, an Autism Spectrum Disorder, or a Related Developmental Disability

549324	PCS	S		RCS	AP, ACJ		03/01 04:32 PM
236418	PCS:A	S		RCS	AP, Ring	Delete L.43:	03/01 04:32 PM

Tab 12	**SB 1106** by **Flores**; (Compare to CS/CS/CS/H 1383) Limited Purpose International Trust Company Representative Offices

626078	PCS	S		RCS	AP, AGG		03/01 06:45 PM
710956	PCS:A	S	L	OO	AP, Flores	Before L.39:	03/01 06:45 PM

Tab 13	**CS/SJR 1194** by **FT, Negron**; (Similar to CS/1ST ENG/H 1009) Tax Exemption for Senior, Totally Permanently Disabled First Responders

Tab 14	**CS/SB 1248** by **BI, Diaz de la Portilla**; (Compare to H 0177) Prohibited Insurance Practices						
547894	A	S	L	RCS	AP, Flores	btw L.79 - 80:	03/01 04:30 PM
972486	A	S	L	RCS	AP, Flores	Delete L.60:	03/01 04:30 PM
218156	A	S	L	RCS	AP, Flores	Delete L.63 - 67:	03/01 04:30 PM
~~895926~~	A	S	L	WD	AP, Flores	Delete L.49:	03/01 04:30 PM
385036	A	S	L	RCS	AP, Flores	btw L.79 - 80:	03/01 04:30 PM
~~407374~~	A	S	L	WD	AP, Flores	btw L.42 - 43:	03/01 04:30 PM

Tab 15	**CS/SB 1250** by **CF, Latvala**; (Similar to CS/H 0977) Behavioral Health Workforce					
760580	PCS	S		RCS	AP, AHS	03/01 06:38 PM
157918	PCS:A	S		RCS	AP, Latvala	Delete L.442: 03/01 06:38 PM

Tab 16	**CS/CS/SB 1262** by **FT, MS, Simpson**; (Similar to CS/CS/CS/H 1133) Emergency Management					
747564	A	S		RCS	AP, Galvano	Delete L.66 - 157: 03/01 05:42 PM

Tab 17	**CS/SB 1310** by **AG, Hutson**; (Compare to CS/CS/1ST ENG/H 0749) Agriculture					
529632	A	S		RCS	AP, Grimsley	Delete L.23 - 29. 03/01 05:34 PM
427514	A	S		RCS	AP, Grimsley	Delete L.112 - 135: 03/01 05:34 PM

Tab 18	**SB 1316** by **Grimsley**; (Similar to 1ST ENG/H 1061) Nurse Licensure Compact					
802108	PCS	S		RCS	AP, AHS	03/01 01:37 PM

Tab 19	**CS/SB 1360** by **ED, Gaetz (CO-INTRODUCERS) Bradley, Detert, Ring, Negron, Montford, Sobel**; Student Assessments

Tab 20	**CS/SB 1392** by **TR, Brandes**; (Compare to CS/H 1119) Transportation						
380674	PCS	S		RCS	AP, ATD		03/01 06:28 PM
169826	PCS:A	S		RCS	AP, Gaetz	Delete L.88 - 104:	03/01 06:28 PM
392996	PCS:AA	S		RCS	AP, Gaetz	In title, delete L.65 -	03/01 06:28 PM
262182	PCS:A	S		RCS	AP, Gaetz	Delete L.155 - 173:	03/01 06:28 PM
561228	PCS:A	S		RCS	AP, Gaetz	btw L.232 - 233:	03/01 06:28 PM
~~153378~~	PCS:A	S		WD	AP, Altman	btw L.232 - 233:	03/01 06:28 PM
635294	PCS:A	S		RCS	AP, Smith	btw L.259 - 260:	03/01 06:28 PM
404110	PCS:A	S		RCS	AP, Gaetz	Delete L.260 - 336:	03/01 06:28 PM
136342	PCS:A	S		RS	AP, Latvala	Delete L.260 - 474:	03/01 06:28 PM
248640	PCS:SA	S		RCS	AP, Latvala	btw L.259 - 260:	03/01 06:28 PM
174272	PCS:AA	S	L	RCS	AP, Latvala	Delete L.28 - 75.	03/01 06:28 PM
~~915410~~	PCS:A	S		WD	AP, Galvano	Delete L.416 - 418:	03/01 06:28 PM
657406	PCS:A	S		RCS	AP, Gaetz	btw L.474 - 475:	03/01 06:28 PM
194482	PCS:A	S		RCS	AP, Galvano	btw L.494 - 495:	03/01 06:28 PM
779450	PCS:AA	S	L	RCS	AP, Galvano	Delete L.94:	03/01 06:28 PM
385476	PCS:A	S		RCS	AP, Richter	btw L.515 - 516:	03/01 06:28 PM
~~110946~~	PCS:A	S	L	WD	AP, Hays	btw L.154 - 155:	03/01 06:28 PM

Tab 21	**SB 1418** by **Simmons (CO-INTRODUCERS) Garcia**; Supplemental Academic Instruction					
146376	PCS	S		RCS	AP, AED	03/01 04:35 PM

Tab 22	**CS/SB 1462** by **ED, Latvala**; (Similar to CS/1ST ENG/H 1147) Character-development Instruction					
311454	A	S			AP, Latvala	btw L.34 - 35: 02/26 03:49 PM

Tab 23	**SB 1662** by **Bradley**; (Similar to CS/H 1333) Sexual Offenders						
~~599414~~	A	S	L	WD	AP, Richter	Delete L.773 - 784:	03/01 04:09 PM
277738	A	S	L	RCS	AP, Richter	Delete L.564:	03/01 04:09 PM

Tab 24	**SB 7018** by **CF (CO-INTRODUCERS) Detert**; (Compare to CS/CS/1ST ENG/H 0599) Child Welfare					
480402	D	S		RCS	AP, Garcia	Delete everything after	03/01 04:02 PM

Tab 25	**SB 7050** by **GO**; (Compare to CS/CS/CS/H 1033) Information Technology Security						
591178	PCS	S		RCS	AP, AGG		03/01 07:00 PM
397316	PCS:D	S		RCS	AP, Ring	Delete everything after	03/01 07:00 PM
603480	PCS:AA	S		RCS	AP, Ring	Delete L.228 - 250.	03/01 07:00 PM

Tab 26	**SB 7072** by **RI**; (Compare to H 0415) Gaming

Tab 27	**SB 7074** by **RI**; (Similar to H 7111) Gaming Compact Between the Seminole Tribe of Florida and the State of Florida

Tab 28	**HB 7099** by **FTC, Gaetz (CO-INTRODUCERS) Avila, Nunez**; (Compare to CS/S 0098) Taxation						
~~941552~~	D	S		WD	AP, Hukill, Lee	Delete everything after	03/02 07:34 PM
~~523276~~	AA	S		WD	AP, Hays	btw L.4 - 5:	03/02 07:36 PM
~~453284~~	AA	S		WD	AP, Negron	btw L.4 - 5:	03/02 06:20 PM
~~342894~~	AA	S		WD	AP, Gaetz	btw L.4 - 5:	03/02 11:18 PM
~~266252~~	AA	S		WD	AP, Hays	btw L.355 - 356:	03/02 07:36 PM
403268	D	S		RE	AP, Hukill, Lee	Delete everything after	03/04 01:33 PM
~~576912~~	AA	S		WD	AP, Hays	btw L.4 - 5:	03/04 01:33 PM
~~953564~~	AA	S		WD	AP, Hays	btw L.4 - 5:	03/04 01:33 PM
~~961560~~	AA	S		WD	AP, Gaetz	btw L.4 - 5:	03/04 01:33 PM
279492	AA	S		RE	AP, Gaetz	btw L.4 - 5:	03/04 01:33 PM
673118	D	S		FAV	AP, Hukill, Lee	Delete everything after	03/04 01:33 PM
299122	A	S		OO	AP, Latvala	Delete L.189 - 380.	03/03 11:00 AM
~~960516~~	A	S		WD	AP, Negron	Delete L.682 - 729:	03/02 06:19 PM
~~624704~~	A	S		WD	AP, Negron	In directory clause, de	03/02 06:20 PM
524478	A	S		OO	AP, Hays	btw L.2304 - 2305:	03/03 11:00 AM

Tab 29	**CS/SB 318** by **EP, Richter**; (Similar to CS/1ST ENG/H 0191) Regulation of Oil and Gas Resources						
508372	PCS	S			AP, AGG		01/27 04:25 PM
790270	PCS:D	S	L	FAV	AP, Simmons	Delete everything after	03/01 07:04 PM
~~304532~~	PCS:AA	S	L	WD	AP, Lee	Delete L.46:	03/01 07:04 PM
~~792528~~	PCS:A	S	L	WD	AP, Lee	Delete L.106:	02/25 09:49 PM

The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

APPROPRIATIONS
Senator Lee, Chair
Senator Benacquisto, Vice Chair

MEETING DATE: Tuesday, March 1, 2016
TIME: 10:00 a.m.—6:00 p.m.
PLACE: *Pat Thomas Committee Room,* 412 Knott Building

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

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	**CS/CS/SB 324** Communications, Energy, and Public Utilities / Finance and Tax / Legg (Similar CS/H 347)	Utility Projects; Creating the "Utility Cost Containment Bond Act"; authorizing certain local governmental entities to finance the costs of a utility project by issuing utility cost containment bonds upon application by a local agency; authorizing an authority to issue utility cost containment bonds for specified purposes related to utility projects; requiring the local agency or its publicly owned utility to collect the utility project charge, etc. CU 01/12/2016 Favorable FT 02/08/2016 Fav/CS CU 02/23/2016 Fav/CS AP 03/01/2016 Favorable	Favorable Yeas 19 Nays 0
2	**CS/SB 440** Criminal Justice / Abruzzo (Similar CS/H 217)	Care for Retired Law Enforcement Dogs; Citing this act as the "Care for Retired Law Enforcement Dogs Program Act"; creating the Care for Retired Law Enforcement Dogs Program within the Department of Law Enforcement; requiring the department to contract with a corporation not for profit to administer and manage the program; placing an annual cap on the amount of funds available for the care of an eligible retired law enforcement dog, etc. CJ 11/17/2015 Fav/CS ACJ 01/13/2016 Favorable AP 03/01/2016 Favorable With subcommittee recommendation – Criminal and Civil Justice	Favorable Yeas 19 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	**CS/CS/SB 488** Finance and Tax / Community Affairs / Flores (Similar CS/H 277, Compare CS/HJR 275, Linked CS/SJR 492)	County and Municipality Homestead Tax Exemption; Revising the homestead tax exemption that may be adopted by a county or municipality by ordinance for the assessed value of property with a just value less than $250,000 which is owned by persons age 65 or older who meet certain residence and income requirements; specifying that just value shall be determined in the first tax year that the owner applies and is eligible for the exemption; providing for a refund of overpaid taxes in prior years, etc. CA 11/17/2015 Fav/CS FT 01/25/2016 Fav/CS AP 03/01/2016 Favorable	Favorable Yeas 17 Nays 0
4	**CS/SJR 492** Finance and Tax / Flores (Identical CS/HJR 275, Compare CS/H 277, Linked CS/CS/S 488)	Homestead Tax Exemption; Proposing an amendment to the State Constitution to revise the homestead tax exemption that may be granted by counties or municipalities, if authorized by general law, for the assessed value of property with a just value less than $250,000 and owned by persons age 65 or older who meet certain residence and income requirements to specify that just value shall be determined in the first tax year that the owner applies and is eligible for the exemption and to provide retroactive applicability and an effective date, etc. CA 11/17/2015 Favorable FT 01/25/2016 Fav/CS AP 03/01/2016 Favorable	Favorable Yeas 17 Nays 0
5	**CS/CS/SB 534** Communications, Energy, and Public Utilities / Environmental Preservation and Conservation / Hays (Similar CS/CS/CS/H 491)	Water and Wastewater; Creating a provision requiring the Division of Bond Finance of the State Board of Administration to review the allocation of private activity bonds to determine the availability of additional allocation and reallocation of bonds for water and wastewater infrastructure projects; authorizing the Department of Environmental Protection to require or request that the Florida Water Pollution Control Financing Corporation make loans, grants, and deposits to for-profit, privately owned, or investor-owned water systems, etc. EP 11/18/2015 Fav/CS CU 01/12/2016 Fav/CS AP 03/01/2016 Fav/CS	Fav/CS Yeas 19 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
6	**CS/SB 668** Judiciary / Stargel (Compare CS/H 455, H 553, CS/S 250)	Family Law; Requiring a court to consider certain alimony factors and make specific written findings of fact under certain circumstances; requiring a court to make specified findings before ruling on a request for alimony; revising the factors that are used to determine the best interests of a child; prohibiting a court from changing the duration of alimony; requiring that a child support award be adjusted to reduce the combined alimony and child support award under certain circumstances, etc. JU 02/09/2016 Not Considered JU 02/16/2016 Fav/CS ACJ 02/24/2016 Favorable AP 03/01/2016 Fav/CS	Fav/CS Yeas 13 Nays 6
	With subcommittee recommendation – Criminal and Civil Justice		
7	**CS/SB 670** Children, Families, and Elder Affairs / Gaetz (Similar H 715)	Child Protection Teams; Revising the definition of the term "officer, employee, or agent," as it applies to immunity from personal liability in certain actions, to include licensed physicians who are medical directors for or members of a child protection team, in certain circumstances, etc. CF 01/14/2016 Fav/CS JU 02/16/2016 Favorable AP 03/01/2016 Favorable	Favorable Yeas 11 Nays 7
8	**SB 746** Negron / Sachs (Compare CS/CS/H 427)	Vessel Registrations; Reducing vessel registration fees for recreational vessels equipped with certain position indicating and locating beacons; providing criteria for such reduction; clarifying county optional registration fees, etc. TR 12/03/2015 Favorable ATD 01/13/2016 Favorable AP 03/01/2016 Fav/CS	Fav/CS Yeas 18 Nays 0
	With subcommittee recommendation – Transportation, Tourism, and Economic Development		

A proposed committee substitute for the following bill (CS/SB 760) is available:

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
9	**CS/SB 760** Agriculture / Bean (Similar CS/CS/CS/H 153)	Healthy Food Financing Initiative; Directing the Department of Agriculture and Consumer Services to establish a Healthy Food Financing Initiative program to provide specified financing to construct, rehabilitate, or expand independent grocery stores and supermarkets in underserved communities in low-income and moderate-income communities; authorizing the department to contract with a third-party administrator, etc. AG 01/11/2016 Fav/CS AGG 01/26/2016 Fav/CS AP 03/01/2016 Fav/CS	Fav/CS Yeas 18 Nays 0
	With subcommittee recommendation – General Government		
10	**CS/SB 766** Finance and Tax / Flores (Compare CS/CS/H 499, CS/S 1324)	Ad Valorem Taxation; Specifying deadlines for value adjustment boards to hear petitions and issue the second tax roll certification; requiring a property appraiser to provide a specified notice to nonhomestead residential property owners who were determined to not be entitled for a certain property assessment limitation; specifying procedures for filing petitions to the value adjustment board; extending the dates for certain counties to hold public hearings and certify non-ad valorem assessment rolls, etc. CA 01/11/2016 Favorable FT 02/16/2016 Fav/CS AP 03/01/2016 Fav/CS	Fav/CS Yeas 18 Nays 0
	A proposed committee substitute for the following bill (CS/SB 936) is available:		
11	**CS/SB 936** Criminal Justice / Ring (Compare CS/CS/H 1043)	Criminal Justice System Interviews of Persons with Autism, an Autism Spectrum Disorder, or a Related Developmental Disability; Citing this act as the "The Wes Kleinert Fair Interview Act"; encouraging the use of certain state-of-the-art digital devices for the purposes of identification and notification; requiring that certain professionals with experience in treating, teaching, or assisting persons with autism, an autism spectrum disorder, or a related developmental disability be present during an interview of a person with autism, an autism spectrum disorder, or a related developmental disability conducted by specified persons unless extenuating circumstances exist, etc. CJ 02/01/2016 Fav/CS ACJ 02/11/2016 Not Considered ACJ 02/17/2016 Fav/CS AP 03/01/2016 Fav/CS	Fav/CS Yeas 17 Nays 0
	With subcommittee recommendation – Criminal and Civil Justice		

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
	A proposed committee substitute for the following bill (SB 1106) is available:		
12	**SB 1106** Flores (Compare CS/CS/CS/H 1383, H 1385, Linked CS/CS/S 1094)	Limited Purpose International Trust Company Representative Offices; Providing applicability of state banking laws to limited purpose international trust company representative offices; exempting a limited purpose international trust company representative office from licensing requirements; exempting applications for registration of limited purpose international trust company representative offices from certain provisions of ch. 120, F.S.; specifying permissible and prohibited activities by a limited purpose international trust company representative office and by certain employees, etc. BI 01/26/2016 Favorable AGG 02/24/2016 Fav/CS AP 03/01/2016 Fav/CS	Fav/CS Yeas 16 Nays 0
	With subcommittee recommendation – General Government		
13	**CS/SJR 1194** Finance and Tax / Negron (Similar CS/HJR 1009)	Tax Exemption for Senior, Totally Permanently Disabled First Responders; Proposing amendments to the State Constitution to authorize a first responder, who is age 65 or older and totally permanently disabled as a result of an injury sustained in the line of duty, to receive relief from ad valorem taxes assessed on homestead property, if authorized by general law, and to provide an effective date, etc. CA 01/19/2016 Favorable FT 02/08/2016 Fav/CS AP 03/01/2016 Favorable	Favorable Yeas 18 Nays 0
14	**CS/SB 1248** Banking and Insurance / Diaz de la Portilla (Compare H 177, CS/CS/H 671)	Prohibited Insurance Practices; Adding entities and persons that may not adjust a claim on behalf of an insured unless licensed and compliant as a public adjuster; prohibiting a person or entity from certain actions relating to the referral of certain business related to certain repair, mitigation, and restoration services; authorizing the Department of Financial Services to seek a cease and desist order and administrative fines for certain violations, etc. BI 02/16/2016 Fav/CS AGG 02/24/2016 Favorable AP 03/01/2016 Fav/CS	Fav/CS Yeas 18 Nays 0
	With subcommittee recommendation – General Government		
	A proposed committee substitute for the following bill (CS/SB 1250) is available:		

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
15	**CS/SB 1250** Children, Families, and Elder Affairs / Latvala (Similar CS/H 977, Compare H 423, S 210, S 428, CS/CS/CS/S 676)	Behavioral Health Workforce; Expanding the categories of persons who may prescribe brand name drugs under the prescription drug program when medically necessary; authorizing procedures for recommending admission of a patient to a treatment facility; limiting the authority to prescribe a controlled substance in a pain-management clinic only to a physician licensed under chapter 458 or chapter 459, F.S.; specifying acts that constitute grounds for denial of a license or for disciplinary action against an advanced registered nurse practitioner, etc. CF 02/10/2016 Fav/CS AHS 02/24/2016 Fav/CS AP 03/01/2016 Fav/CS	Fav/CS Yeas 17 Nays 0
	With subcommittee recommendation – Health and Human Services		
16	**CS/CS/SB 1262** Finance and Tax / Military and Veterans Affairs, Space, and Domestic Security / Simpson (Similar CS/CS/CS/H 1133, Compare CS/S 92)	Emergency Management; Providing that out-of-state businesses and employees who enter the state in response to a disaster or an emergency are excluded from certain registration and licensing requirements and taxes; revising the source of the principal for the Recovery Fund administered by Triumph Gulf Coast, Inc., etc. MS 02/01/2016 Fav/CS FT 02/16/2016 Fav/CS AP 03/01/2016 Fav/CS	Fav/CS Yeas 19 Nays 0
17	**CS/SB 1310** Agriculture / Hutson (Compare CS/CS/H 749, CS/CS/H 7007, CS/CS/S 1010)	Agriculture; Providing sole authority to regulate the burning of agricultural crops on certain lands to the Department of Agriculture and Consumer Services; revising the period during which certain agricultural lands in eradication or quarantine programs continue to be classified as such; preempting regulatory authority over commercial feed and feedstuff to the department, etc. AG 01/19/2016 Fav/CS AGG 02/17/2016 Favorable AP 03/01/2016 Fav/CS	Fav/CS Yeas 18 Nays 0
	With subcommittee recommendation – General Government		

A proposed committee substitute for the following bill (SB 1316) is available:

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
18	**SB 1316** Grimsley (Similar H 1061, Compare H 1063, Linked CS/S 1306)	Nurse Licensure Compact; Creating the Nurse Licensure Compact; providing for the recognition of nursing licenses in party states; providing requirements for obtaining and retaining a multistate license; providing the effect of the act on a current licensee; requiring all party states to participate in a coordinated licensure information system; providing for the development of the system, reporting procedures, and the exchange of certain information between party states; establishing the Interstate Commission of Nurse Licensure Compact Administrators; requiring the Florida Center for Nursing to analyze and make future projections of the supply and demand for nurses, etc. HP 02/09/2016 Favorable AHS 02/17/2016 Fav/CS AP 03/01/2016 Fav/CS	Fav/CS Yeas 17 Nays 0
	With subcommittee recommendation – Health and Human Services		
19	**CS/SB 1360** Education Pre-K - 12 / Gaetz (Compare CS/CS/S 524, CS/CS/S 686, CS/S 1166)	Student Assessments; Authorizing a district school board to choose to implement certain rigorous alternative assessment options by a certain school year; requiring each school district to annually notify students and parents of standard high school diploma requirements by a specified date; requiring a classroom teacher's performance evaluation to be based on the performance of certain students, etc. ED 01/27/2016 Fav/CS AED 02/11/2016 Favorable AP 03/01/2016 Favorable	Favorable Yeas 18 Nays 0
	With subcommittee recommendation – Education		
	A proposed committee substitute for the following bill (CS/SB 1392) is available:		
20	**CS/SB 1392** Transportation / Brandes (Compare CS/H 1119, H 7027, CS/CS/H 7061, CS/CS/S 756, CS/CS/S 1394, S 1552, S 2502)	Transportation; Revising the circumstances under which the Department of Transportation is authorized to direct the removal of certain traffic control devices; providing exceptions to the prohibition against certain television-type receiving equipment in vehicles; revising provisions relating to required equipment and operation of autonomous vehicles, etc. TR 01/27/2016 Fav/CS ATD 02/17/2016 Fav/CS AP 03/01/2016 Fav/CS	Fav/CS Yeas 18 Nays 0
	With subcommittee recommendation – Transportation, Tourism, and Economic Development		

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
	A proposed committee substitute for the following bill (SB 1418) is available:		
21	**SB 1418** Simmons (Compare S 2502)	Supplemental Academic Instruction; Requiring supplemental academic instruction categorical funds and research-based reading instruction allocation funds to be used by a school district that has one or more of the lowest-performing elementary schools for additional intensive reading instruction at the school during the summer program in addition to instruction during the school year, etc. ED 01/27/2016 Favorable AED 02/17/2016 Fav/CS AP 03/01/2016 Fav/CS	Fav/CS Yeas 18 Nays 0
	With subcommittee recommendation – Education		
22	**CS/SB 1462** Education Pre-K - 12 / Latvala (Similar CS/H 1147)	Character-development Instruction; Requiring character education programs to provide certain instruction to students in grades 9-12, etc. ED 02/02/2016 Fav/CS AED 02/17/2016 Temporarily Postponed AED 02/24/2016 Favorable AP 03/01/2016 Fav/CS	Fav/CS Yeas 19 Nays 0
	With subcommittee recommendation – Education		
23	**SB 1662** Bradley (Similar CS/H 1333)	Sexual Offenders; Revising the criteria for a felony offense for which an offender is designated as a sexual predator; revising the criteria for loitering or prowling by certain offenders; modifying the list of offenses for which a sexual offender or sexual predator must be considered by the department for removal from registration requirements; revising the information that the Department of Law Enforcement is required to provide about a sexual offender upon his or her release from incarceration, etc. CJ 02/08/2016 Not Considered CJ 02/16/2016 Favorable ACJ 02/24/2016 Favorable AP 03/01/2016 Fav/CS	Fav/CS Yeas 16 Nays 0
	With subcommittee recommendation – Criminal and Civil Justice		

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
24	**SB 7018** Children, Families, and Elder Affairs (Compare CS/CS/H 599)	Child Welfare; Extending court jurisdiction to age 22 for young adults with disabilities in foster care; providing conditions under which a child may be returned home with an in-home safety plan; requiring specified intervention services and supports; requiring every child placed in out-of-home care to be referred within a certain time for a comprehensive behavioral health assessment; requiring lead agencies to ensure the availability of a full array of family support services, etc. JU 12/01/2015 Favorable AHS 01/13/2016 Favorable AP 03/01/2016 Fav/CS	Fav/CS Yeas 19 Nays 0
	With subcommittee recommendation – Health and Human Services		
	A proposed committee substitute for the following bill (SB 7050) is available:		
25	**SB 7050** Governmental Oversight and Accountability (Compare CS/CS/CS/H 1033, H 1035, CS/CS/H 1037, CS/S 624)	Information Technology Security; Revising the membership of the Technology Advisory Council to include a cybersecurity expert; requiring the council, in coordination with the Florida Center for Cybersecurity, to identify and recommend STEM training opportunities; providing for the establishment of computer security incident response teams within state agencies; revising entities directed to adopt a unified state plan for K-20 STEM education to include the Technology Advisory Council, etc. AGG 02/11/2016 Fav/CS AP 03/01/2016 Fav/CS	Fav/CS Yeas 17 Nays 0
	With subcommittee recommendation – General Government		
26	**SB 7072** Regulated Industries (Compare H 415, H 1199, CS/H 7109, H 7111, CS/S 402, S 412, Linked S 7074)	Gaming; Authorizing the Department of the Lottery to create a program that authorizes certain persons to purchase a ticket or game at a point-of-sale terminal; revising provisions for applications for pari-mutuel operating licenses; requiring injuries to racing greyhounds to be reported within a certain timeframe on a form adopted by the Division of Pari-mutuel Wagering; revising the facilities that may possess slot machines and conduct slot machine gaming; authorizing blackjack table games at certain pari-mutuel facilities, etc. AP 03/01/2016 Temporarily Postponed	Temporarily Postponed

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
27	**SB 7074** Regulated Industries (Similar H 7111, Compare CS/H 7109, Linked S 7072)	Gaming Compact Between the Seminole Tribe of Florida and the State of Florida; Superseding the Gaming Compact; ratifying and approving a specified compact executed by the Governor and the Tribe contingent upon the adoption of a specified amendment to the compact; directing the Governor to cooperate with the Tribe in seeking approval of the amended compact from the United States Secretary of the Interior; expanding the games authorized to be conducted and the counties in which such games may be offered, etc. AP 03/01/2016 Temporarily Postponed	Temporarily Postponed
28	**HB 7099, 2nd Eng.** Finance and Tax Committee / Gaetz (Compare H 115, H 247, H 301, H 551, H 721, H 939, CS/H 1079, CS/S 98, S 116, CS/CS/S 698, CS/S 842, CS/S 844, CS/CS/S 1236, CS/S 1272, S 1488, S 7064)	Taxation; Revises certain documentary stamp tax provisions; specifies uses of community redevelopment agency redevelopment trust fund moneys for youth centers; revises provisions regarding payment of aerial photographs; expands exemptions & discounts from ad valorem taxes; revises excise taxes on certain aviation fuels; reduces tax on leasing of real property; authorizes credit of tax for certain resales; revises provisions regarding sales of certain aircraft; revises sales tax exemptions for a variety of entities & activities; adopts 2016 version of IRC; extends rehabilitation tax credits; extends renewable energy technology corporate income tax credits; revises due dates for partnership information & corporate tax returns; revises tax credits available for rehabilitation of certain drycleaning contaminated sites; specifies excise tax for cider made from pears; creates method of tax for certain alcoholic beverages & tobacco products; exempts certain items for specified periods from sales & use tax; provides finding of important state interest. AP 03/01/2016 Temporarily Postponed	Temporarily Postponed

Pending Reconsideration:

A proposed committee substitute for the following bill (CS/SB 318) is available:

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
29	**CS/SB 318** Environmental Preservation and Conservation / Richter (Similar CS/H 191)	Regulation of Oil and Gas Resources; Preempting the regulation of all matters relating to the exploration, development, production, processing, storage, and transportation of oil and gas; requiring that a permit be obtained before the performance of a high-pressure well stimulation; requiring the Division of Water Resource Management to give consideration to and be guided by certain additional criteria when issuing permits, etc. EP 01/13/2016 Fav/CS AGG 01/25/2016 Fav/CS AP 02/25/2016 Pending reconsider (Unfavorable) AP 03/01/2016 Abandoned reconsider (Unfavorable)	Pending Motion to Reconsider Abandoned -- Final Vote: Unfavorable Yeas 9 Nays 10

With subcommittee recommendation – General Government

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:	CS/CS/SB 324
INTRODUCER:	Communications, Energy, and Public Utilities Committee; Finance and Tax Committee; and Senators Legg and Simpson
SUBJECT:	Utility Projects
DATE:	February 29, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Caldwell	CU	**Favorable**
2.	Babin	Diez-Arguelles	FT	**Fav/CS**
3.	Wiehle	Caldwell	CU	**Fav/CS**
4.	Babin	Kynoch	AP	**Favorable**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 324 establishes a new mechanism - utility cost containment bonds - available to a utility authority to finance projects related to water or wastewater service on behalf of a municipality, county, special district, public corporation, regional water authority, or other governmental entity. Utility cost containment bonds are secured by a utility project charge levied on utility customers. The separate charge is designed to satisfy rating agency criteria to achieve a higher bond rating and, therefore, a lower interest rate and more favorable terms for bonds issued to fund eligible projects.

Briefly, the financing mechanism created by the bill operates as follows:

- A local agency applies to the authority to finance the costs of an eligible project using utility cost containment bonds.
- The authority adopts a financing resolution, setting forth certain requirements for issuance of the bonds.
- The bonds are secured by the revenues from a separate utility project charge stated on the bill of each present and future customer of the services specified in the financing resolution.
- The revenues from the charge are transferred to the authority and held in trust for the benefit of the bondholders.

The bill may reduce local government expenditures by reducing financing costs for water and waste water utility projects.

The bill takes effect July 1, 2016.

II. Present Situation:

Financing Authority of Local Government Entities for Public Works Projects

Local governments are authorized under current law to issue bonds, revenue certificates, and other forms of indebtedness related to the provision of public works projects.

County Bonding

A county may issue water revenue bonds, sewer revenue bonds, or general obligation bonds to pay all or part of the cost to purchase, construct, improve, extend, enlarge, or reconstruct water supply systems or sewage disposal systems.[1] Water revenue bonds are payable solely from water service charges.[2] Sewer revenue bonds are payable solely from sewer service charges.[3] Neither type of revenue bond pledges the property, credit, or general tax revenue of the county. General obligation bonds are payable from ad valorem taxes alone or from ad valorem taxes with an additional secured pledge of water service charges, sewer service charges, special assessments, or a combination of these sources.[4] Issuance of general obligation bonds, as required by the State Constitution,[5] requires approval by referendum, and a county is required to levy annually a special tax upon all taxable property within the county to pay the principle and interest as it becomes due.[6] Counties may also create special water and sewer districts to serve unincorporated areas, and the district's board may issue revenue bonds to finance all or part of the cost of a water system, sewer system, or both. Such bonds are payable from the revenues derived from operation of the utility system as provided by law and the authorizing resolution of the district's board.[7]

Municipal Bonding

A municipality may issue revenue bonds, general obligation bonds, ad valorem bonds, or improvement bonds to finance capital expenditures made for a public purpose. Revenue bonds are payable from sources other than ad valorem taxes and are not secured by a pledge of the property, credit, or general tax revenue of the municipality.[8] General obligation bonds are payable from any special taxes levied for the purpose of repayment and any other sources as

[1] Section 153.03(1) and (2), F.S.
[2] Section 153.02(9), F.S.
[3] Section 153.02(10), F.S.
[4] Section 153.02(11), F.S.
[5] Section 12, Article VII, of the State Constitution (providing that counties, school districts, municipalities, special districts and local governmental bodies with taxing powers may issue bonds, certificates of indebtedness or any form of tax anticipation certificates, payable from ad valorem taxation only "to finance or refinance capital projects authorized by law and only when approved by vote of the electors who are owners of freeholds therein not wholly exempt from taxation.")
[6] Section 153.07, F.S.
[7] Section 153.63(1), F.S. Such bonds may also be secured by the pledge of special assessments or the full faith and credit of the district.
[8] Section 166.101(4), F.S.

provided by the authorizing ordinance or resolution.[9] Such bonds are secured by the full faith and credit and taxing power of the municipality and may require approval by referendum. Ad valorem bonds are payable from the proceeds of ad valorem taxes and require approval by referendum.[10] Improvement bonds are special obligations payable solely from the proceeds of special assessments levied for a project.[11]

Further, a municipality may issue mortgage revenue certificates or debentures to acquire, construct, or extend public works, including, among other things, water and alternative water supply facilities, sewage collection and disposal facilities, gas plants and distribution systems, and stormwater projects.[12] These instruments constitute a lien only against the property and revenue of the utility. These instruments may not impose any tax liability upon any real or personal property in the municipality and may not constitute a debt against the issuing municipality.[13]

The Division of Bond Finance (DBF) of the State Board of Administration provides information to, and collects information from, units of local government[14] concerning the issuance of bonds by such entities.[15] Each unit of local government must provide the DBF a complete description of its new general obligation bonds and revenue bonds and must provide advance notice of the impending sale of a new issue of bonds.[16] According to the DBF, a public utility generally finances projects with revenue bonds, securing the debt with a pledge of net revenues of the utility system. These net revenues consist of the income of the public utility remaining after paying expenses necessary to operate and maintain the utility. The DBF notes that this current practice requires the efficient operation of the utility system to assure that sufficient net revenues are available to pay debt service.

Creation and Financing Authority of Intergovernmental Utility Authorities

The Florida Interlocal Cooperation Act of 1969 (Act) is intended to allow local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage.[17] The Act provides that local governmental entities may jointly exercise their powers by entering into a contract in the form of an interlocal agreement.[18] Under such an agreement, the local governmental units may create a separate legal or administrative entity "to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population, and

[9] Section 166.101(2), F.S.
[10] FLA. CONST. art. VII, s. 12; s. 166.101(3), F.S.
[11] Section 166.101, F.S., et seq.
[12] Sections 180.06 and 180.08, F.S.
[13] Section 180.08, F.S.
[14] "Unit of local government" is defined in s. 218.369, F.S., as "a county, municipality, special district, district school board, local agency, authority, or consolidated city-county government or any other local governmental body or public body corporate and politic authorized or created by general or special law and granted the power to issue general obligation or revenue bonds."
[15] Section 218.37, F.S.
[16] *Id*. The DBF is authorized only to collect information concerning these bonds; it does not exercise any substantive authority to review or approve these transactions.
[17] Section 163.01(2), F.S.
[18] Section 163.01(5), F.S.

other factors influencing the needs and development of local communities."[19] A separate entity created by an interlocal agreement possesses the authority specified in the agreement.[20] Among the authority granted such an entity is the power to authorize, issue, and sell bonds.[21]

The Act specifically addresses the establishment of such entities to provide water service or sewer service (hereinafter referred to as "intergovernmental utility authorities" or "IGUAs"). The Act authorizes the creation of IGUAs to acquire, own, construct, improve, operate, and manage public facilities relating to a governmental function or purpose, including water and alternative water supply facilities, wastewater facilities, and water reuse facilities.[22] An IGUA created under this provision may also finance such facilities on behalf of any person. The membership of an IGUA created under this provision is limited to two or more special districts, municipalities, or counties of the state. The IGUA's facilities may serve populations "within or outside of the members of the entity," but not within the service area of an existing utility system. An IGUA is not subject to regulation by the Public Service Commission.[23]

An IGUA created under s. 163.01(7)(g), F.S., may finance or refinance the acquisition, construction, expansion, and improvement of facilities through the issuance of bonds, notes, or other obligations. Except as may be limited by the interlocal agreement under which the entity is created, all of the privileges, benefits, powers, and terms of the statutes relating to counties[24] and municipalities[25] are fully applicable to the IGUA. Bonds, notes, and other obligations issued by the IGUA are issued on behalf of the public agencies that are members of the IGUA.[26]

The Florida Governmental Utility Authority (FGUA) was formed in 1999 pursuant to s. 163.01(7)(g), F.S. As noted on its website, the FGUA is a separate legal entity created by interlocal agreement with the limited purpose of owning and operating a public utility system. It provides retail water and wastewater utility services in several portions of the state. The FGUA consists of 14 counties: Alachua, Citrus, Collier, Hardee, Hillsborough, Lake, Lee, Marion, Orange, Pasco, Polk, Putnam, Seminole, and Volusia.[27] The FGUA's governing board is comprised of six members representing Citrus, Hendry, Lee, Marion, Pasco, and Polk counties.[28] Each board member is a county employee appointed by their local government.[29]

Utility Securitization Financing in Florida

Following the severe tropical storm seasons that Florida faced in 2004 and 2005, the Legislature created a new financing mechanism, referred to as securitization, by which investor-owned electric utilities could petition the Public Service Commission for issuance of a financing order

[19] Section 163.01(2), F.S.
[20] Section 163.01(7)(b), F.S.
[21] Section 163.01(7)(d), F.S.
[22] Section 163.01(7)(g), F.S.
[23] Section 367.022(2), F.S.
[24] Section 125.01, F.S.
[25] Section 166.021, F.S.
[26] Section 163.01(7)(g)7., F.S.
[27] http://www.fgua.com (*See* "History," last visited Jan. 31, 2016).
[28] http://www.fgua.com (*See* "The board," last visited Jan. 31, 2016).
[29] *Id*.

authorizing the utility to issue bonds through a separate legal entity.[30] If granted, the financing order was required to establish a nonbypassable charge to the utility's customers in order to provide a secure stream of revenues to the separate legal entity from which the bonds would be paid. The purpose of this mechanism was to allow the utilities access to low-cost financing to cover storm recovery costs and replenishment of depleted storm reserve funds. This mechanism has been implemented in only one instance.[31]

III. Effect of Proposed Changes:

Summary

The bill establishes a new financing mechanism – utility cost containment bonds – available to an authority to finance or refinance projects related to water or wastewater service on behalf of a municipality, county, special district, public corporation, regional water authority, or other governmental entity. Utility cost containment bonds are secured by a utility project charge levied on utility customers. The separate charge is designed to satisfy rating agency criteria to achieve a higher bond rating and, therefore, a lower interest rate and more favorable terms for bonds issued to fund eligible projects.

Briefly, the financing mechanism created by the bill operates as follows:

- A local agency applies to the authority to finance the costs of an eligible project using utility cost containment bonds.
- The authority adopts a financing resolution, setting forth certain requirements for issuance of the bonds.
- The bonds are secured by the revenues from a separate utility project charge stated on the bill of each present and future customer of the services specified in the financing resolution.
- The revenues from the charge are transferred to the authority and held in trust for the benefit of the bondholders.

Definitions

The bill creates a number of new definitions related to the new financing mechanism.

"Authority" means an entity created pursuant to s. 163.01(7)(g), F.S., or a separate legal entity created by one or more local agencies. This allows any local agency or agencies to act as an authority as long as it creates a separate legal entity.

"Cost," as applied to a utility project or portion of a utility project financed under this section, means any of the following:

- Any part of the expense of constructing, renovating, or acquiring lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and interests acquired or used for a utility project;

[30] Section 366.8260, F.S.
[31] Docket No. 060038-EI, Florida Public Service Commission.

- The expense of demolishing or removing any buildings or structures on acquired land, including the expense of acquiring any lands to which the buildings or structures may be moved, and the cost of all machinery and equipment used for the demolition or removal;
- Finance charges;
- Interest, as determined by the authority;
- Provisions for working capital and debt service reserves;
- Expenses for extensions, enlargements, additions, replacements, renovations, and improvements;
- Expenses for architectural, engineering, financial, accounting, and legal services, and for plans, specifications, estimates, and administration; and
- Any other expenses necessary or incidental to determining the feasibility of constructing a utility project or incidental to the construction, acquisition, or financing of a utility project.

"Customer" means a person receiving water or wastewater service from a publicly owned utility.

"Finance" or "financing" includes refinancing.

"Financing cost" means any of the following:
- Interest and redemption premiums that are payable on utility cost containment bonds;
- The cost of retiring the principal of utility cost containment bonds, whether at maturity, including acceleration of maturity upon an event of default, or upon redemption, including sinking fund redemption;
- The cost related to issuing or servicing utility cost containment bonds, including payment under an interest rate swap agreement, and any types of fee;
- A payment or expense associated with a bond insurance policy; financial guaranty; contract, agreement, or other credit or liquidity enhancement for bonds; or contract, agreement, or other financial agreement entered into in connection with utility cost containment bonds;
- Any coverage charges; and
- The funding of one or more reserve accounts related to utility cost containment bonds.

"Financing resolution" means a resolution adopted by the governing body of an authority that provides for the financing or refinancing of a utility project with utility cost containment bonds and that imposes a utility project charge in connection with the utility cost containment bonds in accordance with subsection (4). A financing resolution may be separate from a resolution authorizing the issuance of the bonds.

"Governing body" means the body that governs a local agency.

"Local agency" means a member of the authority, or an agency or subdivision of that member, that is sponsoring or refinancing a utility project, or any municipality, county, authority, special district, public corporation, regional water authority, or other governmental entity of the state that is sponsoring or refinancing a utility project.[32]

[32] Because the FGUA provides "public utility services" (water and wastewater services) that may be supported by a financeable "utility project," it appears to qualify as an authority or other governmental entity of the state and would meet the definition of a "local agency." Thus, the FGUA could be both an "authority" and a "local agency" under the bill.

"Public utility services" means water or wastewater services provided by a publicly owned utility. The term does not include communications services as defined in s. 202.11, F.S., Internet, or cable services.

"Publicly owned utility" means a utility furnishing retail or wholesale water or wastewater services which is owned and operated by a local agency. The term includes any successor to the powers and functions of such a utility.

"Revenue" means income and receipts of the authority related to the financing of utility projects and issuance of utility cost containment bonds, including any of the following:

- Bond purchase agreements;
- Bonds acquired by the authority;
- Installment sale agreements and other revenue-producing agreements entered into by the authority;
- Utility projects financed or refinanced by the authority;
- Grants and other sources of income;
- Moneys paid by a local agency;
- Interlocal agreements with a local agency, including all service agreements;
- Interest or other income from any investment of money in any fund or account established for the payment of principal, interest, or premiums on utility cost containment bonds, or the deposit of proceeds of utility cost containment bonds.

"Utility cost containment bonds" means bonds, notes, commercial paper, variable rate securities, and any other evidences of indebtedness issued by an authority, the proceeds of which are used directly or indirectly to pay or reimburse a local agency or its publicly owned utility for the costs of a utility project and which are secured by a pledge of, and are payable from, utility project property.

"Utility project" means the acquisition, construction, installation, retrofitting, rebuilding, or other addition to or improvement of any equipment, device, structure, process, facility, technology, rights, or property located in or out of the state that is used in connection with the operations of a publicly owned utility.

"Utility project charge" means a charge levied on customers of a publicly owned utility to pay the financing costs of utility cost containment bonds issued pursuant to the bill. The term includes any authorized adjustment to the utility project charge.

"Utility project property" means the property right created by the bill. The term does not include any interest in a customer's real or personal property, but does include the right, title, and interest of an authority in any of the following:

- The financing resolution, the utility project charge, and any adjustment to the utility project charge;
- The financing costs of the utility cost containment bonds and all revenues, and all collections, claims, payments, moneys, or proceeds for, or arising from, the utility project charge; and
- All rights to obtain adjustments to the utility project charge pursuant to the bill.

Local Agency Authority

The process to issue utility cost containment bonds is initiated by the governing body of the local agency holding a public meeting and determining:

- The project to be financed is a utility project;[33]
- The local agency will finance costs of the utility project and the associated financing costs will be paid from utility project property (i.e., the charge to utility customers);
- Based on the best information available, the rates charged to the local agency's retail customers by the publicly owned utility, including the utility project charge resulting from the financing of the utility project with utility cost containment bonds, are expected to be lower than the rates that would be charged if the project was financed with bonds payable from revenues of the publicly owned utility.

After such meeting and determinations, the local agency may apply to the utility authority to finance the costs of a utility project using the proceeds of utility cost containment bonds. In its application, the local agency must specify the utility project to be financed, the maximum principal amount, the maximum interest rate, and the maximum stated terms of the utility cost containment bonds.

The Utility Authority

The bill authorizes an authority to issue utility cost containment bonds to finance or refinance utility projects; to refinance debt of a local agency previously issued to finance or refinance such projects, if the refinancing results in present value savings; or, upon approval of a local agency, to refinance previously issued utility cost containment bonds.

To finance a utility project, the authority may form a single-purpose limited liability company and authorize the company to adopt the financing resolution. Alternatively, the authority and two or more of its members or other public agencies may create a new single-purpose entity by interlocal agreement. Either type of entity may be created by the authority solely for the purposes of performing the duties and responsibilities of the authority and is treated as an authority for purposes of the bill.

With respect to regional water projects, the authority may work with local agencies that request assistance to determine the most cost-effective manner of financing. If these entities determine that issuance of utility cost containment bonds will result in lower financing costs for a project, the authority may issue the bonds at the request of the local agencies.

The governing body of an authority that is financing the costs of an eligible utility project must adopt a financing resolution and impose a utility project charge. All provisions of the financing resolution are binding on the authority. The financing resolution must include the following:

- A description of the financial calculation method the authority will use to determine the utility project charge. The calculation method must include a periodic adjustment methodology to be applied at least annually to the utility project charge. The adjustment methodology may not be changed. The authority must establish the allocation of the utility

[33] Under the bill, this determination is deemed "final and conclusive."

project charge among classes of customers of the publicly owned utility. The decisions of the authority are final and conclusive.

- A requirement that each customer in the class or classes of customers specified in the financing resolution who receives water or wastewater service through the publicly owned utility must pay the utility project charge, regardless of whether the customer has an agreement to receive water or wastewater service from a person other than the publicly owned utility.
- A requirement that the utility project charge be charged separately from other charges on the bill of each customer of the utility that is in the class or classes of customers specified in the financing resolution.
- A requirement that the authority enter into a servicing agreement with the local agency or its publicly owned utility to collect the utility project charge.

The authority may require in the financing resolution that, in the event of default by the local agency or its publicly owned utility, the authority must order the sequestration and payment to the beneficiaries of the revenues arising from the utility project property (discussed in detail, below) if the beneficiaries apply for payment of the revenues under a lien. This may apply to a successor entity as well. If a local agency that has outstanding utility cost containment bonds ceases to operate a water or wastewater utility, directly or through its publicly owned utility, any successor entity must assume and perform all obligations of the local agency and its publicly owned utility and assume the servicing agreement with the authority while the utility cost containment bonds remain outstanding.

Utility Project Charges

In the financing resolution, the authority must impose a utility project charge sufficient to ensure timely payment of all financing costs with respect to utility cost containment bonds. The charge must be based on estimates of water or wastewater service usage. The authority may require information from the local agency or its publicly owned utility to establish the charge.

The utility project charge is a nonbypassable charge on all present and future customers of the publicly owned utility in the class or classes of customers specified in the financing resolution at the time of its adoption. If a customer who is subject to the charge enters into an agreement to purchase water or wastewater service from a supplier other than the publicly owned utility, the customer remains liable for payment of the charge if the customer continues to receive any service from the publicly owned utility for the transmission, distribution, processing, delivery, or metering of the underlying water or wastewater service (for example, if the customer gets a well or if a competitor were allowed to also serve the area).

At least annually, and at any other interval specified in the financing resolution and related documents, the authority must determine whether adjustments to the utility project charge are required and, if so, make the necessary adjustments to correct for any overcollection or undercollection of financing costs from the charge or to otherwise ensure timely payment of the financing costs of the bonds, including payment of any required debt service coverage. The authority may require information from the local agency or its publicly owned utility to adjust the charge. If an adjustment is deemed necessary, it must be made using the methodology

specified in the financing resolution. An adjustment may not impose the charge upon a class of customers not previously subject to the charge under the financing resolution.

Revenues from a utility project charge are deemed special revenues of the authority and do not constitute revenue of the local agency or its publicly owned utility for any purpose. The local agency or its publicly owned utility must act as a servicing agent for collecting the charge pursuant to a servicing agreement to be required by the financing resolution. The local agency or its publicly owned utility is authorized to use its established collection policies and remedies under law to enforce collection of the charge. The money collected must be held in trust for the exclusive benefit of the persons entitled to have the financing costs paid from the utility project charge.

The timely and complete payment of all utility project charges by the customer is a condition of receiving water or wastewater service from the publicly owned utility. A customer liable for a utility project charge is not permitted to withhold payment of any portion of the charge.

The pledge of a utility project charge to secure payment of utility cost containment bonds is irrevocable, and the state or any other entity is not permitted to reduce, impair, or otherwise adjust the utility project charge, except for the periodic adjustments that the authority is required to make pursuant to the financing resolution.

Utility Project Property

The utility project charge constitutes utility project property when a financing resolution authorizing the charge becomes effective. Utility project property constitutes property, including contracts that secure utility cost containment bonds, whether or not the revenues and proceeds arising with respect to the utility project property have accrued. The utility project property continuously exists as property for all purposes for the period provided in the financing resolution or until all financing costs with respect to the related utility cost containment bonds are paid in full, whichever occurs first.

Upon the effective date of the financing resolution, the utility project property is subject to a first priority statutory lien to secure the payment of the utility cost containment bonds. The lien secures the payment of all financing costs that exist at that time or that subsequently arise to the holders of the bonds, the trustee or representative for the holders of the bonds, and any other entity specified in the financing resolution or the documents relating to the bonds. The lien attaches to the utility project property regardless of the current ownership of the utility project property, including any local agency or its publicly owned utility, the authority, or other person.

Upon the effective date of the financing resolution, the lien is valid and enforceable against the owner of the utility project property and all third parties, and additional public notice is not required. The lien is a continuously perfected lien on all revenues and proceeds generated from the utility project property, regardless of whether the revenues or proceeds have accrued.

All revenues with respect to utility project property related to utility cost containment bonds, including payments of the utility project charge, must first be applied to the payment of the financing costs of the bonds then due, including the funding of reserves for the bonds. Any

excess revenues will be applied as determined by the authority for the benefit of the utility for which the bonds were issued.

Utility Cost Containment Bonds

The proceeds of utility cost containment bonds made available to the local agency or its publicly owned utility must be used for the utility project identified in the application for financing of the project or used to refinance indebtedness of the local agency that financed or refinanced the project. The bonds must be issued pursuant to the provisions of the bill and the procedures specified for intergovernmental utility authorities under s. 163.01(7)(g)8., F.S., and may be validated pursuant to existing procedures for such entities under s. 163.01(7)(g)9., F.S.

The authority must pledge all utility project property as security for payment of the bonds. All rights of the authority with respect to the pledged property are for the benefit of and enforceable by the beneficiaries of the pledge as provided in the related financing documents.

If utility project property is pledged as security for the payment of utility cost containment bonds, the local agency or its publicly owned utility must enter into a contract with the authority which requires that the local agency or its utility:

- Continue to operate the utility, including the utility project that is being financed or refinanced;
- Collect the utility project charge from customers for the benefit and account of the authority and the beneficiaries of the pledge of the charge; and
- Separately account for and remit revenue from the utility project charge to, or for the account of, the authority.

The utility cost containment bonds are nonrecourse to the credit or any assets of the local agency or the publicly owned utility but are payable from, and secured by a pledge of, the utility project property relating to the bonds and any additional security or credit enhancement specified in the documents relating to the bonds. If the authority is financing the project through a single-purpose limited liability company, the bonds are payable from, and secured by, a pledge of amounts paid by the company to the authority from the applicable utility project property. This represents the exclusive method of perfecting a pledge of utility project property by the company.

The issuance of utility cost containment bonds does not obligate the state or any political subdivision of the state to levy or to pledge any form of taxation to pay the bonds or to make any appropriation for their payment. Each bond must contain on its face the following statement or a similar statement: "Neither the full faith and credit nor the taxing power of the State of Florida or any political subdivision thereof is pledged to the payment of the principal of, or interest on, this bond."

The authority may not rescind, alter, or amend any resolution or document that pledges utility cost charges for payment of utility cost containment bonds.

Subject to the terms of the pledge document, the validity and relative priority of a pledge is not defeated or adversely affected by the commingling of revenues generated by the utility project

property with other funds of the local agency or the publicly owned utility collecting a utility project charge on behalf of an authority.

Financing costs in connection with utility cost containment bonds are a special obligation of the authority and do not constitute a liability of the state or any political subdivision of the state. Financing costs are not a pledge of the full faith and credit of the state or any political subdivision, including the authority, but are payable solely from the funds identified in the documents relating to the bonds. This does not preclude guarantees or credit enhancements in connection with the bonds.

Except as provided in the bill with respect to adjustments to a utility project charge, recovery of the financing costs for utility cost containment bonds from the utility project charge is irrevocable. Further, the authority is prohibited from: rescinding, altering, or amending the applicable financing resolution to revalue or revise the financing costs of the bonds for ratemaking purposes; determining that the financing costs for the related bonds or the utility project charge is unjust or unreasonable; or in any way reducing or impairing the value of utility project property that includes the charge. The amount of revenues arising with respect to the financing costs for the related bonds or the charge are not subject to reduction, impairment, postponement, or termination for any reason until all financing costs to be paid from the charge are fully met and discharged.

Further, except as provided in the bill with respect to adjustments to a utility project charge, the bill establishes a pledge that the state may not limit or alter the financing costs or the utility project property, including the utility project charge associated with the bonds, or any rights related to the utility project property until all financing costs with respect to the bonds are fully discharged. This provision does not preclude limitation or alteration if adequate provision is made by law to protect the owners of the bonds. The state's pledge may be included by the authority in the governing documents for the bonds.

Bankruptcy Prohibition

Notwithstanding any other law, an authority that has issued utility cost containment bonds may not become a debtor under the United States Bankruptcy Code or become the subject of any similar case or proceeding under any other state or federal law if any payment obligation from utility project property remains with respect to the bonds. Further, a governmental officer or organization may not authorize the authority to become such a debtor or become subject to such a case or proceeding in this circumstance.

Construction

The bill provides for liberal construction of the bond provisions to effectively carry out its intent and purposes. Further, the bill expressly grants and confers upon public entities all incidental powers necessary to carry the bill into effect.

The bill takes effect July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Under CS/CS/SB 324, customers may benefit from lower financing costs for local agency utility projects, if the resulting savings are passed through to customers. The bill does not require that savings be passed through to customers.

Once utility cost containment bonds are issued, a customer will be obligated to pay the charge for as long as he or she resides on property within the service territory.

C. Government Sector Impact:

The bill may reduce local government expenditures by reducing financing costs for water or wastewater utility projects for utilities owned and operated by a local agency, including any municipality, county, special district, public corporation, regional water authority, or other governmental entity sponsoring or refinancing a utility project.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates an undesignated section of Florida law.

IX. Additional Information:

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

CS/CS by Communications, Energy, and Public Utilities on February 23, 2016:
The CS deletes the eminent domain provisions added in Finance and Tax.

It also removes the requirement, but grants discretionary authority, for each authority to work with local agencies that request assistance in determining the most cost-effective manner of financing regional water projects, and, if bonds are to be issued, to cooperate with the local agencies and, if requested by the local agencies, issue utility cost containment bonds.

CS by Finance and Tax on February 8, 2016:
The CS amends the definition of "authority" to mean an entity created under s. 163.01(7)(g), F.S., or a separate legal entity created by one or more local agencies. The CS requires the PSC to notify a county when a petition for revocation is filed and clarifies that counties can condemn a utility through eminent domain proceedings after a petition for revocation is filed with the PSC. The CS makes findings that water service should be priced at a rate commensurate with the market and quality of the service provided and that customers have a right to participate in the selection of their water service provider. The CS removes the option of the PSC to require a utility to take necessary steps to correct quality of water service after finding that the utility is not providing quality of water service.

B. Amendments:

None.

By the Committees on Communications, Energy, and Public Utilities; and Finance and Tax; and Senators Legg and Simpson

579-04014-16 2016324c2

A bill to be entitled

An act relating to utility projects; providing a short title; defining terms; authorizing certain local governmental entities to finance the costs of a utility project by issuing utility cost containment bonds upon application by a local agency; specifying application requirements; requiring a successor entity of a local agency to assume and perform the obligations of the local agency with respect to the financing of a utility project; providing procedures for local agencies to use when applying to finance a utility project using utility cost containment bonds; authorizing an authority to issue utility cost containment bonds for specified purposes related to utility projects; authorizing an authority to form alternate entities to finance utility projects; requiring the governing body of the authority to adopt a financing resolution and impose a utility project charge on customers of a publicly owned utility as a condition of utility project financing; specifying required and optional provisions of the financing resolution; specifying powers of the authority; requiring the local agency or its publicly owned utility to assist the authority in the establishment or adjustment of the utility project charge; requiring that customers of the public utility specified in the financing resolution pay the utility project charge; providing for adjustment of the utility project charge; establishing ownership of the revenues of the utility project charge; requiring the local agency or its publicly owned utility to collect the utility

579-04014-16 2016324c2

project charge; conditioning a customer's receipt of public utility services on payment of the utility project charge; authorizing a local agency or its publicly owned utility to use available remedies to enforce collection of the utility project charge; providing that the pledge of the utility project charge to secure payment of bonds issued to finance the utility project is irrevocable and cannot be reduced or impaired except under certain conditions; providing that a utility project charge constitutes utility project property; providing that utility project property is subject to a lien to secure payment of costs relating to utility cost containment bonds; establishing payment priorities for the use of revenues of the utility project property; providing for the issuance and validation of utility cost containment bonds; securing the payment of utility cost containment bonds and related costs; providing that utility cost containment bonds do not obligate the state or any political subdivision and are not backed by their full faith and credit and taxing power; requiring that certain disclosures be printed on utility cost containment bonds; providing that financing costs related to utility cost containment bonds are an obligation of the authority only; providing limitations on the state's ability to alter financing costs or utility project property under certain circumstances; prohibiting an authority with outstanding payment obligations on utility cost

containment bonds from becoming a debtor under certain federal or state laws; providing for construction; endowing public entities with certain powers; providing an effective date.

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

Section 1. Utility Cost Containment Bond Act.—

(1) SHORT TITLE.—This section may be cited as the "Utility Cost Containment Bond Act."

(2) DEFINITIONS.—As used in this section, the term:

(a) "Authority" means an entity created under s. 163.01(7)(g), Florida Statutes, or a separate legal entity created by one or more local agencies. The term includes any successor to the powers and functions of such an entity.

(b) "Cost," as applied to a utility project or a portion of a utility project financed under this section, means:

1. Any part of the expense of constructing, renovating, or acquiring lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and interests acquired or used for a utility project;

2. The expense of demolishing or removing any buildings or structures on acquired land, including the expense of acquiring any lands to which the buildings or structures may be moved, and the cost of all machinery and equipment used for the demolition or removal;

3. Finance charges;

4. Interest, as determined by the authority;

5. Provisions for working capital and debt service

reserves;

6. Expenses for extensions, enlargements, additions, replacements, renovations, and improvements;

7. Expenses for architectural, engineering, financial, accounting, and legal services, plans, specifications, estimates, and administration; or

8. Any other expenses necessary or incidental to determining the feasibility of constructing a utility project or incidental to the construction, acquisition, or financing of a utility project.

(c) "Customer" means a person receiving water or wastewater service from a publicly owned utility.

(d) "Finance" or "financing" includes refinancing.

(e) "Financing cost" means:

1. Interest and redemption premiums that are payable on utility cost containment bonds;

2. The cost of retiring the principal of utility cost containment bonds, whether at maturity, including acceleration of maturity upon an event of default, or upon redemption, including sinking fund redemption;

3. The cost related to issuing or servicing utility cost containment bonds, including any payment under an interest rate swap agreement and any type of fee;

4. A payment or expense associated with a bond insurance policy; financial guaranty; contract, agreement, or other credit or liquidity enhancement for bonds; or contract, agreement, or other financial agreement entered into in connection with utility cost containment bonds;

5. Any coverage charges; or

6. The funding of one or more reserve accounts relating to utility cost containment bonds.

(f) "Financing resolution" means a resolution adopted by the governing body of an authority that provides for the financing or refinancing of a utility project with utility cost containment bonds and that imposes a utility project charge in connection with the utility cost containment bonds in accordance with subsection (4). A financing resolution may be separate from a resolution authorizing the issuance of the bonds.

(g) "Governing body" means the body that governs a local agency.

(h) "Local agency" means a member of the authority, or an agency or subdivision of that member, which is sponsoring or refinancing a utility project, or any municipality, county, authority, special district, public corporation, regional water authority, or other governmental entity of the state that is sponsoring or refinancing a utility project.

(i) "Public utility services" means water or wastewater services provided by a publicly owned utility. The term does not include communications services, as defined in s. 202.11, Florida Statutes, Internet access services, or information services.

(j) "Publicly owned utility" means a utility providing retail or wholesale water or wastewater services which is owned and operated by a local agency. The term includes any successor to the powers and functions of such a utility.

(k) "Revenue" means income and receipts of the authority related to the financing of utility projects and issuance of utility cost containment bonds, including any of the following:

1. Bond purchase agreements;

2. Bonds acquired by the authority;

3. Installment sales agreements and other revenue-producing agreements entered into by the authority;

4. Utility projects financed or refinanced by the authority;

5. Grants and other sources of income;

6. Moneys paid by a local agency;

7. Interlocal agreements with a local agency, including all service agreements; or

8. Interest or other income from any investment of money in any fund or account established for the payment of principal, interest, or premiums on utility cost containment bonds, or the deposit of proceeds of utility cost containment bonds.

(l) "Utility cost containment bonds" means bonds, notes, commercial paper, variable rate securities, and any other evidence of indebtedness issued by an authority the proceeds of which are used directly or indirectly to pay or reimburse a local agency or its publicly owned utility for the costs of a utility project and which are secured by a pledge of, and are payable from, utility project property.

(m) "Utility project" means the acquisition, construction, installation, retrofitting, rebuilding, or other addition to or improvement of any equipment, device, structure, process, facility, technology, rights, or property located within or outside this state which is used in connection with the operations of a publicly owned utility.

(n) "Utility project charge" means a charge levied on customers of a publicly owned utility to pay the financing costs

of utility cost containment bonds issued under subsection (4). The term includes any adjustments to the utility project charge made under subsection (5).

(o) "Utility project property" means the property right created pursuant to subsection (6). The term does not include any interest in a customer's real or personal property but includes the right, title, and interest of an authority in any of the following:

1. The financing resolution, the utility project charge, and any adjustment to the utility project charge established in accordance with subsection (5);

2. The financing costs of the utility cost containment bonds and all revenues, and all collections, claims, payments, moneys, or proceeds for, or arising from, the utility project charge; or

3. All rights to obtain adjustments to the utility project charge pursuant to subsection (5).

(3) UTILITY PROJECTS.—

(a) A local agency that owns and operates a publicly owned utility may apply to an authority to finance the costs of a utility project using the proceeds of utility cost containment bonds. In its application to the authority, the local agency shall specify the utility project to be financed by the utility cost containment bonds and the maximum principal amount, the maximum interest rate, and the maximum stated terms of the utility cost containment bonds.

(b) A local agency may not apply to an authority for the financing of a utility project under this section unless the governing body has determined, in a duly noticed public meeting,

all of the following:

1. The project to be financed is a utility project.

2. The local agency will finance costs of the utility project, and the costs associated with the financing will be paid from utility project property, including the utility project charge for the utility cost containment bonds.

3. Based on the best information available to the governing body, the rates charged to the local agency's retail customers by the publicly owned utility, including the utility project charge resulting from the financing of the utility project with utility cost containment bonds, are expected to be lower than the rates that would be charged if the project were financed with bonds payable from revenues of the publicly owned utility.

(c) A determination by the governing body that a project to be financed with utility cost containment bonds is a utility project is final and conclusive, and the utility cost containment bonds issued to finance the utility project and the utility project charge are valid and enforceable as set forth in the financing resolution and the documents relating to the utility cost containment bonds.

(d) If a local agency that has outstanding utility cost containment bonds ceases to operate a water or wastewater utility, directly or through its publicly owned utility, references in this section to the local agency or to its publicly owned utility must be to the successor entity. The successor entity shall assume and perform all obligations of the local agency and its publicly owned utility required by this section and shall assume the servicing agreement required under subsection (4) while the utility cost containment bonds remain

outstanding.

(4) FINANCING UTILITY PROJECTS.—

(a) An authority may issue utility cost containment bonds to finance or refinance utility projects; refinance debt of a local agency incurred in financing or refinancing utility projects, provided such refinancing results in present value savings to the local agency; or, with the approval of the local agency, refinance previously issued utility cost containment bonds.

1. To finance a utility project, the authority may:

a. Form a single-purpose limited liability company and authorize the company to adopt the financing resolution of such utility project; or

b. Create a new single-purpose entity by interlocal agreement under s. 163.01, Florida Statutes, the membership of which shall consist of the authority and two or more of its members or other public agencies.

2. A single-purpose limited liability company or a single-purpose entity may be created by the authority solely for the purpose of performing the duties and responsibilities of the authority specified in this section and constitutes an authority for all purposes of this section. Reference to the authority includes a company or entity created under this paragraph.

(b) The governing body of an authority that is financing the costs of a utility project shall adopt a financing resolution and shall impose a utility project charge as described in subsection (5). All provisions of a financing resolution adopted pursuant to this section are binding on the authority.

1. The financing resolution must:

a. Provide a brief description of the financial calculation method the authority will use in determining the utility project charge. The calculation method must include a periodic adjustment methodology to be applied at least annually to the utility project charge. The authority shall establish the allocation of the utility project charge among classes of customers of the publicly owned utility. The decision of the authority is final and conclusive, and the method of calculating the utility project charge and the periodic adjustment may not be changed;

b. Require each customer in the class or classes of customers specified in the financing resolution who receives water or wastewater service through the publicly owned utility to pay the utility project charge regardless of whether the customer has an agreement to receive water or wastewater service from a person other than the publicly owned utility;

c. Require that the utility project charge be charged separately from other charges on the bill of customers of the publicly owned utility in the class or classes of customers specified in the financing resolution; and

d. Require that the authority enter into a servicing agreement with the local agency or its publicly owned utility to collect the utility project charge.

2. The authority may require in the financing resolution that, in the event of a default by the local agency or its publicly owned utility with respect to revenues from the utility project property, the authority, upon application by the beneficiaries of the statutory lien as set forth in subsection

(6), shall order the sequestration and payment to the beneficiaries of revenues arising from utility project property. This subparagraph does not limit any other remedies available to the beneficiaries by reason of default.

(c) An authority has all the powers provided in this section and s. 163.01(7)(g), Florida Statutes.

(d) Each authority may work with local agencies that request assistance to determine the most cost-effective manner of financing regional water projects. If these entities determine that the issuance of utility cost containment bonds will result in lower financing costs for a project, the authority may cooperate with such local agencies and, if requested by the local agencies, issue utility cost containment bonds as provided in this section.

(5) UTILITY PROJECT CHARGE.—

(a) The authority shall impose a sufficient utility project charge, based on estimates of water or wastewater service usage, to ensure timely payment of all financing costs with respect to utility cost containment bonds. The local agency or its publicly owned utility shall provide the authority with information concerning the publicly owned utility which may be required by the authority in establishing the utility project charge.

(b) The utility project charge is a nonbypassable charge to all present and future customers of the publicly owned utility in the class or classes of customers specified in the financing resolution upon its adoption. If the regulatory structure for the water or wastewater industry changes in a manner that authorizes a customer to choose to take service from an alternative

supplier, the customer remains liable for paying the utility project charge if the customer continues to receive any service from the publicly owned utility for the transmission, distribution, processing, delivery, or metering of the underlying water or wastewater service.

(c) The authority shall determine at least annually and at such additional intervals as provided in the financing resolution and documents related to the applicable utility cost containment bonds whether adjustments to the utility project charge are required. The authority shall use the adjustment to correct for any overcollection or undercollection of financing costs from the utility project charge or to make any other adjustment necessary to ensure the timely payment of the financing costs of the utility cost containment bonds, including adjustment of the utility project charge to pay any debt service coverage requirement for the utility cost containment bonds. The local agency or its publicly owned utility shall provide the authority with information concerning the publicly owned utility which may be required by the authority in adjusting the utility project charge.

1. If the authority determines that an adjustment to the utility project charge is required, the adjustment must be made using the methodology specified in the financing resolution.

2. The adjustment may not impose the utility project charge on a class of customers which was not subject to the utility project charge pursuant to the financing resolution imposing the utility project charge.

(d) Revenues from a utility project charge are special revenues of the authority and do not constitute revenue of the

local agency or its publicly owned utility for any purpose, including any dedication, commitment, or pledge of revenue, receipts, or other income that the local agency or its publicly owned utility has made or will make for the security of any of its obligations.

(e) The local agency or its publicly owned utility shall act as a servicing agent for collecting the utility project charge throughout the duration of the servicing agreement required by the financing resolution. The local agency or its publicly owned utility shall hold the money collected in trust for the exclusive benefit of the persons entitled to have the financing costs paid from the utility project charge, and the money does not lose its designation as revenues of the authority by virtue of possession by the local agency or its publicly owned utility.

(f) The customer must make timely and complete payment of all utility project charges as a condition of receiving water or wastewater service from the publicly owned utility. The local agency or its publicly owned utility may use its established collection policies and remedies provided under law to enforce collection of the utility project charge. A customer liable for a utility project charge may not withhold payment, in whole or in part, thereof.

(g) The pledge of a utility project charge to secure payment of utility cost containment bonds is irrevocable, and the state, or any other entity, may not reduce, impair, or otherwise adjust the utility project charge, except that the authority shall implement the periodic adjustments to the utility project charge as provided under this subsection.

(6) UTILITY PROJECT PROPERTY.—

(a) A utility project charge constitutes utility project property on the effective date of the financing resolution authorizing such utility project charge. Utility project property constitutes property, including contracts for securing utility cost containment bonds, regardless of whether the revenues and proceeds arising with respect to the utility project property have accrued. Utility project property shall continuously exist as property for all purposes with all of the rights and privileges of this section through the end of the period provided in the financing resolution or until all financing costs with respect to the related utility cost containment bonds are paid in full, whichever occurs first.

(b) Upon the effective date of the financing resolution, the utility project property is subject to a first-priority statutory lien to secure the payment of the utility cost containment bonds.

1. The lien secures the payment of all financing costs then existing or subsequently arising to the holders of the utility cost containment bonds, the trustees or representatives of the holders of the utility cost containment bonds, and any other entity specified in the financing resolution or the documents relating to the utility cost containment bonds.

2. The lien attaches to the utility project property regardless of the current ownership of the utility project property, including any local agency or its publicly owned utility, the authority, or any other person.

3. Upon the effective date of the financing resolution, the lien is valid and enforceable against the owner of the utility

project property and all third parties, and additional public notice is not required.

4. The lien is a continuously perfected lien on all revenues and proceeds generated from the utility project property regardless of whether the revenues or proceeds have accrued.

(c) All revenues with respect to utility project property related to utility cost containment bonds, including payments of the utility project charge, shall be applied first to the payment of the financing costs of the utility cost containment bonds then due, including the funding of reserves for the utility cost containment bonds. Any excess revenues shall be applied as determined by the authority for the benefit of the utility for which the utility cost containment bonds were issued.

(7) UTILITY COST CONTAINMENT BONDS.—

(a) Utility cost containment bonds shall be issued within the parameters of the financing provided by the authority pursuant to this section. The proceeds of the utility cost containment bonds made available to the local agency or its publicly owned utility shall be used for the utility project identified in the application for financing of the utility project or used to refinance indebtedness of the local agency which financed or refinanced utility projects.

(b) Utility cost containment bonds shall be issued as set forth in this section and s. 163.01(7)(g)8., Florida Statutes, and may be validated pursuant to s. 163.01(7)(g)9., Florida Statutes.

(c) The authority shall pledge the utility project property

as security for the payment of the utility cost containment bonds. All rights of an authority with respect to utility project property pledged as security for the payment of utility cost containment bonds shall be for the benefit of, and enforceable by, the beneficiaries of the pledge to the extent provided in the financing documents relating to the utility cost containment bonds.

1. If utility project property is pledged as security for the payment of utility cost containment bonds, the local agency or its publicly owned utility shall enter into a contract with the authority which requires, at a minimum, that the publicly owned utility:

a. Continue to operate its publicly owned utility, including the utility project that is being financed or refinanced;

b. Collect the utility project charge from customers for the benefit and account of the authority and the beneficiaries of the pledge of the utility project charge; and

c. Separately account for and remit revenue from the utility project charge to, or for the account of, the authority.

2. The pledge of a utility project charge to secure payment of utility cost containment bonds is irrevocable, and the state or any other entity may not reduce, impair, or otherwise adjust the utility project charge, except that the authority shall implement periodic adjustments to the utility project charge as provided under subsection (5).

(d) Utility cost containment bonds shall be nonrecourse to the credit or any assets of the local agency or the publicly owned utility but are payable from, and secured by a pledge of

the utility project property relating to the utility cost containment bonds and any additional security or credit enhancement specified in the documents relating to the utility cost containment bonds. If, pursuant to subsection (4), the authority is financing the project through a single-purpose limited liability company, the utility cost containment bonds shall be payable from, and secured by, a pledge of amounts paid by the company to the authority from the applicable utility project property. This paragraph is the exclusive method of perfecting a pledge of utility project property by the company securing the payment of financing costs under any agreement of the company in connection with the issuance of utility cost containment bonds.

(e) The issuance of utility cost containment bonds does not obligate the state or any political subdivision thereof to levy or to pledge any form of taxation to pay the utility cost containment bonds or to make any appropriation for their payment. Each utility cost containment bond must contain on its face a statement in substantially the following form:

"Neither the full faith and credit nor the taxing power of the State of Florida or any political subdivision thereof is pledged to the payment of the principal of, or interest on, this bond."

(f) Notwithstanding any other law or this section, a financing resolution or other resolution of the authority, or documents relating to utility cost containment bonds, the authority may not rescind, alter, or amend any resolution or document that pledges utility cost charges for payment of

utility cost containment bonds.

(g) Subject to the terms of any pledge document created under this section, the validity and relative priority of a pledge is not defeated or adversely affected by the commingling of revenues generated by the utility project property with other funds of the local agency or the publicly owned utility collecting a utility project charge on behalf of an authority.

(h) Financing costs in connection with utility cost containment bonds are a special obligation of the authority and do not constitute a liability of the state or any political subdivision thereof. Financing costs are not a pledge of the full faith and credit of the state or any political subdivision thereof, including the authority, but are payable solely from the funds identified in the documents relating to the utility cost containment bonds. This paragraph does not preclude guarantees or credit enhancements in connection with utility cost containment bonds.

(i) Except as otherwise provided in this section with respect to adjustments to a utility project charge, the recovery of the financing costs for the utility cost containment bonds from the utility project charge is irrevocable, and the authority does not have the power, by rescinding, altering, or amending the applicable financing resolution, to revalue or revise for ratemaking purposes the financing costs of utility cost containment bonds; to determine that the financing costs for the related utility cost containment bonds or the utility project charge is unjust or unreasonable; or to in any way, either directly or indirectly, reduce or impair the value of utility project property that includes the utility project

charge. The amount of revenues arising with respect to the financing costs for the related utility cost containment bonds or the utility project charge is not subject to reduction, impairment, postponement, or termination for any reason until all financing costs to be paid from the utility project charge are fully met and discharged.

(j) Except as provided in subsection (5) with respect to adjustments to a utility project charge, the state pledges and agrees with the owners of utility cost containment bonds that the state may not limit or alter the financing costs or the utility project property, including the utility project charge, relating to the utility cost containment bonds, or any rights related to the utility project property, until all financing costs with respect to the utility cost containment bonds are fully met and discharged. This paragraph does not preclude limitation or alteration if adequate provision is made by law to protect the owners. The authority may include the state's pledge in the governing documents for utility cost containment bonds.

(8) LIMITATION ON DEBT RELIEF.—Notwithstanding any other law, an authority that issued utility cost containment bonds may not, and a governmental officer or organization may not authorize the authority to, become a debtor under the United States Bankruptcy Code or become the subject of any similar case or proceeding under any other state or federal law if any payment obligation from utility project property remains with respect to the utility cost containment bonds.

(9) CONSTRUCTION.—This section and all grants of power and authority in this section shall be liberally construed to effectuate their purposes. All incidental powers necessary to

carry this section into effect are expressly granted to, and conferred upon, public entities.

Section 2. This act shall take effect July 1, 2016.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Education Pre-K - 12, Chair
Ethics and Elections, Vice Chair
Appropriations Subcommittee on Education
Fiscal Policy
Government Oversight and Accountability
Higher Education

SENATOR JOHN LEGG
17th District

Legg.John.web@FLSenate.gov

February 8, 2016

The Honorable Tom Lee
Committee on Appropriations, Chair
201 The Capitol
404 South Monroe Street
Tallahassee, FL 32399

RE: CS/SB 324 - Utility Projects

Dear Chair Lee:

CS/SB 324: Utility Projects has been referred to your committee. I respectfully request that it be placed on the Committee on Appropriations Agenda, at your convenience. Your leadership and consideration are appreciated.

Sincerely,

John Legg
State Senator, District 17

cc: Cindy Kynoch, Staff Director
Alicia Weiss, Administrative Assistant

REPLY TO:
❒ 262 Crystal Grove Boulevard, Lutz, Florida 33548 (813) 909-9919
❒ 316 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5017

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

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Education Pre-K - 12, Chair
Ethics and Elections, Vice Chair
Appropriations Subcommittee on Education
Fiscal Policy
Government Oversight and Accountability
Higher Education

SENATOR JOHN LEGG
17th District

Legg.John.web@FLSenate.gov

February 24, 2016

The Honorable Tom Lee
Committee on Appropriations, Chair
201 The Capitol
404 South Monroe Street
Tallahassee, FL 32399

RE: CS/CS/SB 324 - Utility Projects

Dear Chair Lee:

S/CS/SB 324: Utility Projects has been referred to your committee. I respectfully request that it be placed on the Committee on Appropriations Agenda, at your convenience. Your leadership and consideration are appreciated.

Sincerely,

John Legg
State Senator, District 17

cc: Cindy Kynoch, Staff Director
Alicia Weiss, Administrative Assistant

REPLY TO:
❒ 262 Crystal Grove Boulevard, Lutz, Florida 33548 (813) 909-9919
❒ 316 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5017

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

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

Duplicate

THE FLORIDA SENATE

APPEARANCE RECORD

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

03/01/2016
Meeting Date

SB 324
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Utility Bonds

Name Howard E. "Gene" Adams

Job Title Attorney

Address 460 Meadow Ridge Drive
Street

Tallahassee Fla. 32312-1578
City *State* *Zip*

Phone 850-222-3533

Email gene@penningtonlaw.com

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Florida Governmental Utility Authority

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)

3 / 1 /2016
Meeting Date

Topic _____ Bill Number 324
(if applicable)

Name BRIAN PITTS Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

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

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

Speaking: ☐ For ☐ Against ☑ Information

Representing JUSTICE-2-JESUS

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

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

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

S-001 (10/20/11)

The Florida Senate

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 440
INTRODUCER:	Criminal Justice Committee and Senator Abruzzo
SUBJECT:	Care for Retired Law Enforcement Dogs
DATE:	February 29, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Cannon	CJ	**Fav/CS**
2.	Clodfelter	Sadberry	ACJ	**Recommend: Favorable**
3.	Clodfelter	Kynoch	AP	**Favorable**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 440 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 program will be administered and managed by a not-for-profit corporation in a contractual arrangement with the Florida Department of Law Enforcement (FDLE).

The bill includes an appropriation of $300,000 in recurring general revenue funds for the purpose of implementing the program.

The bill provides an effective date of July 1, 2016.

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. Law enforcement agencies agree that the use of law enforcement dogs is an extremely cost-effective means for crime control and that these dogs possess skills and abilities that frequently exceed that of existing technology.[1]

[1] http://www.brevardsheriff.com/home/commands-services/operational-services/k-9-unit/ (last visited December 21, 2015); www.soflretiredk9fund.com and http://www.wsvn.com/story/27320793/student-launches-retired-k-9-donation-fund (last visited November 4, 2015).

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.[2]

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 or department). 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.

"Retired law enforcement dog" is defined by the bill as a dog that has received certification in obedience and apprehension work from a certifying organization, such as the National Police Canine Association.[3] The dog must have 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 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.

The bill adopts the term "veterinarian" from s. 474.202, F.S. Subsection (11) of s. 474.202, 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.[4] The bill defines "veterinary care" as the practice of veterinary medicine as defined in s. 474.202, F.S., by a veterinarian. The definition of "veterinary care" includes:

- Annual wellness examinations,

[2] Read more: http://www.odmp.org/k9/1497-k9-koda#ixzz2vrveuHYu

[3] www.npca.net (last visited November 4, 2015). The National Police Canine Association is one of many such organizations in the country, including The Florida Law Enforcement Canine Association (FLECA) which is a 501(c)(3) non-profit organization dedicated to the training and certification of Florida's Law Enforcement Canine Teams according to the website, http://www.flecak9.com/. Additionally, the department provides a 400 hour K-9 Team training course and proficiency exam.

[4] 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.

- Vaccines,
- Internal and external parasite prevention treatments,
- Testing and treatment of illnesses and diseases,
- Medications,
- Emergency care and surgeries,
- Care provided in specialties of veterinary medicine such as veterinary oncology, and
- Euthanasia and cremation services.

The department is directed to contract with a corporation not-for-profit, organized under ch. 617, F.S., to administer and manage the program.[5] The corporation will be selected through a competitive grant award process. The corporation must:

- Be dedicated to the protection and care of retired law enforcement dogs.
- Hold tax-exempt status under the Internal Revenue code as a s. 501(c)(3) organization.[6]
- 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.
- Receive administrative fees, including salaries and benefits, not to exceed 10 percent of appropriated funds.

The bill contains legislative findings related to the value of law enforcement dogs to the residents of Florida.

The department is given rulemaking authority to implement the provisions in the bill.

The bill provides an effective date of July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

[5] Section 617.01401(5), F.S., defines "corporation not for profit" to be a corporation no part of the income or profit of which is distributable to its members, directors, or officers, except as otherwise provided under this chapter.
[6] See 26 U.S.C.A. s. 501(c)(3).

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, CS/SB 440 will have a positive financial impact for those persons.

C. Government Sector Impact:

The bill includes an appropriation of $300,000 in recurring general revenue funds 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.

VI. Technical Deficiencies:

None.

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.)

CS by Criminal Justice on November 17, 2015:

- Contains a new definition of "veterinary care."
- Requires that the retired law enforcement dog's former handler or adopter must show proof of payment of the veterinary services for which he or she seeks reimbursement.
- Specifies that the selection process for the corporation not-for-profit to administer the program will be accomplished through a competitive grant award process.

B. Amendments:

None.

By the Committee on Criminal Justice; and Senator Abruzzo

591-01282-16 2016440c1

A bill to be entitled

An act relating to care for retired law enforcement dogs; creating s. 943.69, F.S.; providing a short title; defining terms; providing legislative findings; creating the Care for Retired Law Enforcement Dogs Program within the Department of Law Enforcement; requiring the department to contract with a corporation not for profit to administer and manage the program; providing requirements for the corporation not for profit; providing requirements for the disbursement of funds for the veterinary care of eligible retired law enforcement dogs; placing an annual cap on the amount of funds available for the care of an eligible retired law enforcement dog; prohibiting a former handler or adopter from receiving reimbursement if funds are depleted for the year for which such reimbursement is sought; providing for administrative fees; requiring the department to adopt rules; providing an appropriation; providing an effective date.

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

Section 1. Section 943.69, Florida Statutes, is created to read:

943.69 Care for Retired Law Enforcement Dogs Program.—

(1) SHORT TITLE.—This section may be cited as the "Care for Retired Law Enforcement Dogs Program Act."

(2) DEFINITIONS.—As used in this section, the term:

591-01282-16 2016440c1

(a) "Law enforcement agency" means a lawfully established state or local public agency having 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.

(b) "Retired law enforcement dog" means a dog that was previously in the service of or employed by a law enforcement agency in this state for the principal purpose of aiding in the detection of criminal activity, enforcement of laws, or apprehension of offenders and that received certification in obedience and apprehension work from a certifying organization such as the National Police Canine Association or other certifying organization.

(c) "Veterinarian" has the same meaning as provided in s. 474.202.

(d) "Veterinary care" means the practice of veterinary medicine as defined in s. 474.202 by a veterinarian. The term includes annual wellness examinations, vaccines, internal and external parasite prevention treatments, testing and treatment of illnesses and diseases, medications, emergency care and surgeries, specialty care such as veterinary oncology, euthanasia, and cremation.

(3) LEGISLATIVE FINDINGS.—The Legislature finds that:

(a) Law enforcement dogs have become an integral part of many law enforcement efforts statewide, including the apprehension of suspects through tracking and searching, evidence location, drug and bomb detection, and search and rescue operations;

(b) Law enforcement agencies agree that the use of law

enforcement dogs is an extremely cost-effective means of crime control and that these dogs possess skills and abilities that frequently exceed those of existing technology;

(c) The service of law enforcement dogs is often dangerous and can expose them to injury at a rate higher than that of nonservice dogs; and

(d) Law enforcement dogs provide significant contributions to the residents of this state.

(4) ESTABLISHMENT OF PROGRAM.-The Care for Retired Law Enforcement Dogs Program is created within the department to provide a stable funding source for veterinary care provided to these dogs.

(5) ADMINISTRATION.—The department shall contract with a corporation not for profit organized under chapter 617 to administer and manage the Care for Retired Law Enforcement Dogs Program. Notwithstanding chapter 287, the department shall select a corporation not for profit through a competitive grant award process which:

(a) Is dedicated to the protection or care of retired law enforcement dogs;

(b) Is exempt from taxation under s. 501(a) of the Internal Revenue Code as an organization described in s. 501(c)(3) of that code;

(c) Has maintained such tax-exempt status for at least 5 years;

(d) Agrees to be subject to review and audit at the discretion of the Auditor General in order to ensure accurate accounting and disbursement of state funds; and

(e) Demonstrates the ability to effectively and efficiently

disseminate information and to assist former handlers and adopters of retired law enforcement dogs in complying with this section.

(6) FUNDING.—

(a) The corporation not for profit shall be the disbursing authority for funds appropriated by the Legislature to the department for the Care for Retired Law Enforcement Dogs Program. These funds shall be disbursed to the former handler or adopter of a retired law enforcement dog upon receipt of:

1. Valid documentation from the law enforcement agency from which the dog retired which verifies that the dog was in the service of or employed by such agency; and

2. A valid invoice from a veterinarian for veterinary care provided in this state to a retired law enforcement dog and documentation establishing payment of the invoice by the former handler or adopter of a retired law enforcement dog.

(b) Annual disbursements to a former handler or adopter to reimburse him or her for the cost of veterinary care provided to a retired law enforcement dog may not exceed $1,500 per dog. A former handler or adopter of a retired law enforcement dog may not accumulate unused funds from a current year for use in a future year.

(c) A former handler or adopter of a retired law enforcement dog who seeks reimbursement for veterinary care may not receive reimbursement if funds appropriated for the Care for Retired Law Enforcement Dogs Program are depleted in the year for which the reimbursement is sought.

(7) ADMINISTRATIVE FEES.—The corporation not for profit must receive administrative fees, including salaries and

benefits, of up to 10 percent of appropriated funds.

(8) RULEMAKING AUTHORITY.-The department shall adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this section.

Section 2. For the 2016-2017 fiscal year, and each fiscal year thereafter, the sum of $300,000 in recurring funds is appropriated from the General Revenue Fund to the Department of Law Enforcement for the purpose of implementing the Care for Retired Law Enforcement Dogs Program.

Section 3. This act shall take effect July 1, 2016.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Finance and Tax, *Vice Chair*
Appropriations Subcommittee on Health and Human Services
Communications, Energy, and Public Utilities
Community Affairs
Fiscal Policy
Regulated Industries

JOINT COMMITTEE:
Joint Legislative Auditing Committee, *Alternating Chair*

SENATOR JOSEPH ABRUZZO
Minority Whip
25th District

January 13th, 2016

The Honorable Tom Lee
418 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chairman Lee:

I respectfully request Senate Bill 440, Care for Retired Law Enforcement Dogs, be considered for placement on the Appropriations' Committee agenda. This piece of legislation will create the "Care for Retired Law Enforcement Dogs Program" to provide a stable funding source for handlers and adopters of retired law enforcement dogs to ensure their veterinary services are covered after their service to our state. This program will be administered through the Florida Department of Law Enforcement (FDLE).

Thank you in advance for your consideration. Please feel free to notify me if I can provide you with any additional information.

Sincerely,

Joseph Abruzzo

Cc: Cindy Kynoch, *Staff Director*

REPLY TO:
❒ 12300 Forest Hill Boulevard, Suite 200, Wellington, Florida 33414-5785 (561) 791-4774 FAX: (888) 284-6495
❒ 110 Dr. Martin Luther King, Jr. Boulevard, Belle Glade, Florida 33430-3900 (561) 829-1410
❒ 222 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5025

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

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/16
Meeting Date

SB 440
Bill Number (if applicable)

Topic App. Law Enforcement dogs

Amendment Barcode (if applicable)

Name Greg Pound

Job Title

Address 9166 Sunrise Dr.
Street

Phone

Largo Fla 33773
City *State* *Zip*

Email

Speaking: ☐ For ☐ Against ☒ Information

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

Representing Pinellas County Florida Government Corruption

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-1-16
Meeting Date

440
Bill Number (if applicable)

Topic Care For Retired Law Enforcement Dogs
Amendment Barcode (if applicable)

Name Richardean Wright

Job Title Lodge FOP-530

Address 5530 Beach Blvd
Street

Phone 398-7010

JAX FL
City *State* *Zip*

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Fop Lodge 5-30 / law enforcenet

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-1-16
Meeting Date

440
Bill Number (if applicable)

Topic CARE FOR RETIRED LAW ENFORCEMENT DOGS

Amendment Barcode (if applicable)

Name DENNIS BLANKENSHIP

Job Title TRUSTEE FOP 5-30

Address 5530 BEACH BLVD
Street

Phone 398-7010

City *State* *Zip*

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FOP LODGE 5-30 / LAW ENFORCEMENT

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/16
Meeting Date

440
Bill Number (if applicable)

Topic Care For Retired Law Enforcement Dogs

Amendment Barcode (if applicable)

Name Steve Zona

Job Title President Lodge 5-30

Address 5530 Beach Blvd.
Street

Phone 398-7010

Jacksonville FL 32207
City *State* *Zip*

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Fop Lodge 530 / Law Enforcement

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/2014
Meeting Date

SB 440
Bill Number (if applicable)

Topic Care for Retired LEO Dogs

Amendment Barcode (if applicable)

Name Matt Puckett

Job Title Lobbyist

Address 320 East Brevard St
Street

Tallahassee FL 32301
City *State* *Zip*

Phone

Email

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Police Benevolent Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3 / 1 /2016
Meeting Date

Topic _____ Bill Number 440 *(if applicable)*

Name BRIAN PITTS Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

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

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

Speaking: ☑ For ☐ Against ☑ Information

Representing JUSTICE-2-JESUS

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

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S-001 (10/20/11)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL:	CS/CS/SB 488
INTRODUCER:	Finance and Tax Committee; Community Affairs Committee; and Senators Flores and Margolis
SUBJECT:	County and Municipality Homestead Tax Exemption
DATE:	February 29, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Present	Yeatman	CA	**Fav/CS**
2.	Babin	Diez-Arguelles	FT	**Fav/CS**
3.	Babin	Kynoch	AP	**Favorable**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 488 provides that for purposes of the property tax exemption for long-term, low-income seniors who have a homestead with a just value less than $250,000, the $250,000 limitation is measured at the time the owner first applies and is eligible for the exemption.

The bill is effective on the same date CS/SJR 492 or a similar joint resolution takes effect. If CS/SJR 492 is approved by voters at the November 2016 general election, CS/CS/SB 488 will become effective on January 1, 2017, and will apply retroactively to the 2013 property tax roll for any person who received the exemption before the effective date of the bill.

The Revenue Estimating Conference (REC) has determined that CS/CS/SB 488 has an indeterminate impact because it is contingent on a joint resolution (CS/SJR 492 (2016)), which requires voter approval. If the joint resolution is approved by the voters, CS/CS/SB 488 will reduce local property taxes by $2.3 million in Fiscal Year 2016-2017. If the bill is fully implemented only within the jurisdictions that currently provide the exemption, local property taxes will be reduced by $500,000 in Fiscal Year 2017-2018, with a recurring impact of $1.2 million. If all counties and municipalities choose to grant the exemption, local property taxes will be reduced by $1.6 million in Fiscal Year 2017-2018, with a recurring impact of $4.2 million.

II. Present Situation:

General Overview of Property Taxation

The ad valorem tax or "property tax" is an annual tax levied by counties, municipalities, school districts, and some special districts. The tax is based on the taxable value of property as of January 1 of each year.[1] The property appraiser annually determines the "just value"[2] of property within the taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property's "taxable value."[3] Tax bills are mailed in November of each year based on the previous January 1 valuation and payment is due by March 31.

The Florida Constitution prohibits the state from levying ad valorem taxes[4] and limits the Legislature's authority to provide for property valuations at less than just value, unless expressly authorized.[5]

The just valuation standard generally requires the property appraiser to consider the highest and best use of property;[6] however, the Florida Constitution authorizes certain types of property to be valued based on their current use (classified use assessments), which often result in lower assessments. Properties that receive classified use treatment in Florida include: agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for noncommercial recreational purposes;[7] land used for conservation purposes;[8] historic properties when authorized by the county or municipality;[9] and certain working waterfront property.[10]

Property Tax Exemptions for Homesteads

Statewide Homestead Exemption

Every person having legal and equitable title to real estate and who maintains a permanent residence on the real estate (homestead property) is eligible for a $25,000 tax exemption applicable to all ad valorem tax levies, including levies by school districts.[11] An additional $25,000 exemption applies to homestead property value between $50,000 and $75,000. This exemption does not apply to ad valorem taxes levied by school districts.

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[1] Both real property and tangible personal property are subject to tax. Section 192.001(12), F.S., defines "real property" as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines "tangible personal property" as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

[2] Property must be valued at "just value" for purposes of property taxation, unless the Florida Constitution provides otherwise. FLA. CONST. art VII, s. 4. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm's-length transaction. *See Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

[3] *See* s. 192.001(2) and (16), F.S.

[4] FLA. CONST. art. VII, s. 1(a).

[5] *See* FLA. CONST. art. VII, s. 4.

[6] Section 193.011(2), F.S.

[7] FLA. CONST. art. VII, s. 4(a).

[8] FLA. CONST. art. VII, s. 4(b).

[9] FLA. CONST. art. VII, s. 4(e).

[10] FLA. CONST. art. VII, s. 4(j).

[11] FLA. CONST. art VII, s. 6(a) and s. 196.031, F.S.

Additional Homestead Exemptions for Qualified Senior Citizens

The Florida Constitution also authorizes the Legislature to allow counties and municipalities to grant additional homestead property tax exemptions for persons aged 65 years or over whose household income does not exceed $20,000 (low-income seniors).[12] The income limitation is adjusted each year according to changes in the consumer price index; the 2015 household income threshold for these exemptions is $28,448.[13] The exemptions require the owner to hold legal or equitable title to the real estate and maintain thereon their permanent residence.

$50,000 Additional Exemption. Since 1999, counties and municipalities have been authorized to grant an additional homestead exemption not exceeding $50,000 for low-income seniors.[14]

Long-term, Low-Income Seniors with Homesteads under $250,000. Since 2013, counties and municipalities have been authorized to also exempt the entire assessed value of a low-income senior's homestead with a just value less than $250,000 if the low-income senior has maintained that homestead for not less than 25 years.[15] Taxpayers who initially receive the exemption are denied the exemption in a later year if the just value of their homestead exceeds $250,000.

A county or municipality may grant either or both of the additional exemptions and must do so by ordinance pursuant to the procedures prescribed in chapter 125 or 166, F.S.[16] The ordinance must specify that the exemption applies only to taxes levied by the unit of government granting the exemption.[17]

For purposes of the exemption, "household income" means "the adjusted gross income, as defined in s. 62 of the United States Internal Revenue Code, of all members of a household."[18] The term "household" means "a person or group of persons living together in a room or group of rooms as a housing unit, but the term does not include persons boarding in or renting a portion of the dwelling."[19]

III. Effect of Proposed Changes:

Section 1 amends s. 196.075(2)(b), F.S., to provide that for purposes of the long-term, low-income senior exemption for homesteads with a just value under $250,000, the $250,000 limitation is measured at the time the property owner first applies and is eligible for the exemption.

Section 2 provides that the just value of property that received the exemption prior to the effective date of the bill, is the just value as determined in the first year that the owner applied

[12] FLA. CONST. Art. VII, s. 6(d)(1) and (2).
[13] Florida Department of Revenue, *Florida Property Tax Valuation and Income Limitation Rates, available at* http://dor.myflorida.com/dor/property/resources/limitations.html (last visited Feb. 26, 2016).
[14] FLA. CONST. art. VII, s. 6(d)(1) and s. 196.075(2)(a), F.S.
[15] FLA. CONST. art. VII, s. 6(d)(2) and s. 196.075(2)(b), F.S.
[16] Section 196.075(4)(a), F.S.
[17] Because the exemption applies only to taxes levied by the county or municipality that enacts the exemption, it does not apply to taxes levied by school districts or other taxing authorities. *See* s. 196.075, F.S.
[18] Section 196.075(1)(b), F.S.
[19] Section 196.075(1)(a), F.S.

and was eligible for the exemption, and the person may reapply for the exemption in subsequent years, regardless of the current just value of the property.

Section 3 provides that persons who received the exemption prior to the effective date of the bill, but were denied the exemption in a later year solely because the just value of the property exceeded $250,000, may apply to the tax collector for a refund. The refund is equal to the difference between the previous tax liability for the year or years without the exemption and the tax liability with the exemption.

Section 4 provides that the bill becomes effective on the same date that CS/SJR 492 or a similar joint resolution becomes effective. If CS/SJR 492 or a similar joint resolution is approved at the November 2016 general election, the bill will become effective on January 1, 2017, and will apply retroactively to the 2013 tax roll, for any person who received the exemption prior to January 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

CS/CS/SB 488 does not require counties or municipalities to spend funds or take action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenues in the aggregate, or reduce the percentage of state tax shared with counties or municipalities. As such, it does not fall within the mandate provisions of Article VII, section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference (REC) has determined that CS/CS/SB 488 has an indeterminate impact because it is contingent on a joint resolution (CS/SJR 492 (2016)), which requires voter approval. If the joint resolution is approved, CS/CS/SB 488 will reduce local property taxes by $2.3 million in Fiscal Year 2016-2017. If CS/CS/SB 488 is fully implemented only within the jurisdictions that currently provide the exemption, local property taxes will be reduced by $500,000 in Fiscal Year 2017-2018, with a recurring impact of $1.2 million. If all counties and municipalities choose to grant the exemption, local property taxes will be reduced by $1.6 million in Fiscal Year 2017-2018, with a recurring impact of $4.2 million.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 196.075 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 Finance and Tax on January 25, 2016:
The CS/CS:

- Clarifies that the $250,000 limitation is measured at the time that a person applies and qualifies for the exemption.
- Changes the effective date from January 3, 2017, to January 1, 2017, and applies the provisions of the bill retroactively to the 2013 property tax roll for any person who received the exemption prior to January 1, 2017.
- Provides refunds for any person who received the exemption prior to the effective date of the bill, but was later denied the exemption solely because the just value of his or her property exceeded $250,000.

CS by Community Affairs on November 17, 2015:
Inserts the linked bill, SJR 492, into the effective date of the bill.

B. Amendments:

None.

By the Committees on Finance and Tax; and Community Affairs; and Senator Flores

593-02543A-16 2016488c2

A bill to be entitled

An act relating to a county and municipality homestead tax exemption; amending s. 196.075, F.S.; revising the homestead tax exemption that may be adopted by a county or municipality by ordinance for the assessed value of property with a just value less than $250,000 which is owned by persons age 65 or older who meet certain residence and income requirements; specifying that just value shall be determined in the first tax year that the owner applies and is eligible for the exemption; providing for a refund of overpaid taxes in prior years; providing retroactive applicability; providing a contingent effective date.

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

Section 1. Subsection (2) of section 196.075, Florida Statutes, is amended to read:

196.075 Additional homestead exemption for persons 65 and older.—

(2) In accordance with s. 6(d), Art. VII of the State Constitution, the board of county commissioners of any county or the governing authority of any municipality may adopt an ordinance to allow either or both of the following additional homestead exemptions:

(a) Up to $50,000 for a ~~any~~ person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner, who has attained age 65, and whose household income does not exceed $20,000.~~; or~~

(b) The amount of the assessed value of the property for a ~~any~~ person who has the legal or equitable title to real estate

593-02543A-16 2016488c2

with a just value less than $250,000, as determined in the first tax year that the owner applies and is eligible for the exemption, and who has maintained thereon the permanent residence of the owner for at least 25 years, who has attained age 65, and whose household income does not exceed the income limitation prescribed in paragraph (a), as calculated in subsection (3).

Section 2. For purposes of s. 196.075(2)(b), Florida Statutes, as amended by this act, the just value determination for a person who received the exemption under s. 196.075(2)(b), Florida Statutes, before the effective date of this act shall be the just value as determined in the first tax year that the owner applied and was eligible for the exemption before the effective date of this act. Such person may reapply for the exemption in subsequent years, regardless of the current just value of his or her homestead property.

Section 3. For purposes of s. 196.075(2)(b), Florida Statutes, as amended by this act, a person who received the exemption under s. 196.075(2)(b), Florida Statutes, before the effective date of this act may apply to the tax collector for a refund, pursuant to s. 197.182, Florida Statutes, for any prior year in which the exemption was denied solely because the just value of the homestead property was greater than $250,000. The refund for any year shall be equal to the difference between the previous tax liability for that year without the exemption and the tax liability with the exemption.

Section 4. This act shall take effect on the same date that CS/SJR 492 or a similar joint resolution having substantially the same specific intent and purpose takes effect, if such joint

resolution is approved by the electors at the general election to be held in November 2016, and shall apply retroactively to the 2013 tax roll for any person who received the exemption under s. 196.075(2)(b) before the effective date of this act.

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

The Florida Senate

Committee Agenda Request

To: Senator Tom Lee, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: January 26, 2016

I respectfully request that **Senate Bill # 488**, relating to County and Municipality Homestead Tax Exemption, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Anitere Flores

Senator Anitere Flores
Florida Senate, District 37

File signed original with committee office

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/16
Meeting Date

488
Bill Number (if applicable)

Topic County & Municipality Homestead Tax Exemption
Amendment Barcode (if applicable)

Name Martha Cleaver

Job Title Governmental Consultant

Address P.O. Box 11275
Street
Tallahassee, FL 32302
City *State* *Zip*

Phone 850-491-1945

Email marthacleaver@fapa.net

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FL Assoc. of Property Appraisers

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)

3/1/16
Meeting Date

SB488
Bill Number (if applicable)

Topic Senior Homestead Exemption

Amendment Barcode (if applicable)

Name Diana Arteaga

Job Title Director Govt Relations

Address _____
Street

Phone 786-469-1644

_____
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 City of Miami

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

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

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

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

S-001 (10/14/14)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL:	CS/SJR 492
INTRODUCER:	Finance and Tax Committee; and Senators Flores and Margolis
SUBJECT:	Homestead Tax Exemption
DATE:	February 29, 2016
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Present	Yeatman	CA	**Favorable**
2.	Babin	Diez-Arguelles	FT	**Fav/CS**
3.	Babin	Kynoch	AP	**Favorable**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SJR 492 proposes an amendment to the Florida Constitution to provide that for purposes of the property tax exemption for long-term, low-income seniors who have a homestead with a just value of less than $250,000, the $250,000 limitation is measured at the time the owner first applies and is eligible for the exemption.

The bill will require approval by a three-fifths vote of the membership of each house of the Legislature for passage.

If approved by the voters in the general election held November 2016, the bill will become effective on January 1, 2017, and will operate retroactively to January 1, 2013, for any person who received the exemption prior to January 1, 2017.

The Revenue Estimating Conference (REC) has determined that the bill has an indeterminate impact because it requires voter approval. If approved by the voters and implemented by CS/CS/SB 488 (2016), local property taxes will be reduced by $2.3 million in Fiscal Year 2016-2017. If fully implemented only within the jurisdictions that currently provide the exemption, local property taxes will be reduced by $500,000 in Fiscal Year 2017-2018, with a recurring impact of $1.2 million. If all counties and municipalities choose to grant the exemption, local property taxes will be reduced by $1.6 million in Fiscal Year 2017-2018, with a recurring impact of $4.2 million.

II. Present Situation:

General Overview of Property Taxation

The ad valorem tax or "property tax" is an annual tax levied by counties, municipalities, school districts, and some special districts. The tax is based on the taxable value of property as of January 1 of each year.[1] The property appraiser annually determines the "just value"[2] of property within the taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property's "taxable value."[3] Tax bills are mailed in November of each year based on the previous January 1 valuation and payment is due by March 31.

The Florida Constitution prohibits the state from levying ad valorem taxes[4] and limits the Legislature's authority to provide for property valuations at less than just value, unless expressly authorized.[5]

The just valuation standard generally requires the property appraiser to consider the highest and best use of property;[6] however, the Florida Constitution authorizes certain types of property to be valued based on their current use (classified use assessments), which often result in lower assessments. Properties that receive classified use treatment in Florida include: agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for noncommercial recreational purposes;[7] land used for conservation purposes;[8] historic properties when authorized by the county or municipality;[9] and certain working waterfront property.[10]

Property Tax Exemptions for Homesteads

Statewide Homestead Exemption

Every person having legal and equitable title to real estate and who maintains a permanent residence on the real estate (homestead property) is eligible for a $25,000 tax exemption applicable to all ad valorem tax levies, including levies by school districts.[11] An additional $25,000 exemption applies to homestead property value between $50,000 and $75,000. This exemption does not apply to ad valorem taxes levied by school districts.

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[1] Both real property and tangible personal property are subject to tax. Section 192.001(12), F.S., defines "real property" as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines "tangible personal property" as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

[2] Property must be valued at "just value" for purposes of property taxation, unless the Florida Constitution provides otherwise. FLA. CONST. art VII, s. 4. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm's-length transaction. *See Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

[3] *See* s. 192.001(2) and (16), F.S.

[4] FLA. CONST. art. VII, s. 1(a).

[5] *See* FLA. CONST. art. VII, s. 4.

[6] Section 193.011(2), F.S.

[7] FLA. CONST. art. VII, s. 4(a).

[8] FLA. CONST. art. VII, s. 4(b).

[9] FLA. CONST. art. VII, s. 4(e).

[10] FLA. CONST. art. VII, s. 4(j).

[11] FLA. CONST. art VII, s. 6(a).

Additional Homestead Exemptions for Qualified Senior Citizens

The Florida Constitution also authorizes the Legislature to allow counties and municipalities to grant additional homestead property tax exemptions for persons aged 65 years or over whose household income does not exceed $20,000 (low-income seniors).[12] The income limitation is adjusted each year according to changes in the consumer price index; the 2015 household income threshold for these exemptions is $28,448.[13] The exemptions require the owner to hold legal or equitable title to the real estate and maintain thereon their permanent residence.

$50,000 Additional Exemption. Since 1999, counties and municipalities have been authorized to grant an additional homestead exemption not exceeding $50,000 for low-income seniors.[14]

Long-term, Low-Income Seniors with Homesteads under $250,000. Since 2013, counties and municipalities have been authorized to also exempt the entire assessed value of a low-income senior's homestead with a just value less than $250,000 if the low-income senior has maintained that homestead for not less than 25 years.[15] Taxpayers who initially receive the exemption are denied the exemption in a later year if the just value of their homestead exceeds $250,000.

A county or municipality may grant either or both of the additional exemptions and must do so by ordinance pursuant to the procedures prescribed in chapter 125 or 166, F.S.[16] The ordinance must specify that the exemption applies only to taxes levied by the unit of government granting the exemption.[17]

For purposes of the exemption, "household income" means "the adjusted gross income, as defined in s. 62 of the United States Internal Revenue Code, of all members of a household."[18] The term "household" means "a person or group of persons living together in a room or group of rooms as a housing unit, but the term does not include persons boarding in or renting a portion of the dwelling."[19]

III. Effect of Proposed Changes:

The bill amends Article VII, s. 6 of the Florida Constitution to provide that for purposes of the long-term, low-income senior exemption for homesteads with a just value under $250,000, the $250,000 limitation is measured at the time the property owner first applies and is eligible for the exemption.

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[12] FLA. CONST. Art. VII, s. 6(d)(1) and (2).
[13] Florida Department of Revenue, *Florida Property Tax Valuation and Income Limitation Rates, available at* http://dor.myflorida.com/dor/property/resources/limitations.html (last visited Feb. 26, 2016).
[14] FLA. CONST. art. VII, s. 6(d)(1) and s. 196.075(2), F.S.
[15] FLA. CONST. art. VII, s. 6(d)(2).
[16] Section 196.075(4)(a), F.S.
[17] Because the exemption applies only to taxes levied by the county or municipality that enacts the exemption, it does not apply to taxes levied by school districts or other taxing authorities. *See* s. 196.075, F.S.
[18] Section 196.075(1)(b), F.S.
[19] Section 196.075(1)(a), F.S.

If approved by 60 percent of voters at the November 2016 general election, the proposed constitutional amendment will be effective on January 1, 2017, and is retroactive to January 1, 2013, for any person who received the exemption prior to January 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate provisions in Article VII, s. 18 of the Florida Constitution do not apply to joint resolutions.

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 utilize 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.'"[20]

Article XI, s. 5(d) of the Florida Constitution requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published once in the 10th week and again in the 6th week immediately preceding the week the election is held. The Department of State estimated that the costs for advertising the proposed constitutional amendment will be approximately $136 per word with a minimum total publishing cost of $132,570.[21]

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

[20] *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).
[21] The Department of State made this determination based on the cost to advertise a constitutional amendment during the 2014 general election. E-mail from Christie Burrus, Director of Legislative Affairs, Florida Department of State (Oct. 29, 2015).

effective after the next general election or at an earlier special election specifically authorized by law for that purpose.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference (REC) has determined that CS/SJR 492 has an indeterminate impact because it requires voter approval. If approved by the voters and implemented by CS/CS/SB 488 (2016), local property taxes will be reduced by $2.3 million in Fiscal Year 2016-2017. If fully implemented only within the jurisdictions that currently provide the exemption, local property taxes will be reduced by $500,000 in Fiscal Year 2017-2018, with a recurring impact of $1.2 million. If all counties and municipalities choose to grant the exemption, local property taxes will be reduced by $1.6 million in Fiscal Year 2017-2018, with a recurring impact of $4.2 million.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Article XI, s. 5(d) of the Florida Constitution requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published once in the 10th week and again in the 6th week immediately preceding the week the election is held. The Department of State estimated that the costs for advertising the proposed constitutional amendment will be approximately $136 per word with a minimum total publishing cost of $132,570.[22]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

CS/SJR 492 substantially amends the following articles of the Florida Constitution: Article VII, s. 6; Article XII.

[22] *Id*.

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 Finance and Tax on January 25, 2016:
The CS:

- Clarifies that the $250,000 limitation is measured at the time that a person applies and is eligible for the exemption.
- Changes the effective date from January 3, 2017, to January 1, 2017, and makes the amendment retroactive to January 1, 2013, for any person who received the exemption prior to January 1, 2017.

B. Amendments:

None.

By the Committee on Finance and Tax; and Senator Flores

593-02544-16 2016492c1

Senate Joint Resolution

A joint resolution proposing an amendment to Section 6 of Article VII and the creation of a new section in Article XII of the State Constitution to revise the homestead tax exemption that may be granted by counties or municipalities, if authorized by general law, for the assessed value of property with a just value less than $250,000 and owned by persons age 65 or older who meet certain residence and income requirements to specify that just value shall be determined in the first tax year that the owner applies and is eligible for the exemption and to provide retroactive applicability and an effective date.

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

That the following amendment to Section 6 of Article VII and the creation of a new section in Article XII of the State Constitution are 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 VII

FINANCE AND TAXATION

SECTION 6. Homestead exemptions.—

(a) Every person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner, or another legally or naturally dependent upon the owner, shall be exempt from taxation thereon, except assessments for special benefits, up to the assessed valuation of twenty-five thousand dollars and, for all levies other than school district

593-02544-16 2016492c1

levies, on the assessed valuation greater than fifty thousand dollars and up to seventy-five thousand dollars, upon establishment of right thereto in the manner prescribed by law. The real estate may be held by legal or equitable title, by the entireties, jointly, in common, as a condominium, or indirectly by stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight years. The exemption shall not apply with respect to any assessment roll until such roll is first determined to be in compliance with the provisions of section 4 by a state agency designated by general law. This exemption is repealed on the effective date of any amendment to this Article which provides for the assessment of homestead property at less than just value.

(b) Not more than one exemption shall be allowed any individual or family unit or with respect to any residential unit. No exemption shall exceed the value of the real estate assessable to the owner or, in case of ownership through stock or membership in a corporation, the value of the proportion which the interest in the corporation bears to the assessed value of the property.

(c) By general law and subject to conditions specified therein, the Legislature may provide to renters, who are permanent residents, ad valorem tax relief on all ad valorem tax levies. Such ad valorem tax relief shall be in the form and amount established by general law.

(d) The legislature may, by general law, allow counties or municipalities, for the purpose of their respective tax levies and subject to the provisions of general law, to grant either or

both of the following additional homestead tax exemptions:

(1) An exemption not exceeding fifty thousand dollars to a ~~any~~ person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner, ~~and~~ who has attained age sixty-five, and whose household income, as defined by general law, does not exceed twenty thousand dollars; or

(2) An exemption equal to the assessed value of the property to a ~~any~~ person who has the legal or equitable title to real estate with a just value less than two hundred and fifty thousand dollars, as determined in the first tax year that the owner applies and is eligible for the exemption, and who has maintained thereon the permanent residence of the owner for not less than twenty-five years, ~~and~~ who has attained age sixty-five, and whose household income does not exceed the income limitation prescribed in paragraph (1).

The general law must allow counties and municipalities to grant these additional exemptions, within the limits prescribed in this subsection, by ordinance adopted in the manner prescribed by general law, and must provide for the periodic adjustment of the income limitation prescribed in this subsection for changes in the cost of living.

(e) Each veteran who is age 65 or older who is partially or totally permanently disabled shall receive a discount from the amount of the ad valorem tax otherwise owed on homestead property the veteran owns and resides in if the disability was combat related and the veteran was honorably discharged upon separation from military service. The discount shall be in a

percentage equal to the percentage of the veteran's permanent, service-connected disability as determined by the United States Department of Veterans Affairs. To qualify for the discount granted by this subsection, an applicant must submit to the county property appraiser, by March 1, an official letter from the United States Department of Veterans Affairs stating the percentage of the veteran's service-connected disability and such evidence that reasonably identifies the disability as combat related and a copy of the veteran's honorable discharge. If the property appraiser denies the request for a discount, the appraiser must notify the applicant in writing of the reasons for the denial, and the veteran may reapply. The Legislature may, by general law, waive the annual application requirement in subsequent years. This subsection is self-executing and does not require implementing legislation.

(f) By general law and subject to conditions and limitations specified therein, the Legislature may provide ad valorem tax relief equal to the total amount or a portion of the ad valorem tax otherwise owed on homestead property to the:

(1) Surviving spouse of a veteran who died from service-connected causes while on active duty as a member of the United States Armed Forces.

(2) Surviving spouse of a first responder who died in the line of duty.

(3) As used in this subsection and as further defined by general law, the term:

a. "First responder" means a law enforcement officer, a correctional officer, a firefighter, an emergency medical technician, or a paramedic.

b. "In the line of duty" means arising out of and in the actual performance of duty required by employment as a first responder.

ARTICLE XII

SCHEDULE

Additional ad valorem exemption for persons age sixty-five or older.—This section and the amendment to Section 6 of Article VII revising the just value determination for the additional ad valorem tax exemption for persons age sixty-five or older shall take effect January 1, 2017, following approval by the electors, and shall operate retroactively to January 1, 2013, for any person who received the exemption under paragraph (2) of Section 6(d) of Article VII before January 1, 2017.

BE IT FURTHER RESOLVED that the following statement be placed on the ballot:

CONSTITUTIONAL AMENDMENT

ARTICLE VII, SECTION 6

ARTICLE XII

HOMESTEAD TAX EXEMPTION FOR CERTAIN SENIOR, LOW-INCOME, LONG-TERM RESIDENTS; DETERMINATION OF JUST VALUE.—Proposing an amendment to the State Constitution to revise the homestead tax exemption that may be granted by counties or municipalities for property with just value less than $250,000 owned by certain senior, low-income, long-term residents to specify that just value is determined in the first tax year the owner applies and is eligible for the exemption. The amendment takes effect January 1, 2017, and applies retroactively to exemptions granted before January 1, 2017.

The Florida Senate

Committee Agenda Request

To: Senator Tom Lee, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: January 26, 2016

I respectfully request that **Senate Bill # 492,** relating to Homestead Tax Exemption, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Anitere Flores

Senator Anitere Flores
Florida Senate, District 37

File signed original with committee office

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/16
Meeting Date

492
Bill Number (if applicable)

Topic Homestead Tax Exemption

Amendment Barcode (if applicable)

Name Martha Cleaver

Job Title Governmental Consultant

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Tallahassee, FL 32302
City *State* *Zip*

Phone 850/491-1945

Email marthacleaver@fapa.net

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Association of Property Appraisers

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

492

Meeting Date | *Bill Number (if applicable)*

Topic _____ *Amendment Barcode (if applicable)*

Name JESS McCARTY

Job Title ASS'T COUNTY ATTORNEY

Address 111 NW 1ST ST 2810 Phone 305-979-7110
Street

MIAMI 33128 Email JMM2@MIAMIDADE.GOV
City *State* *Zip*

Speaking: ☑ For ☐ Against ☐ Information

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

Representing MIAMI-DADE COUNTY

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL:	CS/CS/CS/SB 534
INTRODUCER:	Appropriations Committee; Communications, Energy, and Public Utilities Committee; Environmental Preservation and Conservation Committee; and Senator Hays
SUBJECT:	Water and Wastewater
DATE:	March 2, 2016
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hinton	Rogers	EP	**Fav/CS**
2.	Caldwell	Caldwell	CU	**Fav/CS**
3.	Fournier/Betta/ Howard	Kynoch	AP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/CS/SB 534:

- Directs the Division of Bond Finance to review the allocation of private activity bonds in Florida with respect to water and wastewater projects.
- Creates an exemption from Public Service Commission (PSC) regulation for persons who resell water service to individually-metered residents at a price that does not exceed the purchase price of water service plus the actual cost of meter reading and billing, not to exceed nine percent of the actual cost of the water service.
- Requires the PSC, upon an IOU's request in a rate case, to create a reserve fund for the IOU to be used for certain infrastructure repair and replacement projects, with disbursement subject to PSC approval.
- Identifies specific types of expenses eligible for "pass-through" treatment in IOU rates and authorizes the PSC, by rule, to identify additional types of expenses eligible for such treatment, provided the expenses are beyond the utility's control.
- Prohibits the recovery of an IOU's rate case expense if the expense is incurred to prepare or file a staff-assisted rate case in which no party intervenes.
- Provides criteria the commission must use in determining reasonable rate case expense and authorizes the commission to adopt additional criteria by rule. Requires the commission to make findings for each criteria based upon competent substantial evidence and allocate the benefits between the customers and the shareholders, owners, or affiliates.

- Authorizes the PSC, on its own motion or based on customer complaints, to review water quality issues involving secondary drinking water standards (e.g., standards related to odor, taste, and corrosiveness) and wastewater service issues involving odor, noise, aerosol drift, or lighting.
- Expands the availability of low-interest loans through the State Revolving Fund to all for-profit water utilities.
- Requires a county that regulates water or wastewater services to comply with the requirements for abandoned water and wastewater systems.

The bill has no impact on state or local revenue.

The bill has an effective date of July 1, 2016.

II. Present Situation:

Water and Wastewater Industry Overview

In various areas throughout Florida, water and wastewater services are provided through privately-owned and operated water and wastewater companies. These privately-owned companies are referred to as "investor-owned utilities," or "IOUs." IOUs can range in size from very small systems, owned by individuals as sole proprietorships and serving only a few dozen customers in a small neighborhood, to systems owned by large interstate corporations which serve tens of thousands of customers in multiple Florida counties.

For IOUs operating within a single Florida county, the county has the option to regulate rates and service or allow the Public Service Commission (PSC) to regulate those utilities.[1] Counties that opt to regulate water and wastewater utilities are required to regulate the rates pursuant to s. 367.081(1), (2), (3), and (6), F.S. That section requires that the county approve rates; that the rates are just, reasonable, compensatory, and not unfairly discriminatory; that reasonable costs may be used in determining the revenue requirement; and that the county may withhold consent to the operation of any rate request under certain conditions. Regardless of whether the county has opted to regulate IOUs, the PSC has jurisdiction over all water and wastewater utility systems whose service transverses county boundaries, except for systems owned and regulated by intergovernmental authorities.[2] Currently, the PSC has jurisdiction over 146 water and wastewater IOUs in 37 of 67 counties in Florida.[3] The remaining water and wastewater customers in the state are served either by IOUs in non-jurisdictional counties, by statutorily exempt utilities (such as municipal utilities, cooperatives, and non-profits), by wells and septic tanks, or by systems owned, operated, managed, or controlled by governmental authorities.[4]

[1] s. 367.171, F.S. If a county chooses to allow regulation by the PSC, it may rescind this election only after 10 continuous years of PSC regulation.
[2] *Id.*
[3] *Facts and Figures of the Florida Utility Industry*, Florida Public Service Commission (March 2015), *available at* http://www.psc.state.fl.us/publications/reports.aspx.
[4] s. 367.022(2), F.S.

For regulatory purposes, the PSC classifies a water or wastewater IOU into one of three categories based on annual operating revenues:[5]

- Class A – Operating revenues of $1,000,000 or more;
- Class B – Operating revenues of $200,000 or more but less than $1,000,000; and
- Class C – Operating revenues less than $200,000.

Currently, there are 13 Class A utilities, 37 Class B utilities, and 96 Class C utilities under the PSC's jurisdiction.

Study Committee on Investor-Owned Water and Wastewater Utility Systems

Chapter 2012-187, Laws of Florida, created the Study Committee on Investor-Owned Water and Wastewater Utility Systems (Study Committee)[6] to "identify issues of concern of investor-owned water and wastewater utility systems, particularly small systems, and their customers" and to research possible solutions.[7] Specifically, the Study Committee was required to consider:

- The ability of a small IOU to achieve economies of scale when purchasing equipment, commodities, or services;
- The availability of low interest loans to a small, privately owned water or wastewater utility;
- Any tax incentives or exemptions, temporary or permanent, which are available to a small water or wastewater utility;
- The impact on customer rates if a utility purchases an existing water or wastewater utility system;
- The impact on customer rates of a utility providing service through the use of a reseller; and
- Other issues that the Study Committee identifies during its investigation.[8]

The Study Committee conducted 12 public meetings at which it heard public comment on these issues, identified additional issues for consideration and research (and heard public comment on the additional issues), and discussed and debated solutions to the issues.[9] Consistent with the law, the Study Committee submitted a report containing its recommendations to the President of the Senate, the Speaker of the House, and the Governor on February 15, 2013.

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[5] Rules 25-30.110(4) and 25-30.115, F.A.C. As noted in these rules, this classification system is used by the National Association of Regulatory Utility Commissioners for publishing its system of accounts.

[6] As required by the law, the Study Committee was comprised of 18 members, including three non-voting members and 15 voting members. The three non-voting members included Commissioner Julie I. Brown (representing the PSC as the Study Committee Chair), a representative of the Florida Department of Environmental Protection, and the Public Counsel. The 15 voting members included State Senator Alan Hays (appointed by the President of the Senate), State Representative Ray Pilon (appointed by the Speaker of the House), and representatives of the following entities or groups, as appointed by the Governor: a county commission that regulates investor-owned water/wastewater utilities; a governmental authority created under ch. 163, F.S.; a water management district; a county health department; two Class A utilities; a Class B utility; a Class C utility; a utility owned or operated by a municipal or county government; customers of a Class A utility; customers of a Class B or C utility; the Florida Section of the American Water Works Association; and the Florida Rural Water Association.

[7] Chapter 2012-187, s. 2, Laws of Fla.

[8] *Id.*

[9] *See* Sections II and III, *Report of the Study Committee on Investor-Owned Water and Wastewater Utility Systems*, (Feb. 15, 2013 *Study Committee Report), available at* http://www.psc.state.fl.us/utilities/waterwastewater/

The Study Committee's report included recommendations for legislative action, agency rulemaking, and other agency action. Based on the issues that it was required to consider, the Study Committee recommended legislative action to do the following:

- Increase the availability of low-interest loans to small, privately owned water and wastewater utilities by:
  - Expanding availability of low-interest loans through the Drinking Water State Revolving Fund (DWSRF) to all for-profit water utilities;
  - Allowing IOUs to apply "pass-through" treatment for loan service fees or loan origination fees for eligible projects as identified by the PSC; and
  - Directing the Division of Bond Finance to review the allocation of private activity bonds in Florida with respect to water and wastewater projects.
- Provide a sales tax exemption for sales or leases to an IOU owned or operated by a Florida corporation.
- Create an exemption from PSC regulation for persons who resell service to individually-metered end-users at a price that does not exceed the actual purchase price of water plus actual costs of meter reading and billing not to exceed nine percent.

Based on additional issues that it identified and considered, the Study Committee recommended legislative action to do the following:

- Authorize the PSC, during a rate case, to create individual utility reserve funds to be used for projects identified in an IOU's capital improvement plan, with disbursement subject to approval by the PSC, as a means of reducing borrowing costs and making funds more readily available.
- Identify specific types of expenses eligible for "pass-through" treatment in utility rates and authorize the PSC to adopt rules identifying such expenses, provided the expenses are beyond the utility's control, to help minimize the need for costly rate case proceedings.
- Reduce the impact of rate case expense on customer rates by prohibiting the recovery of rate case expense in certain circumstances.
- Provide a mechanism for the resolution of issues involving secondary water standards (e.g., odor, taste, corrosiveness, etc.) and wastewater operational requirements.

Private Activity Bonds

Qualified private activity bonds are tax-exempt bonds issued by a state or local government, the proceeds of which are used for a defined, qualified purpose by an entity other than the government issuing the bonds. For a private activity bond to be tax-exempt, 95 percent or more of the net bond proceeds must be used for one of the qualified purposes listed in sections 142-145, and 1394 of the Internal Revenue Code, which includes facilities used to furnish water or sewer services.[10] The Internal Revenue Code limits an issuing authority, such as a state, to a maximum amount of tax-exempt bonds that can be issued to finance a particular qualified purpose during a calendar year. Facilities used to furnish water or sewer services are subject to a limit on the amount of tax-exempt bonds that can be issued in a calendar year.[11]

[10] IRS, *Tax-Exempt Private Activity Bonds, Compliance Guide, Publication 4708*, 2 (Sept. 2005), *available at* http://www.irs.gov/pub/irs-pdf/p4078.pdf (last visited Nov. 10, 2015).
[11] *Id.* at 3.

Private activity bonds are administered in Florida by the Division of Bond Finance of the State Board of Administration (division) pursuant to ss. 159.801-159.816, F.S. Each year, the division determines the amount of private activity bonds that can be issued in Florida under the Internal Revenue Code. This amount is allocated yearly on January 1st as follows:

- An initial amount is allocated to manufacturing facility projects;
- Fifty percent of the amount remaining after the initial allocation is allocated to individual counties and groups of counties identified in s. 159.804(2)(b), F.S., on a per capita basis for any permitted purpose, which may include water and sewer projects;
- Twenty-five percent of the amount remaining after the initial allocation is allocated to the Florida Housing Finance Corporation for use in connection with the issuance of housing bonds;
- Five percent of the amount remaining after the initial allocation is allocated to the state allocation pool and applied to priority projects, which may include water and sewer projects; and
- Twenty percent of the amount remaining after the initial allocation is allocated to the Florida First Business allocation pool for projects certified by the Department of Economic Opportunity.[12]

The study committee was unable to determine the amount of private activity bonds that are allocated to water and wastewater projects, or how the private activity bonds can be fairly distributed.[13]

Resellers of Water Service

As noted above, the PSC currently has jurisdiction to regulate the rates and service of water and wastewater utilities in 37 of 67 counties in Florida. For purposes of the PSC's jurisdiction, "utility" is defined as every person owning, operating, managing, or controlling a system, who is providing water or wastewater service to the public for compensation.[14] However, certain entities that meet this definition are exempt from PSC regulation as utilities.[15] Included among these exemptions are persons who resell water or wastewater service at a rate or charge which does not exceed the actual purchase price of the water or wastewater service.[16] If the reseller includes any additional costs in the rate or charge to the retail customer, the reseller is considered a utility subject to PSC regulation.

Reseller utilities that are regulated by the PSC generally have significant investment in distribution and collection lines and other utility equipment. Examples include mobile home parks and subdivisions. In a rate proceeding, the PSC determines the utility's investment and expenses related to the facilities it owns and operates, then it sets rates accordingly. The cost of the water or wastewater service purchased from a wholesale provider, which is often a significant portion of the customers' bills, is allowed to be passed through to the customers

[12] Section 159.804, F.S.
[13] Florida Public Service Commission, *Report of the Study Committee on Investor-Owned Water and Wastewater Utility Systems*, 43 (Feb. 2013), *available at* http://www.floridapsc.com/utilities/waterwastewater/Water-Wastewater%20Sub%20Committee%20Report.pdf (last visited Nov. 10, 2015).
[14] s. 367.021(12), F.S.
[15] *See* s. 367.022, F.S.
[16] s. 367.022(8), F.S.

pursuant to s. 367.081(4)(b), F.S. Resellers that choose not to pass along costs beyond their cost to purchase water or wastewater service (and therefore remain exempt from PSC regulation) generally have very little investment in equipment or lines needed to provide the service. Examples include apartment complexes, condominium buildings and small master-metered shopping centers.[17]

In its report, the Study Committee noted that a metered charge for water sends an appropriate price signal to end users and is a means of discouraging indiscriminate use of this resource. However, if a reseller wishes to install sub-meters for its users and bill those users for their actual water use, it will be unable recover those metering and billing costs from its customers without becoming regulated and incurring the costs of regulation.[18]

Reserve Funds for Water and Wastewater Utilities

The Study Committee considered the availability of low interest loans to small IOUs. In its report, the Study Committee noted the following:

> Affordable, accessible financing is an ongoing issue for the water and wastewater industry and is a particularly acute need for smaller systems. Smaller utilities … have difficulty securing low-cost, long-term financing because the characteristics and track record of the industry make smaller systems more risky in the view of lending institutions. Timing is also an issue, particularly when critical system failures occur and small utilities do not have the cash reserves to address such needs short-term. In addition, regulatory policy frequently does not provide sufficient cash flow to fully service the debt over the term of the loan. The establishment of individual utility reserve funding and/or establishment of a broader statewide reserve fund could reduce borrowing costs and make funding more readily available.[19]

Section 367.081, F.S., establishes the rate-setting procedures for water and wastewater IOUs regulated by the PSC. However, these procedures do not provide explicit statutory authority for the PSC to establish reserve funds for water and wastewater IOUs during the rate-setting process.

Public Service Commission Ratemaking

Pursuant to s. 367.081, F.S., the PSC establishes rates that are just, reasonable, compensatory, and not unfairly discriminatory. The PSC must consider the value and quality of the service and the cost of providing the service, including:

- Debt interest;
- A utility's working capital requirements;
- Maintenance, depreciation, tax, and operating expenses incurred in the operation of all property used and useful in the public service; and

[17] *Study Committee Report*, p. 61.
[18] *Id*., pp. 61-62.
[19] *Id*., p. 67.

- A fair return on the investment of the utility in property used and useful in the public service.

In order for an IOU to increase rates, the utility must file an application for a rate increase with the PSC. This process is referred to as a rate case. The application includes schedules and reports containing the operational, financial, economic, and rate information in order for the PSC staff to evaluate the request. The utility is also required to forecast how much funding is necessary to cover expenses for the next year and the potential return on investment from assets used to provide services. Utilities are limited to adjusting their rates twice during any 12-month period.

In setting rates, the PSC staff reviews the utility's records, conducts site inspections, and evaluates the value and quality of service based on customer input at a rate case hearing or in writing. Following the rate case hearing, the PSC issues a written order with the commissioners' decision on the rate increase. The utility is required to notify the customers of the revised rates.

Pass-Through Costs

Outside of a rate case, PSC-regulated water and wastewater IOUs are entitled to "pass through" specific types of expenses without the requirement of a PSC hearing.[20] This mechanism provides quick rate relief to a utility when it experiences an increase in one of these types of costs and may help defer the need for a full rate case. Currently, the types of expenses eligible for pass-through treatment are limited by statute to the following:[21]

- Purchased water or wastewater service;
- Electric power;
- Ad valorem taxes;
- Regulatory Assessment Fees;
- DEP fees for the National Pollutant Discharge Elimination System Program; and
- Water quality or wastewater quality testing required by DEP.

Prior to changing rates using this mechanism, the IOU must file, under oath, an affirmation as to the accuracy of the figures and calculations upon which the change in rates is based and a statement that the change will not cause the utility to exceed the rate of return on equity last approved by the PSC.[22]

Recovery of Rate Case Expense

In a rate case conducted by the PSC, a water or wastewater IOU is entitled to recover its reasonable expenses incurred in preparing and proceeding with the rate case.[23] These expenses (referred to as "rate case expense") typically include legal, engineering, and accounting expenses and are reviewed by the PSC as part of the rate case. Any rate case expense deemed unreasonable by the PSC may not be recovered by the IOU through its rates.[24] The amount of rate case expense deemed reasonable is apportioned for recovery though the IOU's rates over a period of four years. At the end of this four-year period, the IOU's rates are reduced to remove

[20] s. 367.081(4)(b), F.S.
[21] *Id.*
[22] s. 367.081(4)(c), F.S.
[23] s. 367.081(7), F.S.
[24] *Id.*

the impact of the rate case expense.[25] According to the Study Committee, the impact of rate case expense on customer bills varies from case to case and is often negligible.[26] However, one analysis presented to the Study Committee noted three cases between 2006 and 2011 in which the annual rate impact attributed to rate case expense (over the four-year recovery period) exceeded the annual revenue increase approved in the rate case, excluding rate case expense. In addition, this analysis noted six additional cases over the same period in which the annual rate impact attributed to rate case expense equaled more than 25 percent of the annual revenue increase approved in the rate case, excluding rate case expense.[27]

There is no legal limit on the frequency of rate cases. In some instances, an IOU may file for approval to change its rates less than four years after its previous rate case. In these cases, the IOUs rates may, for a certain period of time, include rate case expense for more than one rate case, provided that the PSC has determined that there is a reasonable level of rate case expense to be recovered.

A water or wastewater IOU with gross annual revenues under $275,000 is permitted by law to request and obtain assistance from the PSC staff in preparing the IOU's rate case.[28] These rate cases are referred to as staff-assisted rate cases (SARCs). In these cases, the PSC staff reviews the IOUs books and records, inspects the IOU's premises, prepares a quality of service analysis, and presents recommended rates and charges to the PSC for consideration. In requesting staff assistance, the IOU agrees to accept the final rates and charges approved by the PSC unless these rates and charges produce less revenue than the existing rates and charges.[29] An IOU that uses the SARC process may still seek assistance from other professionals in preparing and proceeding with its case and may submit the associated expenses for recovery as rate case expense.[30] One analysis presented to the Study Committee showed an average rate case expense of $4,563 for 23 SARCs conducted between 2007 and 2011 in which some level of rate case expense was approved.[31] The average drops to $3,025 by removing one case.[32]

Secondary Water Standards and Quality of Service

The Department of Environmental Protection (DEP) has the primary authority to implement and enforce federal and state drinking water and wastewater standards. The focus of the DEP's permitting, monitoring, and enforcement of water and wastewater systems is to ensure compliance with primary drinking water standards and wastewater operational requirements to protect the health and safety of the public and the environment.[33]

[25] s. 367.0816, F.S.
[26] *Study Committee Report*, p. 83.
[27] *Study Committee Report*, p. 88.
[28] s. 367.0814, F.S.
[29] *Id.* However, a person other than the utility may protest or appeal the PSC's order approving the rates and charges.
[30] *Study Committee Report*, pp. 84-91.
[31] *Study Committee Report*, p. 87.
[32] *Id.* Information provided by the PSC indicated that there were approximately 48 SARCs conducted during this time frame, thus the average rate case expense for all SARCs is likely to be lower than this amount.
[33] See ch. 403, F.S., and Rules 62-550, 62-555, 62-602, and 62-699, F.A.C., for drinking water regulations, and Rules 62-600, 62-604, 62-610, 62-620, 62-621, and 62-640, F.A.C., for wastewater regulations.

The DEP has adopted secondary drinking water standards for aluminum, chloride, copper, fluoride, iron, manganese, silver, sulfate, zinc, color, odor, pH, total dissolved solids, and foaming agents.[34] Testing for the secondary standards is required on a regular basis, though the DEP generally requires corrective action only if users voice significant complaints or if a primary contaminant level has also been exceeded.[35]

The DEP requires that new wastewater treatment plants and modifications to existing plants be designed to minimize odors, noise, aerosol drift, and lighting, which may have an adverse effect on neighboring residential and commercial areas.[36] The utilities must provide reasonable assurance that such effects will not be potentially harmful to human health or welfare or unreasonably interfere with the enjoyment of life or property.[37] If the existing facilities fail to function as intended and create such adverse effects, the permittee must take corrective action.[38] The DEP may also require corrective action if there are significant complaints or if a primary contaminant level has been exceeded.[39]

The PSC considers an IOU's quality of service in rate cases by evaluating the quality of the product, the operating condition of the IOU's plant and facilities, and the IOU's efforts to address customer satisfaction.[40] Sanitary surveys, outstanding citations, violations, and consent orders on file with the DEP and county health departments are also considered. In addition, the DEP and county health department officials' testimony and customer testimony concerning quality of service is considered.[41] In most cases, the emphasis of this evaluation is on compliance with standards related to the health and safety of the public and the environment.[42]

Chapter 2014-68, Laws of Florida, created s. 367.072, F.S., to provide a process for customers to petition the PSC to require compliance with secondary water quality standards. If a utility fails to comply with PSC orders, the process could result in revocation of the utility's certificate of authority. The law provides petition criteria and factors the PSC must consider in its review of the petition and the action it may take to dispose of the petition. Once a petition has been filed in compliance with the section, a utility is prohibited from filing a rate case until the PSC has issued a final order.

Chapter 2014-68, Laws of Florida, also created s. 367.0812, F.S., to add secondary water quality standards to the criteria that the PSC must consider when setting rates for water service. The law

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[34] Rule 62-550.320, F.A.C.
[35] Florida Public Service Commission, *Report of the Study Committee on Investor-Owned Water and Wastewater Utility Systems*, 113 (Feb. 2013), *available at* http://www.floridapsc.com/utilities/waterwastewater/Water-Wastewater%20Sub%20Committee%20Report.pdf (last visited Nov. 10, 2015).
[36] Rule 62-600.400(2)(a), F.A.C.
[37] *Id*.
[38] Rule 62-600.410, F.A.C.
[39] Florida Public Service Commission, *Report of the Study Committee on Investor-Owned Water and Wastewater Utility Systems*, 113 (Feb. 2013), *available at* http://www.floridapsc.com/utilities/waterwastewater/Water-Wastewater%20Sub%20Committee%20Report.pdf (last visited Nov. 10, 2015).
[40] Rule 25-30.433(1), F.A.C.
[41] *Id*.
[42] Florida Public Service Commission, *Report of the Study Committee on Investor-Owned Water and Wastewater Utility Systems*, 106 (Feb. 2013), *available at* http://www.floridapsc.com/utilities/waterwastewater/Water-Wastewater%20Sub%20Committee%20Report.pdf (last visited Nov. 10, 2015).

authorizes the PSC to reduce the utility's return on equity up to 100 basis points (one percent) or deny all or part of a rate increase for a utility's system or part of a system if it determines that the quality of water service is less than satisfactory for the time the system remains unsatisfactory. The law requires a utility to provide an estimate of the costs and benefits of plausible solutions for each concern that the PSC finds, meet with the customers to discuss the costs and benefits of the solution, and periodically report on the progress of implementation. The PSC may require the utility to resolve certain problems and require benchmarks and periodic progress reporting. The law authorizes the PSC to adopt rules to assess and enforce compliance with the secondary water standards and prescribe penalties for a utility's failure to adequately address each concern.

Section 367.111, F.S., requires each utility to provide service to its service area within a reasonable time. It authorizes the PSC to amend the service territory or rescind the certificate of authorization of a utility that has failed to provide service as required or it is more feasible for another utility to provide such service. The section also requires each utility to provide safe, efficient, and sufficient service as prescribed by Part VI of ch. 403, F.S., and Parts I and II of ch. 373, F.S. If the PSC determines that an IOU has failed to provide its customers with water or wastewater service that meets the standards set by the DEP or the water management districts, the PSC may reduce the IOU's return on equity until the standards are met.[43]

III. Effect of Proposed Changes:

Section 1 creates s. 159.8105, F.S., to require the Division of Bond Finance of the State Board of Administration to review the allocation of private activity bonds to determine the availability of additional allocations of reallocations of private activity bonds for water and wastewater infrastructure projects.

Section 2 amends s. 367.022, F.S., relating to exemptions from Public Service Commission (PSC) regulation to provide that any person who resells water service to his or her tenants or to individually metered residents for a fee that does not exceed the actual purchase price of the water service plus the actual cost of meter reading and billing, not to exceed nine percent of the actual cost of the water service, is exempt from regulation by the PSC as a utility and from the provisions of ch. 367, F.S., which concerns water and wastewater systems.

Section 3 amends s. 367.081, F.S., relating to fixing and changing rates to authorize the PSC on its own motion or upon the request of a utility to create a utility reserve fund for infrastructure repair and replacement for a utility for distribution and collection infrastructure that is nearing the end of its useful life or is detrimental to water quality or reliability of service. The fund is to be funded by a portion of the rates charged by the utility, by a secured escrow account, or through a letter of credit.

The bill requires the PSC to adopt rules to govern the implementation, management, and use of the fund, including but not limited to:

- Expenses for which the fund may be used;
- Segregation of reserve account funds;
- Requirements for a capital improvement plan; and

[43] Section 367.111(2), F.S.

- Requirements for PSC authorization before disbursements are made from the fund.

In addition, the bill adds the following items to the list of costs eligible for pass-through treatment:

- Fees charged for wastewater biosolids disposal;
- Costs incurred for any tank inspection required by the Department of Environmental Protection (DEP) or local governmental authority;
- Treatment plant operator and water distribution system operator license fees required by the DEP or local governmental authority; and
- Consumptive use or water use permit fees charged by a water management district.

The bill authorizes the PSC, by rule, to establish additional specific expense items eligible for pass-through treatment. To be eligible for such treatment, an additional expense item must be imposed by a local, state, or federal law, rule, order, or notice and must be outside the control of the utility. If the PSC uses this authority, it must review its rule at least once every five years to determine if each specific expense item should remain eligible for pass-through treatment or if any additional expense items should become eligible.

The bill continues the current requirement that an investor owned utility (IOU) wishing to change its rates to reflect a change in any of these costs must provide verified notice to the PSC 45 days before implementing a change in its rates. The bill provides that the new rates must reflect, on an amortized or annual basis, as appropriate, the cost or amount of change in the cost of the specified expense item. Further, the bill provides that the new rates may not reflect the costs of any specific expense item already included in the IOU's rates. The bill also continues the current prohibition on use of the pass-through mechanism for increases or decreases in a specific expense item that occurred more than 12 months before the IOU's filing.

The bill requires the commission to consider specific criteria to determine reasonable rate case expense and disallow rate case expense in accordance with specific findings of fact, if the criteria are specifically raised in writing by the Public Counsel, an intervenor, or commission staff. The commission may adopt additional criteria by rule. In addition, the commission must make its findings for each criteria based upon competent, substantial evidence. Finally, the commission may allocate accordingly the benefits of the rate case expense between the customers and the shareholders, owners, or affiliates.

Section 4 amends s. 367.0814, F.S., relating to changing rates and charges in a staff-assisted rate case to detail expenses associated with rate cases that may and may not be recovered.

The bill prohibits the PSC, where the IOU has requested a staff-assisted rate case, from approving rate case expense to cover fees for attorneys and other outside consultants who are engaged by a utility for purposes of preparing or filing the case, unless another party has intervened in the case. The bill provides two exceptions. It authorizes the recovery of rate expense for such fees if the fees are incurred to provide consulting or legal services to the utility after the initial PSC staff report is issued to customers and the utility. It also requires that the PSC allow recovery of rate case expense for such fees incurred after any protest or appeal of the PSC's decision by a party other than the IOU.

The PSC is required to propose rules to administer this provision by December 31, 2016.

Section 5 amends s. 367.0816, F.S., relating to recovery of rate case expenses to allow a utility to recover the rate case expense for a period of more than four years, if it can be justified and is in the public interest. The bill provides that a utility may not earn a return on the unamortized balance of a rated case expense.

Section 6 amends s. 367.111, F.S., to allow the PSC, on its own motion or based on complaints of customers of a water utility subject to the PSC's jurisdiction, to review water quality as it pertains to secondary drinking water standards established by the DEP or review wastewater service as it pertains to odor, noise, aerosol drift, or lighting.

Section 7 amends. s. 367.165, F.S., to require a county that regulates water or wastewater services to comply with the requirements for abandoned water and wastewater systems.

Section 8 amends s. 403.8532, F.S., to increase the number of entities that are eligible for Drinking Water State Revolving Fund loans by allowing the DEP to make loans to for-profit, privately owned, or investor-owned water systems.

In order to conform to this change, the bill also deletes an existing provision relating to loans for projects for a for-profit, privately owned or investor owned water system that serves 1,500 service connections or more within a single certified or franchised area.

Section 9 provides an effective date of July 1, 2016.

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:

By allowing for the recovery of expenses associated with meter reading and billing, CS/CS/CS/SB 534 may encourage resellers to use individual metering more often for their tenants. Water users can be charged more accurately for the water they consume; therefore, they may experience a positive or negative fiscal impact, depending on their water use.

The establishment of individual utility reserve funds may reduce borrowing costs and make funding more readily available for Public Service Commission-regulated water and wastewater investor owned utilities (IOUs) to make needed improvements and repairs. In some instances, the availability of these reserve funds may allow IOUs to avoid or defer the need for a rate case, providing a cost savings to the ratepayers for this expense.

The expanded availability of pass-through treatment for new expense items may, in some instances, allows IOUs to avoid or defer the need for a rate case, providing a cost savings to the ratepayer.

The limitation of rate case expenses for staff-assisted rate cases may benefit the rate payer; however, the utilities' rates may increase to ensure compliance with secondary water and wastewater standards.

The expanded availability of low-interest financing through the Drinking Water State Revolving Fund to additional water and wastewater IOUs may encourage more of these utilities to make investments in water infrastructure at a lower cost to ratepayers. Lending institutions that have the ability to evaluate the credit worthiness of the large private systems may experience an increase in revenue.

C. Government Sector Impact:

The bill appears to have an insignificant impact on state government expenditures.

The Public Service Commission has not identified an impact on agency expenditures; however, it may be required to expend resources to complete rulemaking as required by the bill. DEP will use existing staff to consult with PSC to evaluate the credit worthiness of large, complex water systems that become eligible under the bill to seek low-interest loans through the DWSRF.

VI. Technical Deficiencies:

None.

VII. Related Issues:

According to the Public Service Commission (PSC), the bill does not address how the provision of the bill concerning the surcharge a person who resells water service to his or her tenants is allowed to charge would be enforced or what proof the water reseller may need to provide to the

PSC. Additionally, the change may require the PSC to adopt rules to implement this provision. It is unclear if the bill provides specific rulemaking authority for this provision.[44]

Section 5 of the bill seems to anticipate intervention by parties other than the Office of Public Counsel prior to the issuance of a proposed agency action. According to the PSC, this is inconsistent with how staff-assisted rate cases are processed.[45]

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 212.08, 367.022, 367.081, 367.0814, 367.0816, 367.111, 403.8532, and 367.171.

This bill creates section 159.8105 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS/CS/CS by Appropriations on March 1, 2016:
The committee substitute:

- Removes a sales and use tax exemption for sales or leases to a water or wastewater investor-owned utility.
- Allows the Public Service Commission (PSC) to disallow a rate case expense based upon certain criteria if the criteria are specifically raised in writing by the Public Counsel, an intervenor, or PSC staff.
- Allows the PSC to disallow a rate case expense on the basis of the utility management's culpability in causing any deficiencies in the quality of service provided by the utility.
- Provides for more than four years for the recovery of rate case expenses, if it is in the public interest.
- Removes the provision in the bill that limited a utility to recovering rate case expenses for more than one rate case at a time.
- Provides that a utility may not earn a return on the unamortized balance of rate case expense.

CS/CS by Communications, Energy, and Public Utilities on January 12, 2016:
The CS/CS:

- Adds language to clarify that investor-owned water or wastewater utilities holding a certificate of authorization under the jurisdiction of the commission are exempt from the sales and use tax.
- Revises the new provision relating to exemptions to conform terms: the exemption applies to water service.

[44] PSC, *Senate Bill 776 Fiscal Analysis* (Mar. 13, 2015) (on file with the Senate Committee on Environmental Preservation and Conservation).
[45] *Id.*

- Authorizing the commission on its own motion or upon the request of a utility to require a utility to create a utility reserve fund for infrastructure repair or replacement.
- Removes the cap of 50 percent on the amount of reasonable rate case expense that can be recovered by a utility. Instead, the commission is given criteria it must evaluate in determining reasonable rate case expense and disallow rate case expense it does not find reasonable. The commission may adopt additional criteria by rule. In addition, the commission must make its findings for each criteria based upon competent, substantial evidence. Finally, the commission may allocate accordingly the benefits of the rate case expense between the customers and the shareholders, owners, or affiliates.
- Requires a county that regulates water or wastewater services to comply with the requirements for abandoned water and wastewater systems.
- Removes s. 367.171, F.S., from the bill as the changes are made now in s. 367.165, F.S.

CS by Environmental Preservation and Conservation on November 18, 2015:
The CS removes a provision that limits a tax exemption for investor owned water and wastewater utilities to those that are owned or operated by a Florida corporation. This change allows the tax exemption to apply to investor owned water and wastewater utility, regardless of whether the utility is owned or operated by a Florida corporation.

Changes a provision that a tax exemption applies to utilities that are owned by a corporation. The amendment changes the word "corporation" to "utility."

Changes the date the PSC must adopt certain rules from December 31, 2015, to December 31, 2016.

B. Amendments:

None.

475318

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/01/2016	.	
	.	
	.	
	.	

The Committee on Appropriations (Hays) recommended the following:

Senate Amendment (with title amendment)

Delete lines 58 - 90.

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

And the title is amended as follows:

Delete lines 8 - 10

and insert:

projects; amending s. 367.022,

613326

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/01/2016	.	
	.	
	.	
	.	

The Committee on Appropriations (Hays) recommended the following:

Senate Amendment (with title amendment)

Delete lines 215 - 285

and insert:

(a) In determining the reasonable level of rate case expense, the commission shall consider the following criteria as a basis for disallowing such rate case expense when the criteria are specifically raised in writing by the Public Counsel, an intervenor, or commission staff:

1. The extent to which a utility has utilized or failed to

613326

utilize the provisions of paragraph (4)(a) or paragraph (4)(b).

2. Whether the customers have received a material benefit as a result of the rate case.

3. The amount of time between each rate case.

4. The extent to which, at the time of the initial filing, the utility filed complete documentation as required by commission rule, including, but not limited to, minimum filing requirements.

5. Whether the utility's rate case filing seeks preferential benefits to shareholders, owners, or nonregulated affiliates.

6. The proportion of any rate increase approved by the commission as compared to the amount initially requested by the utility.

7. The amount of overall rate case expense incurred and requested as compared to the amount of rate increase approved by the commission.

8. The utility management's culpability in causing any deficiencies in the quality of service provided by the utility.

9. Such other criteria as the commission ~~it~~ may establish by rule.

(b) If any of the criteria specified under paragraph (a) are specifically contested in an evidentiary proceeding, the commission shall make specific findings of fact, supported by competent, substantial evidence, for each criterion and the extent to which each criterion benefits the customer. The commission may allocate the benefits between the customers and the shareholders, owners, or affiliates accordingly and disallow rate case expense in accordance with the specific findings of

 613326

fact.

Section 5. Subsection (3) of section 367.0814, Florida Statutes, is amended to read:

367.0814 Staff assistance in changing rates and charges; interim rates.—

(3) The provisions of s. 367.081(1), (2)(a), and (3) shall apply in determining the utility's rates and charges. However, the commission may not award rate case expenses to recover attorney fees or fees of other outside consultants who are engaged for the purpose of preparing or filing the case if a utility receives staff assistance in changing rates and charges pursuant to this section, unless the Office of Public Counsel or interested parties have intervened. The commission may award rate case expenses for attorney fees or fees of other outside consultants if such fees are incurred for the purpose of providing consulting or legal services to the utility after the initial staff report is made available to customers and the utility. If there is a protest or an appeal by a party other than the utility, the commission may award rate case expenses to the utility for attorney fees or fees of other outside consultants for costs incurred after the protest or appeal. By December 31, 2016, the commission shall adopt rules to administer this subsection.

Section 6. Section 367.0816, Florida Statutes, is amended to read:

367.0816 Recovery of rate case expenses.—

(1) The amount of rate case expense determined by the commission pursuant to the provisions of this chapter to be recovered through a public utility's ~~utilities~~ rate shall be


613326

apportioned for recovery over a period of 4 years, unless a longer period can be justified and is in the public interest. At the conclusion of the recovery period, the rate of the public utility shall be reduced immediately by the amount of rate case expense previously included in the rates.

(2) A utility may not earn a return on the unamortized balance of rate case expense. Any unamortized balance of rate case expense shall be excluded in calculating the utility rate base.

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

And the title is amended as follows:

Delete lines 25 - 34

and insert:

consider certain criteria, when specifically raised in writing by certain parties; specifying standards for evidentiary proceeding involving challenges to such criteria; authorizing the commission to allocate benefits between the customers, shareholders, owners, or affiliates and to disallow rate case expense under certain circumstances; amending s. 367.0814, F.S.; prohibiting the commission from awarding rate case expenses to recover attorney fees or fees of other outside consultants in certain circumstances; providing exceptions; requiring the commission to adopt rules by a certain date; amending s. 367.0816, F.S.; providing an exception to the provision requiring rate case expense recovery to be apportioned over 4 years; prohibiting a utility from earning a

613326

return on the unamortized balance of rate case expense; excluding such expenses from rate bases;

443752

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/01/2016	.	
	.	
	.	
	.	

The Committee on Appropriations (Hays) recommended the following:

Senate Amendment to Amendment (613326) (with title amendment)

Delete line 61
and insert:
December 31, 2016, the commission shall propose rules to

========== T I T L E A M E N D M E N T ==========
And the title is amended as follows:
Delete line 94

443752

and insert:

propose rules by a certain date; amending s. 367.0816,

By the Committees on Communications, Energy, and Public Utilities; and Environmental Preservation and Conservation; and Senator Hays

579-02057-16 2016534c2

A bill to be entitled

An act relating to water and wastewater; creating s. 159.8105, F.S.; requiring the Division of Bond Finance of the State Board of Administration to review the allocation of private activity bonds to determine the availability of additional allocation and reallocation of bonds for water and wastewater infrastructure projects; amending s. 212.08, F.S.; extending specified tax exemptions to certain investor-owned water and wastewater utilities; amending s. 367.022, F.S.; exempting from regulation by the Florida Public Service Commission a person who resells water service to certain tenants or residents up to a specified percentage or cost; amending s. 367.081, F.S.; authorizing the commission to allow a utility to create a reserve fund upon the commission's own motion or upon the request of the utility; requiring the commission to adopt rules to govern the implementation, management, and use of the fund; establishing criteria for adjusted rates; specifying expense items that may be the basis for an automatic increase or decrease of a utility's rates; authorizing the commission to establish by rule additional specified expense items; requiring the commission to consider certain criteria and make findings and allocations among the ratepayers, shareholders, owners, or affiliates when determining reasonable rate case expenses; amending s. 367.0814, F.S.; authorizing the commission to award rate case expenses to recover attorney fees or fees of other outside consultants in

579-02057-16 2016534c2

certain circumstances; requiring the commission to adopt rules by a certain date; amending s. 367.0816, F.S.; prohibiting a utility from recovering certain expenses for more than one rate case at a time; amending s. 367.111, F.S.; authorizing the commission to review water quality and wastewater service upon its own motion or based on complaints of customers; amending s. 367.165, F.S.; requiring a county that regulates water or wastewater services to comply with the requirements for abandoned water and wastewater systems; amending s. 403.8532, F.S.; authorizing the Department of Environmental Protection to require or request that the Florida Water Pollution Control Financing Corporation make loans, grants, and deposits to for-profit, privately owned, or investor-owned water systems; deleting restrictions on such activities; providing an effective date.

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

Section 1. Section 159.8105, Florida Statutes, is created to read:

159.8105 Allocation of bonds for water and wastewater infrastructure projects.—The division shall review the allocation of private activity bonds to determine the availability of additional allocation and reallocation of bonds for water and wastewater infrastructure projects.

Section 2. Paragraph (ooo) is added to subsection (7) of section 212.08, Florida Statutes, to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any entity by this chapter do not inure to any transaction that is otherwise taxable under this chapter when payment is made by a representative or employee of the entity by any means, including, but not limited to, cash, check, or credit card, even when that representative or employee is subsequently reimbursed by the entity. In addition, exemptions provided to any entity by this subsection do not inure to any transaction that is otherwise taxable under this chapter unless the entity has obtained a sales tax exemption certificate from the department or the entity obtains or provides other documentation as required by the department. Eligible purchases or leases made with such a certificate must be in strict compliance with this subsection and departmental rules, and any person who makes an exempt purchase with a certificate that is not in strict compliance with this subsection and the rules is liable for and shall pay the tax. The department may adopt rules to administer this subsection.

(ooo) Investor-owned water and wastewater utilities.—Sales or leases to an investor-owned water or wastewater utility holding a certificate of authorization under s. 367.031 are exempt from the tax imposed by this chapter if the sole or primary function of the utility is to construct, maintain, or

operate a water or wastewater system in this state and if the goods or services purchased or leased are used in this state.

Section 3. Present subsections (9) through (12) of section 367.022, Florida Statutes, are redesignated as subsections (10) through (13), respectively, and a new subsection (9) is added to that section, to read:

367.022 Exemptions.—The following are not subject to regulation by the commission as a utility nor are they subject to the provisions of this chapter, except as expressly provided:

(9) Any person who resells water service to his or her tenants or to individually metered residents for a fee that does not exceed the actual purchase price of the water service plus the actual cost of meter reading and billing, not to exceed 9 percent of the actual cost of water service.

Section 4. Paragraph (c) is added to subsection (2) of section 367.081, Florida Statutes, and paragraph (b) of subsection (4) and subsection (7) of that section are amended, to read:

367.081 Rates; procedure for fixing and changing.—

(2)

(c) In establishing rates for a utility, upon its own motion or upon the request of a utility, the commission may authorize a utility to create a utility reserve fund for infrastructure repair and replacement for a utility for existing distribution and collection infrastructure that is nearing the end of its useful life or is detrimental to water quality or reliability of service, to be funded by a portion of the rates charged by the utility, by a secured escrow account, or through a letter of credit. The commission shall adopt rules to govern

the implementation, management, and use of the fund, including, but not limited to, rules related to expenses for which the fund may be used, segregation of reserve account funds, requirements for a capital improvement plan, and requirements for commission authorization before disbursements are made from the fund.

(4)

(b) The approved rates of any utility ~~which receives all or any portion of its utility service from a governmental authority or from a water or wastewater utility regulated by the commission and which redistributes that service to its utility customers~~ shall be automatically increased or decreased without hearing, upon verified notice to the commission 45 days before ~~prior to~~ its implementation of the increase or decrease that the utility's costs for any specified expense item ~~the rates charged by the governmental authority or other utility~~ have changed. ~~The approved rates of any utility which is subject to an increase or decrease in the rates or fees that it is charged for electric power, the amount of ad valorem taxes assessed against its used and useful property, the fees charged by the Department of Environmental Protection in connection with the National Pollutant Discharge Elimination System Program, or the regulatory assessment fees imposed upon it by the commission shall be increased or decreased by the utility, without action by the commission, upon verified notice to the commission 45 days prior to its implementation of the increase or decrease that the rates charged by the supplier of the electric power or the taxes imposed by the governmental authority, or the regulatory assessment fees imposed upon it by the commission have changed. The new rates authorized shall reflect the amount~~

~~of the change of the ad valorem taxes or rates imposed upon the utility by the governmental authority, other utility, or supplier of electric power, or the regulatory assessment fees imposed upon it by the commission. The approved rates of any utility shall be automatically increased, without hearing, upon verified notice to the commission 45 days prior to implementation of the increase that costs have been incurred for water quality or wastewater quality testing required by the Department of Environmental Protection.~~

1. The new rates authorized shall reflect, on an amortized or annual basis, as appropriate, the cost of, or the amount of change in the cost of, the specified expense item~~, required water quality or wastewater quality testing performed by laboratories approved by the Department of Environmental Protection for that purpose~~. The new rates, however, shall not reflect the costs of any specified expense item ~~any required water quality or wastewater quality testing~~ already included in a utility's rates. Specified expense items that are eligible for automatic increase or decrease of a utility's rates include, but are not limited to:

a. The rates charged by a governmental authority or other water or wastewater utility regulated by the commission which provides utility service to the utility.

b. The rates or fees that the utility is charged for electric power.

c. The amount of ad valorem taxes assessed against the utility's used and useful property.

d. The fees charged by the Department of Environmental Protection in connection with the National Pollutant Discharge

Elimination System Program.

e. The regulatory assessment fees imposed upon the utility by the commission.

f. Costs incurred for water quality or wastewater quality testing required by the Department of Environmental Protection.

g. The fees charged for wastewater biosolids disposal.

h. Costs incurred for any tank inspection required by the Department of Environmental Protection or a local governmental authority.

i. Treatment plant operator and water distribution system operator license fees required by the Department of Environmental Protection or a local governmental authority.

j. Water or wastewater operating permit fees charged by the Department of Environmental Protection or a local governmental authority.

k. Consumptive or water use permit fees charged by a water management district.

2. A utility may not use this procedure to increase its rates as a result of an increase in a specific expense item which occurred ~~water quality or wastewater quality testing or an increase in the cost of purchased water services, sewer services, or electric power or in assessed ad valorem taxes, which increase was initiated~~ more than 12 months before the filing by the utility.

3. The commission may establish by rule additional specific expense items that are outside the control of the utility and have been imposed upon the utility by a federal, state, or local law, rule, order, or notice. If the commission establishes such a rule, the commission shall review the rule at least once every

5 years and determine whether each expense item should continue to be cause for an automatic increase or decrease and whether additional items should be included.

4. ~~The provisions of~~ This subsection does ~~do~~ not prevent a utility from seeking a change in rates pursuant to ~~the provisions of~~ subsection (2).

(7) The commission shall determine the reasonableness of rate case expenses and shall disallow all rate case expenses determined to be unreasonable. No rate case expense determined to be unreasonable shall be paid by a consumer.

(a) In determining the reasonable level of rate case expense, the commission shall consider the following criteria and disallow a rate case expense based upon:

1. The extent to which a utility has utilized or failed to utilize ~~the provisions of~~ paragraph (4)(a) or paragraph (4)(b).

2. Whether the customers have received a material benefit as a result of the rate case.

3. The amount of time between each rate case.

4. The extent to which a utility has used automatic increases or decreases authorized under subsection (4).

5. The extent to which, at the time of the initial filing, the utility filed complete documentation as required by commission rule, including, but not limited to, minimum filing requirements.

6. Whether the utility's rate case filing seeks preferential benefits to shareholders, owners, or nonregulated affiliates.

7. The proportion of any rate increase approved by the commission as compared to the amount initially requested by the

utility.

8. The amount of overall rate case expense incurred and requested as compared to the amount of rate increase approved by the commission.

9. The quality of service provided by the utility; and

10. Such other criteria as it may establish by rule.

(b) The commission shall make specific findings of fact, supported by competent, substantial evidence, for each criterion and the extent to which each criterion benefits the customer. The commission may allocate the benefits between the customers and the shareholders, owners, or affiliates accordingly.

Section 5. Subsection (3) of section 367.0814, Florida Statutes, is amended to read:

367.0814 Staff assistance in changing rates and charges; interim rates.—

(3) The provisions of s. 367.081(1), (2)(a), and (3) shall apply in determining the utility's rates and charges. However, the commission may not award rate case expenses to recover attorney fees or fees of other outside consultants who are engaged for the purpose of preparing or filing the case if a utility receives staff assistance in changing rates and charges pursuant to this section, unless the Office of Public Counsel or interested parties have intervened. The commission may award rate case expenses for attorney fees or fees of other outside consultants if such fees are incurred for the purpose of providing consulting or legal services to the utility after the initial staff report is made available to customers and the utility. If there is a protest or an appeal by a party other than the utility, the commission may award rate case expenses to

the utility for attorney fees or fees of other outside consultants for costs incurred after the protest or appeal. By December 31, 2016, the commission must adopt rules to administer this subsection.

Section 6. Section 367.0816, Florida Statutes, is amended to read:

367.0816 Recovery of rate case expenses.—

(1) The amount of rate case expense determined by the commission pursuant to ~~the provisions of~~ this chapter to be recovered through a public utilities rate shall be apportioned for recovery over a period of 4 years. At the conclusion of the recovery period, the rate of the public utility shall be reduced immediately by the amount of rate case expense previously included in rates.

(2) A utility may not recover the 4-year amortized rate case expense for more than one rate case at any given time. If the commission approves and a utility implements a rate change from a subsequent rate case pursuant to this section, any unamortized rate case expense for a prior rate case must be discontinued. The unamortized portion of rate case expense for a prior rate case must be removed from rates before the implementation of an additional amortized rate case expense for the most recent rate proceeding.

Section 7. Subsection (3) is added to section 367.111, Florida Statutes, to read:

367.111 Service.—

(3) The commission may, on its own motion or based on complaints of customers of a water utility subject to its jurisdiction, review water quality as it pertains to secondary

drinking water standards established by the Department of Environmental Protection. The commission may, on its own motion or based on complaints of customers of a wastewater utility subject to its jurisdiction, review wastewater service as it pertains to odor, noise, aerosol drift, or lighting.

Section 8. Section 367.165, Florida Statutes, is amended to read:

367.165 Abandonment.—It is the intent of the Legislature that water or wastewater service to the customers of a utility not be interrupted by the abandonment or placement into receivership of the utility. Notwithstanding s. 367.171, this section applies to each county. To that end:

(1) A ~~No~~ person, lessee, trustee, or receiver owning, operating, managing, or controlling a utility may not ~~shall~~ abandon the utility without giving 60 days' notice to the county or counties in which the utility is located and to the commission. Anyone who violates ~~the provisions of~~ this subsection is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Each day of such abandonment constitutes a separate offense. In addition, such act is a violation of this chapter, and the commission may impose upon the utility a penalty for each such offense of not more than $5,000 or may amend, suspend, or revoke its certificate of authorization; each day of such abandonment without prior notice constitutes a separate offense.

(2) After receiving such notice, the county, or counties acting jointly if more than one county is affected, shall petition the circuit court of the judicial circuit in which such utility is domiciled to appoint a receiver, which may be the

governing body of a political subdivision or any other person deemed appropriate. The receiver shall operate the utility from the date of abandonment until such time as the receiver disposes of the property of the utility in a manner designed to continue the efficient and effective operation of utility service.

(3) The notification to the commission under subsection (1) is sufficient cause for revocation, suspension, or amendment of the certificate of authorization of the utility as of the date of abandonment. The receiver operating such utility shall be considered to hold a temporary authorization from the commission, and the approved rates of the utility shall be deemed to be the interim rates of the receiver until modified by the commission.

Section 9. Subsection (3) of section 403.8532, Florida Statutes, is amended to read:

403.8532 Drinking water state revolving loan fund; use; rules.—

(3) The department may make, or request that the corporation make, loans, grants, and deposits to community water systems; for-profit, privately owned, or investor-owned water systems;~~,~~ nonprofit, transient, noncommunity water systems;~~,~~ and nonprofit, nontransient, noncommunity water systems to assist them in planning, designing, and constructing public water systems~~, unless such public water systems are for-profit privately owned or investor-owned systems that regularly serve 1,500 service connections or more within a single certified or franchised area. However, a for-profit privately owned or investor-owned public water system that regularly serves 1,500 service connections or more within a single certified or~~

~~franchised area may qualify for a loan only if the proposed project will result in the consolidation of two or more public water systems~~. The department may provide loan guarantees, purchase loan insurance, and refinance local debt through the issue of new loans for projects approved by the department. Public water systems may borrow funds made available pursuant to this section and may pledge any revenues or other adequate security available to them to repay any funds borrowed.

(a) The department shall administer loans so that amounts credited to the Drinking Water Revolving Loan Trust Fund in any fiscal year are reserved for the following purposes:

1. At least 15 percent for qualifying small public water systems.

2. Up to 15 percent for qualifying financially disadvantaged communities.

(b) If an insufficient number of the projects for which funds are reserved under this subsection have been submitted to the department at the time the funding priority list authorized under this section is adopted, the reservation of these funds no longer applies. The department may award the unreserved funds as otherwise provided in this section.

Section 10. This act shall take effect July 1, 2016.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Subcommittee on General Government, *Chair*
Governmental Oversight and Accountability, *Vice Chair*
Appropriations
Environmental Preservation and Conservation
Ethics and Elections
Fiscal Policy

JOINT COMMITTEE:
Joint Select Committee on Collective Bargaining, *Alternating Chair*

SENATOR ALAN HAYS
11th District

MEMORANDUM

To: Senator Tom Lee, Chair
Committee on Appropriations
CC: Cindy Kynoch, Staff Director
Sharon Bradford, Deputy Staff Director
Ross McSwain, General Counsel and Deputy Staff Director
Alicia Weiss, Committee Administrative Assistant
Lisa Roberts, Administrative Assistant

From: Senator D. Alan Hays

Subject: Request to agenda SB 534 Water and Wastewater

Date: January 12, 2016

I respectfully request that you agenda the above referenced bill at your earliest convenience. If you have any questions regarding this legislation, I welcome the opportunity to meet with you one-on-one to discuss it in further detail. Thank you so much for your consideration of this request.

Sincerely,

D. Alan Hays, DMD
State Senator, District 11

REPLY TO:
❒ 871 South Central Avenue, Umatilla, Florida 32784-9290 (352) 742-6441
❒ 320 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5011
❒ 1104 Main Street, The Villages, Florida 32159 (352) 360-6739 FAX: (352) 360-6748
❒ 685 West Montrose Street, Suite 210, Clermont, Florida 34711 (352) 241-9344 FAX: (888) 263-3677

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

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

3/1/16
Meeting Date

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

534
Bill Number (if applicable)

Topic Water / Wastewater Legislation "Hays"

Amendment Barcode (if applicable)

Name Chris Hansen

Job Title Ballard Partners

Address 403 E. Park Ave
Street

Tallahassee FL 32301
City *State* *Zip*

Phone 577-0444

Email Chansen@ballardfl.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Rural Water Association (FRWA)

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 Appropriations Subcommittee on Criminal and Civil Justice

BILL:	CS/CS/SB 668
INTRODUCER:	Appropriations Committee; Judiciary Committee; and Senator Stargel
SUBJECT:	Family Law
DATE:	March 1, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brown	Cibula	JU	**Fav/CS**
2.	Harkness	Sadberry	ACJ	**Recommend: Favorable**
3.	Harkness	Kynoch	AP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 668 makes various changes to laws relating to the amount and duration of alimony awards, grounds, and procedures for modifying an alimony award due to a substantial change in circumstances, and timesharing with children.

Alimony

Regarding alimony awarded to assist a party with legal fees and costs in a dissolution of marriage case, this bill requires the court to consider need and ability to pay, and the same bases for alimony required of all alimony determinations in dissolution cases.

With respect to alimony amounts, the bill establishes presumptive alimony ranges, for courts to use in determining the amount and duration of alimony awards. The presumptive amounts are determined by formulas based in part on the difference between the parties' gross incomes and the duration of their marriage. However, the combination of alimony and child support may not exceed 55 percent of the obligor's income. The bill also generally limits the duration of an alimony award to 25 to 75 percent of the duration of the parties' marriage. However, the bill provides exceptions to alimony guidelines to authorize the court to consider the contributions to the marriage of a long-term homemaker.

The bill specifies events that constitute a substantial change in circumstances which are grounds for modifying or terminating an alimony award. These grounds include increases in the

recipient's income, the involuntary underemployment or unemployment of the obligor, and the obligor's retirement. This bill authorizes an obligor to request that the court preapprove the customary retirement date for the obligor's profession 1 year in advance of retirement. The bill also lessens the proof required to show the existence of a supportive relationship between an alimony recipient and another person.

To protect an award of alimony, the court may order an obligor to purchase a security, such as a life insurance policy or a bond. Security is modifiable if the underlying alimony award is modified.

Time-sharing

Current law provides that the public policy of the state is for each minor to have frequent and continuing contact with both parents after the parents separate or divorce. The bill provides instead that in establishing a parenting plan and time-sharing schedule, the court shall begin with the premise that a minor child should spend approximately equal amounts of time with each parent. In addition, a court must include written findings in an order which supports and justifies any parenting plan or time-sharing schedule not based on an agreement between the parents.

Current law provides a list of factors for the court to apply in determining or modifying time-sharing, based on the best interests of the child. The bill modifies an existing factor by requiring the court to consider the demonstrated capacity or disposition of each parent to perform or ensure the performance of particular parenting tasks customarily performed by the other parent.

The bill has an indeterminate impact on state court workload and, therefore, an indeterminate fiscal impact.

The bill has an effective date of October 1, 2016.

II. Present Situation:

Alimony Pendente Lite

Alimony pendente lite is temporary alimony awarded after a marital party files for dissolution of marriage. The right to temporary alimony ends when the divorce becomes final, which is after the appeal process has run.[1] Florida law stipulates that a party may request alimony pendente lite through petition or motion, and if well-founded, the court must order a reasonable amount.[2]

Bases for Alimony

Chapter 61, F.S., addresses dissolution of marriage proceedings. Alimony is based on both financial need and the ability to pay.[3] After making an initial determination to award alimony, the court must consider:

- The standard of living established during the marriage.

[1] 24A AM. JR. 2D *Divorce and Separation* §615.
[2] Section 61.071, F.S.
[3] Section 61.08(2), F.S.

- The length of marriage.
- Ages and physical and emotional condition of the parties.
- Financial resources of the parties.
- Earning capacity, education level, vocational skill, and employability of the parties.
- Marital contributions, including homemaking, child care, and education and career building of the other party.
- Responsibilities of each party towards minor children.
- Tax treatment and consequences of alimony awards.
- All sources of income.
- Any other factor that advances equity and justice.[4]

The court may consider adultery by either spouse in a decision to award alimony.[5]

To protect an alimony award, the court may order an obligor to maintain a life insurance policy.[6]

Determination of Alimony Based on Length of Marriage

Limitations on Alimony in Florida

In determining the duration or form of an alimony award, the court applies presumptions based on the duration of the marriage. The length of marriage runs from the date of marriage until the date of the filing for dissolution of marriage.[7]

Florida law categorizes marriage lengths as follows:
- A short-term marriage is a marriage of less than seven years.
- A moderate-term marriage is a marriage of more than seven but less than 17 years.
- A long-term marriage is a marriage of 17 years or more.[8]

Florida law appears to create a presumption in favor of permanent periodic alimony following a long-term marriage.[9] A similar presumption appears to exist in favor of durational alimony following a moderate-term marriage or following a long-term marriage if permanent alimony is not appropriate. Durational alimony generally may not exceed the length of the marriage.[10]

The law appears to disfavor permanent alimony following a moderate-term marriage by requiring clear and convincing evidence for an award of permanent alimony. Permanent alimony for a short-term marriage is reserved for exceptional circumstances.

Limitations on Alimony Based on Duration of Marriage in Other States

Some states have limited alimony based on the duration of the marriage:

[4] Section 61.08(2)(a) through (j), F.S.
[5] Section 61.08(1), F.S.
[6] Section 61.08(3), F.S.
[7] *Id*.
[8] Section 61.08(4), F.S.
[9] Section 61.08(8), F.S.
[10] Section 61.08(4), F.S.

- Colorado: Provides a table that calculates the term of support for marriages of at least three years and up to 20 years in length. After 20 years of marriage, the court may award an indefinite term of alimony.[11]
- Delaware: Permits alimony for a period of up to 50 percent of the length of marriage, except that if a party is married for 20 years or longer, alimony may be indefinite.[12]
- Maine: Provides a rebuttable presumption that general support may not be awarded if the parties were married for less than 10 years as of the date of the filing of the petition.[13]
- New York: Establishes an advisory schedule for alimony maintenance, expressed as a percentage of the length of marriage for which alimony is payable. Length of marriage of up to and including 15 years of marriage, 15 to 30 percent; more than 15 and up to and including 20 years of marriage, 30 to 40 percent; more than 20 years, 35 to 50 percent.[14]
- Texas: Disfavors alimony for marriages of less than 10 years unless the obligee meets certain conditions and if so, caps the duration of alimony at five years. Alimony is capped at 20 percent of the payor's gross income, or $2,500 a month, whichever is less.[15]
- Massachusetts: No longer authorizes permanent alimony in most dissolution of marriage cases. Limits permanent alimony awards to marriages of 20 years or longer if the award is otherwise appropriate. Reserves the possibility of permanent alimony for shorter marriages if an award is in the interests of justice.[16]
- Utah: Prohibits alimony awards for a duration longer than the length of the marriage, unless the court finds extenuating circumstances.[17]

Forms of Alimony

Florida law recognizes various forms of alimony, including bridge-the-gap, rehabilitative, durational, and permanent periodic alimony.[18] See the table on the next page for additional information on the various types of alimony authorized under current law.

[11] Colo. Rev. Stat. Ann. s. 14-10-114.
[12] Del. Code Ann. title 14, s. 1512
[13] Me. Rev. Stat. Ann. title 19-A, s. 951A.
[14] N.Y. Dom. Rel. Law s. 236.
[15] Tex. Fam. Code Ann. Sections 8.054 and 8.055.
[16] Mass. Gen. Laws Chapter 208, Section 49.
[17] Utah Code Ann. s. 30-3-5.
[18] Section 61.08(1), F.S.

Forms of Alimony				
	Bridge-the-gap	***Rehabilitative***	***Durational***	***Permanent***
Purpose	Allows a party to transition from being married to being single upon showing legitimate short-term need.	Assists a party in becoming self-sufficient through skills training, education, or work experience.	Provides a party with economic assistance for a set period of time after a marriage of short or moderate duration, or a marriage of long duration if no need exists for a permanent award.	Provides for the needs and necessities of life as established during the marriage for a party who lacks the financial ability to maintain needs.
Length of Time	Up to 2 years.	Temporary.	Set period of time but not to exceed length of marriage.	Permanent.
Modifiable/ Termination	Not modifiable in amount or duration. Can terminate upon death or remarriage of recipient.	Modifiable upon a showing of a substantial change in circumstances, including cohabitation. Can be terminated upon noncompliance or completion of the rehabilitative plan.	Modifiable or terminated based on a substantial change in circumstances, including cohabitation. Length of award may not change unless exceptional circumstances are shown. Terminates upon death or remarriage of recipient.	Modifiable upon a substantial change in circumstances, including cohabitation. Terminates upon death or remarriage of recipient.
How Established		Requires inclusion of a specific and defined rehabilitative plan.		Awardable if appropriate for a marriage of long duration, upon a showing of clear and convincing evidence for a marriage of moderate duration, and with written findings of exceptional circumstances for a marriage of short duration.

Modification and Termination of Alimony

Four bases exist for a court to reconsider an alimony award, including whether to terminate alimony:

- A substantial change in circumstances of either party;
- Cohabitation by the obligee;
- Remarriage by the obligee; or
- Death of either party.[19]

Substantial Change of Circumstance

A motion for modification may be made by either party for the court to consider a substantial change in circumstances.[20] If the court modifies support on this basis, the court may modify support retroactively to the date of the filing of the action.[21]

Cohabitation

To modify alimony on an assertion of cohabitation between the alimony obligee and a third party, the court must find:

- The existence of a supportive relationship between the recipient and a third party; and
- That the recipient lives with the third party.

To determine whether a relationship is supportive, the court will examine:

- The extent to which the obligee and the third party hold themselves out as a married couple;
- The length of time that the third party has resided with the obligee;
- Whether the obligee and the third party have jointly purchased property;
- The extent to which the obligee and third party commingle financial assets; and
- The extent to which one of the parties supports the other party.[22]

The burden is on the obligor to show by a preponderance of evidence that a supportive relationship exists.[23]

[19] Section 61.08(8), F.S.

[20] Section 61.14(1)(a), F.S. Courts have found a substantial change in circumstance where an obligor's health deteriorated due to two heart attacks. He was unable to continue gainful employment and received social security disability income as his full income (*Scott v. Scott*, 2012 WL 5621672, 1 (Fla. 5th DCA 2012)). An obligor demonstrated a showing of a substantial change in circumstance through a detrimental impact on his business in manufacturing cathode ray television tubes due to advancing technology that made his product obsolete. The court also noted that the obligor was forced to remove money from family trust accounts to meet his alimony obligation. (*Shawfrank v. Shawfrank*, 97 So. 3d 934, 937 (Fla. 1st DCA 2012)). The court found a substantial change in circumstance where financial affidavits showed that the obligee's income jumped from $1,710 to $4,867 a month, making her income higher than the obligor's income of $3,418 a month. (*Koski v. Koski*, 98 So. 3d 93, 94 (Fla. 4th DCA 2012)).

[21] Section 61.14(1)(a), F.S.

[22] Section 61.14(b), F.S.

[23] Section 61.14(1)(b)1., F.S.

Child Support Enforcement

Congress passed into law Title IV-D of the Social Security Act[24] to require states to provide specific child support enforcement services to receive federal funding under the Aid for Dependent Children (AFDC) Program.[25] Services are available to single-parent families on public assistance who are entitled to child support from the other parent.

Florida established the Child Support Enforcement Application and Program Revenue Trust Fund to provide a trust fund for deposits of Title IV-D program income.[26] The trust fund is administered by the state Department of Revenue.[27] The clerk of the court of each circuit operates a depository for alimony transactions, support, maintenance, and support payments.[28] A fee is collected for payments made in non-Title IV-D cases to fund the depository.[29]

> …privileged against use in any subsequent litigation. … Collaborative Law is governed by a patchwork of state laws, state Supreme Court rules, local rules, and ethics opinions. The Uniform Collaborative Law Rules/Act (UCLR/A) is intended to create a uniform national framework for the use of Collaborative Law; one which includes important consumer protections and enforceable privilege provisions.[30]

Parenting and Time-sharing

Florida Law

The public policy of the state is for each minor child to have "frequent and continuing contact with both parents."[31] Additionally, a court must order shared parental responsibility for a minor child unless the court finds that shared responsibility would be detrimental to the child.[32] In determining timesharing with each parent, a court must consider the best interests of the child based on a specific list of statutory factors. These factors include:

- The demonstrated capacity of each parent to have a close and continuing parent-child relationship, honor the time-sharing schedule, and be reasonable when changes are required.
- The demonstrated capacity and disposition of each parent to determine, consider, and act upon the needs of the child, including developmental needs.
- The length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity.

[24] 42 USC §§ 651-669 (1988).
[25] Ashish Prasad, *Rights Without Remedies: Section 1983 Enforcement of Title IV-D of the Social Security Act*, 60 U.CHI. L. REV. 197, 197 (1993).
[26] Section 61.1814(1), F.S.
[27] *Id*.
[28] Section 61.181(1)(a), F.S.
[29] Section 61.181(2)(a) and (b), F.S.
[30] Uniform Law Commission, *Uniform Collaborative Law Rules/Act Short Summary* (on file with the Senate Judiciary Committee).
[31] Section 61.13(2)(c)1., F.S.
[32] Section 61.13 (2)(c)2., F.S.

- The geographic viability of the parenting plan, with special attention paid to the needs of school-age children and the amount of time to be spent traveling to effectuate the parenting plan.
- The moral fitness and the mental and physical health of the parents.
- The reasonable preference of the child, if the child is of sufficient intelligence, understanding, and experience to express a preference.
- The demonstrated capacity and disposition of each parent to provide a consistent routine for the child, such as discipline, and daily schedules for homework, meals, and bedtime, and to be involved in the child's school and extracurricular activities.
- The demonstrated capacity of each parent to keep the other parent informed about the minor child, and the willingness of each parent to adopt a unified front on major issues.
- Evidence of domestic violence, sexual violence, child abuse, child abandonment, or child neglect, or that either parent has knowingly provided false information about these issues. If the court accepts evidence of prior or pending actions on these issues, the court must acknowledge in writing that the evidence was considered in evaluating best interests.
- The particular parenting tasks customarily performed by each parent and the division of parental responsibilities before and during litigation, including the extent to which parenting responsibilities were undertaken by third parties.
- The demonstrated capacity and disposition of each parent to maintain an environment for the child which is free from substance abuse.[33]

A final factor provides the court with flexibility to consider any other factor relevant in establishing a parenting plan, including a time-sharing schedule.[34]

Time-sharing in other States

No state statutes require a court to order equal time-sharing or joint custody of minor children. However, a number of states, in addition to Florida, provide in law a presumption that joint custody is in the best interest of the child. These states are the District of Columbia, Idaho, Minnesota, New Mexico, South Dakota, Texas, Utah, Virginia, West Virginia, and Wisconsin. Other states provide the presumption only if the parents agree. These states are Alabama, California, Connecticut, Maine, Michigan, Mississippi, Nevada, New Hampshire, and Vermont.[35]

Several state legislatures recently amended laws on child custody to encourage equal time-sharing. Arkansas codified a preference for joint custody.[36] The South Dakota Legislature passed a law that permits the court to order joint physical custody when the court has awarded joint legal custody if it is in the best interest of the child.[37] The Utah Legislature enacted a rebuttable presumption for joint legal custody. Grounds for rebutting the presumption include domestic violence and physical or mental needs of a parent or child.[38]

[33] Section 61.13(3), F.S.
[34] Section 61.13(3)(t), F.S.
[35] National Conference of State Legislatures, *Shared/Joint Custody Enactments 2012* (Feb. 2015).
[36] AR s. 901.
[37] South Dakota House Bill 1055 (Chapter 141).
[38] Utah HB 88 (Chapter 269); HB 107 (Chapter 271).

III. Effect of Proposed Changes:

This bill makes various changes to laws applicable to dissolution of marriage cases in the areas of alimony, support, and time-sharing.

Alimony Awarded During a Pending Suit—Alimony Pendente Lite

Alimony pendente lite is temporary alimony awarded after a marital party files for dissolution of marriage. The bill requires the court to consider the bases for alimony (without the formula) after determining a need for alimony pendente lite and an ability to pay.

Alimony Awarded through a Final Court Order

Under the bill, a court must determine the amount of an alimony award in a multi-step process, from making initial findings, applying guidelines, and considering other factors, including factors which might justify a deviation from guidelines. The bill also establishes presumptive alimony duration ranges which range from 25 to 75 percent of the length of the marriage. The bill does not maintain the distinctions in current law relating to the duration or purposes of bridge-the-gap, rehabilitative, durational, or permanent alimony.

Initial Findings

In determining alimony, a court must make initial written findings based on:

- The amount of each party's monthly gross income, including potential income and actual or potential income from nonmarital property distributed to each party; and
- The years of marriage.

The courts must look at net income, rather than gross income, in calculating alimony and support. In instances in which trial courts have erroneously used a party's gross income, the appellate courts have routinely reversed those decisions.[39] In instances in which an obligor is self-employed, the court may start with gross income and subtract from it ordinary business expenses to arrive at net income.

This bill specifies that income considered in alimony calculations is gross income. Gross income is recurring income from any source and includes:

- Income from salaries, overtime pay, and wages, including tips declared to the IRS or tips imputed to bring the employee's gross earnings to the minimum wage for the number of hours worked, whichever is greater, commissions, bonuses; and dividends, and severance pay;
- Pension pay and retirement benefits actually received;
- Spousal support received from a previous marriage;
- Trust income and distributions regularly received, relied upon, or readily available to the beneficiary, royalties, income from estates, annuity payments, capital gains, recurring gains derived from dealings in property, rental income (gross receipts minus ordinary and necessary expenses required to produce the income), interest, and continuing monetary gifts;

[39] *Kingsbury v. Kingsbury*, 116 So. 3d 473, 474(Fla. 1st DCA 2013); *Vanzant v. Vanzant*, 82 So. 3d 991, 993 (Fla. 1st DCA 2011); *Vega v. Vega*, 877 So. 2d 882, 883 (Fla. 3d DCA 2004).

- Payments received as an independent contractor for labor or services, which must be considered income from self-employment; money drawn by a self-employed person for personal use that is deducted as a business expense, and expense reimbursements or in-kind payments or benefits received by a party in the course of employment, self-employment, or operation of a business which reduces personal living expenses;
- Workers' compensation; unemployment benefits, social security benefits, including those actually received based on disability, disability insurance benefits and funds paid from health, accident, disability, or casualty insurance if the insurance replaces wages; and
- Income from general partnerships, limited partnerships, closely held corporations, or limited liability companies, except that if the party is a passive investor with a minority interest in the company, income is limited to actual cash distributions received.

Gross income does not include:
- Child support payments received;
- Public assistance benefits;
- Social security benefits received by a parent on behalf of a minor child due to death or disability of a parent or stepparent; and
- Earnings or gains on retirement accounts, including individual retirement accounts, except that the earnings or gains are income if a party takes a distribution from the account, and if a party is able to take a distribution tax-free and chooses not to, the court may consider as income the distribution that could have been taken.

For income from self-employment, rent, royalties, proprietorship of a business, or joint ownership of a partnership or closely held corporation, gross income equals gross receipts minus ordinary and necessary expenses. Ordinary and necessary expenses do not include amounts allowable by the IRS for the accelerated component of depreciation expenses or investment tax credits or any other business expenses determined by the court to be inappropriate for determining gross income for purposes of calculating alimony.

The bill defines "potential income" as income which could be earned by a party using best efforts, and includes potential income from employment, investment of assets, or use of property in a financially prudent manner. Potential income from employment is income a party could reasonably expect to earn working at a locally available, full-time job based on the person's education, training, and experience. A person is considered to be underemployed if he or she is not working full-time in a position which is appropriate based on his or her education, training, and experience, and which is available in the local area. A person is not underemployed if he or she is enrolled in an educational program that can reasonably expect to result in a degree or certification and higher income within the foreseeable future. A court generally must impute income to a party who is voluntarily unemployed or underemployed.

The court must consider years of marriage based on whole years, calculated from the date of marriage until the date of the filing for dissolution.

This bill creates a rebuttable presumption against alimony for marriages of two years or less. The party seeking alimony may rebut the presumption by showing:
- The party seeking alimony has a clear and convincing need for alimony;

- The party from whom alimony is sought has an ability to pay alimony; and
- An inequity would result if the court does not award alimony.

If the court finds that the party rebuts the presumption, the court must provide written findings. Alimony will then be awarded under the formula.

Alimony Guidelines

This bill establishes formulas for use by the court after making its initial findings in alimony determinations, unless the parties agree to an amount otherwise. After making initial findings, the court will calculate the presumptive alimony ranges based upon two formulas. The formulas provide a presumptive range for alimony as follows:

- At the low end of the range: 0.015 x the years of marriage x the difference between the monthly gross income of the parties; and
- At the high end of the range: 0.020 x the years of marriage x the difference between the monthly gross incomes of the parties.

Difference in the Parties' Monthly Incomes	**Presumptive Alimony Amount Ranges**							
$20,000	High	$1,200	$2,000	$4,000	$4,800	$6,000	$8,000	$8,000
	Low	$900	$1,500	$3,000	$3,600	$4,500	$6,000	$6,000
$15,000	High	$900	$1,500	$3,000	$3,600	$4,500	$6,000	$6,000
	Low	$675	$1,125	$2,250	$2,700	$3,375	$4,500	$4,500
$10,000	High	$600	$1,000	$2,000	$2,400	$3,000	$4,000	$4,000
	Low	$450	$750	$1,500	$1,800	$2,250	$3,000	$3,000
$8,000	High	$480	$800	$1,600	$1,920	$2,400	$3,200	$3,200
	Low	$360	$600	$1,200	$1,440	$1,800	$2,400	$2,400
$7,000	High	$420	$700	$1,400	$1,680	$2,100	$2,800	$2,800
	Low	$315	$525	$1,050	$1,260	$1,575	$2,100	$2,100
$6,000	High	$360	$600	$1,200	$1,440	$1,800	$2,400	$2,400
	Low	$270	$450	$900	$1,080	$1,350	$1,800	$1,800
$5,000	High	$300	$500	$1,000	$1,200	$1,500	$2,000	$2,000
	Low	$225	$375	$750	$900	$1,125	$1,500	$1,500
$4,000	High	$240	$400	$800	$960	$1,200	$1,600	$1,600
	Low	$180	$300	$600	$720	$900	$1,200	$1,200
$3,000	High	$180	$300	$600	$720	$900	$1,200	$1,200
	Low	$135	$225	$450	$540	$675	$900	$900
$2,000	High	$120	$200	$400	$480	$600	$800	$800
	Low	$90	$150	$300	$360	$450	$600	$600
Length of Marriage		**3 Years**	**5 Years**	**10 Years**	**12 Years**	**15 Years**	**20 Years**	**25 Years**

The formula bases the years of marriage at 20 for both the low and the high end of the range. However, if a court establishes the duration of the alimony award at 50 percent or less of the length of the marriage, the court is required to use the actual years of marriage, up to 25 years to calculate the high end of a presumptive alimony amount range.

The court retains flexibility to determine alimony within the presumptive alimony ranges.

Bases for Alimony (Considered by the Court after Presumptive Alimony is Calculated)

Presumptive alimony may then be established by the court within the presumptive ranges, based on the following:

- The financial resources of the obligee and the obligor, including the actual or potential income from nonmarital or marital property or any other source and the ability of each spouse to meet his or her reasonable needs;
- The standard of living of the parties during the marriage considering that there will be two households to maintain after the dissolution of marriage and that neither party may be able to maintain the same standard of living they had while married;
- The equitable distribution of marital property, including whether an unequal distribution of marital property was made to reduce or alleviate the need for alimony;
- Both parties' income, employment, and employability, obtainable through reasonable diligence and additional training or education, and any necessary reduction in employment due to parenting or circumstances of the parties;
- Whether a party could reduce the need for alimony by pursuing additional educational or vocational training, including the length of time required and anticipated costs of training;
- Whether one party has historically earned higher or lower income than that at the time of trial;
- Whether a party has foregone or postponed economic, educational, or employment opportunities during the course of the marriage;
- Whether either party has caused the unreasonable depletion or dissipation of marital assets;
- The amount of temporary alimony and the number of months temporary alimony was paid to the recipient spouse;
- The age, health, and physical and mental condition of the parties, including health care needs and costs;
- Significant economic or noneconomic contributions to the marriage or to the economic, educational, or occupational advancement of a party, including services rendered in homemaking, child care, education, and career building of the other party, payment by one spouse of the other spouse's separate debts, or enhancement of the other spouse's personal or real property;
- The tax consequence of the alimony award; and
- Any other factor necessary to provide equity and justice between the parties.

If the court awards alimony, the court must include in written findings that the obligor has the financial ability to pay alimony.

Under no circumstance may a court order alimony and child support that, when combined, constitutes more than 55 percent of the obligor's net income. This change appears to codify case law, as appellate courts have reversed awards of trial courts where the percent of income

awarded as support is considered unreasonable. The Fourth District Court of Appeal found that the trial court committed an abuse of discretion in awarding combined alimony and child support totaling 58 percent of the obligor's net income.[40] The appellate court noted that the trial court had legitimate grounds on which to order permanent alimony. The former wife earned only a two-year college degree and supported her husband as a teacher's aide while he secured a law school education. She then became a homemaker. However, the court noted that the excessive award left the obligor with just $330 a month on which to live after paying for rent and a car loan.[41]

In *Casella v. Casella*, the same appellate court ruled clearly excessive an award of combined alimony and child support that approached 70 percent of the husband's net income.[42] A 1990 case, the court reversed the trial court on the basis that the award left the obligor with just $800 a month on which to live.

To protect an award of alimony, the court may require an obligor to purchase or maintain a decreasing term life insurance policy or a bond, or provide other security to protect the alimony award. To award security, a court must find the existence of special circumstances and make specific evidentiary findings about the availability, cost, and financial impact on the obligor. Security is modifiable if the underlying alimony award is reduced.

Deviation from Guidelines

The court may determine an award of alimony that is outside the presumptive alimony amount or alimony duration ranges only if the court makes specific written findings that the application of the ranges is inappropriate or inequitable after considering all the factors used as the bases of alimony.

In addition to generally authorizing the court to award alimony outside the presumptive alimony amount, the bill establishes a specific basis for the court to do so. The bill authorizes a deviation from guidelines for a long-term homemaker spouse who forewent education and career opportunities if:

- The duration of the marriage was at least 20 years;
- Pursuant to agreement, one spouse substantially refrained from economic, educational, or employment opportunities primarily to contribute to the marriage as a homemaker or child care provider; and
- Even with additional education, the spouse seeking alimony faces dramatically reduced opportunities to advance a career.

If the court orders a departure from guidelines on this basis, the court may order alimony in an amount that equalizes the income of the parties until the obligor either retires upon reaching:

- The age for eligibility for full retirement benefits; or
- The customary retirement age for his or her occupation.

[40] *Thomas v. Thomas*, 418 So. 2d 316, (Fla. 4th DCA 1982).
[41] *Id*. at 316-317.
[42] *Casella v. Casella*, 569 So. 2d 848, 849 (Fla. 4th DCA 1990). The court stopped short of ruling that a particular percentage constitutes a bright-line rule, and instead, ruled that each case must be determined individually.

Nominal Alimony

Even if the court does not intend to award alimony at the time, the court may reserve the issue of alimony by awarding alimony of $1.00 a year under the durational guidelines if:

- A party who has traditionally been the breadwinner temporarily lacks the ability to pay support but is reasonably anticipated to have the ability to pay in the future; or
- A party is presently able to work but for whom a medical condition with a reasonable degree of medical certainty may inhibit the ability to pay in the future.

The courts routinely award nominal alimony to reserve the issue of alimony at a later date.[43]

Tax and Alimony

Unless otherwise stated in the agreement between the parties or by the court through judgment or order, alimony is deductible from income by the obligor and included in the income of the obligee for tax purposes.

The agreement between the parties may provide or the court, after considering equities and tax efficiencies, may order alimony to be nondeductible from income by the obligor and not includable in the income of the obligee.

Payment of Alimony in Depository

Under the bill, for orders on alimony entered into on or after January 1, 1985, the court must order that payments of alimony be made through a depository. For orders on alimony entered before January 1, 1985, upon appearance by one or both parties before the court to modify or enforce the order, the court must modify the order require that alimony payments to be made through the depository.

Alimony payments do not need to be directed through the depository:

- If there is no minor child; or
- If there is a minor child and both parties agree to payment without the depository.

However, a payee may subsequently file an affidavit with the clerk of the court a verified motion that an obligor has been in default or arrearages in payment. No later than 15 days after receiving the motion, the court must:

- Hold an evidentiary hearing establishing the default and arrearages;
- Issue an order that the clerk establish or amend an existing family law case history account; and
- Advise the parties that future payments must be directed through the depository.

A Title IV-D agency, currently the Department of Revenue, can also request payments to be made through the depository.

[43] *Lightcap v. Lightcap*, 14 So. 3d 259, 260 (Fla. 3d DCA 2009). "Here the trial court did not abuse its discretion when it granted the former wife nominal alimony. Nominal alimony would permit her to apply for modification upon a proper showing if and when the former husband achieves his full earning potential in the future."

Substantial Change in Circumstance Justifying the Modification of Alimony

Existing law authorizes the court to modify alimony upon a showing of a substantial change in circumstances. However, a court may not decrease or increase the duration of alimony provided for in the agreement or order.

Under the bill, upon the filing of a petition by the obligor, the court may temporarily reduce or suspend the obligor's payment of alimony while the petition is pending. However, if either party unreasonably pursues or defends an action, the other party is entitled to pay reasonable attorney fees and costs of the prevailing party.

Rebuttable Presumption

This bill creates a rebuttable presumption that alimony must be modified or terminated if the courts finds that the obligor's retirement is a substantial change in circumstance.

The presumption can be rebutted by the following factors:
- The age of the parties;
- The health of the parties;
- Assets and liabilities of the parties;
- Earned or imputed income of the parties;
- The ability of the parties to maintain part-time or full-time employment; and
- Any other factor deemed relevant by the court.

New Grounds for a Substantial Change in Circumstance

This bill establishes new substantial changes in circumstance:
- If the actual income of a party exceeds by at least ten percent the amount the court imputed to the party when the court initially determined alimony, the other party may seek an immediate modification of alimony. An increase in an obligor's income alone does not constitute a basis for modification unless at the time the court established alimony, the court determined that the obligor was underemployed or unemployed but did not impute income at his or her maximum potential income.
- If an obligor becomes involuntarily underemployed or unemployed for six months after the court enters its final order for alimony, the obligor is entitled to pursue an immediate modification of alimony.
- Retirement is a substantial change in circumstance if:
  - The obligor has reached the age for eligibility to receive full retirement benefits under the Social Security Act and has retired;
  - The obligor has reached the customary retirement age for his or her occupation and has retired from that occupation; or
  - The obligor retires early and the court determines that the retirement is reasonable based upon the obligor's age, health, motivation for retirement, and impact on the obligee.

At least one court has refused modification of alimony on the basis that an obligor voluntarily retired early. Here the court held that the obligor did not establish voluntary retirement as a

circumstance beyond his control.[44] In this case, the obligor retired early at the age of 63, after 40 years of steady employment.[45]

An obligor may file an action within a year of his or her anticipated retirement date for the court to determine the customary retirement date for the obligor's profession. Allowing the obligor to file in advance of retirement helps the obligor to plan.

Remarriage of Obligor is not a Substantial Change in Circumstance

The bill clarifies that remarriage of the obligor is not a substantial change in circumstance.

Financial information of a subsequent spouse of a party paying or receiving alimony is inadmissible and may not be considered as part of any modification action unless a party is claiming that his or her income has decreased since the marriage. If the party makes this claim, financial information is admissible for a limited purpose.

Supportive Relationship

Regarding the change in circumstance that is the presence of a supportive relationship between an obligee and another person, this bill expands the requirement that the relationship currently exist, to one which existed within the previous year before the date of the filing of the petition for modification or termination of alimony.

The bill adds as a factor for the court to use in determining to modify alimony based on a supportive relationship whether the obligor's failure, in whole or in part, to comply with all court-ordered financial obligations contributed to the obligee's need to have a supportive relationship.

This bill requires the obligor to demonstrate by a preponderance of the evidence that a supportive relationship exists or has existed within the previous year before the filing date of the petition for modification. The obligor is not required to prove the cohabitation of the obligee. These changes reduce the burden on an obligor to show a supportive relationship.

If an obligor prevails in a showing of a supportive relationship, reduction or termination of alimony is retroactive to the date of the filing of the petition.

Advancing Trial

The court must give priority to cases that have remained pending for more than two years from the initial date a party files a petition if a party requests that the case advance to trial.

Time-sharing

The bill provides additional guidelines for the court to use in determining a time-sharing schedule of a minor child.

[44] *Ward v. Ward*, 502 So. 2d 477, 478 (FLA. 3D DCA 1987).
[45] *Id*.

Current law provides that the public policy of the state is for each minor to have frequent and continuing contact with both parents after the parents separate or divorce. The bill provides instead that in establishing a parenting plan and time-sharing schedule, the court shall begin with the premise that a minor child should spend approximately equal amounts of time with each parent.

Current law provides a list of factors for the court to consider in establishing or modifying time-sharing schedule, based on the best interests of the child. One of these factors is that a court must consider and favor the parent having the "demonstrated capacity" of performing various parenting duties. The bill modifies this factor by providing that the court consider the demonstrated capacity or disposition of each parent to perform or ensure the performance of particular parenting tasks customarily performed by the other parent.

A court must provide written findings of fact which support and justify any parenting plan or time-sharing schedule that is not based on an agreement between the parents.

Application of the Bill to Alimony Awards

The provisions of the bill apply to:
- All initial alimony determinations and all alimony modification actions pending as of October 1, 2016; and
- All future initial determinations of alimony and alimony modification actions.

The enactment of the bill may not serve as the sole basis for a party to seek modification of an alimony award which existed prior to October 1, 2016.[46]

The bill takes effect October 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

[46] The application of the bill to existing alimony awards is substantially different than the application of CS/CS/SB 718, 2nd Engrossed (2013), an alimony reform bill that was vetoed by Governor Scott. The prior alimony reform bill provided that the bill itself constituted a "substantial change in circumstances for which an obligor may seek . . . a modification of the amount or duration of alimony." CS/CS/SB 718, 2nd Engrossed (2013), lines 936-939.

D. Other Constitutional Issues:

Most alimony awards are based on marital settlement agreements (MSAs), which are incorporated into final judgments in dissolution of marriage cases. Courts consider these MSAs as contracts. Courts interpret challenges to MSAs on the same basis as other forms of contract.[47]

Nonetheless, existing s. 61.14, F.S., purports to give courts broad authority to modify marital settlement agreements. Courts interpreting these agreements have also found that the parties to a marital settlement agreement may waive their statutory rights to seek modification of alimony by providing that the agreement is nonmodifiable.[48]

Any interpretation the bill that would allow the modification of a non-modifiable marital settlement agreement would likely be constrained by Art. I, s. 10 of the Florida Constitution, which provides, in part: "No … ex post facto law or law impairing the obligation of contracts shall be passed." Moreover, courts have "refused to apply a statute retroactively if the statute impairs vested rights, creates new obligations, or imposes new penalties."[49]

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

CS/CS/SB 668 more clearly defines gross income, provides guidelines for alimony, and establishes new bases for a substantial change in circumstance justifying a modification of alimony. In addition to the changes in alimony law, the bill revises public policy on time-sharing to provide for substantially equal time-sharing. These changes may reduce litigation time and costs.

C. Government Sector Impact:

The Office of the State Courts Administrator (OSCA) expects an increase in judicial workload from various provisions of the bill; however the extent of the impact is

[47] The First District Court of Appeal applied contract law in determining whether to admit parol evidence, or evidence outside the contract (MSA), on the basis that the contract language contains a latent ambiguity (*Toussaint v. Toussaint*, 107 So. 3d 474, 477-478 (Fla. 1st DCA 2013). A latent ambiguity, requiring extrinsic evidence, existed where an MSA failed to address financing of college education and the contract otherwise provided for equal payments for education costs (*Riera v. Riera*, 86 So. 3d 1163, 1166—67 (Fla. 3d DCA 2012)). The court found no breach of contract from the plain language of the MSA. (*McCord v. McCord*, 94 So. 3d 719 (Fla. 2nd DCA 2012).

[48] *Elbaum v. Elbaum*, 141 So. 3d 658, 661 (Fla. 4th DCA 2014) (quoting *Hahamovitch v. Hahamovitch*, 133 So. 3d 1008, 1016 (Fla. 4th DCA 2014), rev. granted, No. SC14–277, 2014 WL 1682898 (Fla. Apr. 22, 2014) (citing Tapp v. Tapp, 887 So.2d 442, 444 (Fla. 2d DCA 2004)); *Cook v. Cook*, 94 So. 3d 683, 685 (Fla. 4th DCA 2012).

[49] *State Farm Mut. Auto. Ins. Co. v. Laforet*, 658 So. 2d 55, 61 (Fla. 1995) (citing *Alamo Rent–A–Car, Inc. v. Mancusi*, 632 So. 2d 1352, 1358 (Fla.1994); *State v. Lavazzoli*, 434 So.2d 321, 323 (Fla.1983); *Seaboard Sys. R.R. v. Clemente*, 467 So.2d 348, 357 (Fla. 3d DCA 1985).

unknown. Specifically, this bill requires a court to calculate alimony based upon a formula. Also, many provisions in ch. 61, F.S., currently require a judge to make specific written factual findings. However, the specific determinations required of a judge differ under the bill. Additionally, the bill imposes attorney fees and costs on a party who unreasonably pursues or defends an action for modification of alimony, if the party prevails. This requirement may necessitate additional hearings for a court to determine the reasonableness of a modification request. OSCA, however, cannot accurately determine the fiscal impact of the bill at this time.[50]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 61.071, 61.08, 61.13, 61.14, 61.1827, 61.30, and 409.2579.

This bill creates section 61.192 of the Florida Statutes.

IX. Additional Information:

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

CS/CS by Appropriations on March 1, 2016:
The committee substitute:

- Provides that in establishing a parenting plan and time-sharing schedule, the court shall begin with the premise that a minor child should spend approximately equal amounts of time with each parent.
- Modifies, as a factor for the court to consider in determining or modifying a time-sharing schedule, the demonstrated capacity or disposition of each parent to perform or ensure the performance of parenting tasks customarily performed by the other parent.
- Requires the court to issue written findings of fact for any parenting plan or timesharing schedule that is not based on an agreement of the parents.

CS by Judiciary on February 16, 2016:
The CS authorizes the court to deviate from the alimony guidelines of the bill:

- For a spouse who forewent education and career opportunities to contribute to the family through providing homemaking or child care if:
  - The duration of the marriage was at least 20 years;

[50] Office of the State Courts Administrator, *2016 Judicial Impact Statement* (March 1, 2016).

- Pursuant to agreement, one spouse substantially refrained from economic, educational, or employment opportunities primarily to contribute to the marriage as a homemaker or child care provider; and
- Even with additional education, the spouse seeking alimony faces dramatically reduced opportunities to advance a career.

- In an amount that equalizes the income of the parties until the obligor either retires upon reaching:
  - The age for eligibility for full retirement benefits; or
  - The customary retirement age for his or her occupation.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
03/01/2016	.	
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	.	
	.	

The Committee on Appropriations (Joyner) recommended the following:

Senate Amendment

Delete lines 927 - 931
and insert:
Florida Statutes, apply only to marriages that occur on or after the effective date of this act. The enacting of this act may not

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/01/2016	.	
	.	
	.	
	.	

The Committee on Appropriations (Lee) recommended the following:

Senate Amendment (with title amendment)

Delete lines 469 - 637
and insert:
Section 3. Paragraph (c) of subsection (2) and subsection (3) of section 61.13, Florida Statutes, is amended to read:
61.13 Support of children; parenting and time-sharing; powers of court.—
(2)
(c) The court shall determine all matters relating to parenting and time-sharing of each minor child of the parties in


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accordance with the best interests of the child and in accordance with the Uniform Child Custody Jurisdiction and Enforcement Act, except that modification of a parenting plan and time-sharing schedule requires a showing of a substantial, material, and unanticipated change of circumstances.

1. In establishing a parenting plan and time-sharing schedule, the court shall begin with the premise that a minor child should spend approximately equal amounts of time with each parent. Using this premise as a starting point, the court shall formulate a parenting plan and time-sharing schedule taking into account the best interest of the child after considering all of the relevant factors in subsection (3). It is the public policy of this state ~~that each minor child has frequent and continuing contact with both parents after the parents separate or the marriage of the parties is dissolved and~~ to encourage parents to share the rights and responsibilities, and joys, of childrearing. ~~There is no presumption for or against the father or mother of the child or for or against any specific time-sharing schedule when creating or modifying the parenting plan of the child.~~

2. The court shall order that the parental responsibility for a minor child be shared by both parents unless the court finds that shared parental responsibility would be detrimental to the child. Evidence that a parent has been convicted of a misdemeanor of the first degree or higher involving domestic violence, as defined in s. 741.28 and chapter 775, or meets the criteria of s. 39.806(1)(d), creates a rebuttable presumption of detriment to the child. If the presumption is not rebutted after the convicted parent is advised by the court that the

presumption exists, shared parental responsibility, including time-sharing with the child, and decisions made regarding the child, may not be granted to the convicted parent. However, the convicted parent is not relieved of any obligation to provide financial support. If the court determines that shared parental responsibility would be detrimental to the child, it may order sole parental responsibility and make such arrangements for time-sharing as specified in the parenting plan as will best protect the child or abused spouse from further harm. Whether or not there is a conviction of any offense of domestic violence or child abuse or the existence of an injunction for protection against domestic violence, the court shall consider evidence of domestic violence or child abuse as evidence of detriment to the child.

a. In ordering shared parental responsibility, the court may consider the expressed desires of the parents and may grant to one party the ultimate responsibility over specific aspects of the child's welfare or may divide those responsibilities between the parties based on the best interests of the child. Areas of responsibility may include education, health care, and any other responsibilities that the court finds unique to a particular family.

b. The court shall order sole parental responsibility for a minor child to one parent, with or without time-sharing with the other parent if it is in the best interests of the minor child.

3. Access to records and information pertaining to a minor child, including, but not limited to, medical, dental, and school records, may not be denied to either parent. Full rights under this subparagraph apply to either parent unless a court

order specifically revokes these rights, including any restrictions on these rights as provided in a domestic violence injunction. A parent having rights under this subparagraph has the same rights upon request as to form, substance, and manner of access as are available to the other parent of a child, including, without limitation, the right to in-person communication with medical, dental, and education providers.

(3) For purposes of establishing or modifying parental responsibility and creating, developing, approving, or modifying a parenting plan, including a time-sharing schedule, which governs each parent's relationship with his or her minor child and the relationship between each parent with regard to his or her minor child, the best interest of the child shall be the primary consideration. A determination of parental responsibility, a parenting plan, or a time-sharing schedule may not be modified without a showing of a substantial, material, and unanticipated change in circumstances and a determination that the modification is in the best interests of the child. Determination of the best interests of the child shall be made by evaluating all of the factors affecting the welfare and interests of the particular minor child and the circumstances of that family, including, but not limited to:

(a) The demonstrated capacity and disposition of each parent to facilitate and encourage a close and continuing parent-child relationship, to honor the time-sharing schedule, and to be reasonable when changes are required.

(b) The anticipated division of parental responsibilities after the litigation, including the extent to which parental responsibilities will be delegated to third parties.


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(c) The demonstrated capacity and disposition of each parent to determine, consider, and act upon the needs of the child as opposed to the needs or desires of the parent.

(d) The length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity.

(e) The geographic viability of the parenting plan, with special attention paid to the needs of school-age children and the amount of time to be spent traveling to effectuate the parenting plan. This factor does not create a presumption for or against relocation of either parent with a child.

(f) The moral fitness of the parents.

(g) The mental and physical health of the parents.

(h) The home, school, and community record of the child.

(i) The reasonable preference of the child, if the court deems the child to be of sufficient intelligence, understanding, and experience to express a preference.

(j) The demonstrated knowledge, capacity, or ~~and~~ disposition of each parent to be informed of the circumstances of the minor child, including, but not limited to, the child's friends, teachers, medical care providers, daily activities, and favorite things.

(k) The demonstrated capacity or ~~and~~ disposition of each parent to provide a consistent routine for the child, such as discipline, and daily schedules for homework, meals, and bedtime.

(l) The demonstrated capacity of each parent to communicate with and keep the other parent informed of issues and activities regarding the minor child, and the willingness of each parent to

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adopt a unified front on all major issues when dealing with the child.

(m) Evidence of domestic violence, sexual violence, child abuse, child abandonment, or child neglect, regardless of whether a prior or pending action relating to those issues has been brought. If the court accepts evidence of prior or pending actions regarding domestic violence, sexual violence, child abuse, child abandonment, or child neglect, the court must specifically acknowledge in writing that such evidence was considered when evaluating the best interests of the child.

(n) Evidence that either parent has knowingly provided false information to the court regarding any prior or pending action regarding domestic violence, sexual violence, child abuse, child abandonment, or child neglect.

(o) The demonstrated capacity or disposition of each parent to perform or ensure the performance of particular parenting tasks customarily performed by the other ~~each~~ parent and the division of parental responsibilities before the institution of litigation and during the pending litigation, including the extent to which parenting responsibilities were undertaken by third parties.

(p) The demonstrated capacity and disposition of each parent to participate and be involved in the child's school and extracurricular activities.

(q) The demonstrated capacity and disposition of each parent to maintain an environment for the child which is free from substance abuse.

(r) The capacity and disposition of each parent to protect the child from the ongoing litigation as demonstrated by not

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discussing the litigation with the child, not sharing documents or electronic media related to the litigation with the child, and refraining from disparaging comments about the other parent to the child.

(s) The developmental stages and needs of the child and the demonstrated capacity and disposition of each parent to meet the child's developmental needs.

(t) Any other factor that is relevant to the determination of a specific parenting plan, including the time-sharing schedule.

The court shall make detailed written findings of fact which support and justify any parenting plan or time-sharing schedule that is not based on an agreement between the parents.

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

And the title is amended as follows:

Delete lines 30 - 35

and insert:

awards; amending s. 61.13, F.S.; specifying a premise that a minor child should spend approximately equal amounts of time with each parent; revising a finite list of factors that a court must evaluate when establishing or modifying parental responsibility or a parenting plan; requiring a court order to be supported by written findings of fact under certain circumstances; amending s. 61.14, F.S.; prohibiting a court

By the Committee on Judiciary; and Senator Stargel

590-03680-16 2016668c1

A bill to be entitled

An act relating to family law; amending s. 61.071, F.S.; requiring a court to consider certain alimony factors and make specific written findings of fact under certain circumstances; prohibiting a court from using certain presumptive alimony guidelines in calculating alimony pendente lite; amending s. 61.08, F.S.; defining terms; requiring a court to make specified initial written findings in a dissolution of marriage proceeding where a party has requested alimony; requiring a court to make specified findings before ruling on a request for alimony; providing for determinations of presumptive alimony amount range and duration range; providing presumptions concerning alimony awards depending on the duration of marriages; providing for imputation of income in certain circumstances; specifying exceptions to the guidelines for the amount and duration of alimony awards; providing for awards of nominal alimony in certain circumstances; providing for taxability and deductibility of alimony awards; prohibiting a combined award of alimony and child support from constituting more than a specified percentage of a payor's net income; authorizing the court to order a party to protect an alimony award by specified means; providing for termination of an award; authorizing a court to modify or terminate the amount of an initial alimony award; prohibiting a court from modifying the duration of an alimony award; providing for payment of awards; amending s. 61.13, F.S.; revising public policy; revising the factors that are used to determine the best interests of a child; requiring a

court order to be supported by written findings of fact for a specified initial permanent time-sharing schedule; amending s. 61.14, F.S.; prohibiting a court from changing the duration of alimony; authorizing a party to pursue an immediate modification of alimony in certain circumstances; revising factors to be considered in determining whether an existing award of alimony should be reduced or terminated because of an alleged supportive relationship; providing for burden of proof for claims concerning the existence of supportive relationships; providing for the effective date of a reduction or termination of an alimony award; providing that the remarriage of an alimony obligor is not a substantial change in circumstance; providing that the financial information of a spouse of a party paying or receiving alimony is inadmissible and undiscoverable; providing an exception; providing for modification or termination of an award based on a party's retirement; providing a presumption upon a finding of a substantial change in circumstance; specifying factors to be considered in determining whether to modify or terminate an award based on a substantial change in circumstance; providing for a temporary suspension of an obligor's payment of alimony while his or her petition for modification or termination is pending; providing for an award of attorney fees and costs for unreasonably pursuing or defending a modification of an award; providing for an effective date of a modification or termination of an

award; amending s. 61.30, F.S.; requiring that a child support award be adjusted to reduce the combined alimony and child support award under certain circumstances; creating s. 61.192, F.S.; providing for motions to advance the trial of certain actions if a specified period has passed since the initial service on the respondent; amending ss. 61.1827 and 409.2579, F.S.; conforming cross-references; providing applicability; providing an effective date.

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

Section 1. Section 61.071, Florida Statutes, is amended to read:

61.071 Alimony pendente lite; suit money.—In every proceeding for dissolution of the marriage, a party may claim alimony and suit money in the petition or by motion, and if the petition is well founded, the court shall allow a reasonable sum therefor. If a party in any proceeding for dissolution of marriage claims alimony or suit money in his or her answer or by motion, and the answer or motion is well founded, the court shall allow a reasonable sum therefor. After determining there is a need for alimony and that there is an ability to pay alimony, the court shall consider the alimony factors in s. 61.08(4)(b)1.-14. and make specific written findings of fact regarding the relevant factors that justify an award of alimony under this section. The court may not use the presumptive alimony guidelines in s. 61.08 to calculate alimony under this section.

Section 2. Section 61.08, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 61.08, F.S., for present text.)

61.08 Alimony.—

(1) DEFINITIONS.—As used in this section, unless the context otherwise requires, the term:

(a)1. "Gross income" means recurring income from any source and includes, but is not limited to:

a. Income from salaries.

b. Wages, including tips declared by the individual for purposes of reporting to the Internal Revenue Service or tips imputed to bring the employee's gross earnings to the minimum wage for the number of hours worked, whichever is greater.

c. Commissions.

d. Payments received as an independent contractor for labor or services, which payments must be considered income from self-employment.

e. Bonuses.

f. Dividends.

g. Severance pay.

h. Pension payments and retirement benefits actually received.

i. Royalties.

j. Rental income, which is gross receipts minus ordinary and necessary expenses required to produce the income.

k. Interest.

l. Trust income and distributions which are regularly received, relied upon, or readily available to the beneficiary.

m. Annuity payments.

n. Capital gains.

o. Any money drawn by a self-employed individual for personal use that is deducted as a business expense, which moneys must be considered income from self-employment.

p. Social security benefits, including social security benefits actually received by a party as a result of the disability of that party.

q. Workers' compensation benefits.

r. Unemployment insurance benefits.

s. Disability insurance benefits.

t. Funds payable from any health, accident, disability, or casualty insurance to the extent that such insurance replaces wages or provides income in lieu of wages.

u. Continuing monetary gifts.

v. Income from general partnerships, limited partnerships, closely held corporations, or limited liability companies; except that if a party is a passive investor, has a minority interest in the company, and does not have any managerial duties or input, the income to be recognized may be limited to actual cash distributions received.

w. Expense reimbursements or in-kind payments or benefits received by a party in the course of employment, self-employment, or operation of a business which reduces personal living expenses.

x. Overtime pay.

y. Income from royalties, trusts, or estates.

z. Spousal support received from a previous marriage.

aa. Gains derived from dealings in property, unless the

gain is nonrecurring.

2. "Gross income" does not include:

a. Child support payments received.

b. Benefits received from public assistance programs.

c. Social security benefits received by a parent on behalf of a minor child as a result of the death or disability of a parent or stepparent.

d. Earnings or gains on retirement accounts, including individual retirement accounts; except that such earnings or gains shall be included as income if a party takes a distribution from the account. If a party is able to take a distribution from the account without being subject to a federal tax penalty for early distribution and the party chooses not to take such a distribution, the court may consider the distribution that could have been taken in determining the party's gross income.

3.a. For income from self-employment, rent, royalties, proprietorship of a business, or joint ownership of a partnership or closely held corporation, the term "gross income" equals gross receipts minus ordinary and necessary expenses, as defined in sub-subparagraph b., which are required to produce such income.

b. "Ordinary and necessary expenses," as used in sub-subparagraph a., does not include amounts allowable by the Internal Revenue Service for the accelerated component of depreciation expenses or investment tax credits or any other business expenses determined by the court to be inappropriate for determining gross income for purposes of calculating alimony.

(b) "Potential income" means income which could be earned by a party using his or her best efforts and includes potential income from employment and potential income from the investment of assets or use of property. Potential income from employment is the income which a party could reasonably expect to earn by working at a locally available, full-time job commensurate with his or her education, training, and experience. Potential income from the investment of assets or use of property is the income which a party could reasonably expect to earn from the investment of his or her assets or the use of his or her property in a financially prudent manner.

(c)1. "Underemployed" means a party is not working full-time in a position which is appropriate, based upon his or her educational training and experience, and available in the geographical area of his or her residence.

2. A party is not considered "underemployed" if he or she is enrolled in an educational program that can be reasonably expected to result in a degree or certification within a reasonable period, so long as the educational program is:

a. Expected to result in higher income within the foreseeable future.

b. A good faith educational choice based upon the previous education, training, skills, and experience of the party and the availability of immediate employment based upon the educational program being pursued.

(d) "Years of marriage" means the number of whole years, beginning from the date of the parties' marriage until the date of the filing of the action for dissolution of marriage.

(2) INITIAL FINDINGS.—When a party has requested alimony in

a dissolution of marriage proceeding, before granting or denying an award of alimony, the court shall make initial written findings as to:

(a) The amount of each party's monthly gross income, including, but not limited to, the actual or potential income, and also including actual or potential income from nonmarital or marital property distributed to each party.

(b) The years of marriage as determined from the date of marriage through the date of the filing of the action for dissolution of marriage.

(3) ALIMONY GUIDELINES.—After making the initial findings described in subsection (2), the court shall calculate the presumptive alimony amount range and the presumptive alimony duration range. The court shall make written findings as to the presumptive alimony amount range and presumptive alimony duration range.

(a) *Presumptive alimony amount range.*—The low end of the presumptive alimony amount range shall be calculated by using the following formula:

(0.015 x the years of marriage) x the difference between the monthly gross incomes of the parties

The high end of the presumptive alimony amount range shall be calculated by using the following formula:

(0.020 x the years of marriage) x the difference between the monthly gross incomes of the parties

For purposes of calculating the presumptive alimony amount range, 20 years of marriage shall be used in calculating the low end and high end for marriages of 20 years or more. In calculating the difference between the parties' monthly gross income, the income of the party seeking alimony shall be subtracted from the income of the other party. If the application of the formulas to establish a guideline range results in a negative number, the presumptive alimony amount shall be $0.

(b) *Presumptive alimony duration range.*—The low end of the presumptive alimony duration range shall be calculated by using the following formula:

0.25 x the years of marriage

The high end of the presumptive alimony duration range shall be calculated by using the following formula:

0.75 x the years of marriage

(c) *Exceptions to alimony guidelines.*—

1. If a court establishes the duration of the alimony award at 50 percent or less of the length of the marriage, the court shall use the actual years of the marriage, up to a maximum of 25 years, to calculate the high end of the presumptive alimony amount range.

2. A court may award alimony in an amount that equalizes the income of the parties until the obligor retires upon reaching the age for eligibility for full retirement benefits

under s. 216 of the Social Security Act, 42 U.S.C. s. 416, or upon reaching the customary retirement age for his or her occupation if:

a. The duration of the marriage was at least 20 years;

b. Pursuant to the mutual agreement or consent of the parties to the marriage, one spouse substantially refrained from economic, educational, or employment opportunities primarily for the purpose of contributing to the marriage through homemaking or child care activities; and

c. The spouse seeking alimony even with additional education faces dramatically reduced opportunities to advance in a career.

This subparagraph should not be applied in a manner that discourages a spouse from seeking additional education or employment opportunities.

(4) ALIMONY AWARD.—

(a) *Marriages of 2 years or less.*—For marriages of 2 years or less, there is a rebuttable presumption that no alimony shall be awarded. The court may award alimony for a marriage with a duration of 2 years or less only if the court makes written findings that there is a clear and convincing need for alimony, there is an ability to pay alimony, and that the failure to award alimony would be inequitable. The court shall then establish the alimony award in accordance with paragraph (b).

(b) *Marriages of more than 2 years.*—Absent an agreement of the parties, alimony shall presumptively be awarded in an amount within the alimony amount range calculated in paragraph (3)(a). Absent an agreement of the parties, alimony shall presumptively

be awarded for a duration within the alimony duration range calculated in paragraph (3)(b). In determining the amount and duration of the alimony award, the court shall consider all of the following factors upon which evidence was presented:

1. The financial resources of the recipient spouse, including the actual or potential income from nonmarital or marital property or any other source and the ability of the recipient spouse to meet his or her reasonable needs independently.

2. The financial resources of the payor spouse, including the actual or potential income from nonmarital or marital property or any other source and the ability of the payor spouse to meet his or her reasonable needs while paying alimony.

3. The standard of living of the parties during the marriage with consideration that there will be two households to maintain after the dissolution of the marriage and that neither party may be able to maintain the same standard of living after the dissolution of the marriage.

4. The equitable distribution of marital property, including whether an unequal distribution of marital property was made to reduce or alleviate the need for alimony.

5. Both parties' income, employment, and employability, obtainable through reasonable diligence and additional training or education, if necessary, and any necessary reduction in employment due to the needs of an unemancipated child of the marriage or the circumstances of the parties.

6. Whether a party could become better able to support himself or herself and reduce the need for ongoing alimony by pursuing additional educational or vocational training along

with all of the details of such educational or vocational plan, including, but not limited to, the length of time required and the anticipated costs of such educational or vocational training.

7. Whether one party has historically earned higher or lower income than the income reflected at the time of trial and the duration and consistency of income from overtime or secondary employment.

8. Whether either party has foregone or postponed economic, educational, or employment opportunities during the course of the marriage.

9. Whether either party has caused the unreasonable depletion or dissipation of marital assets.

10. The amount of temporary alimony and the number of months that temporary alimony was paid to the recipient spouse.

11. The age, health, and physical and mental condition of the parties, including consideration of significant health care needs or uninsured or unreimbursed health care expenses.

12. Significant economic or noneconomic contributions to the marriage or to the economic, educational, or occupational advancement of a party, including, but not limited to, services rendered in homemaking, child care, education, and career building of the other party, payment by one spouse of the other spouse's separate debts, or enhancement of the other spouse's personal or real property.

13. The tax consequence of the alimony award.

14. Any other factor necessary to do equity and justice between the parties.

(c) *Deviation from guidelines.*—The court may establish an

award of alimony that is outside the presumptive alimony amount or alimony duration ranges only if the court considers all of the factors in paragraph (b) and makes specific written findings concerning the relevant factors justifying that the application of the presumptive alimony amount or alimony duration ranges, as applicable, is inappropriate or inequitable.

(d) *Order establishing alimony award.*—After consideration of the presumptive alimony amount and duration ranges in accordance with paragraphs (3)(a) and (b) and the factors upon which evidence was presented in accordance with paragraph (b), the court may establish an alimony award. An order establishing an alimony award must clearly set forth both the amount and the duration of the award. The court shall also make a written finding that the payor has the financial ability to pay the award.

(5) IMPUTATION OF INCOME.—If a party is voluntarily unemployed or underemployed, alimony shall be calculated based on a determination of potential income unless the court makes specific written findings regarding the circumstances that make it inequitable to impute income.

(6) NOMINAL ALIMONY.—Notwithstanding subsections (1), (3), and (4), the court may make an award of nominal alimony in the amount of $1 per year if, at the time of trial, a party who has traditionally provided the primary source of financial support to the family temporarily lacks the ability to pay support but is reasonably anticipated to have the ability to pay support in the future. The court may also award nominal alimony for an alimony recipient who is presently able to work but for whom a medical condition with a reasonable degree of medical certainty

may inhibit or prevent his or her ability to work during the duration of the alimony period. The duration of the nominal alimony shall be established within the presumptive durational range based upon the length of the marriage subject to the alimony factors in paragraph (4)(b). Before the expiration of the durational period, nominal alimony may be modified in accordance with s. 61.14 as to amount to a full alimony award using the alimony guidelines and factors in accordance with s. 61.08.

(7) TAXABILITY AND DEDUCTIBILITY OF ALIMONY.—

(a) Unless otherwise stated in the judgment or order for alimony or in an agreement incorporated thereby, alimony shall be deductible from income by the payor under s. 215 of the Internal Revenue Code and includable in the income of the payee under s. 71 of the Internal Revenue Code.

(b) When making a judgment or order for alimony, the court may, in its discretion after weighing the equities and tax efficiencies, order alimony be nondeductible from income by the payor and nonincludable in the income of the payee.

(c) The parties may, in a marital settlement agreement, separation agreement, or related agreement, specifically agree in writing that alimony be nondeductible from income by the payor and nonincludable in the income of the payee.

(8) MAXIMUM COMBINED AWARD.—In no event shall a combined award of alimony and child support constitute more than 55 percent of the payor’s net income, calculated without any consideration of alimony or child support obligations.

(9) SECURITY OF AWARD.—To the extent necessary to protect an award of alimony, the court may order any party who is

ordered to pay alimony to purchase or maintain a decreasing term life insurance policy or a bond, or to otherwise secure such alimony award with any other assets that may be suitable for that purpose, in an amount adequate to secure the alimony award. Any such security may be awarded only upon a showing of special circumstances. If the court finds special circumstances and awards such security, the court must make specific evidentiary findings regarding the availability, cost, and financial impact on the obligated party. Any security may be modifiable in the event the underlying alimony award is modified and shall be reduced in an amount commensurate with any reduction in the alimony award.

(10) TERMINATION OF AWARD.—An alimony award shall terminate upon the death of either party or the remarriage of the obligee.

(11) MODIFICATION OF AWARD.—A court may subsequently modify or terminate the amount of an award of alimony initially established under this section in accordance with s. 61.14. However, a court may not modify the duration of an award of alimony initially established under this section.

(12) PAYMENT OF AWARD.—

(a) With respect to an order requiring the payment of alimony entered on or after January 1, 1985, unless paragraph (c) or paragraph (d) applies, the court shall direct in the order that the payments of alimony be made through the appropriate depository as provided in s. 61.181.

(b) With respect to an order requiring the payment of alimony entered before January 1, 1985, upon the subsequent appearance, on or after that date, of one or both parties before the court having jurisdiction for the purpose of modifying or

enforcing the order or in any other proceeding related to the order, or upon the application of either party, unless paragraph (c) or paragraph (d) applies, the court shall modify the terms of the order as necessary to direct that payments of alimony be made through the appropriate depository as provided in s. 61.181.

(c) If there is no minor child, alimony payments do not need to be directed through the depository.

(d)1. If there is a minor child of the parties and both parties so request, the court may order that alimony payments do not need to be directed through the depository. In this case, the order of support shall provide, or be deemed to provide, that either party may subsequently apply to the depository to require that payments be made through the depository. The court shall provide a copy of the order to the depository.

2. If subparagraph 1. applies, either party may subsequently file with the clerk of the court a verified motion alleging a default or arrearages in payment stating that the party wishes to initiate participation in the depository program. The moving party shall copy the other party with the motion. No later than 15 days after filing the motion, the court shall conduct an evidentiary hearing establishing the default and arrearages, if any, and issue an order directing the clerk of the circuit court to establish, or amend an existing, family law case history account, and further advising the parties that future payments must thereafter be directed through the depository.

3. In IV-D cases, the Title IV-D agency shall have the same rights as the obligee in requesting that payments be made

through the depository.

Section 3. Paragraph (c) of subsection (2) and subsection (3) of section 61.13, Florida Statutes, are amended, present subsections (4) through (8) of that section are redesignated as subsections (5) through (9), respectively, and a new subsection (4) is added to that section, to read:

61.13 Support of children; parenting and time-sharing; powers of court.—

(2)

(c) The court shall determine all matters relating to parenting and time-sharing of each minor child of the parties in accordance with the best interests of the child and in accordance with the Uniform Child Custody Jurisdiction and Enforcement Act, except that modification of a parenting plan and time-sharing schedule requires a showing of a substantial, material, and unanticipated change of circumstances.

1. Absent good cause, it is the public policy of this state that the best interest of each minor child is served by a time-sharing schedule that provides for substantially equal time-sharing with both parents. It is the public policy of this state ~~that each minor child has frequent and continuing contact with both parents after the parents separate or the marriage of the parties is dissolved and~~ to encourage parents to share the rights and responsibilities, and joys, of childrearing. There is no presumption for or against the father or mother of the child or for or against any specific time-sharing schedule when creating or modifying the parenting plan of the child.

2. The court shall order that the parental responsibility for a minor child be shared by both parents unless the court

finds that shared parental responsibility would be detrimental to the child. Evidence that a parent has been convicted of a misdemeanor of the first degree or higher involving domestic violence, as defined in s. 741.28 and chapter 775, or meets the criteria of s. 39.806(1)(d), creates a rebuttable presumption of detriment to the child. If the presumption is not rebutted after the convicted parent is advised by the court that the presumption exists, shared parental responsibility, including time-sharing with the child, and decisions made regarding the child, may not be granted to the convicted parent. However, the convicted parent is not relieved of any obligation to provide financial support. If the court determines that shared parental responsibility would be detrimental to the child, it may order sole parental responsibility and make such arrangements for time-sharing as specified in the parenting plan as will best protect the child or abused spouse from further harm. Whether or not there is a conviction of any offense of domestic violence or child abuse or the existence of an injunction for protection against domestic violence, the court shall consider evidence of domestic violence or child abuse as evidence of detriment to the child.

a. In ordering shared parental responsibility, the court may consider the expressed desires of the parents and may grant to one party the ultimate responsibility over specific aspects of the child's welfare or may divide those responsibilities between the parties based on the best interests of the child. Areas of responsibility may include education, health care, and any other responsibilities that the court finds unique to a particular family.

b. The court shall order sole parental responsibility for a minor child to one parent, with or without time-sharing with the other parent if it is in the best interests of the minor child.

3. Access to records and information pertaining to a minor child, including, but not limited to, medical, dental, and school records, may not be denied to either parent. Full rights under this subparagraph apply to either parent unless a court order specifically revokes these rights, including any restrictions on these rights as provided in a domestic violence injunction. A parent having rights under this subparagraph has the same rights upon request as to form, substance, and manner of access as are available to the other parent of a child, including, without limitation, the right to in-person communication with medical, dental, and education providers.

(3) For purposes of establishing or modifying parental responsibility and creating, developing, approving, or modifying a parenting plan, including a time-sharing schedule, which governs each parent's relationship with his or her minor child and the relationship between each parent with regard to his or her minor child, the best interest of the child shall be the primary consideration. A determination of parental responsibility, a parenting plan, or a time-sharing schedule may not be modified without a showing of a substantial, material, and unanticipated change in circumstances and a determination that the modification is in the best interests of the child. Determination of the best interests of the child shall be made by evaluating all of the factors affecting the welfare and interests of the particular minor child and the circumstances of that family, including~~, but not limited to~~:

(a) The demonstrated capacity or ~~and~~ disposition of each parent to facilitate and encourage a close and continuing parent-child relationship, to honor the time-sharing schedule, and to be reasonable when changes are required.

(b) The anticipated division of parental responsibilities after the litigation, including the extent to which parental responsibilities will be delegated to third parties.

(c) The demonstrated capacity and disposition of each parent to determine, consider, and act upon the needs of the child as opposed to the needs or desires of the parent.

(d) The length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity.

(e) The geographic viability of the parenting plan, with special attention paid to the needs of school-age children and the amount of time to be spent traveling to carry out ~~effectuate~~ the parenting plan. This factor does not create a presumption for or against relocation of either parent with a child.

(f) The moral fitness of the parents.

(g) The mental and physical health of the parents.

(h) The home, school, and community record of the child.

(i) The reasonable preference of the child, if the court deems the child to be of sufficient intelligence, understanding, and experience to express a preference.

(j) The demonstrated knowledge, capacity, or ~~and~~ disposition of each parent to be informed of the circumstances of the minor child, including, but not limited to, the child's friends, teachers, medical care providers, daily activities, and favorite things.

(k) The demonstrated capacity or ~~and~~ disposition of each parent to provide a consistent routine for the child, such as discipline, and daily schedules for homework, meals, and bedtime.

(l) The demonstrated capacity of each parent to communicate with the other parent and keep the other parent informed of issues and activities regarding the minor child, and the willingness of each parent to adopt a unified front on all major issues when dealing with the child.

(m) Evidence of domestic violence, sexual violence, child abuse, child abandonment, or child neglect, regardless of whether a prior or pending action relating to those issues has been brought. If the court accepts evidence of prior or pending actions regarding domestic violence, sexual violence, child abuse, child abandonment, or child neglect, the court must specifically acknowledge in writing that such evidence was considered when evaluating the best interests of the child.

(n) Evidence that either parent has knowingly provided false information to the court regarding any prior or pending action regarding domestic violence, sexual violence, child abuse, child abandonment, or child neglect.

(o) The demonstrated capacity or disposition of each parent to perform or ensure the performance of particular parenting tasks customarily performed by the other ~~each~~ parent and the division of parental responsibilities before the institution of litigation and during the pending litigation, including the extent to which parenting responsibilities were undertaken by third parties.

(p) The demonstrated capacity and disposition of each

parent to participate and be involved in the child's school and extracurricular activities.

(q) The demonstrated capacity and disposition of each parent to maintain an environment for the child which is free from substance abuse.

(r) The capacity and disposition of each parent to protect the child from the ongoing litigation as demonstrated by not discussing the litigation with the child, not sharing documents or electronic media related to the litigation with the child, and refraining from disparaging comments about the other parent to the child.

(s) The developmental stages and needs of the child and the demonstrated capacity and disposition of each parent to meet the child's developmental needs.

(t) The amount of time-sharing requested by each parent.

(u) The frequency that a parent would likely leave the child in the care of a nonrelative on evenings and weekends when the other parent would be available and willing to provide care.

(v) ~~(t)~~ Any other factor that is relevant to the determination of a specific parenting plan, including the time-sharing schedule.

(4) A court order must be supported by written findings of fact if the order establishes an initial permanent time-sharing schedule that does not provide for substantially equal time-sharing.

Section 4. Subsection (1) of section 61.14, Florida Statutes, is amended to read:

61.14 Enforcement and modification of support, maintenance, or alimony agreements or orders.—

(1)(a) When the parties enter into an agreement for payments for, or instead of, support, maintenance, or alimony, whether in connection with a proceeding for dissolution or separate maintenance or with any voluntary property settlement, or when a party is required by court order to make any payments, and the circumstances or the financial ability of either party changes or the child who is a beneficiary of an agreement or court order as described herein reaches majority after the execution of the agreement or the rendition of the order, either party may apply to the circuit court of the circuit in which the parties, or either of them, resided at the date of the execution of the agreement or reside at the date of the application, or in which the agreement was executed or in which the order was rendered, for an order decreasing or increasing the amount of support, maintenance, or alimony, and the court has jurisdiction to make orders as equity requires, with due regard to the changed circumstances or the financial ability of the parties or the child, decreasing, increasing, or confirming the amount of separate support, maintenance, or alimony provided for in the agreement or order. However, a court may not decrease or increase the duration of alimony provided for in the agreement or order. A party is entitled to pursue an immediate modification of alimony if the actual income earned by the other party exceeds by at least 10 percent the amount imputed to that party at the time the existing alimony award was determined and such circumstance shall constitute a substantial change in circumstances sufficient to support a modification of alimony. However, an increase in an alimony obligor's income alone does not constitute a basis for a modification to increase alimony

unless at the time the alimony award was established it was determined that the obligor was underemployed or unemployed and the court did not impute income to that party at his or her maximum potential income. If an alimony obligor becomes involuntarily underemployed or unemployed for a period of 6 months following the entry of the last order requiring the payment of alimony, the obligor is entitled to pursue an immediate modification of his or her existing alimony obligations and such circumstance shall constitute a substantial change in circumstance sufficient to support a modification of alimony. A finding that medical insurance is reasonably available or the child support guidelines schedule in s. 61.30 may constitute changed circumstances. Except as otherwise provided in s. 61.30(11)(c), the court may modify an order of support, maintenance, or alimony by increasing or decreasing the support, maintenance, or alimony retroactively to the date of the filing of the action or supplemental action for modification as equity requires, giving due regard to the changed circumstances or the financial ability of the parties or the child.

(b)1. The court may reduce or terminate an award of alimony upon specific written findings by the court that since the granting of a divorce and the award of alimony a supportive relationship exists or has existed within the previous year before the date of the filing of the petition for modification or termination between the obligee and another ~~a~~ person ~~with whom the obligee resides~~. ~~On the issue of whether alimony should be reduced or terminated under this paragraph, the burden is on the obligor to prove by a preponderance of the evidence that a~~

~~supportive relationship exists.~~

2. In determining whether an existing award of alimony should be reduced or terminated because of an alleged supportive relationship between an obligee and a person who is not related by consanguinity or affinity ~~and with whom the obligee resides~~, the court shall elicit the nature and extent of the relationship in question. The court shall give consideration, without limitation, to circumstances, including, but not limited to, the following, in determining the relationship of an obligee to another person:

a. The extent to which the obligee and the other person have held themselves out as a married couple by engaging in conduct such as using the same last name, using a common mailing address, referring to each other ~~in terms such~~ as ~~"my husband" or "my wife,"~~ "my spouse" or otherwise conducting themselves in a manner that evidences a permanent supportive relationship.

b. The period of time that the obligee has resided with the other person in a permanent place of abode.

c. The extent to which the obligee and the other person have pooled their assets or income or otherwise exhibited financial interdependence.

d. The extent to which the obligee or the other person has supported the other, in whole or in part.

e. The extent to which the obligee or the other person has performed valuable services for the other.

f. The extent to which the obligee or the other person has performed valuable services for the other's company or employer.

g. Whether the obligee and the other person have worked together to create or enhance anything of value.

h. Whether the obligee and the other person have jointly contributed to the purchase of any real or personal property.

i. Evidence in support of a claim that the obligee and the other person have an express agreement regarding property sharing or support.

j. Evidence in support of a claim that the obligee and the other person have an implied agreement regarding property sharing or support.

k. Whether the obligee and the other person have provided support to the children of one another, regardless of any legal duty to do so.

l. Whether the obligor's failure, in whole or in part, to comply with all court-ordered financial obligations to the obligee constituted a significant factor in the establishment of the supportive relationship.

3. In any proceeding to modify an alimony award based upon a supportive relationship, the obligor has the burden of proof to establish, by a preponderance of the evidence, that a supportive relationship exists or has existed within the previous year before the date of the filing of the petition for modification or termination. The obligor is not required to prove cohabitation of the obligee and the third party.

4. Notwithstanding paragraph (f), if a reduction or termination is granted under this paragraph, the reduction or termination is retroactive to the date of filing of the petition for reduction or termination.

5.~~3.~~ This paragraph does not abrogate the requirement that every marriage in this state be solemnized under a license, does not recognize a common law marriage as valid, and does not

recognize a de facto marriage. This paragraph recognizes only that relationships do exist that provide economic support equivalent to a marriage and that alimony terminable on remarriage may be reduced or terminated upon the establishment of equivalent equitable circumstances as described in this paragraph. The existence of a conjugal relationship, though it may be relevant to the nature and extent of the relationship, is not necessary for the application of the provisions of this paragraph.

(c)1. For purposes of this section, the remarriage of an alimony obligor does not constitute a substantial change in circumstance or a basis for a modification of alimony.

2. The financial information, including, but not limited to, information related to assets and income, of a subsequent spouse of a party paying or receiving alimony is inadmissible and may not be considered as a part of any modification action unless a party is claiming that his or her income has decreased since the marriage. If a party makes such a claim, the financial information of the subsequent spouse is discoverable and admissible only to the extent necessary to establish whether the party claiming that his or her income has decreased is diverting income or assets to the subsequent spouse that might otherwise be available for the payment of alimony. However, this subparagraph may not be used to prevent the discovery of or admissibility in evidence of the income or assets of a party when those assets are held jointly with a subsequent spouse. This subparagraph is not intended to prohibit the discovery or admissibility of a joint tax return filed by a party and his or her subsequent spouse in connection with a modification of

alimony.

(d)1. An obligor may file a petition for modification or termination of an alimony award based upon his or her actual retirement.

a. A substantial change in circumstance is deemed to exist if:

(I) The obligor has reached the age for eligibility to receive full retirement benefits under s. 216 of the Social Security Act, 42 U.S.C. s. 416, and has retired; or

(II) The obligor has reached the customary retirement age for his or her occupation and has retired from that occupation. An obligor may file an action within 1 year of his or her anticipated retirement date and the court shall determine the customary retirement date for the obligor's profession. However, a determination of the customary retirement age is not an adjudication of a petition for a modification of an alimony award.

b. If an obligor voluntarily retires before reaching any of the ages described in sub-subparagraph a., the court shall determine whether the obligor's retirement is reasonable upon consideration of the obligor's age, health, and motivation for retirement and the financial impact on the obligee. A finding of reasonableness by the court shall constitute a substantial change in circumstance.

2. Upon a finding of a substantial change in circumstance, there is a rebuttable presumption that an obligor's existing alimony obligation shall be modified or terminated. The court shall modify or terminate the alimony obligation, or make a determination regarding whether the rebuttable presumption has

been overcome, based upon the following factors applied to the current circumstances of the obligor and obligee:

a. The age of the parties.

b. The health of the parties.

c. The assets and liabilities of the parties.

d. The earned or imputed income of the parties as provided in s. 61.08(1)(a) and (5).

e. The ability of the parties to maintain part-time or full-time employment.

f. Any other factor deemed relevant by the court.

3. The court may temporarily reduce or suspend the obligor's payment of alimony while his or her petition for modification or termination under this paragraph is pending.

(e) A party who unreasonably pursues or defends an action for modification of alimony shall be required to pay the reasonable attorney fees and costs of the prevailing party. Further, a party obligated to pay prevailing party attorney fees and costs in connection with unreasonably pursuing or defending an action for modification is not entitled to an award of attorney fees and costs in accordance with s. 61.16.

(f) There is a rebuttable presumption that a modification or termination of an alimony award is retroactive to the date of the filing of the petition, unless the obligee demonstrates that the result is inequitable.

(g) ~~(c)~~ For each support order reviewed by the department as required by s. 409.2564(11), if the amount of the child support award under the order differs by at least 10 percent but not less than $25 from the amount that would be awarded under s. 61.30, the department shall seek to have the order modified and

any modification shall be made without a requirement for proof or showing of a change in circumstances.

(h) ~~(d)~~ The department may ~~shall have authority to~~ adopt rules to implement this section.

Section 5. Paragraph (d) is added to subsection (11) of section 61.30, Florida Statutes, to read:

61.30 Child support guidelines; retroactive child support.—

(11)

(d) Whenever a combined alimony and child support award constitutes more than 55 percent of the payor's net income, calculated without any consideration of alimony or child support obligations, the court shall adjust the award of child support to ensure that the 55 percent cap is not exceeded.

Section 6. Section 61.192, Florida Statutes, is created to read:

61.192 Advancing trial.—In an action brought pursuant to this chapter, if more than 2 years have passed since the initial petition was served on the respondent, either party may move the court to advance the trial of their action on the docket. This motion may be made at any time after 2 years have passed since the petition was served, and once made the court must give the case priority on the court's calendar.

Section 7. Subsection (1) of section 61.1827, Florida Statutes, is amended to read:

61.1827 Identifying information concerning applicants for and recipients of child support services.—

(1) Any information that reveals the identity of applicants for or recipients of child support services, including the name, address, and telephone number of such persons, held by a non-

Title IV-D county child support enforcement agency is confidential and exempt from s. 119.07(1) and s. 24(a) of Art. I of the State Constitution. The use or disclosure of such information by the non-Title IV-D county child support enforcement agency is limited to the purposes directly connected with:

(a) Any investigation, prosecution, or criminal or civil proceeding connected with the administration of any non-Title IV-D county child support enforcement program;

(b) Mandatory disclosure of identifying and location information as provided in s. 61.13(8) ~~s. 61.13(7)~~ by the non-Title IV-D county child support enforcement agency when providing non-Title IV-D services;

(c) Mandatory disclosure of information as required by ss. 409.2577, 61.181, 61.1825, and 61.1826 and Title IV-D of the Social Security Act; or

(d) Disclosure to an authorized person, as defined in 45 C.F.R. s. 303.15, for purposes of enforcing any state or federal law with respect to the unlawful taking or restraint of a child or making or enforcing a parenting plan. As used in this paragraph, the term "authorized person" includes a parent with whom the child does not currently reside, unless a court has entered an order under s. 741.30, s. 741.31, or s. 784.046.

Section 8. Subsection (1) of section 409.2579, Florida Statutes, is amended to read:

409.2579 Safeguarding Title IV-D case file information.—

(1) Information concerning applicants for or recipients of Title IV-D child support services is confidential and exempt from the provisions of s. 119.07(1). The use or disclosure of

such information by the IV-D program is limited to purposes directly connected with:

(a) The administration of the plan or program approved under part A, part B, part D, part E, or part F of Title IV; under Title II, Title X, Title XIV, Title XVI, Title XIX, or Title XX; or under the supplemental security income program established under Title XVI of the Social Security Act;

(b) Any investigation, prosecution, or criminal or civil proceeding connected with the administration of any such plan or program;

(c) The administration of any other federal or federally assisted program which provides service or assistance, in cash or in kind, directly to individuals on the basis of need;

(d) Reporting to an appropriate agency or official, information on known or suspected instances of physical or mental injury, child abuse, sexual abuse or exploitation, or negligent treatment or maltreatment of a child who is the subject of a support enforcement activity under circumstances which indicate that the child's health or welfare is threatened thereby; and

(e) Mandatory disclosure of identifying and location information as provided in s. 61.13(8) ~~s. 61.13(7)~~ by the IV-D program when providing Title IV-D services.

Section 9. The amendments made by this act to chapter 61, Florida Statutes, apply to all initial determinations of alimony and all alimony modification actions that are pending as of the effective date of this act, and to all initial determinations of alimony and all alimony modification actions brought on or after the effective date of this act. The enacting of this act may not

serve as the sole basis for a party to seek a modification of an alimony award existing before the effective date of this act.

Section 10. This act shall take effect October 1, 2016.

THE FLORIDA SENATE

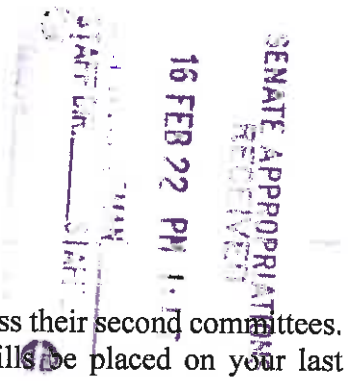
Tallahassee, Florida 32399-1100

COMMITTEES:
Higher Education, *Chair*
Appropriations Subcommittee on Education
Fiscal Policy
Judiciary
Military and Veterans Affairs, Space, and Domestic Security
Regulated Industries

JOINT COMMITTEE:
Joint Committee on Public Counsel Oversight

SENATOR KELLI STARGEL
15th District

February 22, 2016



The Honorable Tom Lee
Senate Appropriations Committee, Chair
418 Senate Office Building
404 S. Monroe Street
Tallahassee, FL 32399

Dear Chair Lee:

I have several bills that will be heard this week. I fully expect all of them to pass their second committees. With next week's schedule in mind, I am respectfully request that these bills be placed on your last Appropriations agenda, even "if received" is needed as a caveat.

The following bills have Appropriations as their last stop:

SB 608, related to *Emergency Preparedness and Response* - its companion bill, HB 775, is on the House's second reading calendar.

SB 668, related to *Alimony* - its companion bill. HB 455, is on the House's second reading calendar.

SB 824, related to *Dual Enrollment* - its companion bill, HB 775, is on the House's second reading calendar.

SB 830, related to *School Choice* - its companion bill, HB 7029, has passed the House and is being sent over to the Senate for consideration.

SB 1216, related to *Reemployment Assistance Fraud* - its companion bill, HB 1017, is on the House's second reading calendar.

Thank you for your consideration and please do not hesitate to contact me should you have any questions.

Sincerely,

Kelli Stargel

Kelli Stargel
State Senator, District 15

Cc: Cindy Kynoch/ Staff Director

REPLY TO:
☐ 2033 East Edgewood Drive, Suite 1, Lakeland, Florida 33803
☐ 324 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5015

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

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Higher Education, *Chair*
Appropriations Subcommittee on Education
Fiscal Policy
Judiciary
Military and Veterans Affairs, Space, and Domestic Security
Regulated Industries

JOINT COMMITTEE:
Joint Committee on Public Counsel Oversight

SENATOR KELLI STARGEL
15th District

February 24, 2016

The Honorable Tom Lee
Senate Appropriations Committee, Chair
418 Senate Office Building
404 S. Monroe Street
Tallahassee, FL 32399

Dear Chair Lee:

I respectfully request that SB 668, related to *Family Law*, be placed on the next committee agenda.

Thank you for your consideration and please do not hesitate to contact me should you have any questions.

Sincerely,

Kelli Stargel
State Senator, District 15

Cc: Cindy Kynoch/ Staff Director
Lisa Roberts/ AA
Alicia Weiss/ AA

REPLY TO:
❒ 2033 East Edgewood Drive, Suite 1, Lakeland, Florida 33803
❒ 324 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5015

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

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-1-16
Meeting Date

Topic Primary

Bill Number (if applicable)

Legislative Amendment
Amendment Barcode (if applicable)

Name Debbie Harrison Rumberger

Job Title Legislative Liaison

Address 540 Bailey Ct.
Street

Phone

Tallahassee
City *State* *Zip*

Email

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida League of Women Voters of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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

S-001 (10/14/14)

Joyner

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/2016
Meeting Date

SB 688
Bill Number (if applicable)

Topic _____

840512
Amendment Barcode (if applicable)

Name Karen Libizzi

Job Title _____

Address N/A
Street

Phone 941-726-8559

_____
City *State* *Zip*

Email Karenlibizzi@yahoo.com

Speaking: ☑ For ☐ Against ☐ Information

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

Representing _____

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/2016
Meeting Date

SB668
Bill Number (if applicable)

Topic Alimony & child custody

amendment 840512
Amendment Barcode (if applicable)

Name Bob Doyel

Job Title retired circuit judge

Address P.O. Box 897
Street

Phone 863-602-0454

Winter Haven, FL 33882
City *State* *Zip*

Email roldo@earthlink.net

Speaking: [X] For [ ] Against [ ] Information
(amendment only)

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

Representing Self

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

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

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

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S-001 (10/14/14)

Senator Joyner amendment

THE FLORIDA SENATE

APPEARANCE RECORD

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

March 1, 2016
Meeting Date

SB 1668
Bill Number (if applicable)

840512
Amendment Barcode (if applicable)

Topic Alimony Reform

Name Lisa Rawson, CDR USN (ret)

Job Title Veteran's advocate for women

Address not given for safety reasons
Street

Phone

Email

City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Self

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard 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)

3-1-16
Meeting Date

1168
Bill Number (if applicable)

840512
Amendment Barcode (if applicable)

Topic Alimony

Name Barbara DeVane

Job Title MS

Address 625 E. Bernard ST
Street

Jud FL 32308
City *State* *Zip*

Phone 222-3767

Email barbaradevane7@yahoo.com

Speaking: ☑ For ☐ Against ☐ Information

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

Representing FL NOW

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard 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)

3/1/16
Meeting Date

SB 668
Bill Number (if applicable)

840512
Amendment Barcode (if applicable)

Topic Alimony Reform

Name Terrance Power

Job Title

Address 2451 N. McMullen Booth Rd
Street
Clearwater FL 33759
City *State* *Zip*

Phone 813-781-5266

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard 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)

3-1-16
Meeting Date

SB 668
Bill Number (if applicable)

Topic Alimony Reform

840512
Amendment Barcode (if applicable)

Name Tarie Mac Millan (pronounced like Terry) S

Job Title Pres Women Against Permanent Alimony

Address 15822 Aurora Lake Cir
Street

Phone 813 545-3312

Wimauma FL 33598
City *State* *Zip*

Email tariemac@verizon.net

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Alimony Reform

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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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)

3/1/2016
Meeting Date

668
Bill Number (if applicable)

840512
Amendment Barcode (if applicable)

Topic Family Law

Name Alan Frasher

Job Title President - Family Law Reform

Address 6550 N. Wickham Rd
Street

Melbourne FL 32940
City *State* *Zip*

Phone 321-242-7526

Email Allen.Frasher@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Family Law Reform

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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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)

3.1.2016
Meeting Date

SB 1166
Bill Number (if applicable)

Topic Alimony Reform

S4 0512
Amendment Barcode (if applicable)

Name Deborah Gray
Joyner

Job Title

Address N/A
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 League of Women Voters
of Amendment
of Joyner

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)

3/16
Meeting Date

668
Bill Number (if applicable)

640512
Amendment Barcode (if applicable)

Topic Amendment Alimony

Name Cynthia Wheelof

Job Title Registered Nurse

Address P.O. Box 82
Street

South Bay FL
City *State* *Zip*

Phone 561-667-9954

Email Cjamelik@aol.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard 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

Lee

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

3/1/2016
Meeting Date

SB 668
Bill Number (if applicable)

580642
Amendment Barcode (if applicable)

Topic _____

Name Karen Libritzi

Job Title _____

Address N/A
Street

Phone 941-726-8559

_____
City *State* *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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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)

3/16
Meeting Date

Bill Number (if applicable)

Topic Alimony Family

Amendment Barcode (if applicable)

Name Cynthia Wrobel

Job Title Registered

Address P.O. Box 82 Phone 561-667-9954
Street

South Bay FL 33493 Email Cynmlk@aol.com
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard 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)

3-1-16
Meeting Date

SB668
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Alimony Reform

Name Tarie MacMillan

Job Title Pres Women Against Permanent Alimony

Address 15822 Aurora Lake Cir
Street
Winmana FL 33598
City *State* *Zip*

Phone 8135453342

Email tariemac@verizon.net

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Women Against Permanent Alimony

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)

3/1/16
Meeting Date

SB 668
Bill Number (if applicable)

580642
Amendment Barcode (if applicable)

Topic FAMILY LAW

Name Terrance Power

Job Title

Address 2451 N. McMullen Booth Rd
Street

Clearwater FL 33759
City *State* *Zip*

Phone 813-781-3266

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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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)

3/1/16
Meeting Date

600
Bill Number (if applicable)

580642
Amendment Barcode (if applicable)

Topic Alimony / Family Law Reform

Name Natalie Sokol

Job Title Female Alimony Payer / OBGYN Doctor

Address 9714 Thousand Pines Circle
Street

West Palm Beach, FL 33411
City *State* *Zip*

Phone 561 346-4219

Email NSobgyn@aol.com

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

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

Representing SLF / Family Law Reform

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

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/2016
Meeting Date

668
Bill Number (if applicable)

580642 Lee
Amendment Barcode (if applicable)

Topic Family Law

Name Alan Frisher

Job Title President Family Law Reform

Address 6550 N. Wickham Rd
Street

Melbourne FL 32940
City *State* *Zip*

Phone 321-292-7526

Email Alan.frisher@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Family Law Reform

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)

4597

3/1/2016
Meeting Date

668
Bill Number (if applicable)

~~340512~~
Amendment Barcode (if applicable)

580642

Topic Alimony Reform

Name Karen Libizzi

Job Title

Address N/A
Street

City *State* *Zip*

Phone 941-726-8559

Email karenlibizzi@yahoo.com

Speaking: ☐ For ☑ Against ☐ Information

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

Representing

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

March 1, 2016
Meeting Date

SB 1068
Bill Number (if applicable)

580642
Amendment Barcode (if applicable)

Topic Alimony Reform

Name Lisa Rawson, COR USN (ret)

Job Title Veteran's Advocate for women

Address not given for safety reasons
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

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)

3.1.2016
Meeting Date

WE
Bill Number (if applicable)

580692
Amendment Barcode (if applicable)

Topic Alimony Reform

Name Deborah Gray

Job Title

Address N/A
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 League of Women Voters

Appearing at request of Chair: ☑ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-31-16
Meeting Date

668
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Alimony Family

Name Agatha Wheeler

Job Title Registered Nurse

Address P.O Box 82
Street

South Bay FL
City *State* *Zip*

Phone 561 667 9549

Email Cojamaik@aol.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard 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)

March 1, 2016
Meeting Date

SB 668
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Alimony Reform

Name Lisa Rawson, COR USN (ret)

Job Title Veteran's advocate for women

Address not given for safety reasons
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 Self

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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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)

3/1/16
Meeting Date

668
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic App. Alimony

Name Greg Pound

Job Title

Address 9166 Sunrise Dr.
Street

Largo Fl. 33773
City *State* *Zip*

Phone

Email

Speaking: ☐ For ☐ Against ☒ Information

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

Representing

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard 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)

3/1/2016
Meeting Date

SB 668
Bill Number (if applicable)

Topic Family Law

Amendment Barcode (if applicable)

Name Cynthia Schwartz

Job Title Retired Public Relations Specialist

Address 3986 Bobbin Brook Circ
Street

Tallahassee FL 32312
City *State* *Zip*

Phone 850-509-0735

Email cjr2012@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Democratic Women's Club of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3.1.16
Meeting Date

SB 668
Bill Number (if applicable)

Topic Alimony Reform

Amendment Barcode (if applicable)

Name Tarie MacMillan (pronounced Terry)

Job Title Pres Women Against Perm Alimony

Address 15822 Aurora Lake Cir
Street

Phone 813 545 3342

Wimauma FL 33598
City *State* *Zip*

Email tariemac@verizon.net

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

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

Representing Women Against Permanent Alimony

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

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/16
Meeting Date

SB 668
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Alimony Reform

Name Terrance Power

Job Title

Address 2451 N. McMullen Booth Rd
Street
Clearwater, FL 33759
City *State* *Zip*

Phone 813-781-3266

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-1-16
Meeting Date

668
Bill Number (if applicable)

Topic Alimony

Amendment Barcode (if applicable)

Name Barbara L DeVane

Job Title Ms

Address 625 E. Brevard St
Street

Phone 222-3967

Tallahassee FL 32308
City *State* *Zip*

Email barbaradevane@yahoo.com

Speaking: ☐ For ☑ Against ☐ Information

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

Representing FL NOW

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard 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)

3/1/16
Meeting Date

668
Bill Number (if applicable)

Topic Alimony Reform / Family Law

Amendment Barcode (if applicable)

Name Natalie Solw

Job Title Female Alimony Lifetime Payor / Doctor

Address 8714 Thousand Pines Circle
Street

West Palm Beach, FL 33411
City *State* *Zip*

Phone 561 346-4219

Email nsobgyn@aol.com

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Self and Family Law Reform

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/2016
Meeting Date

668
Bill Number (if applicable)

Topic Family Law - Alimony Reform

Amendment Barcode (if applicable)

Name Alan Fisher

Job Title President - Family Law Reform, Inc

Address 6550 N. Wickham Rd
Street

Melbourne FL 32940
City *State* *Zip*

Phone 321-242-7526

Email Alan.Fisher@gmail.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Family Law Reform

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/2016
Meeting Date

SB668
~~SB688~~
Bill Number (if applicable)

Topic alimony & child custody

Amendment Barcode (if applicable)

Name Bob Doyel

Job Title retired circuit judge

Address P.O. Box 897
Street

Phone 863-602-0454

Winter Haven, FL 33882
City *State* *Zip*

Email roldo@earthlink.net

Speaking: ☐ For ☒ Against ☐ Information

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

Representing self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard 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)

3 / 1 /2016
Meeting Date

Topic _____ Bill Number 668 *(if applicable)*

Name BRIAN PITTS Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

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

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

Speaking: ☐ For ☐ Against ☑ Information

Representing JUSTICE-2-JESUS

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

March 1, 2016
Meeting Date

SB 668
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Family Law

Name Larry Butah

Job Title Florida Family Law Reform

Address 11215 - 3rd St E.
Street

Treasure Island, FL 33706
City *State* *Zip*

Phone 813-299-0665

Email Larry.Butah@Verizon.net

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Florida Family Law Reform

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-1-16
Meeting Date

Steigel's
Bill Number (if applicable)

Jamaby Cars
Amendment Barcode (if applicable)

Topic Alimony

Name Debbie Harron Rumberger

Job Title Legislative Liaison

Address 540 Bendy Court
Street

Phone 850-224-2545

Tallahassee FL 32301
City *State* *Zip*

Email lwvfadvocacy@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida League of Women Voters

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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 670
INTRODUCER:	Children, Families, and Elder Affairs Committee and Senator Gaetz
SUBJECT:	Child Protection Teams
DATE:	February 29, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Preston	Hendon	CF	**Fav/CS**
2.	Davis	Cibula	JU	**Favorable**
3.	Brown	Kynoch	AP	**Favorable**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 670 extends sovereign immunity protections to any physician licensed in this state who is a medical director for, or a member of, a child protection team, when carrying out duties as a team member. The bill adds those physicians to the definition of an "officer, employee, or agent" in the sovereign immunity statute.

A child protection team is a group of professionals within the Department of Health (DOH) which receives referrals, primarily from child protective investigators within the Department of Children and Families (DCF) and law enforcement officers, alleging child abuse, abandonment, or neglect. The medically directed team evaluates the allegations and also provides recommendations for child safety and support services.

The bill has an indeterminate fiscal impact.

The bill's effective date is July 1, 2016.

II. Present Situation:

Sovereign Immunity

The term "sovereign immunity" originally referred to the English common law concept that the government may not be sued because "the King can do no wrong." Sovereign immunity bars

lawsuits against the state or its political subdivisions for the torts of officers, employees, or agents of those governments unless the immunity is expressly waived.

Article X, s. 13 of the Florida Constitution recognizes the concept of sovereign immunity and gives the Legislature the power to waive immunity in part or in full by general law. Section 768.28, F.S., contains the limited waiver of sovereign immunity applicable to the state. Under this statute, officers, employees, and agents of the state may not be held personally liable in tort or named as a party defendant in any action for any injury or damage suffered as a result of any act, event, or omission of action in the scope of her or his employment or function.

However, personal liability may result from actions committed in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property. Instead, the state steps in as the party litigant and defends against the claim. The recovery by any one person is limited to $200,000 for one incident and the total for all recoveries related to one incident is limited to $300,000.[1] The sovereign immunity recovery caps do not prevent a plaintiff from obtaining a judgment in excess of the caps, but the plaintiff is not entitled to recover the excess damages without action by the Legislature.[2]

Child Protection Teams

A child protection team operates under the oversight of a medical director who is a board-certified pediatrician with special training in child abuse and neglect. The physician must be approved by Children's Medical Services (CMS) at the DOH. Teams consist of additional physicians, advanced registered nurse practitioners, physician assistants, team psychologists, social workers, clerical assistance, and support personnel.[3]

There are currently 22 child protection teams in the state.[4] Each team must be available 24 hours per day, every day, to provide immediate medical diagnosis and evaluation, for consultations by phone, or for other assessment services.[5] The cases they receive are reported to them primarily by investigators with the DCF and local sheriff's offices, but cases are also referred by hospitals and physicians. The groups that the teams target for assessments are children who may be physically abused, sexually abused, and those who lack health care, including medically neglected children.[6]

The child protection team program receives funding through the DOH, Division of Children's Medical Services. The DOH contracts with a variety of community-based organizations to

[1] Section 768.28(5), F.S.
[2] *Id.*
[3] Florida Department of Health, Children's Medical Services, *Child Protection Team Program Handbook*, June 2014 *available at* http://www.bing.com/search?q=child+protection+team+program+handbook+chidren's+medical+services&src=IE-TopResult&FORM=IETR02&conversationid=.
[4] Telephone interview with Bryan Wendel and Peggy Scheuermann, Department of Health, Office of Legislative Planning, in Tallahassee, Fla. (Feb. 11, 2016).
[5] *Supra* at note 3.
[6] *Id.*

provide child protection team services statewide. These groups include non-profits, universities, hospitals, and county governments.[7]

Whether Sovereign Immunity Applies to Child Protection Team Physicians

It is not definitively settled whether all child protection team physicians are covered under sovereign immunity. While case law suggests that, under certain circumstances, the physicians are covered, the DOH does not consistently agree with that conclusion.

According to the Child Protection Team Program Policy and Procedure Handbook, "medical providers *appear* to act under the color of law and are agents of the state when they examine children allegedly abused or neglected under Section 39, F.S."[8] However, whether sovereign immunity applies is determined by the degree of control exercised or retained by the state.[9] In *Stoll v. Noel*, the Florida Supreme Court explained that, under the appropriate circumstances, independent contractor physicians may be agents of the state for purposes of sovereign immunity:

> One who contracts on behalf of another and subject to the other's control except with respect to his physical conduct is an agent and also independent contractor.[10]

The *Stoll* Court examined the employment contract between the CMS physicians and the state to determine whether the state's right to control was sufficient to create an agency relationship and held that it did.[11] The manuals and guides given to physician consultants demonstrated that CMS had final authority over all care and treatment provided to CMS patients, and that CMS could refuse to allow a physician consultant's recommended course of treatment of any CMS patient for either medical or budgetary reasons.[12] Furthermore, the Court's conclusion was supported by the state's acknowledgement that the manual creates an agency relationship between CMS and its physician consultants, and the state acknowledged full financial responsibility for the physicians' actions. The Court stated that the state's interpretation of its manual is entitled to judicial deference and great weight.[13]

The DOH, however, has cautiously applied the legal findings of *Stoll* to its contract physicians, including the child protection team physicians. The Deputy State Health Officer for Children's Medical Services, in a 2013 memorandum to all CMS physicians, did not issue a definitive statement as to whether CMS contract physicians are deemed to be agents of the state for sovereign immunity purposes. The memorandum stated that the *Stoll* decision "does not establish a bright line legal test to determine when a CMS contracted physician will be deemed to be an

[7] *Id*.
[8] *Supra* note 3, at 74. Emphasis supplied.
[9] *Stoll v. Noel*, 694 So. 2d 701, 703 (Fla. 1997).
[10] *Id.* at 703, quoting from the *Restatement (Second) of Agency* s. 14N (1957).
[11] *Id.* at 703.
[12] *Id*.
[13] *Id*.

agent of the state as a matter of law" and the department would choose to evaluate each case on its own merits.[14] In the following year, an internal DOH memorandum stated:

> Although they furnish services to children within the CMS Network, CMS providers are independent contractors and consequently are not employees or agents of the Department of Health and are personally responsible for their negligent acts.[15]

Accordingly, there is uncertainty at DOH as to whether all physicians working on child protection teams are protected by sovereign immunity. According to the DOH, this uncertainty has made recruiting and retaining physicians difficult and has resulted in long-term vacant positions around the state. If a physician is not covered under sovereign immunity, then he or she would likely need to obtain private medical malpractice insurance. Because the cost of obtaining medical malpractice insurance is expensive, the part-time salary one receives would be substantially diminished to the point that some physicians would not consider it worthwhile to undertake the very stressful job.[16]

Information supplied in support of this legislation states that no pediatrician living in Florida or elsewhere has ever applied to be the medical director of a child protection team, which means the medical directors must be proactively recruited. Recruiting staff has found that being able to offer pediatricians sovereign immunity would be a powerful tool in convincing them to accept the medical director positions.[17]

III. Effect of Proposed Changes:

The bill extends sovereign immunity protection to a physician licensed in this state who is a medical director for a child protection team or a member of a child protection team. The immunity only extends to the physician while he or she is carrying out duties as a child protection team member. By expanding the definition of an "officer, employee, or agent" in the sovereign immunity statute to include these physicians, they may not be held personally liable for torts committed while working with the child protection team. In contrast, the state may be held liable up to the limits provided in statute under the state's waiver of sovereign immunity.

The bill is effective July 1, 2016.

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[14] Memorandum from Dennis V. Cookro, MD, MPH, Interim Deputy Secretary for Health, Deputy State Health Officer for CMS, to All CMS Physicians, *Subject: Liability Update* (Feb. 6, 2013) (on file with the Senate Judiciary Committee).
[15] Memorandum from Kimberly A. Tendrich, Senior Attorney, Children's Medical Services, to Charlotte Curtis, Interim CMS Division Director, *Subject: Applicability of Section 768.28, Florida Statutes to CMS Contractors* (Feb. 14, 2014) (on file with the Senate Committee on Judiciary).
[16] Correspondence and supplemental materials from Randell C. Alexander, M.D., Ph.D., Chair, Child Abuse and Injury Prevention Committee to Sen. Don Gaetz (Dec. 30, 2015) (on file with the Senate Committee on Judiciary).
[17] *Id*.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Under CS/SB 670, physicians who are licensed in this state and are medical directors for, or members of, a child protection team would be provided sovereign immunity. The sovereign immunity protections will eliminate the need for the physicians to obtain private insurance coverage.

C. Government Sector Impact:

The DOH provided an initial fiscal estimate for the original bill which included a rough estimate of the state's general liability premium with the child protection teams' non-physician staff included. However, because the scope of the bill was significantly reduced to cover only the physicians on the team, those estimates are no longer accurate.[18] Nonetheless, the exposure to additional liability should cause the DOH's liability insurance premiums to rise by an indeterminate amount.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 768.28 of the Florida Statutes.

[18] Florida Department of Health, *2016 Agency Legislative Bill Analysis of SB 670* (Nov. 3, 2015) (on file with the Senate Committee on Judiciary).

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 January 14, 2016:
The committee substitute limits individuals being granted sovereign immunity under the bill to physicians licensed in this state who are medical directors for or members of a child protection team, when carrying out his or her duties as a team member.

B. Amendments:

None.

By the Committee on Children, Families, and Elder Affairs; and Senator Gaetz

586-02127-16 2016670c1

A bill to be entitled

An act relating to child protection teams; amending s. 768.28, F.S.; revising the definition of the term "officer, employee, or agent," as it applies to immunity from personal liability in certain actions, to include licensed physicians who are medical directors for or members of a child protection team, in certain circumstances; providing an effective date.

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

Section 1. Paragraphs (a) and (b) of subsection (9) of section 768.28, Florida Statutes, are amended to read:

768.28 Waiver of sovereign immunity in tort actions; recovery limits; limitation on attorney fees; statute of limitations; exclusions; indemnification; risk management programs.—

(9)(a) An ~~No~~ officer, employee, or agent of the state or of any of its subdivisions may not ~~shall~~ be held personally liable in tort or named as a party defendant in any action for any injury or damage suffered as a result of any act, event, or omission of action in the scope of her or his employment or function, unless such officer, employee, or agent acted in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property. However, such officer, employee, or agent shall be considered an adverse witness in a tort action for any injury or damage suffered as a result of any act, event, or omission of action in the scope of her or his employment or function. The exclusive remedy for injury or damage suffered as a result of an act, event, or omission of an officer, employee, or agent of the

586-02127-16 2016670c1

state or any of its subdivisions or constitutional officers is ~~shall be~~ by action against the governmental entity, or the head of such entity in her or his official capacity, or the constitutional officer of which the officer, employee, or agent is an employee, unless such act or omission was committed in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property. The state or its subdivisions are ~~shall~~ not ~~be~~ liable in tort for the acts or omissions of an officer, employee, or agent committed while acting outside the course and scope of her or his employment or committed in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

(b) As used in this subsection, the term:

1. "Employee" includes any volunteer firefighter.

2. "Officer, employee, or agent" includes, but is not limited to, any health care provider when providing services pursuant to s. 766.1115; any nonprofit independent college or university located and chartered in this state which owns or operates an accredited medical school, and its employees or agents, when providing patient services pursuant to paragraph (10)(f); ~~and~~ any public defender or her or his employee or agent, including~~, among others,~~ an assistant public defender or ~~and~~ an investigator; and any physician licensed in this state who is a medical director for or member of a child protection team, as defined in s. 39.01, when carrying out her or his duties as a team member.

Section 2. This act shall take effect July 1, 2016.

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/16
Meeting Date

670
Bill Number (if applicable)

Topic Child Protection Teams

Amendment Barcode (if applicable)

Name Doug Bell

Job Title

Address 101 N. Monroe St
Street

Tallahassee
City *State* *Zip*

Phone 681-9270

Email doug.bell@[illegible]

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Fla Chapter Amer Academy of Pediatrics

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)

01 MAR 2016
Meeting Date

670
Bill Number (if applicable)

Topic SOVEREIGN IMMUNITY

Amendment Barcode (if applicable)

Name PAUL JESS

Job Title

Address 218 S. MONROE ST
Street
TALLAHASSEE FL 32301
City *State* *Zip*

Phone 850-224-9403

Email

Speaking: ☐ For ☒ Against ☐ Information

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

Representing FLORIDA JUSTICE ASSOCIATION

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/16
Meeting Date

670
Bill Number (if applicable)

Topic App. Children

Amendment Barcode (if applicable)

Name Greg Pound

Job Title

Address 9166 Sunrise Dr.
Street

Largo Fla. 33773
City *State* *Zip*

Phone

Email

Speaking: ☐ For ☐ Against ☒ Information

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

Representing Pinellas County Florida Government Compliance

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)

3 / 1 /2016
Meeting Date

Topic _____ Bill Number 670 *(if applicable)*

Name BRIAN PITTS Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

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

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

Speaking: ☐ For ☐ Against ☑ Information

Representing JUSTICE-2-JESUS

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

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

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

S-001 (10/20/11)

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 Appropriations Committee			
BILL:	CS/SB 746		
INTRODUCER:	Appropriations Committee and Senator Negron and others		
SUBJECT:	Vessel Registrations		
DATE:	March 3, 2016	REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jones	Eichin	TR	**Favorable**
2.	Gusky	Miller	ATD	**Recommended: Favorable**
3.	Gusky	Kynoch	AP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 746 reduces state vessel registration fees for recreational vessels equipped with an Emergency Position Indicating Radio Beacon or whose owner owns a Personal Locator Beacon. The beacon must be registered with the National Oceanic and Atmospheric Administration in order for the owner to qualify for the reduced registration fee. Annual base vessel registration fees are reduced by a minimum of $2.55 and a maximum of $48.60, depending on the length of the vessel.

The bill appropriates $500,000 in recurring funds from the General Revenue Fund to the Fish and Wildlife Conservation Commission for the 2016-2017 fiscal year to offset the reduction in the base vessel registration fees.

The bill has an effective date of July 1, 2016.

II. Present Situation:

Vessel Registration

The term "vessel" is synonymous with boat and includes every description of watercraft, barge, or airboat, other than a seaplane on the water, used or capable of being used as a means of transportation on water.[1] Vessels operated, used, or stored on the waters of this state must be

[1] Section 327.02(43), F.S.

registered with the Department of Highway Safety and Motor Vehicles (DHSMV) as a commercial or recreational[2] vessel, unless:

- The vessel is operated, used, and stored exclusively on private lakes and ponds;
- The vessel is owned by the U.S. Government;
- The vessel is used exclusively as a ship's lifeboat; or
- The vessel is non-motor-powered and less than 16 feet in length or a non-motor-powered canoe, kayak, racing shell, or rowing scull, regardless of length. [3]

Section 328.72(12), F.S., provides that vessel registration periods are for 12 or 24 months. An individual who owns a vessel is eligible to register the vessel for a 12 or 24 month period that begins the first day of the birth month of the owner and ends the last day of the month preceding the owner's birth month. The registration period for vessels owned by companies, corporations, governmental entities, and registrations issued to dealers and manufacturers is July 1 to June 30.[4]

The base registration fee for vessels is determined by the length of the vessel. The vessel registration fee for a 12-month period is as follows:

- *Class A-1***:** Less than 12 feet in length and all canoes to which propulsion motors have been attached, regardless of length: $5.50;
- *Class A-2*: 12 feet or more and less than 16 feet in length: $16.25;
- *Class 1*: 16 feet or more and less than 26 feet in length: $28.75;
- *Class 2*: 26 feet or more and less than 40 feet in length: $78.25;
- *Class 3*: 40 feet or more and less than 65 feet in length: $127.75;
- *Class 4*: 65 feet or more and less than 110 feet in length: $152.75;
- *Class 5*: 110 feet or more in length: $189.75; and
- *Dealer Registration Certificate*: $25.50.

Additionally, any county may impose an annual registration fee on vessels registered, operated, used, or stored on waters within its jurisdiction. This fee is 50 percent of the applicable state registration fee, and the first $1 of every registration must be remitted to the state for deposit into the Save the Manatee Trust Fund.[5] The Optional County Fee is retained by the county where the vessel is registered and is to be used for patrol, regulation, and maintenance of the lakes, rivers, and waters and for other boating-related activities within the county.[6] According to the DHSMV, the counties of Broward, Charlotte, Collier, Dade, Hillsborough, Lee, Manatee, Martin, Monroe, Palm Beach, Pinellas, Polk, Sarasota, and Volusia charge the Optional County Fee.[7]

NOAA Search and Rescue Satellite Aided Tracking

The National Oceanic and Atmospheric Administration (NOAA) operates the nation's Search and Rescue Satellite Aided Tracking (SARSAT) system to detect mariners, aviators, and others

[2] Section 327.02(37), F.S. defines a "recreational vessel" as a vessel manufactured and used primarily for noncommercial purposes, or a vessel leased, rented, or chartered to a person for his or her noncommercial use.
[3] Section 328.48(2), F.S.
[4] Section 328.72(12)(c)2., F.S.
[5] Section 328.66, F.S.
[6] *Id.*
[7] See Department of Highway Safety and Motor Vehicles, *Vessel Registration Chart*, available at: http://www3.flhsmv.gov/dmv/proc/fees/fees-04.pdf (last visited Nov. 24, 2015).

all over the globe by using satellites in low-earth and geostationary orbits to detect and locate beacon-users in distress. [8]

The United States and the governments of Canada, France, and Russia have an agreement to provide for long-term operation of the COSPAS-SARSAT[9] (C-S) Program, which also provides space-based relay of distress signals or alerts from emergency beacons. The program provides alerts to search and rescue authorities internationally.

Ground stations are called Local User Terminals (LUTs), which are satellite receiving units. LUTs are fully automated and unmanned. When an LUT receives a distress signal detected by satellite, it is transmitted to the mission control center (MCC) that operates that particular LUT. The MCC collects, stores, and sorts alerts from LUTs and other MCCs and distributes the alerts to search and rescue authorities and other MCCs. [10]

Locator Beacons

The emergency beacons used to detect those in distress operate only in the 406.0 to 406.1 megahertz (MHz) frequency band to transmit digital messages to satellites for transmission to the appropriate LUT. The frequency is restricted to low power satellite emergency position-indicating beacons in the mobile satellite service. According to NOAA, two types of 406 MHz emergency beacons are:

- *Emergency Position-Indicating Radio Beacons*, or EPIRBs:
  - An EPIRB is an emergency position-indicating radio beacon used in maritime watercraft that can be automatically or manually activated to transmit a distress signal to a satellite. EPIRBs that activate automatically typically have a hydro-static release mechanism that, when immersed, allows the beacon to release from its bracket, float to the surface and start transmitting. The beacon, along with the bracket, has to sink to approximately 3 meters before it will activate automatically. This should be taken into account when mounting an automatic EPIRB; and
- *Personal Locator Beacons*, or PLBs:
  - A PLB is a personal locator beacon designed to be carried by an individual that can only be activated manually. PLBs can be used by people operating in remote areas.[11]

According to NOAA, the average cost of a global positioning system (GPS)-equipped EPIRB is $800; the average cost of a PLB is $300.[12]

Registration of Beacons with NOAA

Registration of a 406 MHz emergency beacon, and subsequent updating if the information changes, is free and required by Title 47 of the Code of Federal Regulations, part 80 for EPIRBs and part 95 for PLBs. Information provided in a registration is used by search and rescue

[8] *See* the NOAA SARSAT website: http://www.sarsat.noaa.gov/index.html. (last visited Dec. 14, 2015).
[9] COSPAS is a Russian acronym for "Space System for Search of Vessels in Distress." *See* the SARSAT FAQ website: http://www.sarsat.noaa.gov/faq%202.html. (last visited Nov. 24, 2015).
[10] *Id.*
[11] *Id.*
[12] *See supra,* note 8.

authorities, along with the distress signal from the beacon, solely to help locate and rescue those in distress. NOAA provides an online system for initial and updated beacon registrations, and registration must be renewed every two years.[13]

NOAA indicated, as of October 6, 2015, 12,295 EPIRBs were registered indicating the vessel was registered in Florida, and 26,078 PLBs were registered indicating boat usage with a Florida mailing addresses.[14] Based on this data, approximately 10 percent of vessels currently registered in Florida would qualify for the reduced registration fee.

III. Effect of Proposed Changes:

Section 1 of the bill reduces vessel registration fees for recreational vessels that are equipped with an EPIRB registered with NOAA or whose owner owns a PLB registered with NOAA. A person who owns a PLB and more than one recreational vessel may only receive a reduced registration fee for one vessel.

This reduction in fees may increase the amount of vessels or owners of vessels equipped with locator beacons. The registration fees are reduced as follows:

Recreational Vessel Registration Fees for Each 12-Month Period		
Class of Vessel	*Current Base Fee*	*Reduced Base Fee*
Class A-1	$5.50	$2.95
Class A-2	$16.25	$11.00
Class 1	$28.75	$20.40
Class 2	$78.25	$57.50
Class 3	$127.75	$94.65
Class 4	$152.75	$113.40
Class 5	$189.75	$141.15

Section 2 provides that the County Optional Fee for vessel registrations remains 50 percent of the applicable state registration fee *without* consideration of the reduced fees.

Section 3 appropriates $500,000 in recurring funds from the General Revenue Fund to the Fish and Wildlife Conservation Commission (FWCC) for the 2016-2017 fiscal year to offset the reduction in base vessel registration fees.

Section 4 provides that the bill takes effect July 1, 2016.

[13] *Id.*, NOAA prefers owners register beacons online at www.beaconregistration.noaa.gov, however individuals may also mail or fax signed registration forms.
[14] Revenue Estimating Conference, *Analysis of HB 427 - Vessel Registration Location Indicating Services* (Oct. 29, 2015) available at: http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2016/_pdf/Impact1029.pdf (last visited Nov. 25, 2015).

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

CS/SB 746 reduces recreational vessel registration fees for vessels equipped with or whose owner owns certain registered locator beacons. The Revenue Estimating Conference (REC) reviewed the related bill, HB 427, on October 29, 2015, and estimated the bill will reduce the total sum of recreational vessel registration fees collected by the DHSMV as follows:

Fiscal Year 2016-2017 – ($500,000)
Fiscal Year 2017-2018 – ($600,000)
Fiscal Year 2018-2019 – ($600,000)
Fiscal Year 2019-2020 – ($700,000)
Fiscal Year 2020-2021 – ($800,000).[15]

The actual reduction in fees collected will depend on the number of vessel owners and the size of their vessels that qualify for the reduced fee.

B. Private Sector Impact:

Individuals who have certain locator beacons registered with NOAA will receive a discount in recreational vessel registration fees.

C. Government Sector Impact:

The bill appropriates $500,000 in recurring funds from the General Revenue Fund to the FWCC, for the purpose of offsetting the reduction in recreational vessel registration fees. According to the DHSMV, reducing the registration fees will solely reduce the funds distributed to the Marine Resources Conservation Trust Fund.[16] The bill provides that the recurring general revenue funds will be deposited in that trust fund.

[15] *Id.*
[16] Department of Highway Safety and Motor Vehicles, *SB 746 Agency Bill Analysis* (December 4, 2015) (on file with the Senate Appropriations Subcommittee on Transportation, Tourism, and Economic Development).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 328.72 and 328.66.

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 March 1, 2016:
The committee substitute:

- Reduces the recurring appropriation provided from general revenue funds from $5 million to $500,000; and
- Appropriates those funds to the FWCC, rather than the DHSMV.

B. Amendments:

None.

322510

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
03/01/2016	.	
	.	
	.	
	.	

The Committee on Appropriations (Negron) recommended the following:

Senate Amendment

Delete lines 103 - 104

and insert:

Section 3. For the 2016-2017 fiscal year, the sum of $500,000 in recurring funds is appropriated from the General

577340

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/01/2016	.	
	.	
	.	
	.	

The Committee on Appropriations (Negron) recommended the following:

Senate Substitute for Amendment (322510)

Delete lines 103 - 107

and insert:

Section 3. For the 2016-2017 fiscal year, the sum of $500,000 in recurring funds is appropriated from the General Revenue Fund to the Fish and Wildlife Conservation Commission for deposit in the Marine Resources Conservation Trust Fund. These funds shall be used for the sole purpose of offsetting the reduction in the base vessel registration fees as provided by

577340

this act.

By Senator Negron

32-00714-16 2016746__

A bill to be entitled

An act relating to vessel registrations; amending s. 328.72, F.S.; defining terms; reducing vessel registration fees for recreational vessels equipped with certain position indicating and locating beacons; providing criteria for such reduction; amending s. 328.66, F.S.; clarifying county optional registration fees; providing an appropriation; providing an effective date.

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

Section 1. Subsection (1) of section 328.72, Florida Statutes, is amended, and subsection (18) is added to that section, to read:

328.72 Classification; registration; fees and charges; surcharge; disposition of fees; fines; marine turtle stickers.—

(1) VESSEL REGISTRATION FEE.—Vessels that are required to be registered shall be classified for registration purposes according to the following schedule~~,~~ and, except as provided in subsection (18), the registration certificate fee shall be in the following amounts:

(a) Class A-1—Less than 12 feet in length, and all canoes to which propulsion motors have been attached, regardless of length: $5.50 for each 12-month period registered.

(b) Class A-2—12 feet or more and less than 16 feet in length: $16.25 for each 12-month period registered.
(To county): 2.85 for each 12-month period registered.

(c) Class 1—16 feet or more and less than 26 feet in

32-00714-16 2016746__

length: $28.75 for each 12-month period registered.
(To county): 8.85 for each 12-month period registered.

(d) Class 2—26 feet or more and less than 40 feet in length: $78.25 for each 12-month period registered.
(To county): 32.85 for each 12-month period registered.

(e) Class 3—40 feet or more and less than 65 feet in length: $127.75 for each 12-month period registered.
(To county): 56.85 for each 12-month period registered.

(f) Class 4—65 feet or more and less than 110 feet in length: $152.75 for each 12-month period registered.
(To county): 68.85 for each 12-month period registered.

(g) Class 5—110 feet or more in length: $189.75 for each 12-month period registered.
(To county): 86.85 for each 12-month period registered.

(h) Dealer registration certificate: $25.50 for each 12-month period registered.

The county portion of the vessel registration fee is derived from recreational vessels only.

(18) REDUCED VESSEL REGISTRATION FEE.—

(a) For the purposes of this subsection, the term:

1. "Emergency Position Indicating Radio Beacon" means an electronic device designed to be installed on a vessel which, when activated, transmits a distress call on a designated emergency frequency to a satellite receiver and is used by rescue personnel to locate the position of the signal.

2. "Personal Locator Beacon" means an electronic device designed to be carried on a person which, when activated, will transmit a distress call on a designated emergency frequency to a satellite receiver and is used by rescue personnel to locate

the position of the signal.

(b) The registration certificate fee imposed pursuant to subsection (1) for a recreational vessel equipped with an Emergency Position Indicating Radio Beacon or for a recreational vessel whose owner owns a Personal Locator Beacon shall be reduced to the following amounts:

1. Class A-1: $2.95 for each 12-month period registered.

2. Class A-2: $11.00 for each 12-month period registered.

3. Class 1: $20.40 for each 12-month period registered.

4. Class 2: $57.50 for each 12-month period registered.

5. Class 3: $94.65 for each 12-month period registered.

6. Class 4: $113.40 for each 12-month period registered.

7. Class 5: $141.15 for each 12-month period registered.

(c) A person who owns a Personal Locator Beacon and who owns more than one recreational vessel may only apply the applicable reduced fee pursuant to this subsection to one vessel.

(d) In order to qualify for reduced vessel registration fees pursuant to this subsection, a vessel owner must demonstrate that the Emergency Position Indicating Radio Beacon or Personal Locator Beacon is registered with the National Oceanic and Atmospheric Administration under 47 C.F.R. part 80 or part 95. The owner must provide proof of registration from the National Oceanic and Atmospheric Administration.

Section 2. Subsection (1) of section 328.66, Florida Statutes, is amended to read:

328.66 County and municipality optional registration fee.—

(1) Any county may impose an annual registration fee on vessels registered, operated, used, or stored on the waters of

this state within its jurisdiction. This fee shall be 50 percent of the applicable state registration fee as listed in the s. 328.72(1)(a)-(g) fee schedule, without considering the reduced vessel registration fee provisions as specified in s. 328.72(18). However, the first $1 of every registration imposed under this subsection shall be remitted to the state for deposit in the Save the Manatee Trust Fund created within the Fish and Wildlife Conservation Commission, and shall be used only for the purposes specified in s. 379.2431(4). All other moneys received from such fee shall be expended for the patrol, regulation, and maintenance of the lakes, rivers, and waters and for other boating-related activities of such municipality or county. A municipality that was imposing a registration fee before April 1, 1984, may continue to levy such fee, notwithstanding the provisions of this section.

Section 3. For the 2016-2017 fiscal year, the sum of $5 million in recurring funds is appropriated from the General Revenue Fund to the Department of Highway Safety and Motor Vehicles for the purpose of offsetting the reduction in the base vessel registration fees as provided by this act.

Section 4. This act shall take effect July 1, 2016.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Subcommittee on Criminal and Civil Justice, *Chair*
Appropriations
Banking and Insurance
Ethics and Elections
Higher Education
Regulated Industries
Rules

SENATOR JOE NEGRON
32nd District

January 13, 2016

Senator Tom Lee, Chair
Committee on Appropriations
201 The Capitol
404 S Monroe Street
Tallahassee, FL 32399-1100

Re: Senate Bill 746

Dear Chairman Lee:

I would like to request Senate Bill 746 relating to vessel registrations be placed on the agenda for the next scheduled committee meeting.

Thank you for your consideration of this request.

Sincerely yours,

Joe Negron
State Senator
District 32

JN/hd
c: Cindy Kynoch, Staff Director

REPLY TO:
☐ 3500 SW Corporate Parkway, Suite 204, Palm City, Florida 34990 (772) 219-1665 FAX: (772) 219-1666
☐ 412 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5032

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

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL:	PCS/CS/SB 760 (759432)
INTRODUCER:	Appropriations Committee (Recommended by Appropriations Subcommittee on General Government); Agriculture Committee; and Senator Bean and others
SUBJECT:	Healthy Food Financing Initiative
DATE:	February 29, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Weidenbenner	Becker	AG	**Fav/CS**
2.	Blizzard	DeLoach	AGG	**Recommend: Fav/CS**
3.	Blizzard	Kynoch	AP	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 760 establishes the Healthy Food Financing Initiative (program) in the Department of Agriculture and Consumer Services (DACS), to provide financial assistance for the development or expansion of grocery retail outlets operating in underserved, low-income or moderate-income communities. Specifically the bill:

- Directs the DACS to implement and monitor the program through public-private partnerships;
- Authorizes the DACS to contract with one or more qualified nonprofit organizations or Florida-based federally certified community development financial institutions to administer the program and creates eligibility criteria for such organizations;
- Requires the DACS to create eligibility guidelines and provide financing through an application process;
- Directs the DACS or a third-party administrator to give preference to Florida-based grocers and business owners; and
- Requires the DACS to report annually to the President of the Senate and the Speaker of the House of Representatives on the projects funded, geographic distribution of projects, program costs, and program outcomes.

The bill provides that implementation of the Healthy Food Financing Initiative program is contingent upon appropriation by the Legislature. The DACS estimates it will require $68,498 from the General Revenue Fund to implement the provisions in this bill.

The bill has an effective date of July 1, 2016.

II. Present Situation:

A 2014 study commissioned by the Department of Agriculture and Consumer Services (DACS) on the Impact of Food Deserts on Diet-Related Outcomes made several key findings, one of which was that access to quality retail grocers in Florida is strongly linked to a variety of diet-related health outcomes. Individuals living in places more than a half mile from the nearest full-service grocer and who lack access to a vehicle are more likely to die prematurely from diabetes, diet-related cancers, stroke, and liver disease than individuals living where grocers are closer and vehicles are more available.[1] The American Heart Association reports that low-income areas have more convenience stores than supermarkets, thus limiting healthy options in those areas and specifically that 2.5 million Floridians live in areas where fresh food is not readily available.[2]

Healthy Food Financing Initiative programs are being established around the country through public private partnerships to provide grants and loans to assist the financing of new supermarkets and grocery stores to low-income, underserved communities. These programs provide more flexible terms and structured financing tailored for a specific project than financing provided by conventional credit sources. The first fresh food financing program was established in Pennsylvania in 2004 and is considered a success. At least a half dozen states or local governments have developed similar healthy food financing programs using the Pennsylvania program as a model.[3] This proposed bill is likewise modeled after the Pennsylvania program.

A Community Development Financial Institution (CDFI) plays a key role in healthy food financing initiatives by providing financing packages with terms often unavailable from traditional financial institutions for the development of grocery stores and other food retail options in underserved neighborhoods.[4] A CDFI or similar organization is essentially the entity that administers and monitors healthy food financing programs.

Based on 2013 data, The Reinvestment Fund (TRF), a national community development organization, and The Florida Community Loan Fund (FCLF) created a list that shows over 800 grocery stores in Florida that meet the bill's definition of an "independent grocery store or supermarket" and, therefore, could apply for funds under a Florida Healthy Food Financing Initiative program.[5] While a healthy food financing program does not presently exist in Florida, the FCLF has been instrumental in providing assistance through New Markets Tax Credits to enable a grocery store to relocate and update its operation which was the only grocery store available for residents in the small rural city of Old Town, Florida, an area recognized as a Food

[1] Impact on Food Deserts on Diet-Related Health Outcomes, see http://www.freshfromflorida.com/Divisions-Offices/Food-Nutrition-and-Wellness/Florida-s-Roadmap-To-Living-Healthy/Impact-of-Food-Deserts-on-Diet-Related-Health-Outcomes, (Site last visited 11/19/2015).
[2] See http://www.dccpta.org/wp-content/uploads/2015/10/Healthy-Food-FL-FACT-SHEET.pdf. (Site last visited 11/23/2015).
[3] See http://thefoodtrust.org/uploads/media_items/hffi-around-the-country.original.pdf. (Site last visited 11/23/2015).
[4] See http://thefoodtrust.org/uploads/media_items/cdfi-report-final-20140708.original.pdf, pgs. 4-6. (Site last visited 11/23/2015).
[5] Per paper provided by David Francis, Government Relations Director, Florida for the American Heart Association. Paper on file with the Senate Agricultural Committee.

Desert by the United States Department of Agriculture. The FCLF reports that in addition to offering fresh foods and groceries to an enlarged customer base, the project also provided a valuable economic impact by creating jobs and stimulating additional business at the site.[6]

III. Effect of Proposed Changes:

Section 1 creates the Healthy Food Financing Initiative (program) within the Department of Agriculture and Consumer Services (DACS) and defines the following terms:

- "Community facility" means a property used to provide health and human services or used to facilitate the delivery or distribution of food and other agriculture products for the benefit of low-income children, families, and older adults.
- "Independent grocery store or supermarket" is defined as a store or supermarket whose parent does not own more than 40 grocery stores throughout the country according to the latest Nielsen TDLinx Supermarket/Supercenter database.
- "Low-income community" is defined as a community determined by the latest United States (U.S.) Census to have at least a 20 percent poverty rate; or have a median family income that does not exceed 80 percent of the statewide median family income when located outside of a metropolitan area; or if located inside of a metropolitan area, the median family income does not exceed 80 percent of the statewide median family income or 80 percent of the metropolitan median family income, whichever is greater.
- "Moderate-income community" is defined as a population census tract determined by the latest U.S. Census in which the median family income is between 81 and 95 percent of the statewide or metropolitan median family income.
- "Underserved community" is defined as a distressed area where a substantial number of residents have low access to a full-service supermarket or grocery store. Such an area must meet criteria set forth in the bill.

PCS/CS/SB 760 requires the DACS to "establish" the program with private and public loans, grants, tax credits, and other types of financial assistance to increase access to fresh produce and other nutritious food in underserved, low-income or moderate-income communities.

The bill directs the DACS to establish program guidelines, raise matching funds, promote the program statewide, evaluate applicants, underwrite and disburse grants and loans, and monitor program compliance and impact. It authorizes the DACS to contract with certain entities that demonstrate they are qualified to administer the program through a public-private partnership. The bill directs the department to establish operating procedures for the program which may be contracted out to a third party that reports annually to the DACS. Additionally, the bill requires the DACS to report annually to the President of the Senate and the Speaker of the House of Representatives on the projects funded, geographic distribution of projects, program costs and outcomes, the number and type of jobs created, and health initiatives associated with the program.

The bill sets forth criteria that an applicant for financing must meet as well as certain operational requirements. It provides an exception for small grocery-type stores to a requirement that 30 percent of food retail space must be used for the sale of perishable foods.

[6] See http://www.fclf.org/hitchcocks-market-expands-using-nmtc-program. (Site last visited 11/23/2015).

Finally, the bill sets forth criteria the DACS or administrator must follow in determining which qualified projects to finance and sets forth specific types of costs or uses for which financing provided by the program may be used.

Section 2 provides that "implementation" of the Healthy Food Financing Initiative program is contingent upon funds being appropriated by the Legislature.

Section 3 provides that this bill takes effect on July 1, 2016.

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:

Private entities and public-private partnerships will benefit in an indeterminate amount to the extent they are awarded funding and may benefit from loans or loan terms that facilitate or accelerate the growth or expansion of business opportunities.

C. Government Sector Impact:

PCS/CS/SB 760 "establishes" the Healthy Food Financing Initiative program modeled after a similar program in Pennsylvania which was funded with $30 million in state funds over three years.[7] The "implementation" of the Florida program is contingent upon appropriation by the Legislature.

The Department of Agriculture and Consumer Services (DACS) estimates that it would require $64,499 in recurring and $3,999 in nonrecurring funding from the General Revenue Fund in Fiscal Year 2016-2017 to implement the Healthy Food Financing Initiative program.

[7] See http://thefoodtrust.org/what-we-do/supermarkets (Site last visited 1/21/2016)

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates an unnumbered section of the Florida Statutes.

IX. Additional Information:

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

Recommended CS/CS by Appropriations Subcommittee on General Government on January 26, 2016:
The committee substitute clarifies that the "implementation" only, not the "creation" and "implementation" of the Healthy Food Financing Initiative, is contingent upon appropriation by the Legislature.

CS by Agriculture on January 11, 2016:
This committee substitute provides that program financing may also be used for the acquisition of seeds and starter plants in addition to purposes named specifically in the bill.

B. Amendments:

None.

220018

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/01/2016	.	
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	.	

The Committee on Appropriations (Grimsley) recommended the following:

Senate Amendment (with title amendment)

Delete line 98

and insert:

administrator to carry out such duties. If the department contracts with a third-party administrator, funds shall be granted to the third-party administrator to create a revolving loan fund for the purpose of financing projects that meet the criteria of the program. The third-party

220018

========== T I T L E A M E N D M E N T ==========
And the title is amended as follows:
Delete line 11
and insert:
administrator; establishing funding specifications for administrators; providing program, project, and

759432

576-02641-16

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on General Government)

A bill to be entitled

An act relating to the Healthy Food Financing Initiative; providing definitions; directing the Department of Agriculture and Consumer Services to establish a Healthy Food Financing Initiative program to provide specified financing to construct, rehabilitate, or expand independent grocery stores and supermarkets in underserved communities in low-income and moderate-income communities; authorizing the department to contract with a third-party administrator; providing program, project, and applicant requirements; authorizing funds to be used for specified purposes; directing the department to submit an annual report to the Legislature and adopt rules; providing that implementation of the program is contingent upon legislative appropriation; providing an effective date.

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

Section 1. Healthy Food Financing Initiative.—

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

(a) "Community facility" means a property owned by a nonprofit or for-profit entity or a unit of government in which health and human services are provided and space is offered in a manner that provides increased access to, or delivery or distribution of, food or other agricultural products to

759432

576-02641-16

encourage public consumption and household purchases of fresh produce or other healthy food to improve the public health and well-being of low-income children, families, and older adults.

(b) "Department" means the Department of Agriculture and Consumer Services.

(c) "Independent grocery store or supermarket" means an independently owned grocery store or supermarket whose parent company does not own more than 40 grocery stores throughout the country based upon ownership conditions as identified in the latest Nielsen TDLinx Supermarket/Supercenter database.

(d) "Low-income community" means a population census tract, as reported in the most recent United States Census Bureau American Community Survey, which meets one of the following criteria:

1. The poverty rate is at least 20 percent;

2. In the case of a low-income community located outside of a metropolitan area, the median family income does not exceed 80 percent of the statewide median family income; or

3. In the case of a low-income community located inside of a metropolitan area, the median family income does not exceed 80 percent of the statewide median family income or 80 percent of the metropolitan median family income, whichever is greater.

(e) "Moderate-income community" means a population census tract, as reported in the most recent United States Census Bureau American Community Survey, in which the median family income is between 81 percent and 95 percent of the statewide median family income or metropolitan median family income.

(f) "Program" means the Healthy Food Financing Initiative established by the department.

(g) "Underserved community" means a distressed urban, suburban, or rural geographic area where a substantial number of residents have low access to a full-service supermarket or grocery store. An area with limited supermarket access must be:

1. A census tract, as determined to be an area with low access by the United States Department of Agriculture, as identified in the Food Access Research Atlas;

2. Identified as a limited supermarket access area as recognized by the Community Development Financial Institutions Fund of the United States Department of the Treasury; or

3. Identified as an area with low access to a supermarket or grocery store through a methodology that has been adopted for use by another governmental initiative, or well-established or well-regarded philanthropic healthy food initiative.

(2) The department shall establish a Healthy Food Financing Initiative program that is composed of and coordinates the use of federal, state, and private loans or grants, federal tax credits, and other types of financial assistance for the construction, rehabilitation, or expansion of independent grocery stores, supermarkets, and community facilities to increase access to fresh produce and other nutritious food in underserved communities.

(3)(a) The department may contract with one or more qualified nonprofit organizations or Florida-based federally certified community development financial institutions to administer the program through a public-private partnership. Eligible community development financial institutions must be able to demonstrate:

1. Prior experience in healthy food financing.

2. Support from the Community Development Financial Institutions Fund of the United States Department of the Treasury.

3. The ability to successfully manage and operate lending and tax credit programs.

4. The ability to assume full financial risk for loans made under this initiative.

(b) The department shall:

1. Establish program guidelines, raise matching funds, promote the program statewide, evaluate applicants, underwrite and disburse grants and loans, and monitor compliance and impact. The department may contract with a third-party administrator to carry out such duties. The third-party administrator shall report to the department annually.

2. Create eligibility guidelines and provide financing through an application process. Eligible projects must be:

a. Located in an underserved community;

b. Primarily serve low-income or moderate-income communities; and

c. Provide for the construction of new independent grocery stores or supermarkets; the renovation or expansion of, including infrastructure upgrades to, existing independent grocery stores or supermarkets; or the construction, renovation, or expansion of, including infrastructure upgrades to, community facilities to improve the availability and quality of fresh produce and other healthy foods.

3. Report annually to the President of the Senate and the Speaker of the House of Representatives on the projects funded, the geographic distribution of the projects, the costs of the

program, and the outcomes, including the number and type of jobs created and health initiatives associated with the program.

(4) A for-profit entity or a not-for-profit entity, including, but not limited to, a sole proprietorship, partnership, limited liability company, corporation, cooperative, nonprofit organization, nonprofit community development entity, university, or governmental entity may apply for financing. An applicant for financing must:

(a) Demonstrate the capacity to successfully implement the project and the likelihood that the project will be economically self-sustaining;

(b) Demonstrate the ability to repay the loan; and

(c) Agree, as an independent grocery store or supermarket, for at least 5 years, to:

1. Accept Supplemental Nutrition Assistance Program benefits;

2. Apply to accept Special Supplemental Nutrition Program for Women, Infants, and Children benefits and accept such benefits, if approved;

3. Allocate at least 30 percent of food retail space for the sale of perishable foods, which may include fresh or frozen dairy products, fresh produce, and fresh meats, poultry, and fish;

4. Comply with all data collection and reporting requirements established by the department; and

5. Promote the hiring of local residents.

Projects including, but not limited to, corner stores, bodegas, or other types of nontraditional grocery stores that do not meet

the 30 percent minimum in subparagraph 3. can still qualify for funding if such funding will be used for refrigeration, displays, or other one-time capital expenditures to promote the sale of fresh produce and other healthy foods.

(5) In determining which qualified projects to finance, the department or third-party administrator shall:

(a) Give preference to local Florida-based grocers or local business owners with experience in grocery stores and to grocers and business owners with a business plan model that includes written documentation of opportunities to purchase from Florida farmers and growers before seeking out-of-state purchases;

(b) Consider the level of need in the area to be served;

(c) Consider the degree to which the project will have a positive economic impact on the underserved community, including the creation or retention of jobs for local residents; and

(d) Consider other criteria as determined by the department.

(6) Financing for projects may be used for the following purposes:

(a) Site acquisition and preparation.

(b) Construction and build-out costs.

(c) Equipment and furnishings.

(d) Workforce training or security.

(e) Predevelopment costs, such as market studies and appraisals.

(f) Energy efficiency measures.

(g) Working capital for first-time inventory and startup costs.

(h) Acquisition of seeds and starter plants for the

residential cultivation of fruits, vegetables, herbs, and other culinary products. However, only 5 percent of the total funds expended in any one project under this section may be used for such acquisition.

(i) Other purposes as determined by the department or a third-party administrator.

(7) The department shall adopt rules to administer this section.

Section 2. Implementation of the Healthy Food Financing Initiative is contingent upon appropriation by the Legislature.

Section 3. This act shall take effect July 1, 2016.

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 760
INTRODUCER:	Appropriations Committee (Recommended by Appropriations Subcommittee on General Government); Agriculture Committee; and Senator Bean and others
SUBJECT:	Healthy Food Financing Initiative
DATE:	March 3, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Weidenbenner	Becker	AG	**Fav/CS**
2.	Blizzard	DeLoach	AGG	**Recommend: Fav/CS**
3.	Blizzard	Kynoch	AP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 760 establishes the Healthy Food Financing Initiative (program) in the Department of Agriculture and Consumer Services (DACS), to provide financial assistance for the development or expansion of grocery retail outlets operating in underserved, low-income or moderate-income communities. Specifically the bill:

- Directs the DACS to implement and monitor the program through public-private partnerships;
- Authorizes the DACS to contract with one or more qualified nonprofit organizations or Florida-based federally certified community development financial institutions to administer the program and creates eligibility criteria and establishes funding specifications for such organizations;
- Requires the DACS to create eligibility guidelines and provide financing through an application process;
- Directs the DACS or a third-party administrator to give preference to Florida-based grocers and business owners; and
- Requires the DACS to report annually to the President of the Senate and the Speaker of the House of Representatives on the projects funded, geographic distribution of projects, program costs, and program outcomes.

The bill provides that implementation of the Healthy Food Financing Initiative program is contingent upon appropriation by the Legislature. The DACS will not need additional resources to implement the provisions in this bill.

The bill has an effective date of July 1, 2016.

II. Present Situation:

A 2014 study commissioned by the Department of Agriculture and Consumer Services (DACS) on the Impact of Food Deserts on Diet-Related Outcomes made several key findings, one of which was that access to quality retail grocers in Florida is strongly linked to a variety of diet-related health outcomes. Individuals living in places more than a half mile from the nearest full-service grocer and who lack access to a vehicle are more likely to die prematurely from diabetes, diet-related cancers, stroke, and liver disease than individuals living where grocers are closer and vehicles are more available.[1] The American Heart Association reports that low-income areas have more convenience stores than supermarkets, thus limiting healthy options in those areas and specifically that 2.5 million Floridians live in areas where fresh food is not readily available.[2]

Healthy Food Financing Initiative programs are being established around the country through public private partnerships to provide grants and loans to assist the financing of new supermarkets and grocery stores to low-income, underserved communities. These programs provide more flexible terms and structured financing tailored for a specific project than financing provided by conventional credit sources. The first fresh food financing program was established in Pennsylvania in 2004 and is considered a success. At least a half dozen states or local governments have developed similar healthy food financing programs using the Pennsylvania program as a model.[3] This proposed bill is likewise modeled after the Pennsylvania program.

A Community Development Financial Institution (CDFI) plays a key role in healthy food financing initiatives by providing financing packages with terms often unavailable from traditional financial institutions for the development of grocery stores and other food retail options in underserved neighborhoods.[4] A CDFI or similar organization is essentially the entity that administers and monitors healthy food financing programs.

Based on 2013 data, The Reinvestment Fund (TRF), a national community development organization, and The Florida Community Loan Fund (FCLF) created a list that shows over 800 grocery stores in Florida that meet the bill's definition of an "independent grocery store or supermarket" and, therefore, could apply for funds under a Florida Healthy Food Financing Initiative program.[5] While a healthy food financing program does not presently exist in Florida,

[1] Impact on Food Deserts on Diet-Related Health Outcomes, see http://www.freshfromflorida.com/Divisions-Offices/Food-Nutrition-and-Wellness/Florida-s-Roadmap-To-Living-Healthy/Impact-of-Food-Deserts-on-Diet-Related-Health-Outcomes, (Site last visited 11/19/2015).
[2] See http://www.dccpta.org/wp-content/uploads/2015/10/Healthy-Food-FL-FACT-SHEET.pdf. (Site last visited 11/23/2015).
[3] See http://thefoodtrust.org/uploads/media_items/hffi-around-the-country.original.pdf. (Site last visited 11/23/2015).
[4] See http://thefoodtrust.org/uploads/media_items/cdfi-report-final-20140708.original.pdf, pgs. 4-6. (Site last visited 11/23/2015).
[5] Per paper provided by David Francis, Government Relations Director, Florida for the American Heart Association. Paper on file with the Senate Agricultural Committee.

the FCLF has been instrumental in providing assistance through New Markets Tax Credits to enable a grocery store to relocate and update its operation which was the only grocery store available for residents in the small rural city of Old Town, Florida, an area recognized as a Food Desert by the United States Department of Agriculture. The FCLF reports that in addition to offering fresh foods and groceries to an enlarged customer base, the project also provided a valuable economic impact by creating jobs and stimulating additional business at the site.[6]

III. Effect of Proposed Changes:

Section 1 creates the Healthy Food Financing Initiative (program) within the Department of Agriculture and Consumer Services (DACS) and defines the following terms:

- "Community facility" means a property used to provide health and human services or used to facilitate the delivery or distribution of food and other agriculture products for the benefit of low-income children, families, and older adults.
- "Independent grocery store or supermarket" is defined as a store or supermarket whose parent does not own more than 40 grocery stores throughout the country according to the latest Nielsen TDLinx Supermarket/Supercenter database.
- "Low-income community" is defined as a community determined by the latest United States (U.S.) Census to have at least a 20 percent poverty rate; or have a median family income that does not exceed 80 percent of the statewide median family income when located outside of a metropolitan area; or if located inside of a metropolitan area, the median family income does not exceed 80 percent of the statewide median family income or 80 percent of the metropolitan median family income, whichever is greater.
- "Moderate-income community" is defined as a population census tract determined by the latest U.S. Census in which the median family income is between 81 and 95 percent of the statewide or metropolitan median family income.
- "Underserved community" is defined as a distressed area where a substantial number of residents have low access to a full-service supermarket or grocery store. Such an area must meet criteria set forth in the bill.

The bill requires the DACS to "establish" the program with private and public loans, grants, tax credits, and other types of financial assistance to increase access to fresh produce and other nutritious food in underserved, low-income or moderate-income communities.

The bill directs the DACS to establish program guidelines, raise matching funds, promote the program statewide, evaluate applicants, underwrite and disburse grants and loans, and monitor program compliance and impact. It authorizes the DACS to contract with certain entities that demonstrate they are qualified to administer the program through a public-private partnership. The bill directs the department to establish operating procedures for the program which may be contracted out to a third party that reports annually to the DACS. The bill requires the administrator to create a revolving loan fund for the purpose of financing projects that meet the criteria of the program, if the administrator contracts with the DACS. Additionally, the bill requires the DACS to report annually to the President of the Senate and the Speaker of the House of Representatives on the projects funded, geographic distribution of projects, program costs and

[6] See http://www.fclf.org/hitchcocks-market-expands-using-nmtc-program. (Site last visited 11/23/2015).

outcomes, the number and type of jobs created, and health initiatives associated with the program.

The bill sets forth criteria that an applicant for financing must meet as well as certain operational requirements. It provides an exception for small grocery-type stores to a requirement that 30 percent of food retail space must be used for the sale of perishable foods.

Finally, the bill sets forth criteria the DACS or administrator must follow in determining which qualified projects to finance and sets forth specific types of costs or uses for which financing provided by the program may be used.

Section 2 provides that "implementation" of the Healthy Food Financing Initiative program is contingent upon funds being appropriated by the Legislature.

Section 3 provides that this bill takes effect on July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Under CS/CS/SB 760, private entities and public-private partnerships will benefit in an indeterminate amount to the extent they are awarded funding and may benefit from loans or loan terms that facilitate or accelerate the growth or expansion of business opportunities.

C. Government Sector Impact:

The bill "establishes" the Healthy Food Financing Initiative program modeled after a similar program in Pennsylvania which was funded with $30 million in state funds over

three years.[7] The "implementation" of the Florida program is contingent upon appropriation by the Legislature.

The Department of Agriculture and Consumer Services (DACS) states that implementation of the Healthy Food Financing Initiative program can be handled within existing resources.[8]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates an unnumbered section of the Florida Statutes.

IX. Additional Information:

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

CS/CS by Appropriations on March 1, 2016:
The committee substitute clarifies that the "implementation" only, not the "creation" and "implementation" of the Healthy Food Financing Initiative (program), is contingent upon appropriation by the Legislature. Additionally, the committee substitute requires the administrator of the program to create a revolving loan fund if under contract with the Department of Agriculture and Consumer Services.

CS by Agriculture on January 11, 2016:
This committee substitute provides that program financing may also be used for the acquisition of seeds and starter plants in addition to purposes named specifically in the bill.

B. Amendments:

None.

[7] See http://thefoodtrust.org/what-we-do/supermarkets (Site last visited 1/21/2016)
[8] *See* Department of Agriculture and Consumer Services, Bill Analysis for SB 760, p. 3 (January 29, 2016) (on file with the Senate Subcommittee on General Government Appropriations).

356836

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/29/2016	.	
	.	
	.	
	.	

The Committee on Appropriations (Grimsley) recommended the following:

Senate Amendment (with title amendment)

Delete line 98

and insert:

administrator to carry out such duties. If the department contracts with a third-party administrator, funds shall be granted to the third-party administrator to create a revolving loan fund for the purpose of financing projects that meet the criteria of the program. The third-party

356836

11 ================= T I T L E A M E N D M E N T ================
12 And the title is amended as follows:
13 Delete line 11
14 and insert:
15 administrator; establishing funding specifications for
16 administrators; providing program, project, and

By the Committee on Agriculture; and Senator Bean

575-02015-16 2016760c1

A bill to be entitled

An act relating to the Healthy Food Financing Initiative; providing definitions; directing the Department of Agriculture and Consumer Services to establish a Healthy Food Financing Initiative program to provide specified financing to construct, rehabilitate, or expand independent grocery stores and supermarkets in underserved communities in low-income and moderate-income communities; authorizing the department to contract with a third-party administrator; providing program, project, and applicant requirements; authorizing funds to be used for specified purposes; directing the department to submit an annual report to the Legislature and adopt rules; providing that creation and implementation of the program are contingent upon legislative appropriations; providing an effective date.

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

Section 1. Healthy Food Financing Initiative.—

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

(a) "Community facility" means a property owned by a nonprofit or for-profit entity or a unit of government in which health and human services are provided and space is offered in a manner that provides increased access to, or delivery or distribution of, food or other agricultural products to encourage public consumption and household purchases of fresh produce or other healthy food to improve the public health and well-being of low-income children, families, and older adults.

(b) "Department" means the Department of Agriculture and Consumer Services.

575-02015-16 2016760c1

(c) "Independent grocery store or supermarket" means an independently owned grocery store or supermarket whose parent company does not own more than 40 grocery stores throughout the country based upon ownership conditions as identified in the latest Nielsen TDLinx Supermarket/Supercenter database.

(d) "Low-income community" means a population census tract, as reported in the most recent United States Census Bureau American Community Survey, which meets one of the following criteria:

1. The poverty rate is at least 20 percent;

2. In the case of a low-income community located outside of a metropolitan area, the median family income does not exceed 80 percent of the statewide median family income; or

3. In the case of a low-income community located inside of a metropolitan area, the median family income does not exceed 80 percent of the statewide median family income or 80 percent of the metropolitan median family income, whichever is greater.

(e) "Moderate-income community" means a population census tract, as reported in the most recent United States Census Bureau American Community Survey, in which the median family income is between 81 percent and 95 percent of the statewide median family income or metropolitan median family income.

(f) "Program" means the Healthy Food Financing Initiative established by the department.

(g) "Underserved community" means a distressed urban, suburban, or rural geographic area where a substantial number of residents have low access to a full-service supermarket or grocery store. An area with limited supermarket access must be:

1. A census tract, as determined to be an area with low

access by the United States Department of Agriculture, as identified in the Food Access Research Atlas;

2. Identified as a limited supermarket access area as recognized by the Community Development Financial Institutions Fund of the United States Department of the Treasury; or

3. Identified as an area with low access to a supermarket or grocery store through a methodology that has been adopted for use by another governmental initiative, or well-established or well-regarded philanthropic healthy food initiative.

(2) The department shall establish a Healthy Food Financing Initiative program that is composed of and coordinates the use of federal, state, and private loans or grants, federal tax credits, and other types of financial assistance for the construction, rehabilitation, or expansion of independent grocery stores, supermarkets, and community facilities to increase access to fresh produce and other nutritious food in underserved communities.

(3)(a) The department may contract with one or more qualified nonprofit organizations or Florida-based federally certified community development financial institutions to administer the program through a public-private partnership. Eligible community development financial institutions must be able to demonstrate:

1. Prior experience in healthy food financing.

2. Support from the Community Development Financial Institutions Fund of the United States Department of the Treasury.

3. The ability to successfully manage and operate lending and tax credit programs.

4. The ability to assume full financial risk for loans made under this initiative.

(b) The department shall:

1. Establish program guidelines, raise matching funds, promote the program statewide, evaluate applicants, underwrite and disburse grants and loans, and monitor compliance and impact. The department may contract with a third-party administrator to carry out such duties. The third-party administrator shall report to the department annually.

2. Create eligibility guidelines and provide financing through an application process. Eligible projects must be:

a. Located in an underserved community;

b. Primarily serve low-income or moderate-income communities; and

c. Provide for the construction of new independent grocery stores or supermarkets; the renovation or expansion of, including infrastructure upgrades to, existing independent grocery stores or supermarkets; or the construction, renovation, or expansion of, including infrastructure upgrades to, community facilities to improve the availability and quality of fresh produce and other healthy foods.

3. Report annually to the President of the Senate and the Speaker of the House of Representatives on the projects funded, the geographic distribution of the projects, the costs of the program, and the outcomes, including the number and type of jobs created and health initiatives associated with the program.

(4) A for-profit entity or a not-for-profit entity, including, but not limited to, a sole proprietorship, partnership, limited liability company, corporation,

cooperative, nonprofit organization, nonprofit community development entity, university, or governmental entity may apply for financing. An applicant for financing must:

(a) Demonstrate the capacity to successfully implement the project and the likelihood that the project will be economically self-sustaining;

(b) Demonstrate the ability to repay the loan; and

(c) Agree, as an independent grocery store or supermarket, for at least 5 years, to:

1. Accept Supplemental Nutrition Assistance Program benefits;

2. Apply to accept Special Supplemental Nutrition Program for Women, Infants, and Children benefits and accept such benefits, if approved;

3. Allocate at least 30 percent of food retail space for the sale of perishable foods, which may include fresh or frozen dairy products, fresh produce, and fresh meats, poultry, and fish;

4. Comply with all data collection and reporting requirements established by the department; and

5. Promote the hiring of local residents.

Projects including, but not limited to, corner stores, bodegas, or other types of nontraditional grocery stores that do not meet the 30 percent minimum in subparagraph 3. can still qualify for funding if such funding will be used for refrigeration, displays, or other one-time capital expenditures to promote the sale of fresh produce and other healthy foods.

(5) In determining which qualified projects to finance, the

department or third-party administrator shall:

(a) Give preference to local Florida-based grocers or local business owners with experience in grocery stores and to grocers and business owners with a business plan model that includes written documentation of opportunities to purchase from Florida farmers and growers before seeking out-of-state purchases;

(b) Consider the level of need in the area to be served;

(c) Consider the degree to which the project will have a positive economic impact on the underserved community, including the creation or retention of jobs for local residents; and

(d) Consider other criteria as determined by the department.

(6) Financing for projects may be used for the following purposes:

(a) Site acquisition and preparation.

(b) Construction and build-out costs.

(c) Equipment and furnishings.

(d) Workforce training or security.

(e) Predevelopment costs, such as market studies and appraisals.

(f) Energy efficiency measures.

(g) Working capital for first-time inventory and startup costs.

(h) Acquisition of seeds and starter plants for the residential cultivation of fruits, vegetables, herbs, and other culinary products. However, only 5 percent of the total funds expended in any one project under this section may be used for such acquisition.

(i) Other purposes as determined by the department or a

third-party administrator.

(7) The department shall adopt rules to administer this section.

Section 2. The creation of the Healthy Food Financing Initiative and implementation of this act are contingent upon appropriation by the Legislature.

Section 3. This act shall take effect July 1, 2016.

The Florida Senate

Committee Agenda Request

To: Senator Tom Lee, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: January 29, 2016

I respectfully request that **Senate Bill # 760**, relating to Healthy Food Financing Initiative, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Aaron Bean

Senator Aaron Bean
Florida Senate, District 4

File signed original with committee office

S-020 (03/2004)

THE FLORIDA SENATE

APPEARANCE RECORD

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

Late

3/1/16
Meeting Date

760
Bill Number (if applicable)

Topic App. Good Food

Amendment Barcode (if applicable)

Name Greg Pound

Job Title

Address 9166 Sunrise Dr.
Street

Phone

Largo Fl. 33773
City *State* *Zip*

Email

Speaking: ☐ For ☐ Against ☒ Information

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

Representing Pinellas County Florida Government Corruption

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)

3/1/2016
Meeting Date

Topic _____ Bill Number 760 *(if applicable)*

Name BRIAN PITTS Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

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

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

Speaking: ☐ For ☐ Against ☑ Information

Representing JUSTICE-2-JESUS

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

356836

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

3/1/16
Meeting Date

~~22-00418~~
Bill Number (if applicable)

SB 760
Amendment Barcode (if applicable)

Topic Healthy Food Financing

Name Mark D. Landreth

Job Title Sr. Dir Gov't Relations

Address 2851 Remington Green Cir. #C
Street
Tallahassee FL 32308
City *State* *Zip*

Phone 850.544.3376

Email mark.landreth@heart.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing _____

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-1-16
Meeting Date

SB 760
Bill Number (if applicable)

Topic Healthy Food Financing

Amendment Barcode (if applicable)

Name Erin Choy

Job Title Chair-Elect

Address 404 E. Sixth Ave
Street
Tallahassee FL 32303
City *State* *Zip*

Phone (561)635-4168

Email erin.choy@gmail.com

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

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

Representing Junior Leagues of Florida

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

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

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/16
Meeting Date

SB 760
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Healthy Food Financing

Name Mark Landreth

Job Title Sr. Dir. Gov't Relations

Address 2851 Remington Green Cir #C
Street
Tallahassee FL 32308
City *State* *Zip*

Phone 850.544.3376

Email MARK.LANDRETH@heart.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing American Heart Association

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/16
Meeting Date

760
Bill Number (if applicable)

Topic Healthy Food Financing Initiative

Amendment Barcode (if applicable)

Name FELY CURVA, Ph.D.

Job Title Partner, Curva & Associates LLC

Address 1212 Piedmont Dr
Street

Tallahassee FL 32312
City *State* *Zip*

Phone (850)508-2206

Email fely.curva@gmail.com

Speaking: ☑ For ☐ Against ☐ Information

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

Representing FL IMPACT; SHAPE FL

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 766
INTRODUCER:	Appropriations Committee; Finance and Tax Committee; and Senator Flores
SUBJECT:	Ad Valorem Taxation
DATE:	March 2, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Present	Yeatman	CA	**Favorable**
2.	Babin	Diez-Arguelles	FT	**Fav/CS**
3.	Babin	Kynoch	AP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 766 makes several changes related to the value adjustment board (VAB) process. The bill:

- Requires the VAB to resolve all petitions by June 1 following the assessment year. The June 1 date is extended to December 1 in any year that the number of petitions increases by more than 10 percent over the prior year.
- Limits the persons who may represent a taxpayer before the VAB to certain licensed professionals, an employee of the taxpayer, a person with power of attorney or an uncompensated individual with a written authorization.
- Requires that a petition filed by someone other than a licensed professional or employee of the taxpayer be signed by the taxpayer, or be accompanied by a power of attorney from the taxpayer or the taxpayer's written authorization for representation. Powers of attorney and written authorizations to petition the VAB are only valid for one assessment year.
- Changes the rate of interest for overpayments and underpayments from 12 percent to the prime rate, and requires interest on an overpayment related to a petition to be funded proportionately by each taxing authority that was overpaid.
- Authorizes a petitioner or a property appraiser to reschedule a hearing a single time, for good cause only, and reduces the notice for rehearing from 25 to 15 days when the rehearing is requested by the petitioner.
- Prohibits the imposition of interest or penalty when an owner of nonhomestead residential property or nonresidential property was improperly granted an assessment limitation due to a clerical mistake or omission.

- Clarifies that a property owner may petition the VAB concerning a property appraiser's determination that a change of ownership, change of control, or qualifying improvement has occurred for purposes of resetting the assessment limitation on the property.
- Specifies the property appraiser's treatment of erroneous or incomplete property tax returns, and requires returns to be timely filed in order to be contested before the VAB.

The bill also makes permanent the ability of a school district to levy 75 percent of a school district's most recent prior period funding adjustment millage in the event that the final tax roll is delayed for longer than one year.

The Revenue Estimating Conference has determined the fiscal impact of the following provisions of the bill:

- The provisions of the bill that change the interest rate that applies to overpayments and underpayments at the VAB will increase Fiscal Year 2016-2017 property tax revenues by $5.6 million, with a positive $5.6 million, recurring impact.
- The provisions of the bill that allow school districts to levy an additional 75 percent prior period funding adjustment millage will increase Fiscal Year 2016-2017 property tax revenues by $37.7 million; this revenue would have been collected in the following year.
- The provisions of the bill that require VABs to hear all petitions by June 1, will increase Fiscal Year 2018-2019 property tax revenues by $49.8 million; this revenue would have been collected in a later year.

The bill takes effect July 1, 2016.

II. Present Situation:

Overview of the Ad Valorem Process

The ad valorem tax or "property tax" is an annual tax levied by counties, cities, school districts, and some special districts. The tax is based on the taxable value of property as of January 1 of each year.[1] The property appraiser annually determines the "just value"[2] of property within the taxing authority and then applies applicable exclusions, assessment limitation, and exemptions to determine the property's "taxable value."[3]

Each property appraiser submits the county's tax roll to the Department of Revenue (DOR) for review by July 1 of each year for assessments as of the prior January 1.[4] In August, the property appraiser sends a Truth in Millage (TRIM) notice to all taxpayers providing specific tax

[1] Both real and tangible personal property are subject to the tax. Section 192.001(12), F.S., defines "real property" as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines "tangible personal property" as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

[2] Property must be valued at "just value" for purposes of property taxation, unless the State Constitution provides otherwise. FLA. CONST. art. VII, s. 4. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm's-length transaction *See Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

[3] *See* s. 192.001(2) and (16), F.S.

[4] Section 193.1142(1), F.S.

information about their parcel.[5] Taxpayers who disagree with the property appraiser's assessment or the denial of an exemption or property classification may:

- Request an informal meeting with the property appraiser;[6]
- Appeal the assessment by filing a petition with the county VAB;[7] or
- Challenge the assessment in circuit court.[8]

Taxes become payable on November 1. If assessments have not become final by that time – which is sometimes the case for assessments subject to VAB petitions – the board of county commissioners may request the tax collector to extend the tax roll prior to the completion of VAB proceedings and instruct the tax collector to begin issuing tax notices based on the property appraiser's initial tax roll. As part of extending the roll, the board may require the VAB to certify the portion of the roll that it has completed.[9]

Within 20 working days of receiving the certified tax roll, tax collectors send each taxpayer a tax notice.[10] Property taxes are delinquent if not paid before April 1 of the year following the assessment year.[11]

Overview of the Value Adjustment Board Process

Each county has a VAB, comprised of two members of the governing body of the county, one member of the school board and two citizen members appointed by the governing body of the county.[12] The county clerk acts as the clerk of the VAB.[13] A property owner may initiate a review by filing a petition with the clerk of the VAB within 25 days after the mailing of the TRIM notice.[14]

The clerk of the VAB is responsible for receiving completed petitions, acknowledging receipt to the taxpayer, sending a copy of the petition to the property appraiser, and scheduling hearings.

Current law requires VABs to render a written decision within 20 calendar days after the last day the board is in session.[15] The decision of the VAB must contain findings of fact and conclusions of law and must include reasons for upholding or overturning the determination of the property appraiser.[16] If a special magistrate has been appointed, the recommendations of the special magistrate must be considered by the VAB.[17] The clerk of the VAB, upon issuance of a decision, must notify each taxpayer and the property appraiser of the decision of the VAB. If requested by the DOR, the clerk must provide to the DOR a copy of the decision or information relating to the

[5] Section 200.069, F.S.
[6] Section 194.011(2), F.S.
[7] Section 194.011(3), F.S.
[8] Section 194.171, F.S.
[9] *See* ss. 193.122(1) and 197.323, F.S.
[10] Section 197.322, F.S.
[11] Section 197.333, F.S.
[12] Section 194.015, F.S.
[13] *Id.*
[14] Section 194.011(3)(d), F.S.
[15] Section 194.034(2), F.S.
[16] *Id.*; *See also* Rules 12D-9.030, 12D-9.032, and 12D-10.003(3), F.A.C.
[17] Section 194.034(2), F.S.

tax impact of the findings and results of the board as described in s. 194.037, F.S., in the manner and form requested.

The bill contains provisions addressing several unrelated issues. Additional information regarding the present situation is included in the discussion of the effect of the proposed changes below.

III. Effect of Proposed Changes:

Sections 1 and 11

Present situation: A petitioner before the VAB may be represented by an attorney or agent.[18] A DOR rule provides that the agent need not be licensed or have specific qualifications. An agent may be any person, including a family member, authorized by the property owner to represent him or her before the VAB.[19]

Proposed change: Sections 192.0105 and 194.034, F.S., are amended to restrict the persons who may represent a petitioner before the VAB to:

- An employee of the taxpayer or an affiliated entity;
- An attorney who is a member of the Florida Bar;
- A real estate appraiser or a real estate broker licensed under ch. 475, F.S.;
- A certified public accountant licensed under ch. 473, F.S.;
- An individual with power of attorney to act on behalf of the taxpayer; or
- An individual with a written authorization to act on the taxpayer's behalf who receives no compensation.

Powers of attorney must comply with the requirements of part II of chapter 709, are only valid to represent a single petitioner in a single assessment year, and must identify the parcels of property for which the taxpayer has granted the individual the authority to represent the taxpayer.

Written authorizations are only valid to represent a single petitioner in a single assessment year and must identify the parcels of property for which the taxpayer has granted the individual the authority to represent the taxpayer.

Sections 2 and 11

Present situation: Taxpayers must file tangible personal property tax returns by April 1 of each year.[20] If no return is filed, the property appraiser is authorized to estimate an assessment from the best information available,[21] and if additional property is found, make an assessment or add the property to the current assessment roll, depending on when the property is discovered.[22] Current law does not expressly provide for notice to the taxpayer.

[18] Section 194.034(1)(a), F.S.
[19] Rule 12D-9.018(3), F.A.C.
[20] Section 193.062(1), F.S. The property appraiser is authorized to grant extensions of time to file. Section 193.063, F.S.
[21] Section 193.073(2), F.S.
[22] Section 193.073(1), F.S.

For purposes of proceedings before the VAB, an assessment may not be contested until a return has been filed.[23] Current law does not specifically require a timely return in order to contest an assessment before the VAB and does not indicate if an erroneous or incomplete return is sufficient to allow a taxpayer to contest his or her assessment. As a result, a taxpayer who has not previously filed a tangible personal property return may be permitted to appeal to the VAB if he or she brings a return to the hearing or if a filed return was too incomplete for the property appraiser to use it in the assessment process.

Proposed change: Section 193.073, F.S., is amended to require that the property appraiser notify taxpayers of erroneous or incomplete returns at any time prior to mailing the TRIM notice and give the taxpayer 30 days to correct the problem.

Section 194.034, F.S., is amended to require that returns be timely filed in order to appeal an assessment to the VAB. In addition, if the taxpayer was notified that the return was erroneous or incomplete, the taxpayer must have filed a complete return during the 30 days following the notification that the return was erroneous or incomplete.

Section 194.034, F.S., is also amended to expressly provide that VAB decisions must be based upon admitted evidence or lack thereof.

Sections 3 and 4

Present situation: VAB hearings must begin between 30 and 60 days after the mailing of the TRIM notice.[24] The VAB must remain in session from day to day until all petitions, complaints, appeals, and disputes are heard.[25] Current law does not require the VAB to conclude its business by a date certain. As of August 4, 2015, three VABs had yet to complete their review of petitions for 2014 assessments.[26]

Proposed change: Section 193.122, F.S., is amended to require VABs to hear all petitions and issue their final certification of value by June 1 following the year in which the assessments were made, or by December 1 if the number of petitions in the county increased by more than 10 percent from the prior year. This change is effective beginning for the 2018 assessment roll.

Sections 5, 6, and 7

Present situation: Taxable real property in Florida may be subject to an assessment limitation.[27] These limitations limit the annual increase in a property's assessed value.[28]

[23] Section 194.034(1)(f), F.S.
[24] Section 194.032(1)(a), F.S.
[25] Section 194.032(3), F.S.
[26] For spreadsheets containing the VAB petition summaries as reported to the DOR, *See* FLORIDA DEPARTMENT OF REVENUE, PROPERTY TAX DATA PORTAL: VAB SUMMARY *available at* http://dor.myflorida.com/dor/property/resources/data.html (last visited Feb. 26, 2016).
[27] *See* ss. 193.155, 193.1554 and 193.1555, F.S.
[28] *Id.*

When a property appraiser finds that an assessment limitation was improperly granted, the property appraiser is required to file a notice of tax lien against any property that the person owns in the county.[29] The tax lien must include any unpaid taxes for the prior 10 years, plus a 50 percent penalty and 15 percent interest.[30]

For homestead property, authority exists for the property appraiser to first notify the property owner before filing a notice of tax lien in the official records of the county and to allow the property owner 30 days in which to pay the taxes, penalty and interest. Furthermore, if the homestead benefit was improperly granted due to a clerical mistake or omission by the property appraiser, the property owner may not be assessed penalty or interest.[31] The provisions related to nonhomestead property do not currently contain a 30-day notice provision or provide for penalty and interest waiver in the event of a clerical mistake or omission by the property appraiser.

Proposed change: Sections 193.155, 193.1554 and 193.1555, F.S., are amended to allow the property appraiser to grant the property owner 30 days in which to pay the tax, penalty and interest due from an improper application of the assessment limitation on nonhomestead residential property and nonresidential property. The bill also provides for penalty and interest to be waived in the event of a clerical mistake or omission by the property appraiser.

Section 8

Present situation: There is no statutory requirement that the petitioner sign the VAB petition. A DOR rule provides that a petition filed by an unlicensed agent must be signed by the taxpayer or accompanied by a written authorization from the taxpayer.[32]

Proposed change: Section 194.011, F.S., is amended to require that all petitions to the VAB must be authorized by the property owner. Employees of the taxpayer or an affiliated entity and licensed professionals may file a petition on behalf of the taxpayer by certifying under penalty of perjury that he or she has been authorized to file the petition on behalf of the taxpayer.

If a taxpayer notifies the VAB that the petition was filed without the taxpayer's consent, the representative is required to obtain written authorization from the taxpayer before the petition may be heard. If the VAB finds that a person willfully and knowingly filed a petition without authorization, the representative must obtain written authorization for all petitions filed for one year.

All other petitions to the VAB must be signed by the taxpayer, or accompanied by a power of attorney or the taxpayer's written authorization for representation. A power of attorney or written authorization is valid for one assessment year, and a new power of attorney or written authorization by the taxpayer is required for each subsequent assessment year.

The bill specifies that representing a taxpayer before the VAB does not authorize the representative to receive or access the taxpayer's confidential information.

[29] *See* ss. 193.155(10), 193.1554(10) and 193.1555(10), F.S.
[30] *Id.*
[31] *See* s. 196.075, F.S.
[32] Rule 12D-9.018(4), F.A.C.

Section 9

Present situation: Taxpayers who have petitions pending before the VAB when taxes become due on March 31 are required to pay all of the non-ad valorem assessments and at least 75 percent of the ad valorem taxes.[33] Any difference between the amount of ad valorem taxes paid and the amount ultimately due accrues interest at the rate of 12 percent per year.[34] Interest does not accrue on amounts paid in excess of 100 percent of the current taxes due as provided on the tax notice.[35]

Proposed change: Section 194.014, F.S., is amended to change the rate of interest from 12 percent to the bank prime loan rate as published by the Federal Reserve on July 1 or the first business day thereafter. The bill allows interest payments when the property appraiser and the property owner reach a settlement prior to the VAB hearing. The bill provides that interest on overpayments related to a petition is funded proportionately by each taxing authority that was overpaid.

Section 10

Present situation: Florida provides assessment limitations on most properties.[36] These limitations prohibit the assessed value of property from increasing in excess of a specified percentage each year. Homestead property is limited to 3 percent or less,[37] and nonhomestead residential property and nonresidential property are limited to 10 percent.[38]

When a property undergoes a change in ownership, a change in ownership or control, or a substantial improvement (qualifying improvement), the assessment limitation is removed, and the property is assessed at just value in the following year.[39] Current law does not explicitly provide that a property owner may petition the VAB to review a property appraiser's determination that a change of ownership, a change in ownership or control, or a qualifying improvement has occurred.

Proposed change: Section 194.032, F.S., is amended to expressly provide that a VAB may hear petitions regarding a determination that a change of ownership, a change of ownership or control, or a qualifying improvement has occurred.

Present situation: A petitioner is required to provide the property appraiser with a list of evidence, copies of documentation, and summaries of testimony at least 15 days prior to the hearing.[40] If the petitioner provides this information, and sends the appraiser a written request for responsive information, the appraiser must provide a list of evidence and copies of

[33] *See* s. 194.014, F.S.
[34] *Id.*
[35] *Id.*
[36] *See* ss. 193.155, 193.1554 and 193.1555, F.S.
[37] *See* s. 193.155, F.S.
[38] *See* ss. 193.1554 and 193.1555, F.S.
[39] *See* ss. 193.155(5), 193.1554(5) and 193.1555(5), F.S.
[40] Section 194.011(4)(a), F.S.

documentation to be presented at the hearing, including the "property record card."[41] The property record card is a record of assessment information maintained by the property appraiser for assessed properties in his or her jurisdiction.[42] The property appraiser is not required to provide a copy of the property record card if it is available online.[43]

Proposed change: Section 194.032, F.S., is amended to require a property appraiser to notify the petitioner that the property record card is available online if the property appraiser does not provide a copy when requested by the petitioner.

Present situation: The clerk of the VAB is responsible for scheduling appearances before the VAB. A petitioner may reschedule the hearing a single time by submitting to the clerk a written request to reschedule at least five calendar days before the day of the originally scheduled hearing.[44] The DOR has administered this provision to allow a petitioner to reschedule multiple times for good cause.[45] If a hearing is rescheduled, the petitioner receives another 25-day notice.

Proposed change: Petitioners and property appraisers are authorized to reschedule a hearing a single time for good cause. "Good cause" is defined to mean circumstances beyond the control of the person seeking to reschedule the hearing which reasonably prevent him or her from having adequate representation at the hearing. If the hearing is rescheduled by the petitioner, the notice period for the new hearing is reduced from 25 days to 15 days.

Section 12

Present Situation: Counties with a population greater than 75,000 are required to hire special magistrates to conduct hearings.[46] Before conducting hearings, a VAB must hold an organizational meeting to appoint special magistrates and legal counsel and to perform other administrative functions.[47] Special magistrates must meet the following qualifications:

- A special magistrate appointed to hear issues of exemptions and classifications must be a member of The Florida Bar with no less than five years' experience in the area of ad valorem taxation.
- A special magistrate appointed to hear issues regarding the valuation of real estate must be a state certified real estate appraiser with not less than five years' experience in real property valuation.
- A special magistrate appointed to hear issues regarding the valuation of tangible personal property must be a designated member of a nationally recognized appraiser's organization with not less than five years' experience in tangible personal property valuation.

Proposed Changes: The bill provides that VAB petitions concerning a property appraiser's determination that a change of ownership, a change of ownership or control, or a qualifying improvement has occurred must be heard by an attorney special magistrate.

[41] Section 194.011(4)(b), F.S.
[42] Section 194.032(2)(a), F.S.
[43] Section 194.032(2)(a), F.S.
[44] Section 194.032(2)(a), F.S.
[45] *See* Rule 12D-9.019(4), F.S.
[46] Section 194.035, F.S.
[47] Section 194.011(5)(a)2., F.S.

The bill also specifies that in the appointment and scheduling of special magistrates, the VAB, the VAB attorney, and the VAB clerk may not consider the dollar amount or percentage of assessment reductions recommended by any special magistrate either in the current year or in any prior year.

Section 13

Present Situation: In addition to ad valorem taxes, real property may be subject to one or more non-ad valorem assessments imposed by local government. Local governments are authorized to use the annual property tax bill to collect non-ad valorem assessments.[48] If the local government uses this method, the local government must adopt its non-ad valorem assessment roll at a public hearing held between January 1 and September 15.[49] By September 15, the chair of the local governing board must certify the non-ad valorem tax roll to the tax collector.[50]

Proposed change: Section 197.3632, F.S., is amended to extend the September 15 date for adopting the non-ad valorem assessment roll at a public hearing and for certifying the roll to the tax collector to September 25 for counties as defined in s. 125.011(1), F.S. Section 125.011(1), F.S., includes counties operating under a home rule charter adopted pursuant to ss. 10, 11, and 24 of Article VIII of the State Constitution of 1885. Currently, only Miami-Dade County meets this definition.

Section 14

Present situation: Florida school districts are funded by support from federal, state, and local governments.[51] State support for school districts is provided primarily by legislative appropriations. The major portion of state support is distributed through the Florida Education Finance Program (FEFP).[52] Local revenue for school support is derived almost entirely from local property taxes. Each school district participating in the state allocation of funds for the operation of schools must levy a millage representing its required local effort (RLE) from property taxes.

Each school district's RLE millage rate is determined by a statutory procedure that is initiated by the DOR's certification of the most recent estimated property tax values[53] of each district to the Commissioner of Education (Commissioner) no later than two working days prior to July 19 of the assessment year.[54] The Commissioner uses the estimated property tax values to calculate the RLE millage rate that would generate enough property tax revenue to cover the RLE amount for that year as set forth in the General Appropriations Act.[55]

[48] Section 197.3632, F.S.
[49] Section 197.3632(4)(a), F.S.
[50] Section 197.3632(5)(a), F.S.
[51] 2015-16 Funding for Florida School Districts, Statistical Report, Florida Department of Education, *available at* www.fldoe.org/core/fileparse.php/7507/urlt/Fefpdist.pdf (last visited Feb. 26, 2016).
[52] *Id.* at page 2.
[53] The value of property may change depending on the outcome of informal appeals to the property appraiser, VAB determinations, or circuit court decisions.
[54] Section 1011.62(4)(a)1.a., F.S.
[55] *Id.*

As discussed above, the VAB begins to hear petitions in September or October of the assessment year, two months after the Commissioner has estimated the millage rate necessary to generate the RLE by the school districts. After the VAB concludes its review of petitions, the recertified value of the assessment roll is often lower than the certified values due to changes made by the VAB, and the RLE millage previously calculated will not generate the same revenues, resulting in uncollected funds. In the following year, the Commissioner is authorized to calculate an additional millage rate necessary to generate the amount of the uncollected funds.[56] The additional millage rate is referred to as the prior period funding adjustment millage (PPFAM). A PPFAM is levied in the year after the school district experienced a shortfall in RLE funds; the process results in a one-year delay in the school district's receipt of revenue.

In rare instances, a VAB may be unable to complete all petitions for one assessment year before the millage rates are being set for the next assessment year. In this situation, the Commissioner would be unable to calculate a PPFAM for the affected school district because the roll for the prior year has not been completed. This situation would delay the school district's recoupment of lost revenues due to changes by the VAB for two years.

In 2015, the Legislature passed a temporary solution for school districts when the VAB process delays completion of the certification of the final tax roll for longer than one year.[57] For the 2015-2016 Fiscal Year only, the school district may "speed-up" the levy of 2014 unrealized RLE funds by levying a PPFAM equal to 75 percent of the district's most recent unrealized RLE for which a PPFAM was determined.[58]

Proposed change: Section 1011.62(4)(e), F.S., is amended to permanently allow affected school districts to "speed-up" the levy of unrealized RLE funds in any year in which the tax roll is not yet final by levying a PPFAM equal to 75 percent of the district's most recent unrealized RLE for which a PPFAM was determined.

Section 15 repeals subsections (4) and (5) of rule 12D-9.019, F.A.C., relating to scheduling and notice of hearing of VAB hearings.

Section 16 provides that the Legislature finds that this act fulfills an important state interest.

Section 17 provides an effective date of July 1, 2016, except as otherwise expressly provided.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandates provisions in Article VII, section 18 of the State Constitution, limit the Legislature's authority to require counties and municipalities to expend funds, to limit the authority of counties or municipalities to raise revenues, and to reduce the percentage of

[56] Section 1011.62(4)(e), F.S.
[57] Chapter 2015-222, Laws of Fla.
[58] Section 1011.62(4)(e)1.c., F.S.

state tax shared with counties and municipalities. Generally, these restrictions can be overcome with a two-thirds vote in both houses of the Legislature.
The provisions of the bill may require some counties to expend additional funds in order to complete the VAB process earlier. Other provisions of the bill significantly shift certain revenues between Fiscal Years 2016-2017, 2017-2018, and 2018-2019. However, the recurring revenue impact is estimated to be positive in the long-term.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has determined the fiscal impact of the following provisions of CS/CS/SB 766:

- The provisions of the bill that change the interest rates that apply to overpayments and underpayments at the VAB will increase Fiscal Year 2016-2017 property tax revenues by $5.6 million, with a positive $5.6 million, recurring impact.
- The provisions of the bill that allow school districts to levy an additional 75 percent prior period funding adjustment millage will increase Fiscal Year 2016-2017 property tax revenues by $37.7 million; this revenue would have been collected in the following year.
- The provisions of the bill that require VABs to hear all petitions by June 1, will increase Fiscal Year 2018-2019 property tax revenues by $49.8 million; this revenue would have been collected in a later year.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The provisions of the bill that require VABs to hear all petitions and certify the tax roll to the property appraiser prior to June 1 may require local governments to expend additional funds.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 192.0105, 193.073, 193.122, 193.155, 193.1554, 193.1555, 194.011, 194.014, 194.032, 194.034, 194.035, 197.3632, and 1011.62.

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 March 1, 2016:
The committee substitute authorizes employees of the taxpayer or an affiliated entity and uncompensated persons with written authorizations to represent taxpayers before the VAB. The CS/CS removes the requirement that a taxpayer sign a VAB petition when filed by an employee of the taxpayer or a licensed individual. The CS/CS clarifies the treatment of erroneous and incomplete property tax returns and requires a return to be timely filed in order to protest an assessment before the VAB. The CS/CS expressly allows VABs to hear petitions concerning a determination whether a change of ownership, change of ownership or control, or a qualifying improvement has occurred, and it requires attorney special magistrates to hear these issues. The CS/CS requires that VAB decisions be based on admitted evidence and requires VABs not to consider a special magistrate's prior determinations in appointing and scheduling special magistrates. The CS/CS repeals subsections (4) and (5) of rule 12D-9.019, F.A.C., and provides a finding that the bill fulfills an important state interest.

CS by Finance and Tax on February 16, 2016:
The CS removes a new procedure created by the bill requiring the Department of Revenue to review the processes of the property appraiser and VAB after the tax roll has been reduced by more than two percent for three consecutive years. The CS prohibits the assessment of penalty and interest when an assessment limitation is improperly granted due to a clerical mistake or omission by the property appraiser. The CS extends the time by 10 days for certain counties to hold public hearings and certify the non-ad valorem assessment roll. The CS makes permanent the authority for a school district to levy a prior period funding adjustment millage equal to 75 percent of the most recent prior period funding adjustment millage when the tax roll is not yet complete.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/01/2016	.	
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The Committee on Appropriations (Flores) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Paragraph (f) of subsection (2) of section 192.0105, Florida Statutes, is amended to read:

192.0105 Taxpayer rights.—There is created a Florida Taxpayer's Bill of Rights for property taxes and assessments to guarantee that the rights, privacy, and property of the taxpayers of this state are adequately safeguarded and protected

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during tax levy, assessment, collection, and enforcement processes administered under the revenue laws of this state. The Taxpayer's Bill of Rights compiles, in one document, brief but comprehensive statements that summarize the rights and obligations of the property appraisers, tax collectors, clerks of the court, local governing boards, the Department of Revenue, and taxpayers. Additional rights afforded to payors of taxes and assessments imposed under the revenue laws of this state are provided in s. 213.015. The rights afforded taxpayers to assure that their privacy and property are safeguarded and protected during tax levy, assessment, and collection are available only insofar as they are implemented in other parts of the Florida Statutes or rules of the Department of Revenue. The rights so guaranteed to state taxpayers in the Florida Statutes and the departmental rules include:

(2) THE RIGHT TO DUE PROCESS.—

(f) The right, in value adjustment board proceedings, to have all evidence presented and considered at a public hearing at the scheduled time, to be represented by a person specified in s. 194.034(1)(a), (b), or (c) ~~an attorney or agent~~, to have witnesses sworn and cross-examined, and to examine property appraisers or evaluators employed by the board who present testimony (see ss. 194.034(1)(d) ~~194.034(1)(a) and (c)~~ and (4), and 194.035(2)).

Section 2. Subsection (1) of section 193.073, Florida Statutes, is amended to read:

193.073 Erroneous returns; estimate of assessment when no return filed.—

(1)(a) Upon discovery that an erroneous or incomplete

statement of personal property has been filed by a taxpayer or that all the property of a taxpayer has not been returned for taxation, the property appraiser shall mail a notice informing the taxpayer that an erroneous or incomplete statement of personal property has been filed. Such notice shall be mailed at any time before the mailing of the notice required in s. 200.069. The taxpayer has 30 days after the date the notice is mailed to provide the property appraiser with a complete return listing all property for taxation. ~~proceed as follows:~~

(b) ~~(a)~~ If the property is personal property and is discovered before April 1, the property appraiser shall make an assessment in triplicate. After attaching the affidavit and warrant required by law, the property appraiser shall dispose of the additional assessment roll in the same manner as provided by law.

(c) ~~(b)~~ If the property is personal property and is discovered on or after April 1, or is real property discovered at any time, the property shall be added to the assessment roll then in preparation.

Section 3. Subsection (1) of section 193.122, Florida Statutes, is amended to read:

193.122 Certificates of value adjustment board and property appraiser; extensions on the assessment rolls.—

(1) The value adjustment board shall certify each assessment roll upon order of the board of county commissioners pursuant to s. 197.323, if applicable, and again after all hearings required by s. 194.032 have been held. These certificates shall be attached to each roll as required by the Department of Revenue. Notwithstanding an extension of the roll

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by the board of county commissioners pursuant to s. 197.323, the value adjustment board must complete all hearings required by s. 194.032 and certify the assessment roll to the property appraiser by June 1 following the assessment year. The June 1 requirement shall be extended until December 1 in each year in which the number of petitions filed increased by more than 10 percent over the previous year.

Section 4. The amendments made by this act to s. 193.122, Florida Statutes, first apply beginning with the 2018 tax roll.

Section 5. Subsection (10) of section 193.155, Florida Statutes, is amended to read:

193.155 Homestead assessments.—Homestead property shall be assessed at just value as of January 1, 1994. Property receiving the homestead exemption after January 1, 1994, shall be assessed at just value as of January 1 of the year in which the property receives the exemption unless the provisions of subsection (8) apply.

(10) If the property appraiser determines that for any year or years within the prior 10 years a person who was not entitled to the homestead property assessment limitation granted under this section was granted the homestead property assessment limitation, the property appraiser making such determination shall serve upon the owner a notice of intent to record in the public records of the county a notice of tax lien against any property owned by that person in the county, and such property must be identified in the notice of tax lien. Such property that is situated in this state is subject to the unpaid taxes, plus a penalty of 50 percent of the unpaid taxes for each year and 15 percent interest per annum. However, when a person entitled to

exemption pursuant to s. 196.031 inadvertently receives the limitation pursuant to this section following a change of ownership, the assessment of such property must be corrected as provided in paragraph (9)(a), and the person need not pay the unpaid taxes, penalties, or interest. Before a lien may be filed, the person or entity so notified must be given 30 days to pay the taxes and any applicable penalties and interest. If the property appraiser improperly grants the property assessment limitation as a result of a clerical mistake or an omission, the person or entity improperly receiving the property assessment limitation may not be assessed a penalty or interest.

Section 6. Subsection (10) of section 193.1554, Florida Statutes, is amended to read:

193.1554 Assessment of nonhomestead residential property.—

(10) If the property appraiser determines that for any year or years within the prior 10 years a person or entity who was not entitled to the property assessment limitation granted under this section was granted the property assessment limitation, the property appraiser making such determination shall serve upon the owner a notice of intent to record in the public records of the county a notice of tax lien against any property owned by that person or entity in the county, and such property must be identified in the notice of tax lien. Such property that is situated in this state is subject to the unpaid taxes, plus a penalty of 50 percent of the unpaid taxes for each year and 15 percent interest per annum. Before a lien may be filed, the person or entity so notified must be given 30 days to pay the taxes and any applicable penalties and interest. If the property appraiser improperly grants the property assessment limitation

as a result of a clerical mistake or an omission, the person or entity improperly receiving the property assessment limitation may not be assessed a penalty or interest.

Section 7. Subsection (10) of section 193.1555, Florida Statutes, is amended to read:

193.1555 Assessment of certain residential and nonresidential real property.—

(10) If the property appraiser determines that for any year or years within the prior 10 years a person or entity who was not entitled to the property assessment limitation granted under this section was granted the property assessment limitation, the property appraiser making such determination shall serve upon the owner a notice of intent to record in the public records of the county a notice of tax lien against any property owned by that person or entity in the county, and such property must be identified in the notice of tax lien. Such property that is situated in this state is subject to the unpaid taxes, plus a penalty of 50 percent of the unpaid taxes for each year and 15 percent interest per annum. Before a lien may be filed, the person or entity so notified must be given 30 days to pay the taxes and any applicable penalties and interest. If the property appraiser improperly grants the property assessment limitation as a result of a clerical mistake or an omission, the person or entity improperly receiving the property assessment limitation may not be assessed a penalty or interest.

Section 8. Subsection (3) of section 194.011, Florida Statutes, is amended to read:

194.011 Assessment notice; objections to assessments.—

(3) A petition to the value adjustment board must be in

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substantially the form prescribed by the department. Notwithstanding s. 195.022, a county officer may not refuse to accept a form provided by the department for this purpose if the taxpayer chooses to use it. A petition to the value adjustment board must be signed by the taxpayer or be accompanied at the time of filing by the taxpayer's written authorization or power of attorney, unless the person filing the petition is listed in s. 194.034(1)(a). A person listed in s. 194.034(1)(a) may file a petition with a value adjustment board without the taxpayer's signature or written authorization by certifying under penalty of perjury that he or she has authorization to file the petition on behalf of the taxpayer. If a taxpayer notifies the value adjustment board that a petition has been filed for the taxpayer's property without his or her consent, the value adjustment board may require the person filing the petition to provide written authorization from the taxpayer authorizing the person to proceed with the appeal before a hearing is held. If the value adjustment board finds that a person listed in s. 194.034(1)(a) willfully and knowingly filed a petition that was not authorized by the taxpayer, the value adjustment board shall require such person to provide the taxpayer's written authorization for representation to the value adjustment board clerk before any petition filed by that person is heard, for 1 year after imposition of such requirement by the value adjustment board. A power of attorney or written authorization is valid for 1 assessment year, and a new power of attorney or written authorization by the taxpayer is required for each subsequent assessment year. A petition shall also describe the property by parcel number and shall be filed as follows:

(a) The clerk of the value adjustment board and the property appraiser shall have available and shall distribute forms prescribed by the Department of Revenue on which the petition shall be made. Such petition shall be sworn to by the petitioner.

(b) The completed petition shall be filed with the clerk of the value adjustment board of the county, who shall acknowledge receipt thereof and promptly furnish a copy thereof to the property appraiser.

(c) The petition shall state the approximate time anticipated by the taxpayer to present and argue his or her petition before the board.

(d) The petition may be filed, as to valuation issues, at any time during the taxable year on or before the 25th day following the mailing of notice by the property appraiser as provided in subsection (1). With respect to an issue involving the denial of an exemption, an agricultural or high-water recharge classification application, an application for classification as historic property used for commercial or certain nonprofit purposes, or a deferral, the petition must be filed at any time during the taxable year on or before the 30th day following the mailing of the notice by the property appraiser under s. 193.461, s. 193.503, s. 193.625, s. 196.173, or s. 196.193 or notice by the tax collector under s. 197.2425.

(e) A condominium association, cooperative association, or any homeowners' association as defined in s. 723.075, with approval of its board of administration or directors, may file with the value adjustment board a single joint petition on behalf of any association members who own parcels of property

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which the property appraiser determines are substantially similar with respect to location, proximity to amenities, number of rooms, living area, and condition. The condominium association, cooperative association, or homeowners' association as defined in s. 723.075 shall provide the unit owners with notice of its intent to petition the value adjustment board and shall provide at least 20 days for a unit owner to elect, in writing, that his or her unit not be included in the petition.

(f) An owner of contiguous, undeveloped parcels may file with the value adjustment board a single joint petition if the property appraiser determines such parcels are substantially similar in nature.

(g) An owner of multiple tangible personal property accounts may file with the value adjustment board a single joint petition if the property appraiser determines that the tangible personal property accounts are substantially similar in nature.

(h) The individual, agent, or legal entity that signs the petition becomes an agent of the taxpayer for the purpose of serving process to obtain personal jurisdiction over the taxpayer for the entire value adjustment board proceedings, including any appeals of a board decision by the property appraiser pursuant to s. 194.036. This paragraph does not authorize the individual, agent, or legal entity to receive or access the taxpayer's confidential information without written authorization from the taxpayer.

Section 9. Subsection (2) of section 194.014, Florida Statutes, is amended to read:

194.014 Partial payment of ad valorem taxes; proceedings before value adjustment board.—

(2) If the value adjustment board or the property appraiser determines that the petitioner owes ad valorem taxes in excess of the amount paid, the unpaid amount accrues interest at an annual percentage rate equal to the bank prime loan rate on July 1, or the first business day thereafter if July 1 is a Saturday, Sunday, or legal holiday, of the ~~rate of 12 percent per~~ year, beginning on ~~from~~ the date the taxes became delinquent pursuant to s. 197.333 until the unpaid amount is paid. If the value adjustment board or the property appraiser determines that a refund is due, the overpaid amount accrues interest at an annual percentage rate equal to the bank prime loan rate on July 1, or the first business day thereafter if July 1 is a Saturday, Sunday, or legal holiday, of the tax ~~the rate of 12 percent per~~ year, beginning on ~~from~~ the date the taxes became delinquent pursuant to s. 197.333 until a refund is paid. Interest on an overpayment related to a petition shall be funded proportionately by each taxing authority that was overpaid. Interest does not accrue on amounts paid in excess of 100 percent of the current taxes due as provided on the tax notice issued pursuant to s. 197.322. For purposes of this subsection, the term "bank prime loan rate" means the average predominant prime rate quoted by commercial banks to large businesses as published by the Board of Governors of the Federal Reserve System.

Section 10. Paragraph (a) of subsection (1) and paragraph (a) of subsection (2) of section 194.032, Florida Statutes, are amended to read:

194.032 Hearing purposes; timetable.—

(1)(a) The value adjustment board shall meet not earlier

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than 30 days and not later than 60 days after the mailing of the notice provided in s. 194.011(1); however, no board hearing shall be held before approval of all or any part of the assessment rolls by the Department of Revenue. The board shall meet for the following purposes:

1. Hearing petitions relating to assessments filed pursuant to s. 194.011(3).

2. Hearing complaints relating to homestead exemptions as provided for under s. 196.151.

3. Hearing appeals from exemptions denied, or disputes arising from exemptions granted, upon the filing of exemption applications under s. 196.011.

4. Hearing appeals concerning ad valorem tax deferrals and classifications.

5. Hearing appeals from determinations that a change of ownership under s. 193.155(3), a change of ownership or control under s. 193.1554(5) or s. 193.1555(5), or a qualifying improvement under s. 193.1555(5), has occurred.

(2)(a) The clerk of the governing body of the county shall prepare a schedule of appearances before the board based on petitions timely filed with him or her. The clerk shall notify each petitioner of the scheduled time of his or her appearance at least 25 calendar days before the day of the scheduled appearance. The notice must indicate whether the petition has been scheduled to be heard at a particular time or during a block of time. If the petition has been scheduled to be heard within a block of time, the beginning and ending of that block of time must be indicated on the notice; however, as provided in paragraph (b), a petitioner may not be required to wait for more

than a reasonable time, not to exceed 2 hours, after the beginning of the block of time. ~~If the petitioner checked the appropriate box on the petition form to request a copy of the property record card containing relevant information used in computing the current assessment,~~ The property appraiser must provide a ~~the~~ copy of the property record card containing information relevant to the computation of the current assessment, with confidential information redacted, to the petitioner upon receipt of the petition from the clerk regardless of whether the petitioner initiates evidence exchange, unless the property record card is available online from the property appraiser, in which case the property appraiser must notify the petitioner that the property record card is available online. ~~Upon receipt of the notice,~~ The petitioner and the property appraiser may each reschedule the hearing a single time for good cause ~~by submitting to the clerk a written request to reschedule, at least 5 calendar days before the day of the originally scheduled hearing~~. As used in this paragraph, the term "good cause" means circumstances beyond the control of the person seeking to reschedule the hearing which reasonably prevent the party from having adequate representation at the hearing. If the hearing is rescheduled by the petitioner or the property appraiser, the clerk shall notify the petitioner of the rescheduled time of his or her appearance at least 15 calendar days before the day of the rescheduled appearance, unless this notice is waived by both parties.

Section 11. Subsections (1) and (2) of section 194.034, Florida Statutes, are amended to read:

194.034 Hearing procedures; rules.—

(1)(a) Petitioners before the board may be represented by an employee of the taxpayer or an affiliated entity, an attorney who is a member of The Florida Bar, a real estate appraiser licensed under chapter 475, a real estate broker licensed under chapter 475, or a certified public accountant licensed under chapter 473, retained by the taxpayer. Such person may ~~or agent and~~ present testimony and other evidence.

(b) A petitioner before the board may also be represented by a person with a power of attorney to act on the taxpayer's behalf. Such person may present testimony and other evidence. The power of attorney must conform to the requirements of part II of chapter 709, is valid only to represent a single petitioner in a single assessment year, and must identify the parcels for which the taxpayer has granted the person the authority to represent the taxpayer. The Department of Revenue shall adopt a form that meets the requirements of this paragraph. However, a petitioner is not required to use the department's form to grant the power of attorney.

(c) A petitioner before the board may also be represented by a person with written authorization to act on the taxpayer's behalf, for which such person receives no compensation. Such person may present testimony and other evidence. The written authorization is valid only to represent a single petitioner in a single assessment year and must identify the parcels for which the taxpayer authorizes the person to represent the taxpayer. The Department of Revenue shall adopt a form that meets the requirements of this paragraph. However, a petitioner is not required to use the department's form to grant the authorization.

(d) The property appraiser or his or her authorized representatives may be represented by an attorney in defending the property appraiser's assessment or opposing an exemption and may present testimony and other evidence.

(e) The property appraiser, each petitioner, and all witnesses shall be required, upon the request of either party, to testify under oath as administered by the chair ~~chairperson~~ of the board. Hearings shall be conducted in the manner prescribed by rules of the department, which rules shall include the right of cross-examination of any witness.

(f) ~~(b)~~ Nothing herein shall preclude an aggrieved taxpayer from contesting his or her assessment in the manner provided by s. 194.171, regardless of whether ~~or not~~ he or she has initiated an action pursuant to s. 194.011.

(g) ~~(c)~~ The rules shall provide that no evidence shall be considered by the board except when presented during the time scheduled for the petitioner's hearing or at a time when the petitioner has been given reasonable notice; that a verbatim record of the proceedings shall be made, and proof of any documentary evidence presented shall be preserved and made available to the Department of Revenue, if requested; and that further judicial proceedings shall be as provided in s. 194.036.

(h) ~~(d)~~ Notwithstanding the provisions of this subsection, a ~~no~~ petitioner may not present for consideration, and ~~nor may~~ a board or special magistrate may not accept for consideration, testimony or other evidentiary materials that were requested of the petitioner in writing by the property appraiser of which the petitioner had knowledge but ~~and~~ denied to the property appraiser.

(i) ~~(e)~~ Chapter 120 does not apply to hearings of the value adjustment board.

(j) ~~(f)~~ An assessment may not be contested unless ~~until~~ a return as required by s. 193.052 was timely ~~has been~~ filed. For purposes of this paragraph, the term "timely filed" means filed by the deadline established in s. 193.062 or before the expiration of any extension granted under s. 193.063. If notice is mailed pursuant to s. 193.073(1)(a), a complete return must be submitted under s. 193.073(1)(a) for the assessment to be contested.

(2) In each case, except if the complaint is withdrawn by the petitioner or if the complaint is acknowledged as correct by the property appraiser, the value adjustment board shall render a written decision. All such decisions shall be issued within 20 calendar days after the last day the board is in session under s. 194.032. The decision of the board must contain findings of fact and conclusions of law and must include reasons for upholding or overturning the determination of the property appraiser. Findings of fact must be based on admitted evidence or a lack thereof. If a special magistrate has been appointed, the recommendations of the special magistrate shall be considered by the board. The clerk, upon issuance of a decision, shall, on a form provided by the Department of Revenue, notify each taxpayer and the property appraiser of the decision of the board. This notification shall be by first-class mail or by electronic means if selected by the taxpayer on the originally filed petition. If requested by the Department of Revenue, the clerk shall provide to the department a copy of the decision or information relating to the tax impact of the findings and

results of the board as described in s. 194.037 in the manner and form requested.

Section 12. Subsection (1) of section 194.035, Florida Statutes, is amended to read:

194.035 Special magistrates; property evaluators.—

(1) In counties having a population of more than 75,000, the board shall appoint special magistrates for the purpose of taking testimony and making recommendations to the board, which recommendations the board may act upon without further hearing. These special magistrates may not be elected or appointed officials or employees of the county but shall be selected from a list of those qualified individuals who are willing to serve as special magistrates. Employees and elected or appointed officials of a taxing jurisdiction or of the state may not serve as special magistrates. The clerk of the board shall annually notify such individuals or their professional associations to make known to them that opportunities to serve as special magistrates exist. The Department of Revenue shall provide a list of qualified special magistrates to any county with a population of 75,000 or less. Subject to appropriation, the department shall reimburse counties with a population of 75,000 or less for payments made to special magistrates appointed for the purpose of taking testimony and making recommendations to the value adjustment board pursuant to this section. The department shall establish a reasonable range for payments per case to special magistrates based on such payments in other counties. Requests for reimbursement of payments outside this range shall be justified by the county. If the total of all requests for reimbursement in any year exceeds the amount

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available pursuant to this section, payments to all counties shall be prorated accordingly. If a county having a population less than 75,000 does not appoint a special magistrate to hear each petition, the person or persons designated to hear petitions before the value adjustment board or the attorney appointed to advise the value adjustment board shall attend the training provided pursuant to subsection (3), regardless of whether the person would otherwise be required to attend, but shall not be required to pay the tuition fee specified in subsection (3). A special magistrate appointed to hear issues of exemptions, ~~and~~ classifications, and determinations that a change of ownership, a change of ownership or control, or a qualifying improvement has occurred shall be a member of The Florida Bar with no less than 5 years' experience in the area of ad valorem taxation. A special magistrate appointed to hear issues regarding the valuation of real estate shall be a state certified real estate appraiser with not less than 5 years' experience in real property valuation. A special magistrate appointed to hear issues regarding the valuation of tangible personal property shall be a designated member of a nationally recognized appraiser's organization with not less than 5 years' experience in tangible personal property valuation. A special magistrate need not be a resident of the county in which he or she serves. A special magistrate may not represent a person before the board in any tax year during which he or she has served that board as a special magistrate. Before appointing a special magistrate, a value adjustment board shall verify the special magistrate's qualifications. The value adjustment board shall ensure that the selection of special magistrates is based

solely upon the experience and qualifications of the special magistrate and is not influenced by the property appraiser. The special magistrate shall accurately and completely preserve all testimony and, in making recommendations to the value adjustment board, shall include proposed findings of fact, conclusions of law, and reasons for upholding or overturning the determination of the property appraiser. The expense of hearings before magistrates and any compensation of special magistrates shall be borne three-fifths by the board of county commissioners and two-fifths by the school board. When appointing special magistrates or when scheduling special magistrates for specific hearings, the board, the board attorney, and the board clerk may not consider the dollar amount or percentage of any assessment reductions recommended by any special magistrate in the current year or in any previous year.

Section 13. Paragraph (a) of subsection (4) and paragraph (a) of subsection (5) of section 197.3632, Florida Statutes, are amended to read:

197.3632 Uniform method for the levy, collection, and enforcement of non-ad valorem assessments.—

(4)(a) A local government shall adopt a non-ad valorem assessment roll at a public hearing held between January 1 and September 15, or between January 1 and September 25 for any county as defined in s. 125.011(1), if:

1. The non-ad valorem assessment is levied for the first time;

2. The non-ad valorem assessment is increased beyond the maximum rate authorized by law or judicial decree at the time of initial imposition;

3. The local government's boundaries have changed, unless all newly affected property owners have provided written consent for such assessment to the local governing board; or

4. There is a change in the purpose for such assessment or in the use of the revenue generated by such assessment.

(5)(a) By September 15 of each year, or by September 25 for any county as defined in s. 125.011(1), the chair of the local governing board or his or her designee shall certify a non-ad valorem assessment roll on compatible electronic medium to the tax collector. The local government shall post the non-ad valorem assessment for each parcel on the roll. The tax collector shall not accept any such roll that is not certified on compatible electronic medium and that does not contain the posting of the non-ad valorem assessment for each parcel. It is the responsibility of the local governing board that such roll be free of errors and omissions. Alterations to such roll may be made by the chair or his or her designee up to 10 days before certification. If the tax collector discovers errors or omissions on such roll, he or she may request the local governing board to file a corrected roll or a correction of the amount of any assessment.

Section 14. Effective June 30, 2016, notwithstanding the expiration date in section 9 of chapter 2015-222, Laws of Florida, and notwithstanding the amendment made by section 16 of SB 1040, 2016 Regular Session, paragraph (e) of subsection (4) of section 1011.62, Florida Statutes, as amended by section 7 of chapter 2015-222, Laws of Florida, is reenacted and amended to read:

1011.62 Funds for operation of schools.—If the annual

allocation from the Florida Education Finance Program to each district for operation of schools is not determined in the annual appropriations act or the substantive bill implementing the annual appropriations act, it shall be determined as follows:

(4) COMPUTATION OF DISTRICT REQUIRED LOCAL EFFORT.—The Legislature shall prescribe the aggregate required local effort for all school districts collectively as an item in the General Appropriations Act for each fiscal year. The amount that each district shall provide annually toward the cost of the Florida Education Finance Program for kindergarten through grade 12 programs shall be calculated as follows:

(e) *Prior period funding adjustment millage.*—

1. ~~There shall be~~ An additional millage to be known as the Prior Period Funding Adjustment Millage shall be levied by a school district if the prior period unrealized required local effort funds are greater than zero. The Commissioner of Education shall calculate the amount of the prior period unrealized required local effort funds as specified in subparagraph 2. and the millage required to generate that amount as specified in this subparagraph. The Prior Period Funding Adjustment Millage shall be the quotient of the prior period unrealized required local effort funds divided by the current year taxable value certified to the Commissioner of Education pursuant to sub-subparagraph (a)1.a. This levy shall be in addition to the required local effort millage certified pursuant to this subsection. Such millage shall not affect the calculation of the current year's required local effort, and the funds generated by such levy shall not be included in the

district's Florida Education Finance Program allocation for that fiscal year. For purposes of the millage to be included on the Notice of Proposed Taxes, the Commissioner of Education shall adjust the required local effort millage computed pursuant to paragraph (a) as adjusted by paragraph (b) for the current year for any district that levies a Prior Period Funding Adjustment Millage to include all Prior Period Funding Adjustment Millage. For the purpose of this paragraph, ~~there shall be~~ a Prior Period Funding Adjustment Millage shall be levied for each year certified by the Department of Revenue pursuant to sub-subparagraph (a)2.a. since the previous year certification and for which the calculation in sub-subparagraph 2.b. is greater than zero.

2.a. As used in this subparagraph, the term:

(I) "Prior year" means a year certified under sub-subparagraph (a)2.a.

(II) "Preliminary taxable value" means:

(A) If the prior year is the 2009-2010 fiscal year or later, the taxable value certified to the Commissioner of Education pursuant to sub-subparagraph (a)1.a.

(B) If the prior year is the 2008-2009 fiscal year or earlier, the taxable value certified pursuant to the final calculation as specified in former paragraph (b) as that paragraph existed in the prior year.

(III) "Final taxable value" means the district's taxable value as certified by the property appraiser pursuant to s. 193.122(2) or (3), if applicable. This is the certification that reflects all final administrative actions of the value adjustment board.

b. For purposes of this subsection and with respect to each year certified pursuant to sub-subparagraph (a)2.a., if the district's prior year preliminary taxable value is greater than the district's prior year final taxable value, the prior period unrealized required local effort funds are the difference between the district's prior year preliminary taxable value and the district's prior year final taxable value, multiplied by the prior year district required local effort millage. If the district's prior year preliminary taxable value is less than the district's prior year final taxable value, the prior period unrealized required local effort funds are zero.

c. ~~For the 2015-2016 fiscal year only,~~ If a district's prior period unrealized required local effort funds and prior period district required local effort millage cannot be determined because such district's final taxable value has not yet been certified pursuant to s. 193.122(2) or (3), ~~for the 2015 tax levy,~~ the Prior Period Funding Adjustment Millage for such fiscal year shall be levied, if not previously levied, ~~in 2015~~ in an amount equal to 75 percent of such district's most recent unrealized required local effort for which a Prior Period Funding Adjustment Millage was determined as provided in this section. Upon certification of the final taxable value in accordance with s. 193.122(2) or (3) for a ~~the 2012, 2013, or 2014~~ tax roll ~~rolls~~ for which a 75 percent Prior Period Funding Adjustment Millage was levied ~~in accordance with s. 193.122(2) or (3)~~, the next Prior Period Funding Adjustment Millage ~~levied in 2015 and 2016~~ shall be adjusted to include any shortfall or surplus in the prior period unrealized required local effort funds that would have been levied ~~in 2014 or 2015~~, had the

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district's final taxable value been certified pursuant to s. 193.122(2) or (3) ~~for the 2014 or 2015 tax levy~~. If this adjustment is made for a surplus, the reduction in prior period millage may not exceed the prior period funding adjustment millage calculated pursuant to subparagraph 1. and sub-subparagraphs a. and b., or pursuant to this sub-subparagraph, whichever is applicable, and any additional reduction shall be carried forward to the subsequent fiscal year.

Section 15. Subsections (4) and (5) of rule 12D-9.019, Florida Administrative Code, relating to scheduling and notice of a hearing of the Department of Revenue, are repealed, and the Department of State shall update the Florida Administrative Code to remove those subsections of the rule.

Section 16. The Legislature finds that this act fulfills an important state interest.

Section 17. Except as otherwise expressly provided in this act, and except for this section, which shall take effect June 30, 2016, this act shall take effect July 1, 2016.

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

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to ad valorem taxation; amending s. 192.0105, F.S.; conforming provisions to changes made by the act; amending s. 193.073, F.S.; revising procedures for the revision of an erroneous or incomplete personal property tax return; amending s.

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193.122, F.S.; specifying deadlines for value adjustment boards to complete certain hearings and final assessment roll certifications; providing exceptions; providing applicability; amending ss. 193.155, 193.1554, and 193.1555, F.S.; requiring a property appraiser to serve a notice of intent to record a notice of tax lien under certain circumstances; requiring certain taxpayers to be given a specified timeframe to pay taxes, penalties, and interest to avoid the filing of a lien; prohibiting the assessment of penalties and interest under certain circumstances; amending s. 194.011, F.S.; revising the procedures for filing petitions to the value adjustment board; providing applicability as to the confidentiality of certain taxpayer information; amending s. 194.014, F.S.; revising the entities authorized to determine under certain circumstances that a petitioner owes ad valorem taxes or is owed a refund of overpaid taxes; revising the rate at which interest accrues on unpaid and overpaid ad valorem taxes; defining the term "bank prime loan rate"; amending s. 194.032, F.S.; revising the purposes for which a value adjustment board may meet; revising requirements for the provision of property record cards to a petitioner for certain hearings; requiring the petitioner or property appraiser to show good cause to reschedule a hearing related to an assessment; defining the term "good cause"; amending s. 194.034, F.S.; revising requirements for an entity

678 that may represent a taxpayer before the value
679 adjustment board; requiring the Department of Revenue
680 to adopt certain forms; prohibiting a taxpayer from
681 contesting an assessment unless the return was timely
682 filed; defining the term "timely filed"; revising
683 provisions relating to findings of fact; amending s.
684 194.035, F.S.; specifying that certain petitions must
685 be heard by a special magistrate; prohibiting
686 consideration of assessment reductions recommended in
687 previous hearings by special magistrates when
688 appointing or when scheduling a special magistrate;
689 amending s. 197.3632, F.S.; extending the dates for
690 certain counties to adopt or certify non-ad valorem
691 assessment rolls; reenacting and amending s.
692 1011.62(4)(e), F.S.; revising the time period for
693 requirements and calculations applicable to the levy
694 and adjustment of the Prior Period Funding Adjustment
695 Millage before and after certification of the
696 district's final taxable value; repealing certain
697 provisions of a rule adopted by the Department of
698 Revenue; providing a finding of important state
699 interest; providing effective dates.

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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/01/2016	.	
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The Committee on Appropriations (Hays) recommended the following:

Senate Amendment to Amendment (152060) (with title amendment)

Between lines 524 and 525
insert:

Section 14. Subsection (2) of section 720.302, Florida Statutes, is amended to read:

720.302 Purposes, scope, and application.—

(2) The Legislature recognizes that it is ~~not~~ in the best interest of homeowners' associations or the individual


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association members thereof to allow ~~create or impose~~ a bureau or other agency of state government to regulate a limited number of ~~the~~ affairs of homeowners' associations. ~~However,~~

(a) In accordance with s. 720.311, the Legislature finds that homeowners' associations and their individual members will benefit from an expedited alternative process for resolution of election and recall disputes and presuit mediation of other disputes involving covenant enforcement and authorizes the department to hear, administer, and determine these disputes as more fully set forth in this chapter.

(b) The Legislature finds that homeowners' associations and their individual members will benefit from having access to all records and financial documents. Therefore, the Legislature authorizes the department to receive and make a determination on complaints against homeowners' associations, their officers, or any directors which involve association financial matters, access to official records, passage of an annual budget, reserve funds, or misappropriation of funds.

(c) The Legislature recognizes that certain existing contract rights were created for the benefit of homeowners' associations and their members before July 1, 2016, and that ss. 720.301-720.407 are not intended to impair such contract rights, including, but not limited to, the rights of a developer to complete a community as initially contemplated. Notwithstanding this, the Legislature finds that homeowners' associations and their individual members will benefit from being afforded reasonable protections of their property through contractual rights and authorizes the department to receive and make a determination on complaints against any association or a

director or an officer of an association that is still subject to developer control ~~Further, the Legislature recognizes that certain contract rights have been created for the benefit of homeowners' associations and members thereof before the effective date of this act and that ss. 720.301-720.407 are not intended to impair such contract rights, including, but not limited to, the rights of the developer to complete the community as initially contemplated~~.

Section 15. Subsection (13) of section 720.303, Florida Statutes, is amended to read:

720.303 Association powers and duties; meetings of board; official records; budgets; financial reporting; association funds; recalls.—

(13) REPORTING REQUIREMENT.—The community association manager or management firm, or the association when there is no community association manager or management firm, shall submit a report to the division by November 22, 2016 ~~2013~~, and each year thereafter in a manner and form prescribed by the division.

(a) The report must ~~shall~~ include the association's:

1. Legal name.

2. Federal employer identification number.

3. Mailing and physical addresses.

4. Total number of parcels.

5. Total amount of revenues and expenses from the association's annual budget.

(b) For associations in which control of the association has not been transitioned to nondeveloper members, as set forth in s. 720.307, the report shall also include the developer's:

1. Legal name.

2. Mailing address.

3. Total number of parcels owned on the date of reporting.

(c) The reporting requirement provided in this subsection shall be a continuing obligation on each association until the required information is reported to the division. The community association manager or management firm, or the association if there is no community association manager or management firm, must resubmit the report required under this subsection upon the occurrence of a material change in the information required to be reported pursuant to paragraphs (a) and (b).

(d) By October 1, 2016 ~~2013~~, the department shall establish and implement a registration system through a ~~an Internet~~ website that provides for the reporting requirements of paragraphs (a) and (b).

(e) The department shall prepare an annual report of the data reported pursuant to this subsection and present it to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 1, 2016 ~~2013~~, and each year thereafter.

(f) The division shall adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this subsection.

(g) This subsection shall expire on July 1, 2026 ~~2016~~, unless reenacted by the Legislature.

Section 16. Subsection (2) of section 720.305, Florida Statutes, is amended to read:

720.305 Obligations of members; remedies at law or in equity; levy of fines and suspension of use rights.—

(2) The association may levy reasonable fines. A fine may


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not exceed $100 per violation against any member or any member's tenant, guest, or invitee for the failure of the owner of the parcel or its occupant, licensee, or invitee to comply with any provision of the declaration, the association bylaws, or reasonable rules of the association unless otherwise provided in the governing documents. A fine may be levied by the board for each day of a continuing violation, with a single notice and opportunity for hearing, except that the fine may not exceed $1,000 in the aggregate unless otherwise provided in the governing documents. A fine, or an action to collect on a fine, may not result in foreclosure on ~~of less than $1,000 may not become a lien against~~ a parcel. In any action to recover a fine, the prevailing party is entitled to reasonable attorney fees and costs from the nonprevailing party as determined by the court.

(a) An association may suspend, for a reasonable period of time, the right of a member, or a member's tenant, guest, or invitee, to use common areas and facilities for the failure of the owner of the parcel or its occupant, licensee, or invitee to comply with any provision of the declaration, the association bylaws, or reasonable rules of the association. This paragraph does not apply to that portion of common areas used to provide access or utility services to the parcel. A suspension may not prohibit an owner or tenant of a parcel from having vehicular and pedestrian ingress to and egress from the parcel, including, but not limited to, the right to park.

(b) A fine or suspension may not be imposed by the board of administration without at least 14 days' notice to the person sought to be fined or suspended and an opportunity for a hearing before a committee of at least three members appointed by the

board who are not officers, directors, or employees of the association, or the spouse, parent, child, brother, or sister of an officer, director, or employee. If the committee, by majority vote, does not approve a proposed fine or suspension, it may not be imposed. The role of the committee is limited to determining whether to confirm or reject the fine or suspension levied by the board. If the board of administration imposes a fine or suspension, the association must provide written notice of such fine or suspension by mail or hand delivery to the parcel owner and, if applicable, to any tenant, licensee, or invitee of the parcel owner.

Section 17. Subsection (1) and paragraph (d) of subsection (2) of section 720.311, Florida Statutes, are amended to read:

720.311 Dispute resolution.—

(1) The Legislature finds that alternative dispute resolution has made progress in reducing court dockets and trials and in offering a more efficient, cost-effective option to litigation. The filing of any petition for arbitration or the serving of a demand for presuit mediation as provided for in this section shall toll the applicable statute of limitations. Any recall dispute filed with the department pursuant to s. 720.303(10) shall be conducted by the department in accordance with the provisions of ss. 718.112(2)(j) and 718.1255 and the rules adopted by the division. In addition, the department shall conduct mandatory binding arbitration of election disputes between a member and an association pursuant to s. 718.1255 and rules adopted by the division. ~~Neither~~ Election disputes and ~~nor~~ recall disputes are eligible for presuit mediation~~; these disputes shall be arbitrated by the department~~. At the request

of the parcel owner or the homeowners' association, the department is authorized to, and shall provide, binding arbitration in disputes involving covenants, restrictions, rule enforcement, and duties to maintain and make safe pursuant to the declaration of covenants, rules and regulations, and other governing documents; disputes involving assessments; and disputes involving the official records of the homeowners' association. At the conclusion of the proceeding, the department shall charge the parties a fee in an amount adequate to cover all costs and expenses incurred by the department in conducting the proceeding. Initially, the petitioner shall remit a filing fee of at least $200 to the department. The fees paid to the department shall become a recoverable cost in the arbitration proceeding, and the prevailing party in an arbitration proceeding shall recover its reasonable costs and attorney ~~attorney's~~ fees in an amount found reasonable by the arbitrator. The department shall adopt rules to effectuate the purposes of this section.

(2)

(d) A mediator or arbitrator shall be authorized to conduct mediation or arbitration under this section only if he or she has been certified as a county court or circuit court civil mediator or arbitrator, respectively, pursuant to the requirements established by the Florida Supreme Court. Settlement agreements resulting from mediation do ~~shall~~ not have precedential value in proceedings involving parties other than those participating in the mediation to support either a claim or defense in other disputes.

Section 18. Present subsection (2) of section 720.401,

Florida Statutes, is redesignated as subsection (3), and a new subsection (2) is added to that section, to read:

720.401 Prospective purchasers subject to association membership requirement; disclosure required; covenants; assessments; contract cancellation.—

(2) A seller of a parcel for which membership in a homeowners' association is a condition of ownership must provide a prospective buyer with the association's governing documents, including the declaration of covenants, the articles and bylaws, any rules and regulations, the operating budget for the current year, and any amendments to such documents. The seller must provide the prospective buyer with such documents at least 7 days before closing. The prospective buyer may terminate the contract for purchase within 3 days after receipt of such documents.

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

And the title is amended as follows:

Delete lines 644 - 691

and insert:

An act relating to real property; amending s. 192.0105, F.S.; conforming provisions to changes made by the act; amending s. 193.073, F.S.; revising procedures for the revision of an erroneous or incomplete personal property tax return; amending s. 193.122, F.S.; specifying deadlines for value adjustment boards to complete certain hearings and final assessment roll certifications; providing exceptions; providing applicability; amending ss.

193.155, 193.1554, and 193.1555, F.S.; requiring a property appraiser to serve a notice of intent to record a notice of tax lien under certain circumstances; requiring certain taxpayers to be given a specified timeframe to pay taxes, penalties, and interest to avoid the filing of a lien; prohibiting the assessment of penalties and interest under certain circumstances; amending s. 194.011, F.S.; revising the procedures for filing petitions to the value adjustment board; providing applicability as to the confidentiality of certain taxpayer information; amending s. 194.014, F.S.; revising the entities authorized to determine under certain circumstances that a petitioner owes ad valorem taxes or is owed a refund of overpaid taxes; revising the rate at which interest accrues on unpaid and overpaid ad valorem taxes; defining the term “bank prime loan rate”; amending s. 194.032, F.S.; revising the purposes for which a value adjustment board may meet; revising requirements for the provision of property record cards to a petitioner for certain hearings; requiring the petitioner or property appraiser to show good cause to reschedule a hearing related to an assessment; defining the term “good cause”; amending s. 194.034, F.S.; revising requirements for an entity that may represent a taxpayer before the value adjustment board; requiring the Department of Revenue to adopt certain forms; prohibiting a taxpayer from contesting an assessment unless the return was timely

filed; defining the term "timely filed"; revising provisions relating to findings of fact; amending s. 194.035, F.S.; specifying that certain petitions must be heard by a special magistrate; prohibiting consideration of assessment reductions recommended in previous hearings by special magistrates when appointing or when scheduling a special magistrate; amending s. 197.3632, F.S.; extending the dates for certain counties to adopt or certify non-ad valorem assessment rolls; amending s. 720.302, F.S.; revising legislative findings; amending s. 720.303, F.S.; providing that a community association manager or management firm, or the association, must submit an annual report to the Division of Florida Condominiums, Timeshares, and Mobile Homes beginning on a specified date; requiring the community association or management firm, or the association, to resubmit the report under certain circumstances; revising the date by which the Department of Business and Professional Regulation must establish and implement a certain registration system through a website and the date by which it must prepare a certain report; revising an expiration date; amending s. 720.305, F.S.; providing that an action to collect a fine may not result in foreclosure on a parcel; deleting a provision prohibiting a fine less than $1,000 from becoming a lien against a parcel; amending s. 720.311, F.S.; providing that election and recall disputes are eligible for presuit mediation; providing that the


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department must provide binding arbitration for certain disputes at the request of the parcel owner or homeowners' association; revising certification requirements to conduct mediation or arbitration in such disputes; amending s. 720.401, F.S.; providing that a seller must provide certain documents to a prospective buyer if membership in a homeowners' association is a condition of ownership; authorizing a prospective buyer to terminate a contract for purchase within a specified timeframe; reenacting and amending s.

By the Committee on Finance and Tax; and Senator Flores

593-03607A-16 2016766c1

A bill to be entitled

An act relating to ad valorem taxation; amending s. 192.0105, F.S.; conforming a provision to changes made by the act; amending s. 193.122, F.S.; specifying deadlines for value adjustment boards to hear petitions and issue the second tax roll certification; providing applicability; amending s. 193.1554, F.S.; requiring a property appraiser to provide a specified notice to nonhomestead residential property owners who were determined to not be entitled for a certain property assessment limitation; providing a specified timeframe for such property owners to pay taxes, penalties, and interest; prohibiting the assessment of a penalty or interest for property assessment limitations granted as a result of a clerical mistake or an omission by the property appraiser; amending s. 193.1555, F.S.; requiring a property appraiser to provide a specified notice to certain residential and nonresidential property owners who were determined to not be entitled for a certain property assessment limitation; providing a specified timeframe for such property owners to pay taxes, penalties, and interest; prohibiting the assessment of a penalty or interest for property assessment limitations granted as a result of a clerical mistake or an omission by the property appraiser; amending s. 194.011, F.S.; specifying procedures for filing petitions to the value adjustment board; amending s. 194.014, F.S.; revising the entities authorized to determine under certain circumstances that a petitioner owes ad valorem taxes or is owed a refund of overpaid taxes; revising the rate at which interest accrues on unpaid

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and overpaid ad valorem taxes; defining the term "bank prime loan rate"; amending s. 194.015, F.S.; authorizing the school board and county commission to audit certain expenses of the value adjustment board; amending s. 194.032, F.S.; requiring a property appraiser to notify a petitioner when a property record card is available online; authorizing a property appraiser to reschedule a hearing relating to an assessment; requiring a petitioner or a property appraiser to show good cause to reschedule such hearing; defining the term "good cause"; requiring the clerk to provide notice to a petitioner of a rescheduled hearing within a certain time; amending s. 194.034, F.S.; revising the entities that may represent a taxpayer before the value adjustment board; amending s. 197.3632, F.S.; extending the dates for certain counties to hold public hearings and certify non-ad valorem assessment rolls; reenacting and amending s. 1011.62, F.S.; revising the time period for requirements and calculations applicable to the levy and adjustment of the Prior Period Funding Adjustment Millage before and after certification of the district's final taxable value; providing effective dates.

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

Section 1. Paragraph (f) of subsection (2) of section 192.0105, Florida Statutes, is amended to read:

192.0105 Taxpayer rights.—There is created a Florida Taxpayer's Bill of Rights for property taxes and assessments to guarantee that the rights, privacy, and property of the taxpayers of this state are adequately safeguarded and protected during tax levy, assessment, collection, and enforcement processes administered under the revenue laws of this state. The Taxpayer's Bill of Rights compiles, in one document, brief but comprehensive statements that summarize the rights and obligations of the property appraisers, tax collectors, clerks of the court, local governing boards, the Department of Revenue, and taxpayers. Additional rights afforded to payors of taxes and assessments imposed under the revenue laws of this state are provided in s. 213.015. The rights afforded taxpayers to assure that their privacy and property are safeguarded and protected during tax levy, assessment, and collection are available only insofar as they are implemented in other parts of the Florida Statutes or rules of the Department of Revenue. The rights so guaranteed to state taxpayers in the Florida Statutes and the departmental rules include:

(2) THE RIGHT TO DUE PROCESS.—

(f) The right, in value adjustment board proceedings, to have all evidence presented and considered at a public hearing at the scheduled time, to be represented by a person specified in s. 194.034(1)(a) ~~an attorney or agent~~, to have witnesses sworn and cross-examined, and to examine property appraisers or evaluators employed by the board who present testimony (see ss. 194.034(1)(a) and (c) and (4), and 194.035(2)).

Section 2. Effective July 1, 2017, subsection (3) of section 193.122, Florida Statutes, is amended to read:

193.122 Certificates of value adjustment board and property appraiser; extensions on the assessment rolls.—

(3) When the tax rolls have been extended pursuant to s. 197.323, the second certification of the value adjustment board shall reflect all changes made by the board together with any adjustments or changes made by the property appraiser. The value adjustment board must hear all petitions and issue its second certification by June 1 following the year in which the taxes were assessed. If the number of petitions filed increases by more than 10 percent over the prior year, the June 1 deadline is extended to December 1. Upon the value adjustment board's second ~~such~~ certification, the property appraiser shall recertify the tax rolls with all changes to the tax collector and shall provide public notice of the date and fact of recertification pursuant to subsection (2).

Section 3. The amendments to s. 193.122, Florida Statutes, made by this act first apply to the 2017 tax roll.

Section 4. Subsection (10) of section 193.1554, Florida Statutes, is amended to read:

193.1554 Assessment of nonhomestead residential property.—

(10) If the property appraiser determines that for any year or years within the prior 10 years a person or entity who was not entitled to the property assessment limitation granted under this section was granted the property assessment limitation, the property appraiser making such determination shall serve upon the owner a notice of intent to record in the public records of the county a notice of tax lien against any property owned by that person or entity in the county, and such property must be identified in the notice of tax lien. Such property that is

situated in this state is subject to the unpaid taxes, plus a penalty of 50 percent of the unpaid taxes for each year and 15 percent interest per annum. Before a lien may be filed, the person or entity so notified must be given 30 days to pay the taxes and any applicable penalties and interest. If the property appraiser improperly grants the property assessment limitation as a result of a clerical mistake or an omission, the person or entity improperly receiving the property assessment limitation may not be assessed a penalty or interest.

Section 5. Subsection (10) of section 193.1555, Florida Statutes, is amended to read:

193.1555 Assessment of certain residential and nonresidential real property.—

(10) If the property appraiser determines that for any year or years within the prior 10 years a person or entity who was not entitled to the property assessment limitation granted under this section was granted the property assessment limitation, the property appraiser making such determination shall serve upon the owner a notice of intent to record in the public records of the county a notice of tax lien against any property owned by that person or entity in the county, and such property must be identified in the notice of tax lien. Such property that is situated in this state is subject to the unpaid taxes, plus a penalty of 50 percent of the unpaid taxes for each year and 15 percent interest per annum. Before a lien may be filed, the person or entity so notified must be given 30 days to pay the taxes and any applicable penalties and interest. If the property appraiser improperly grants the property assessment limitation as a result of a clerical mistake or an omission, the person or

entity improperly receiving the property assessment limitation may not be assessed a penalty or interest.

Section 6. Subsection (3) of section 194.011, Florida Statutes, is amended to read:

194.011 Assessment notice; objections to assessments.—

(3) A petition to the value adjustment board must be in substantially the form prescribed by the department. Notwithstanding s. 195.022, a county officer may not refuse to accept a form provided by the department for this purpose if the taxpayer chooses to use it. A petition to the value adjustment board must be signed by the taxpayer or accompanied by the taxpayer's written authorization for representation by a person specified in s. 194.034(1)(a). A written authorization is valid for 1 tax year, and a new written authorization by the taxpayer is required for each subsequent tax year. A petition must also ~~shall~~ describe the property by parcel number and shall be filed as follows:

(a) The clerk of the value adjustment board and the property appraiser shall have available and shall distribute forms prescribed by the Department of Revenue on which the petition shall be made. Such petition shall be sworn to by the petitioner.

(b) The completed petition shall be filed with the clerk of the value adjustment board of the county, who shall acknowledge receipt thereof and promptly furnish a copy thereof to the property appraiser.

(c) The petition shall state the approximate time anticipated by the taxpayer to present and argue his or her petition before the board.

(d) The petition may be filed, as to valuation issues, at any time during the taxable year on or before the 25th day following the mailing of notice by the property appraiser as provided in subsection (1). With respect to an issue involving the denial of an exemption, an agricultural or high-water recharge classification application, an application for classification as historic property used for commercial or certain nonprofit purposes, or a deferral, the petition must be filed at any time during the taxable year on or before the 30th day following the mailing of the notice by the property appraiser under s. 193.461, s. 193.503, s. 193.625, s. 196.173, or s. 196.193 or notice by the tax collector under s. 197.2425.

(e) A condominium association, cooperative association, or any homeowners' association as defined in s. 723.075, with approval of its board of administration or directors, may file with the value adjustment board a single joint petition on behalf of any association members who own parcels of property which the property appraiser determines are substantially similar with respect to location, proximity to amenities, number of rooms, living area, and condition. The condominium association, cooperative association, or homeowners' association as defined in s. 723.075 shall provide the unit owners with notice of its intent to petition the value adjustment board and shall provide at least 20 days for a unit owner to elect, in writing, that his or her unit not be included in the petition.

(f) An owner of contiguous, undeveloped parcels may file with the value adjustment board a single joint petition if the property appraiser determines such parcels are substantially similar in nature.

(g) An owner of multiple tangible personal property accounts may file with the value adjustment board a single joint petition if the property appraiser determines that the tangible personal property accounts are substantially similar in nature.

(h) The individual, agent, or legal entity that signs the petition becomes an agent of the taxpayer for the purpose of serving process to obtain personal jurisdiction over the taxpayer for the entire value adjustment board proceedings, including any appeals of a board decision by the property appraiser pursuant to s. 194.036.

Section 7. Subsection (2) of section 194.014, Florida Statutes, is amended to read:

194.014 Partial payment of ad valorem taxes; proceedings before value adjustment board.—

(2) If the value adjustment board or the property appraiser determines that the petitioner owes ad valorem taxes in excess of the amount paid, the unpaid amount accrues interest at an annual percentage rate equal to the bank prime loan rate on July 1, or the first business day thereafter if July 1 is a Saturday, Sunday, or legal holiday, of the tax ~~the rate of 12 percent per~~ year, beginning on ~~from~~ the date the taxes became delinquent pursuant to s. 197.333 until the unpaid amount is paid. If the value adjustment board or the property appraiser determines that a refund is due, the overpaid amount accrues interest at an annual percentage rate equal to the bank prime loan rate on July 1, or the first business day thereafter if July 1 is a Saturday, Sunday, or legal holiday, of the tax ~~the rate of 12 percent per~~ year, beginning on ~~from~~ the date the taxes became delinquent pursuant to s. 197.333 until a refund is paid. Interest on an

overpayment related to a petition shall be funded proportionately by each taxing authority that was overpaid. Interest does not accrue on amounts paid in excess of 100 percent of the current taxes due as provided on the tax notice issued pursuant to s. 197.322. As used in this subsection, the term "bank prime loan rate" means the average predominant prime rate quoted by commercial banks to large businesses as published by the Board of Governors of the Federal Reserve System.

Section 8. Section 194.015, Florida Statutes, is amended to read:

194.015 Value adjustment board. ~~There is hereby created~~ A value adjustment board is created for each county~~,~~ which shall consist of two members of the governing body of the county as elected from the membership of the board of the ~~said~~ governing body, one of whom shall be elected chairperson, and one member of the school board as elected from the membership of the school board, and two citizen members, one of whom shall be appointed by the governing body of the county and must own homestead property within the county and one of whom must be appointed by the school board and must own a business occupying commercial space located within the school district. A citizen member may not be a member or an employee of any taxing authority, and may not be a person who represents property owners in any administrative or judicial review of property taxes. The members of the board may be temporarily replaced by other members of the respective boards on appointment by their respective chairpersons. Any three members shall constitute a quorum of the board, except that each quorum must include at least one member of said governing board, at least one member of the school

board, and at least one citizen member and no meeting of the board shall take place unless a quorum is present. Members of the board may receive such per diem compensation as is allowed by law for state employees if both bodies elect to allow such compensation. The clerk of the governing body of the county shall be the clerk of the value adjustment board. The board shall appoint private counsel who has practiced law for over 5 years and who shall receive such compensation as may be established by the board. The private counsel may not represent the property appraiser, the tax collector, any taxing authority, or any property owner in any administrative or judicial review of property taxes. A ~~No~~ meeting of the board may not ~~shall~~ take place unless counsel to the board is present. Two-fifths of the expenses of the board shall be borne by the ~~district~~ school board and three-fifths by the ~~district~~ county commission. The school board and the county commission may audit the expenses related to the value adjustment board process.

Section 9. Paragraph (a) of subsection (2) of section 194.032, Florida Statutes, is amended to read:

194.032 Hearing purposes; timetable.—

(2)(a) The clerk of the governing body of the county shall prepare a schedule of appearances before the board based on petitions timely filed with him or her. The clerk shall notify each petitioner of the scheduled time of his or her appearance at least 25 calendar days before the day of the scheduled appearance. The notice must indicate whether the petition has been scheduled to be heard at a particular time or during a block of time. If the petition has been scheduled to be heard within a block of time, the beginning and ending of that block

of time must be indicated on the notice; however, as provided in paragraph (b), a petitioner may not be required to wait for more than a reasonable time, not to exceed 2 hours, after the beginning of the block of time. If the petitioner checked the appropriate box on the petition form to request a copy of the property record card containing relevant information used in computing the current assessment, the property appraiser must provide the copy to the petitioner upon receipt of the petition from the clerk regardless of whether the petitioner initiates evidence exchange, unless the property record card is available online from the property appraiser, in which case the property appraiser must notify the petitioner that the property record card is available online. ~~Upon receipt of the notice,~~ The petitioner or the property appraiser may reschedule the hearing a single time for good cause ~~by submitting to the clerk a written request to reschedule, at least 5 calendar days before the day of the originally scheduled hearing~~. As used in this paragraph, the term "good cause" means circumstances beyond the control of the person seeking to reschedule the hearing which reasonably prevent him or her from having adequate representation at the hearing. If the hearing is rescheduled by the petitioner, the clerk shall notify the petitioner of the rescheduled date and time for his or her appearance at least 15 calendar days before the date of the rescheduled appearance.

Section 10. Paragraph (a) of subsection (1) of section 194.034, Florida Statutes, is amended to read:

194.034 Hearing procedures; rules.—

(1)(a) Petitioners before the board may be represented by a corporate representative of the taxpayer, an attorney who is a

member of The Florida Bar, a real estate appraiser or a real estate broker licensed under chapter 475, or a certified public accountant licensed under chapter 473, retained by the taxpayer, or an individual with power of attorney to act on behalf of the taxpayer who receives no compensation, ~~agent~~ and such person may present testimony and other evidence. The property appraiser or his or her authorized representatives may be represented by an attorney in defending the property appraiser's assessment or opposing an exemption and may present testimony and other evidence. The property appraiser, each petitioner, and all witnesses shall be required, upon the request of either party, to testify under oath as administered by the chairperson of the board. Hearings shall be conducted in the manner prescribed by rules of the department, which rules shall include the right of cross-examination of any witness.

Section 11. Paragraph (a) of subsection (4) and paragraph (a) of subsection (5) of section 197.3632, Florida Statutes, is amended to read:

197.3632 Uniform method for the levy, collection, and enforcement of non-ad valorem assessments.—

(4)(a) A local government shall adopt a non-ad valorem assessment roll at a public hearing held between January 1 and September 15, or between January 1 and September 25 in any county as defined in s. 125.011(1), if:

1. The non-ad valorem assessment is levied for the first time;

2. The non-ad valorem assessment is increased beyond the maximum rate authorized by law or judicial decree at the time of initial imposition;

3. The local government's boundaries have changed, unless all newly affected property owners have provided written consent for such assessment to the local governing board; or

4. There is a change in the purpose for such assessment or in the use of the revenue generated by such assessment.

(5)(a) By September 15 of each year, or by September 25 in any county as defined in s. 125.011(1), the chair of the local governing board or his or her designee shall certify a non-ad valorem assessment roll on compatible electronic medium to the tax collector. The local government shall post the non-ad valorem assessment for each parcel on the roll. The tax collector shall not accept any such roll that is not certified on compatible electronic medium and that does not contain the posting of the non-ad valorem assessment for each parcel. It is the responsibility of the local governing board that such roll be free of errors and omissions. Alterations to such roll may be made by the chair or his or her designee up to 10 days before certification. If the tax collector discovers errors or omissions on such roll, he or she may request the local governing board to file a corrected roll or a correction of the amount of any assessment.

Section 12. Effective June 30, 2016, notwithstanding the expiration date in section 9 of chapter 2015-222, Laws of Florida, and notwithstanding the amendment made by section 16 of SB 1040, 2016 Regular Session, paragraph (e) of subsection (4) of section 1011.62, Florida Statutes, as amended by section 7 of chapter 2015-222, Laws of Florida, is reenacted and amended to read:

1011.62 Funds for operation of schools.—If the annual

allocation from the Florida Education Finance Program to each district for operation of schools is not determined in the annual appropriations act or the substantive bill implementing the annual appropriations act, it shall be determined as follows:

(4) COMPUTATION OF DISTRICT REQUIRED LOCAL EFFORT.—The Legislature shall prescribe the aggregate required local effort for all school districts collectively as an item in the General Appropriations Act for each fiscal year. The amount that each district shall provide annually toward the cost of the Florida Education Finance Program for kindergarten through grade 12 programs shall be calculated as follows:

(e) *Prior period funding adjustment millage.*—

1. ~~There shall be~~ An additional millage ~~to be~~ known as the Prior Period Funding Adjustment Millage shall be levied by a school district if the prior period unrealized required local effort funds are greater than zero. The Commissioner of Education shall calculate the amount of the prior period unrealized required local effort funds as specified in subparagraph 2. and the millage required to generate that amount as specified in this subparagraph. The Prior Period Funding Adjustment Millage shall be the quotient of the prior period unrealized required local effort funds divided by the current year taxable value certified to the Commissioner of Education pursuant to sub-subparagraph (a)1.a. This levy shall be in addition to the required local effort millage certified pursuant to this subsection. Such millage shall not affect the calculation of the current year's required local effort, and the funds generated by such levy shall not be included in the

district's Florida Education Finance Program allocation for that fiscal year. For purposes of the millage to be included on the Notice of Proposed Taxes, the Commissioner of Education shall adjust the required local effort millage computed pursuant to paragraph (a) as adjusted by paragraph (b) for the current year for any district that levies a Prior Period Funding Adjustment Millage to include all Prior Period Funding Adjustment Millage. For the purpose of this paragraph, ~~there shall be~~ a Prior Period Funding Adjustment Millage shall be levied for each year certified by the Department of Revenue pursuant to sub-subparagraph (a)2.a. since the previous year certification and for which the calculation in sub-subparagraph 2.b. is greater than zero.

2.a. As used in this subparagraph, the term:

(I) "Prior year" means a year certified under sub-subparagraph (a)2.a.

(II) "Preliminary taxable value" means:

(A) If the prior year is the 2009-2010 fiscal year or later, the taxable value certified to the Commissioner of Education pursuant to sub-subparagraph (a)1.a.

(B) If the prior year is the 2008-2009 fiscal year or earlier, the taxable value certified pursuant to the final calculation as specified in former paragraph (b) as that paragraph existed in the prior year.

(III) "Final taxable value" means the district's taxable value as certified by the property appraiser pursuant to s. 193.122(2) or (3), if applicable. This is the certification that reflects all final administrative actions of the value adjustment board.

b. For purposes of this subsection and with respect to each year certified pursuant to sub-subparagraph (a)2.a., if the district's prior year preliminary taxable value is greater than the district's prior year final taxable value, the prior period unrealized required local effort funds are the difference between the district's prior year preliminary taxable value and the district's prior year final taxable value, multiplied by the prior year district required local effort millage. If the district's prior year preliminary taxable value is less than the district's prior year final taxable value, the prior period unrealized required local effort funds are zero.

c. ~~For the 2015-2016 fiscal year only,~~ If a district's prior period unrealized required local effort funds and prior period district required local effort millage cannot be determined because such district's final taxable value has not yet been certified pursuant to s. 193.122(2) or (3), ~~for the 2015 tax levy,~~ the Prior Period Funding Adjustment Millage for such fiscal year shall be levied, if not previously levied, ~~in 2015~~ in an amount equal to 75 percent of such district's most recent unrealized required local effort for which a Prior Period Funding Adjustment Millage was determined as provided in this section. Upon certification of the final taxable value in accordance with s. 193.122(2) or (3) for a ~~the 2012, 2013, or 2014~~ tax roll~~s~~ for which a 75 percent Prior Period Funding Adjustment Millage was levied ~~in accordance with s. 193.122(2) or (3)~~, the next Prior Period Funding Adjustment Millage ~~levied in 2015 and 2016~~ shall be adjusted to include any shortfall or surplus in the prior period unrealized required local effort funds that would have been levied ~~in 2014 or 2015~~, had the

district's final taxable value been certified pursuant to s. 193.122(2) or (3) ~~for the 2014 or 2015 tax levy~~. If this adjustment is made for a surplus, the reduction in prior period millage may not exceed the prior period funding adjustment millage calculated pursuant to subparagraph 1. and sub-subparagraphs a. and b.<u>, or pursuant to this sub-subparagraph, whichever is applicable,</u> and any additional reduction shall be carried forward to the subsequent fiscal year.

Section 13. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2016.

The Florida Senate

Committee Agenda Request

To: Senator Tom Lee, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: February 16, 2016

I respectfully request that **Senate Bill #766**, relating to Ad Valorem Taxation, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Anitere Flores

Senator Anitere Flores
Florida Senate, District 37

File signed original with committee office

THE FLORIDA SENATE

APPEARANCE RECORD

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

766

Meeting Date | *Bill Number (if applicable)*

Topic _____ *Amendment Barcode (if applicable)*

Name JESS McCARTY

Job Title ASS'T COUNTY ATTORNEY

Address 111 NW 1ST ST. 2810 Phone 305-979-7110

Street

MIAMI 33128 Email JMM2@MIAMIDADE.GOV

City *State* *Zip*

Speaking: ☑ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against

(The Chair will read this information into the record.)

Representing MIAMI-DADE COUNTY

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard 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)

3/1/16
Meeting Date

7606
Bill Number (if applicable)

Topic Advalorem Taxation

Amendment Barcode (if applicable)

Name Alberto Carvalho

Job Title Superintendent of Schools

Address 1450 NE 2nd Ave
Street

Phone 305-995-1497

Miami, FL 33132
City *State* *Zip*

Email imendez@dadeschools.net

Speaking: ☑ For ☐ Against ☐ Information

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

Representing The School Board of Miami-Dade

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/16
Meeting Date

7660
Bill Number (if applicable)

152060
Amendment Barcode (if applicable)

Topic Ad Valorem Taxation

Name Daphnee Sainvil

Job Title Legislative Coordinator

Address 115 S. Andrews Ave, #426
Street

Ft. Lauderdale FL 33301
City *State* *Zip*

Phone 954-253-7320

Email dsainvil02@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Broward County

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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)

3/1/16
Meeting Date

766
Bill Number (if applicable)

Topic Ad Valoreem Taxation

152060
Amendment Barcode (if applicable)

Name TRAVIS Moore

Job Title

Address P.O. Box 2020
Street

Phone 727.421.6902

St. Petersburg FL 33731
City *State* *Zip*

Email Travis@moore-relations.com

Speaking: ☑ For ☐ Against ☐ Information

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

Representing FL Property Taxpayers' Association

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/16
Meeting Date

766
Bill Number (if applicable)

152060
Amendment Barcode (if applicable)

Topic Ad Valoreni Taxation

Name Martha Cleaver

Job Title Governmental Consultant

Address P.O. Box 11275
Street

Tallahassee, FL
City *State* *Zip*

Phone 850/491-9145

Email marthacleaver@fapa.net

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Association of Property Appraisers

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)

3/1/2016
Meeting Date

766
Bill Number (if applicable)

Topic Ad Valorem Taxation (Real Property?)

LFAA 323232 (Hays)
Amendment Barcode (if applicable)

Name TRAVIS Moore

Job Title

Address P.O. Box 2020
Street

Phone 727.421.6902

St. Petersburg FL 33731
City *State* *Zip*

Email TRAVIS@moore-relations.com

Speaking: ☐ For ☑ Against ☐ Information

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

Representing Community Associations Institute (CAI)

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL:	PCS/CS/SB 936 (549324)
INTRODUCER:	Appropriations Committee (Recommended by Appropriations Subcommittee on Criminal and Civil Justice); Criminal Justice Committee; and Senator Ring
SUBJECT:	Criminal Justice System Interviews of Persons with Autism, an Autism Spectrum Disorder, or a Related Developmental Disability
DATE:	February 29, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sumner	Cannon	CJ	**Fav/CS**
2.	Harkness	Sadberry	ACJ	**Recommend: Fav/CS**
3.	Harkness	Kynoch	AP	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 936 provides that a law enforcement officer, correctional officer or public safety officer shall, upon the request of an individual with autism (or an autism spectrum disorder) or his or her parent or guardian, make a good faith effort to ensure that a psychiatrist, psychologist, mental health counselor, special education instructor, clinical social worker, or related professional is present at all interviews of the individual. The bill describes the qualifications the professional must have to serve in this capacity. In addition, the bill provides that the failure to have a professional present at the time of the interview is not a basis for suppression of the statement or the contents of the interview or for a cause of action against the officer or agency. The bill requires that law enforcement agencies develop appropriate policies to implement bill's provisions and that officers be trained based on these policies.

The bill does not have a fiscal impact; the cost of the autism professional is borne by the requesting individual.

The bill has an effective date of July 1, 2016.

II. Present Situation:

The Center for Disease Control (CDC) estimates that one in 68 children have been identified with Autism Spectrum Disorder (ASD).[1] The CDC defines "Autism spectrum disorder" as a developmental disability that can cause significant social, communication, and behavioral challenges. Though there is nothing about how persons who have been diagnosed with ASD look that sets them apart from other people, the CDC states that people with ASD may communicate, interact, behave, and learn in ways that are different from most other people. The range of abilities of people with ASD can span from gifted to severely challenged.[2]

Though formerly diagnosed separately, autistic disorder, pervasive developmental disorder, and Asperger syndrome are now included in the diagnosis of ASD.[3]

Florida law includes the following definitions:

"Autism" is a pervasive, neurologically based developmental disability of extended duration which causes severe learning, communication, and behavior disorders with age of onset during infancy or childhood. Individuals with autism exhibit impairment in reciprocal social interaction, impairment in verbal and nonverbal communication and imaginative ability, and a markedly restricted repertoire of activities and interests.[4]

"Developmental disability" is a disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.[5]

"Autism spectrum disorder" is any of the following disorders as defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association:

- Autistic disorder;
- Asperger's syndrome; and
- Pervasive developmental disorder not otherwise specified.[6]

III. Effect of Proposed Changes:

The bill, cited as the "Wes Kleinert Fair Interview Act," provides that a law enforcement officer, correctional officer or public safety officer must, upon the request of an individual with autism (or an autism spectrum disorder) or his or her parent or guardian, make a good faith effort to ensure that a psychiatrist, psychologist, mental health counselor, special education instructor, clinical social worker, or related professional is present at all interviews of the individual. The

[1] Data from the Autism and Developmental Disabilities Monitoring (ADDM) Network. http://www.cdc.gov/ncbddd/autism/research.html (last visited January 26, 2016).
[2] http://www.cdc.gov/ncbddd/autism/facts.html (last visited January 26, 2016).
[3] Id.
[4] Section 393.063(3), F.S.
[5] Section 393.063(9), F.S.
[6] Sections 627.6686(2)(b) and 641.31098(2), F.S.

bill describes the qualifications the professional must have to serve in this capacity – experience in treating, teaching, or assisting clients diagnosed with autism or related disability or a certification in special education focused on autism.

The bill also provides that the expenses related to the professional must be borne by the requesting parent, guardian, or individual and that the failure to have a professional present at the time of the interview is not a basis for suppression of the statement or the contents of the interview or for a cause of action against the law enforcement officer or agency.

Finally, the bill requires that law enforcement agencies develop appropriate policies to implement bill's provisions and that officers be trained based on these policies.

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 individual with autism, an autism spectrum disorder or a related developmental disability will be responsible for the expenses of the requested professional. The cost of a professional required by PCS/CS/SB 936 is unknown.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 943.0439 of the Florida Statutes.

This bill creates an undesignated section of Florida law.

IX. Additional Information:

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

Recommended CS/CS by Appropriations Subcommittee on Criminal and Civil Justice on February 17, 2016:

- Provides that an autism professional shall be provided by law enforcement only upon request of the individual with autism.
- Amends the current bill to provide that the law enforcement agency make a "good faith effort" to ensure an autism professional is present during the interview.
- Provides that failure to have a professional present at the time of the interview is not a basis for suppression of the statement or contents of the interview or for a cause of action against the law enforcement officer or agency.
- Provides that law enforcement agencies develop appropriate policies to implement bill's provisions and that officers are trained based on these policies.

CS by Criminal Justice on February 1, 2016:
The Committee Substitute includes speech therapists in the list of trained professionals that can be present to assist law enforcement and other public safety officials whether the individual being interviewed is the victim of a crime, the suspect in a crime, or the defendant formally accused of a crime. It provides for law enforcement officers or other public safety officers to document the interview in writing when a professional is not available and make a professional available as soon as practicable. It provides that the cost of the professional shall be borne by the individual.

B. Amendments:

None.

236418

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/01/2016	.	
	.	
	.	
	.	

The Committee on Appropriations (Ring) recommended the following:

Senate Amendment (with title amendment)

Delete line 43

and insert:

parent, guardian, or individual. If the individual is a victim, the defendant shall reimburse the victim for all expenses related to the attendance of the professional at the interview, in addition to other restitution or penalties provided by law, upon conviction of the offense of which the individual is a victim. Failure to have a professional

236418

11
12 ================ T I T L E A M E N D M E N T ================
13 And the title is amended as follows:
14 Delete line 14
15 and insert:
16 the professional; requiring a convicted defendant to
17 pay for the professional under certain circumstances;
18 specifying that not having a

549324

576-03709-16

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

A bill to be entitled

An act relating to criminal justice system interviews of individuals with autism or an autism spectrum disorder; providing a short title; creating s. 943.0439, F.S.; requiring a law enforcement officer, correctional officer, or another public safety official to make a good faith effort, upon the request of a parent, a guardian, or the individual, to ensure that specified professionals are present at all interviews of an individual diagnosed with autism or an autism spectrum disorder; providing specifications for the professional; specifying that the parent, guardian, or individual bears the expense of hiring the professional; specifying that not having a professional present is not a basis for suppressing statements or for bringing a cause of action; providing applicability; requiring law enforcement agencies to develop and implement appropriate policies and provide training; providing an effective date.

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

Section 1. This act may be cited as "The Wes Kleinert Fair Interview Act."

Section 2. Section 943.0439, Florida Statutes, is created to read:

943.0439 Interviews of victims, suspects, or defendants

549324

576-03709-16

with autism or an autism spectrum disorder.—A law enforcement officer, a correctional officer, or another public safety official shall, upon the request of an individual diagnosed with autism or an autism spectrum disorder or his or her parent or guardian, make a good faith effort to ensure that a psychiatrist, psychologist, mental health counselor, special education instructor, clinical social worker, or related professional is present at all interviews of the individual. The professional must have experience treating, teaching, or assisting patients or clients who have been diagnosed with autism or an autism spectrum disorder or related developmental disability or must be certified in special education with a concentration focused on persons with autism or an autism spectrum disorder. All expenses related to the attendance of the professional at interviews shall be borne by the requesting parent, guardian, or individual. Failure to have a professional as defined by this subsection present at the time of the interview is not a basis for suppression of the statement or the contents of the interview or for a cause of action against the law enforcement officer or agency. This subsection applies to such an individual who is the victim, a suspect, or a defendant formally accused of a crime.

(2) Each law enforcement agency must ensure that appropriate policies are developed which implement this section and that training is provided to its law enforcement and correctional officers based on those policies.

Section 3. This act shall take effect July 1, 2016.

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 936
INTRODUCER:	Appropriations Committee (Recommended by Appropriations Subcommittee on Criminal and Civil Justice); Criminal Justice Committee; and Senator Ring
SUBJECT:	Criminal Justice System Interviews of Persons with Autism, an Autism Spectrum Disorder, or a Related Developmental Disability
DATE:	March 1, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sumner	Cannon	CJ	**Fav/CS**
2.	Harkness	Sadberry	ACJ	**Recommend: Fav/CS**
3.	Harkness	Kynoch	AP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 936 provides that a law enforcement officer, correctional officer or public safety officer shall, upon the request of an individual with autism (or an autism spectrum disorder) or his or her parent or guardian, make a good faith effort to ensure that a psychiatrist, psychologist, mental health counselor, special education instructor, clinical social worker, or related professional is present at all interviews of the individual. The bill describes the qualifications the professional must have to serve in this capacity. In addition, the bill provides that the failure to have a professional present at the time of the interview is not a basis for suppression of the statement or the contents of the interview or for a cause of action against the officer or agency. The bill requires that law enforcement agencies develop appropriate policies to implement bill's provisions and that officers be trained based on these policies.

The bill does not have a fiscal impact; the cost of the autism professional is borne by the requesting individual.[1]

The bill has an effective date of July 1, 2016.

[1] However, the bill requires a defendant who is convicted of an offense to reimburse a requesting individual who is the victim of the offense for all expenses related to attendance of the professional at the interview.

II. Present Situation:

The Center for Disease Control (CDC) estimates that one in 68 children have been identified with Autism Spectrum Disorder (ASD).[2] The CDC defines "Autism spectrum disorder" as a developmental disability that can cause significant social, communication, and behavioral challenges. Though there is nothing about how persons who have been diagnosed with ASD look that sets them apart from other people, the CDC states that people with ASD may communicate, interact, behave, and learn in ways that are different from most other people. The range of abilities of people with ASD can span from gifted to severely challenged.[3]

Though formerly diagnosed separately, autistic disorder, pervasive developmental disorder, and Asperger syndrome are now included in the diagnosis of ASD.[4]

Florida law includes the following definitions:

"Autism" is a pervasive, neurologically based developmental disability of extended duration which causes severe learning, communication, and behavior disorders with age of onset during infancy or childhood. Individuals with autism exhibit impairment in reciprocal social interaction, impairment in verbal and nonverbal communication and imaginative ability, and a markedly restricted repertoire of activities and interests.[5]

"Developmental disability" is a disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.[6]

"Autism spectrum disorder" is any of the following disorders as defined in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association:

- Autistic disorder;
- Asperger's syndrome; and
- Pervasive developmental disorder not otherwise specified.[7]

III. Effect of Proposed Changes:

The bill, cited as the "Wes Kleinert Fair Interview Act," provides that a law enforcement officer, correctional officer or public safety officer must, upon the request of an individual with autism (or an autism spectrum disorder) or his or her parent or guardian, make a good faith effort to ensure that a psychiatrist, psychologist, mental health counselor, special education instructor, clinical social worker, or related professional is present at all interviews of the individual. The

[2] Data from the Autism and Developmental Disabilities Monitoring (ADDM) Network. http://www.cdc.gov/ncbddd/autism/research.html (last visited January 26, 2016).
[3] http://www.cdc.gov/ncbddd/autism/facts.html (last visited January 26, 2016).
[4] Id.
[5] Section 393.063(3), F.S.
[6] Section 393.063(9), F.S.
[7] Sections 627.6686(2)(b) and 641.31098(2), F.S.

bill describes the qualifications the professional must have to serve in this capacity – experience in treating, teaching, or assisting clients diagnosed with autism or related disability or a certification in special education focused on autism.

The bill also provides that the expenses related to the professional must be borne by the requesting parent, guardian, or individual[8] and that the failure to have a professional present at the time of the interview is not a basis for suppression of the statement or the contents of the interview or for a cause of action against the law enforcement officer or agency.

Finally, the bill requires that law enforcement agencies develop appropriate policies to implement bill's provisions and that officers be trained based on these policies.

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 individual with autism, an autism spectrum disorder or a related developmental disability will be responsible for the expenses of the requested professional, but the victim of an offense may receive reimbursement of these expenses from a defendant who is convicted of the offense. The cost of a professional required by CS/CS/SB 936 is unknown.

C. Government Sector Impact:

None.

[8] If the requesting individual is the victim of an offense, the bill requires a defendant who is convicted of committing the offense to reimburse the requesting individual for all expenses related to attendance of an autism professional at the interview.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 943.0439 of the Florida Statutes.

This bill creates an undesignated section of Florida law.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

CS/CS by Appropriations March 1, 2016:
The committee substitute:

- Provides that an autism professional shall be provided by law enforcement only upon request of the individual with autism.
- Amends the current bill to provide that the law enforcement agency make a "good faith effort" to ensure an autism professional is present during the interview.
- Provides that failure to have a professional present at the time of the interview is not a basis for suppression of the statement or contents of the interview or for a cause of action against the law enforcement officer or agency.
- Provides that law enforcement agencies develop appropriate policies to implement bill's provisions and that officers are trained based on these policies.
- Requires a defendant who is convicted of an offense to reimburse a requesting individual who is the victim of the offense for all expenses related to attendance of an autism professional at the interview.

CS by Criminal Justice on February 1, 2016:
The Committee Substitute includes speech therapists in the list of trained professionals that can be present to assist law enforcement and other public safety officials whether the individual being interviewed is the victim of a crime, the suspect in a crime, or the defendant formally accused of a crime. It provides for law enforcement officers or other public safety officers to document the interview in writing when a professional is not available and make a professional available as soon as practicable. It provides that the cost of the professional shall be borne by the individual.

B. Amendments:

None.

By the Committee on Criminal Justice; and Senator Ring

591-02915-16 2016936c1

A bill to be entitled

An act relating to criminal justice system interviews of persons with autism, an autism spectrum disorder, or a related developmental disability; providing a short title; encouraging the use of certain state-of-the-art digital devices for the purposes of identification and notification; requiring that certain professionals with experience in treating, teaching, or assisting persons with autism, an autism spectrum disorder, or a related developmental disability be present during an interview of a person with autism, an autism spectrum disorder, or a related developmental disability conducted by specified persons unless extenuating circumstances exist; requiring a law enforcement officer, a correctional officer, or another public safety official to document in writing any extenuating circumstances; authorizing a law enforcement officer, a correctional officer, or another public safety official to hold persons with autism, an autism spectrum disorder, or a related developmental disability for a reasonable period of time under certain circumstances; providing that the cost of retaining a professional must be borne by such persons; providing an effective date.

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

Section 1. This act may be cited as "The Wes Kleinert Fair Interview Act."

Section 2. (1) The Legislature encourages the use of state-of-the-art digital devices, such as bracelets, necklaces, and pocket cards that are similar to those kept upon the person of

591-02915-16 2016936c1

individuals who have certain medical conditions or age-related disabilities, to assist law enforcement, correctional, or other public safety officials and other concerned persons in quickly identifying individuals who have been diagnosed with autism, an autism spectrum disorder, or a related developmental disability and notifying the family members, caregivers, and primary intervention professionals of such individuals when a crisis occurs.

(2) Unless extenuating circumstances exist, a psychiatrist, psychologist, mental health counselor, special education instructor, clinical social worker, speech therapist, or related professional, each of whom must have experience treating, teaching, or assisting patients or clients who have been diagnosed with autism, an autism spectrum disorder, or a related developmental disability, or must be certified in special education with a concentration focused on persons with autism, an autism spectrum disorder, or a related developmental disability, must be present to assist a law enforcement officer, a correctional officer, or another public safety official during all interviews of an individual with autism, an autism spectrum disorder, or a related developmental disability, whether the individual being interviewed is the victim of a crime, the suspect in a crime, or the defendant formally accused of a crime or is otherwise involved in the criminal justice system. If extenuating circumstances exist and it is not possible to delay the interview until such a professional is available, a law enforcement officer, a correctional officer, or another public safety official must document the circumstances in writing and make a professional available as soon as practicable. An

individual with autism, an autism spectrum disorder, or a related developmental disability may be held for a reasonable period of time until a professional is retained by the individual or his or her representative. The cost of the professional must be borne by the individual.

Section 3. This act shall take effect July 1, 2016.

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Governmental Oversight and Accountability, *Chair*
Judiciary, *Vice Chair*
Appropriations
Appropriations Subcommittee on Education
Children, Families, and Elder Affairs
Commerce and Tourism

SENATOR JEREMY RING
29th District

February 17, 2016

Senator Tom Lee, Chair
Committee on Appropriations
201 The Capitol
404 South Monroe Street
Tallahassee, FL 32399

Dear Chairman Lee,

I am writing to respectfully request your cooperation in placing Senate Bill 936, relating to Criminal Justice System Interviews of Persons with Autism, an Autism Spectrum Disorder, or a Related Developmental Disability, on the Committee on Appropriations agenda at your earliest convenience. I would greatly appreciate the opportunity to discuss the bill at greater length before your committee.

Thank you in advance for your assistance. As always, please do not hesitate to contact me with any questions or comments you may have.

Very Truly Yours,

Jeremy Ring

Jeremy Ring
Senator District 29

cc: Cindy Kynoch, Staff Director
Alicia Weiss, Committee Administrative Assistant

REPLY TO:
❒ 5790 Margate Boulevard, Margate, Florida 33063 (954) 917-1392 FAX: (954) 917-1394
❒ 405 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5029

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

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/16
Meeting Date

SB 936
Bill Number (if applicable)

Topic Interviews w/ Autism

Amendment Barcode (if applicable)

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Speaking: ☐ For ☐ Against ☐ Information

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

Representing Orange 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.

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)

3.1.2016
Meeting Date

936
Bill Number (if applicable)

Topic Autism

Amendment Barcode (if applicable)

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

Representing Florida Sheriffs 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/SB 1106 (626078)
INTRODUCER:	Appropriations Committee (Recommended by Appropriations Subcommittee on General Government); and Senator Flores
SUBJECT:	International Trust Entities
DATE:	February 29, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Knudson	BI	**Favorable**
2.	Betta/Johnson	DeLoach	AGG	**Recommend: Fav/CS**
3.	Betta/Johnson	Kynoch	AP	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/SB 1106 revises provisions relating to the regulation of international banking activity by the Office of Financial Regulation (OFR).The bill provides the following changes:

- The OFR will delay the enforcement of the licensure requirements under s. 663.04(4), F.S., relating to an organization or entity in Florida providing services to an international trust entity (ITE) that engages in the activities described in s. 663.0625, F.S. The delay in requirements is provided if the organization or entity meets certain regulatory requirements and provides assurances to the OFR. The moratorium would apply to the ITE, which is the off shore entity and the Florida organization or entity that is providing marketing and customer assistance on behalf of the ITE. The moratorium is repealed July 1, 2017.
- Defines the term, "international trust entity," to mean any international trust company, international business, international business organization, or affiliated or subsidiary entities that are licensed, chartered, or similarly permitted to conduct trust business in a foreign country or countries under the laws of which it is organized and supervised.
- Provides the moratorium does not affect the OFR's authority to enforce other provisions of the Financial Institutions Codes.

The bill provides additional duties to the OFR which can be absorbed within existing resources.

The bill takes effect on October 1, 2016.

II. Present Situation:

International Financial Services Market

A longstanding niche market within the international financial services market is the provision of fiduciary (trustee) services required for the implementation of estate, tax, and asset protection planning. These services traditionally have comprised the administration (documentation preparation, accounting, compliance, and accounting) for a trust and its underlying investments. Services such as banking, asset management, and tax advice, are provided by third parties, as described in the following example:[1]

> Example: A family from Latin America purchasing a residence in Florida has a banking relationship with a Florida-based bank and is advised by Florida counsel. To avoid exposure to U.S. estate tax, the family will be advised to own the property through a non-U.S. company, as the shares in the non-U.S. company are not subject to U.S. estate tax. To provide for the family's long-term planning (local and foreign tax laws and political and security risks), the family may be advised to place the shares in the company's foreign trust.[2]

In the above example, responsibility for the administration of the trust and the underlying company is given to a trust company, which provides this service for a fee. The trust company generally will be part of an organization that provides this service in multiple jurisdictions. The trust company does not promote, sell or accept any financial investments, money, or provide depository or custodial accounts. An international trust company representative office may operate as the Florida-based marketing office for the aforementioned fiduciary services provided by a foreign trust company.[3] Because many of the families who establish foreign trusts travel to Miami, the ITCROs may provide a convenient way for these families to monitor the services of the international trust company without having to travel to the jurisdiction where the trust company has its operations.

State Regulation of International Banking Activities

The Office of Financial Regulation (OFR) is charged with regulating depository and non-depository financial institutions and financial service companies. One of the OFR's primary goals is to protect consumers from financial fraud while preserving the integrity of Florida's markets and financial service industries. To achieve this goal, Florida law provides the OFR with regulatory authority over entities regulated under the Financial Institutions Codes. [4]

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[1] Memorandum from McDonald Hopkins LLC on behalf of the Florida International Administrators Association, *International Trust Company Representative Offices,* (Mar. 8, 2015) (on file with Senate Committee on Banking and Insurance).
[2] *Id.*
[3] *Id.*
[4] Financial Institutions Codes include chs. 655 relating to financial institutions generally, 657 relating to banks and trust companies, 660 relating to trust business, 662 family trust companies, 663 relating to international banking, 665 relating to associations, and 657 relating to savings banks.

International Banking Corporations

The OFR regulates international banking corporations[5] that transact business in Florida. Such entities are subject to licensure by the OFR[6] to transact business in Florida. International banking entities enable depository institutions in the United States to offer deposit and loan services to foreign residents and institutions, and are subject to the jurisdiction of the Board of Governors of the Federal Reserve. The OFR does not regulate institutions that are chartered and regulated by foreign jurisdictions, except to the extent that those foreign institutions seek to engage in the banking or trust business in Florida. If foreign institutions do so, they must obtain a Florida charter and comply with the provisions of ch. 663, F.S., and the applicable Financial Institution Codes.

An international banking corporation may operate through a variety of business models, all of which must be licensed.[7] These models include international bank agencies,[8] international representative offices,[9] international trust company representative offices,[10] international administrative offices,[11] and international branches.[12] The definition of "financial institution"[13] includes international bank agency, an international banking corporation, international branch, international representative office, international administrative office, and international trust company representative office.

If an international banking corporation (IBC) wants to operate an office in this state, including an international trust company representative office, the IBC is required to meet minimum licensure requirements, ongoing safety and soundness requirements, and is subject to the examination and enforcement authority of the OFR including state anti-money laundering and anti-terrorism laws. The OFR may not issue a license to an international banking corporation unless it:

- Holds an unrestricted license to conduct trust business in the foreign country under the law of which it is organized and chartered;
- Has been authorized by the foreign country's trust business regulatory authority to establish the proposed international trust representative office;
- Is adequately supervised by the central bank or trust regulatory agency in the foreign country in which it is organized and chartered;[14]

[5] An international banking corporation, such as a foreign commercial bank, foreign merchant bank, or other foreign institution that engages in banking activities usual in connection with the business of banking in the country where such foreign institution is organized or operating. The term also includes foreign trust companies, or any similar business entities, including, but not limited to, foreign banks with fiduciary powers, that conduct trust business as defined in the codes. See Section 663.01(6), F.S.
[6] Sections 663.04 and 663.05, F.S.
[7] Section 663.06(1), F.S.
[8] Section 663.061, F.S.
[9] Section 663.062, F.S.
[10] Section 663.0625, F.S.
[11] Section 663.063, F.S.
[12] Section 663.064, F.S.
[13] Section 655.005(i), F.S.
[14] Section 663.05(9), F.S. requires the OFR to establish general principles to evaluate the adequacy of supervision of an international banking corporation's foreign establishments. These principles must be based upon the need for cooperative supervisory efforts and must address at a minimum, the capital adequacy, asset quality, management, earnings, liquidity, internal controls, audits, and foreign exchange operations and positions of the international banking corporation. *See* Rule 69U-140.003, F.A.C., *Principles of Adequate Supervision of an International Banking Corporation's Foreign Establishment.*

- Meets all requirements under the Financial Institutions Codes for the operation of a trust company or trust department as if it was a state-chartered trust company or bank authorized to exercise fiduciary powers; and
- Meets a minimum capital requirement of $20 million.

Section 663.02, F.S., provides that international banking corporations having offices in Florida are subject to the provisions of ch. 655, F.S., as though such corporations were state banks or trust companies. Further, s. 663.02, F.S., provides that neither an international bank agency nor an international branch shall have any greater right under, or by virtue of s. 663.02, F.S., than is granted to banks organized under the laws of this state. Section 663.02, F.S., provides that it is the intent of the Legislature that the following provisions apply to such entities:

- Section 655.031, F.S., relating to administrative enforcement guidelines;
- Section 655.032, F.S., relating to investigations, subpoenas, hearings, and witnesses;
- Section 655.0321, F.S., relating to hearings, proceedings, related documents, and restricted access;
- Section 655.033, F.S., relating to cease and desist orders;
- Section 655.037, F.S., relating to removal by the office of an officer, director, committee member, employee, or other person;
- Section 655.041, F.S., relating to administrative fines and enforcement; and
- Section 655.50, F.S., relating to the control of money laundering and terrorist financing; and any law for which the penalty is increased under s. 775.31 F.S., for facilitating or furthering terrorism.

International Bank Agencies and International Branches

International bank agencies and international branches are permitted to conduct activities similar to those of a domestic bank. An international bank agency may make and service loans, act as a custodian, furnish investment advice, conduct foreign exchange activities and trade in securities and commercial paper.[15] An international branch has the same rights and privileges as a federally licensed international branch.[16]

International Representative Offices and International Administrative Offices.

International representative offices and international administrative offices perform activities that are more limited. An international representative office may solicit business, provide information to customers concerning their accounts, answer questions, receive applications for extensions of credit and other banking services, transmit documents on behalf of customers, and make arrangements for customers to transact business on their accounts. [17] An administrative office

The rule provides that the term, "international banking corporation," also includes foreign trust companies. The rule provides that the term, "comprehensive supervision," includes the ability and willingness of the home country supervisor to provide the OFR early notice of any financial weakness being experienced by the international banking corporation, including its offices or subsidiaries. Further, it includes the ability of the home country supervisor to provide the OFR assurance of cooperation by both the international banking corporation and the home country supervisor.

[15] Section 663.061, F.S.

[16] Section 663.064, F.S.

[17] Section 663.062, F.S.

may provide personnel administration, data processing or recordkeeping, and negotiate, approve, or service loans or extensions of credit and investments.[18]

International Trust Company Representative Offices.

An ITCRO is an office of an international banking corporation or trust company organized and licensed under the laws of a foreign country, which is established or maintained in Florida for engaging in non-fiduciary activities described in s. 663.0625, F.S. An ITCRO may also include any affiliate, subsidiary, or other person that engages in such activities on behalf of such international banking corporation or trust company from an office located in Florida.[19]

The ITCROs are not banks and may not accept deposits or make loans. The activities of a licensed ITCRO are limited to engaging in the following non-fiduciary activities that are ancillary to the trust business of the international banking corporation:

- Advertising, marketing, and soliciting for fiduciary business on behalf of an international banking corporation or trust company;
- Contacting existing or potential customers;
- Answering questions and providing information about matters related to customer accounts;
- Serving as a liaison in Florida between the international banking corporation or trust company and its existing or potential customers (e.g., forwarding requests for distribution or changes in investment objectives, or forwarding forms and funds received from the customer); and
- Such other activities as may be approved by the OFR or rules of the Financial Services Commission.[20]

As of February 2016, there are no ITCROs licensed with the OFR; however, two international administrative offices, ten international bank agencies, six international representative offices, and six international bank branches are licensed with the OFR.[21]

2010 Legislation

In 2010, legislation[22] was enacted to establish the OFR's oversight responsibilities of "offshore" international non-depository trust companies that wanted to maintain an ITCRO in Florida and to address issues posed by shadow banking activities conducted by unregulated entities in Florida that present a high risk of allowing money laundering, terrorist financing, and other illicit activities.[23] The legislation defined the ITCRO entity and established the licensing and regulatory requirements for these entities under the OFR. This legislation was due, in part, to the exposure of the $8 billion dollar Ponzi scheme perpetrated by Allen Stanford.

[18] Section 663.063, F.S.
[19] Section 663.01(9), F.S.
[20] Section 663.0625, F.S.
[21] Office of Financial Regulation, *Financial Institution Search*, at https://real.flofr.com/ConsumerServices/FinancialInstitutions/InstSrch.aspx (last visited February 20, 2016).
[22] Ch. 2010-9, Laws of Fla.
[23] Office of Financial Regulation, *2016 Agency Legislative Bill Analysis, SB 1106* (Jan. 19, 2016) (on file with the Senate Committee on Banking and Insurance).

Allen Stanford controlled an international group of privately held financial services companies under the umbrella organization Stanford Financial Group, which included Stanford Trust Company Limited (Stanford Trust), a non-depository trust company organized under the laws of Antigua and Barbuda. In late 1998, the Division of Banking within the Department of Banking and Finance[24] entered into a memorandum of understanding (MOU)[25] with the Stanford Trust. This MOU allowed the Stanford Trust to establish a trust representative office in Florida, and delineated permissible and impermissible activities.

In this particular Ponzi scheme, certificates of deposits that promised above market rate returns were sold to customers of the Stanford Financial Group through offices in the United States and abroad with the sales of new accounts being used to fund payments on older certificates and fund Stanford's business operations and lifestyle. Because Florida law did not address representative offices of international non-depository trust companies at that time, Mr. Stanford was able to facilitate his scheme in Florida through the establishment of a representative office of Stanford Trust Company Limited in Miami, Florida. Stanford International Bank, LTD issued the certificates of deposit used to facilitate the scheme, which was also located in Antigua. The scheme is alleged to have involved over 30,000 clients in 136 countries on six continents.

The Financial Action Task Force

The Financial Action Task Force (FATF) is the global standard setting body for anti-money laundering and combating the financing of terrorism (AML/CFT).[26] The FATF identifies jurisdictions that have strategic deficiencies and works with them to address those deficiencies that pose a risk to the international financial system, thereby protecting the international financial system from money laundering and financing of terrorism risks and encouraging greater compliance with the AML/CFT standards.

III. Effect of Proposed Changes:

Sections 1 and 2 amend s. 663.01, F.S., and create s. 663.041, F.S., to impose a moratorium on the OFR's enforcement of ch. 663.04(4), F.S., with respect to the licensure of an organization or entity in Florida providing services to an international trust entity (ITE) that engages in the international trust company representative office (ITCRO) activities described in s. 663.0625, F.S., if certain conditions are met. Further, the moratorium includes any employee or person who manages or controls such an organization or entity that engages in the ITCRO activities. The moratorium is effective until June 30, 2017, for any Florida organization or entity and the ITE. An ITE is defined to mean an international trust company, an international business, an international business organization, or an affiliated or subsidiary entities that is licensed, chartered, or similarly permitted to conduct trust business in a foreign country or countries under the laws of which it is organized and supervised.

[24] Predecessor of the Division of Financial Institutions of the Office of Financial Regulation. *See* ch. 2003-361, Laws of Fla.
[25] State of Florida, Department of Banking and Finance and Stanford Trust Company Limited, Memorandum of Agreement (Dec. 1998) (on file with Senate Committee on Banking and Insurance).
[26] Members of the FATF include 34 member jurisdictions (including the United States) and 2 regional organizations. See http://www.fatf-gafi.org/home/ (last visited Jan. 20, 2016).

Eligibility Requirements for Moratorium

The moratorium on the enforcement of licensing requirements applies to any person who manages or controls or is employed by an organization or entity providing services to an ITE that engages in ITCRO activities that:

- Has been organized to conduct business in Florida before October 1, 2013;
- Has not been fined or sanctioned as a result of any complaint with the OFR or any other state or federal regulatory agency;
- Has not been convicted of a felony or ordered to pay a fine or penalty in any proceeding initiated by any local, state, foreign law enforcement or international agency within ten years before the effective date of the moratorium;
- Has not had any of its directors, executive directors, principal shareholders, or managers or employees arrested for, charged with, convicted of, or pled guilty or nolo contendere to, regardless of adjudication, any offense that is punishable by imprisonment for one year or more, or to any offense involving money laundering, tax evasion, fraud, or that is otherwise related to the operation of a financial institution within ten years before the effective date of this section;
- Does not provide any services to any ITE that is in in bankruptcy, conservatorship, receivership, liquidation, or similar status under the laws of any country;
- Does not provide banking services or promote or sell investments or accept custody of assets;
- Does not act as a fiduciary, including but not limited to, accepting the fiduciary appointment, executing the fiduciary documents that create the fiduciary relationship, make discretionary decisions regarding the investment or distribution of fiduciary accounts; and,
- Conducts those activities permissible for an ITCRO, as described in s. 663.0625, F.S.

Application Process for the Moratorium

An organization or entity that requests to qualify for this moratorium must notify the OFR in writing by July 1, 2016, and provide:

- Written proof the business has been organized and doing business in Florida before October 1, 2013;
- Name or names under which it conducts business in Florida;
- Address of its locations from which it conducts business and a detailed description of the activities being conducted at the locations;
- Name of each ITE, the country it is organized, and its officers and directors for which the organization or entity provides services in Florida.

The organization or entity must also provide assurance about each of these ITEs including that the ITE:

- Has authority to engage in trust business;
- Is in good standing and lawfully exists under the laws of the jurisdiction it is authorized;
- Is not in bankruptcy, or similar status; and
- Is not operating under the direct control of the government or other regulatory authority within seven years before the date of the moratorium notification to the OFR.

The organization or entity must include with the required information a declaration under penalty of perjury signed by the executive officer or managing member that the information provided to the OFR is true and correct to the best of his or her knowledge.

The OFR's Role and Authority

Processing Requests for Moratorium

In processing a request to qualify for the moratorium, the OFR must confirm the following information provided by an organization, entity or the ITE:

- Each ITE is adequately supervised by the appropriate regulatory authority that has similar responsibilities in the foreign country in which it is organized, chartered or licensed, or has similar authorization by operation of law. An ITE with foreign establishments is considered to be adequately supervised if it is subject to consolidated supervision. Consolidated supervision is supervision which enables the appropriate regulatory authority, or equivalent or other similarly sanctioned body, organization, governmental entity or recognized authority that has similar responsibilities of the home country, to evaluate the safety and soundness of the ITE operations. Further, the bill provides additional requirements relating to adequate supervision.
- An ITE (including its officers or subsidiaries) is considered adequately supervised if it is subject to comprehensive supervision. The bill provides that comprehensive supervision is supervision that ensures the supervisory processes and procedures are designed to inform the home country supervisor about the ITE's financial condition, including capital position; asset management and asset administration; internal controls and audit; compliance with existing laws and regulations; and the capability of management. The bill provides additional requirements relating to comprehensive supervision.
- The jurisdiction of the ITE or its offices, subsidiaries, or any affiliates that are directly involved in or facilitate the financial services functions, banking, or fiduciary activities of the ITE, is not listed on the Financial Action Task Force Public Statement or on its list of jurisdictions with deficiencies in anti-money laundering or counterterrorism.

Upon receipt of a moratorium request, the OFR will review the information and request any additional information to complete the request for the moratorium within 30 days after receipt. The organization or entity must provide the additional information within 45 days after the receipt of the notice from the OFR. If the OFR does not request the additional information within 30 days after receipt, the moratorium request is deemed complete as of the date it was received. Within 20 days after receipt of any additional information requested, the OFR must deem the request complete or provide notification to the organization or entity that the information provided does not satisfy the OFR's request.

Within 90 days after receipt of a completed notification, the OFR must confirm with the organization or entity if they are or are not a party to the moratorium. If the OFR fails to notify the organization or entity within the 90 days whether the organization or entity is a party to the moratorium, then the organization or entity is considered a party to the moratorium.

Enforcement Authority

During the moratorium period, the OFR may conduct an onsite visitation of an organization or entity operating in Florida to confirm information provided to the OFR in deeming the organization or entity qualified for the moratorium. If the OFR finds that the organization or entity made a material misstatement in its request to qualify for the moratorium, the OFR must issue an immediate final order suspending the qualification of the organization or entity.

The bill provides that the moratorium does not affect the OFR's authority to otherwise enforce the Financial Institutions Codes.

Section 3 repeals s. 663.041, F.S., and the amendments to s. 663.01, F.S., July 1, 2017.

Section 4 provides the bill will take effect on 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:

The impact of PCS/SB 1106 is indeterminate. The bill provides a moratorium on the OFR enforcement of licensure requirements on Florida-based onshore entities engaging in marketing, and other ITCRO activities described under s. 663.0625, F.S., on behalf of ITEs until June 30, 2017. The moratorium would apply to the Florida-based entity and the ITE.[27] An estimated 12 to 15 organizations or entities may qualify for the moratorium. [28]

[27] Email from M. Hinshelwood, Office of Financial Regulation (Feb. 24, 2016) (on file with the Senate Committee on Banking and Insurance).
[28] Telephone interview with J. Mongiovi, Office of Financial Regulation (Feb. 19, 2016) (on file with the Senate Committee on Banking and Insurance). The Florida International Administrators Association provided the estimate to the OFR.

C. Government Sector Impact:

While the bill provides additional duties associated with the moratorium process for the OFR, no additional funds are needed to fulfill this workload.[29]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 663.01 of the Florida Statutes.

This bill creates section 663.041 of the Florida Statutes.

IX. Additional Information:

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

Recommended CS by Appropriations Subcommittee on General Government on February 24, 2016:
The CS creates a moratorium on the OFR's enforcement of ch. 663, F.S., with respect to the licensure of an organization or entity in Florida providing services to an international trust entity that engages in ITCRO activities and the offshore international trust entity if certain conditions are met. The moratorium is repealed July 1, 2017.

The CS removes provisions creating the Limited Purpose International Trust Company licensure and regulatory program within the OFR.

B. Amendments:

None.

[29] Email from J. Mongiovi, Office of Financial Regulation (Feb. 22, 2016) (on file with the Senate Banking and Insurance Committee).

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LEGISLATIVE ACTION

Senate	.	House
Comm: OO	.	
03/01/2016	.	
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The Committee on Appropriations (Flores) recommended the following:

Senate Amendment (with title amendment)

Before line 39
insert:
Section 1. Section 655.969, Florida Statutes, is created to read:
655.969 Correspondent accounts with a foreign financial institution.—A financial institution chartered in this state which maintains a correspondent account or a payable-through account with a foreign financial institution owned by a country

710956

under a sanctions program administered by the United States Department of the Treasury must, within 5 business days, identify and report the source of every transaction that passes through the foreign correspondent account to the office, and certify that the source does not involve any confiscated property as defined in the Cuban Liberty and Democratic Solidarity Act of 1996, 22 U.S.C. s. 6023(4) and (12).

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

And the title is amended as follows:

Delete line 2

and insert:

An act relating to transactions with foreign financial institutions; creating s. 655.969, F.S.; requiring financial institutions chartered in this state with certain correspondent or payable-through accounts to report specified information to the Office of Financial Regulation;

626078

576-04146-16

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on General Government)

A bill to be entitled

An act relating to international trust entities; amending s. 663.01, F.S.; defining the term "international trust entity"; creating s. 663.041, F.S.; providing for a moratorium for a specified timeframe on enforcement by the Office of Financial Regulation of certain licensure requirements for certain organizations and entities providing services to international trust companies; providing conditions to apply the moratorium to specified persons of the organization or entity; providing for construction; specifying requirements for a letter to the office to request qualification as a party to the moratorium; requiring the office to confirm specified findings when processing a request; specifying circumstances for establishing adequate supervision; providing procedures and timeframes for the office's processing of requests and the office's requests for additional information; providing timeframes for the office to confirm with the organization or entity whether it has been confirmed as a party to the moratorium; requiring the office to issue a notice of denial if it determines that an organization or entity is not a party to the moratorium; providing that a denied organization or entity may request a certain hearing to contest the denial; providing for construction if certain timeframes are not met; authorizing the office

626078

576-04146-16

to conduct an onsite visitation of an organization or entity for a specified purpose until a specified time; requiring the office to issue an immediate final order disqualifying an organization or entity if it finds that such organization or entity made a material false statement in its request; providing for construction; providing for future repeal; providing an effective date.

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

Section 1. Present subsections (10) and (11) of section 663.01, Florida Statutes, are renumbered as subsections (11) and (12), respectively, and a new subsection (10) is added to that section, to read:

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

(10) "International trust entity" means an international trust company, an international business, an international business organization, or an affiliated or subsidiary entity that is licensed, chartered, or similarly permitted to conduct trust business in a foreign country or countries under the laws of which it is organized and supervised.

Section 2. Section 663.041, Florida Statutes, is created to read:

663.041 Moratorium on the office's enforcement of licensing requirements for an international trust entity or related entities.—

(1) Until June 30, 2017, the office shall delay the enforcement of the requirement under s. 663.04(4) relating to

licensure of an organization or entity in this state providing services to an international trust entity that engages in the activities described in s. 663.0625. This delay applies to any person who manages or controls or is employed by such organization or entity that:

(a) Has been organized to conduct business in this state before October 1, 2013;

(b) Has not been fined or sanctioned as a result of any complaint to the office or to any other state or federal regulatory agency;

(c) Has not been convicted of a felony or ordered to pay a fine or penalty in any proceeding initiated by any federal, state, foreign, or local law enforcement agency or international agency within the 10 years before the effective date of this section;

(d) Has not had any of its directors, executive officers, principal shareholders, managers, or employees arrested for, charged with, convicted of, or plead guilty or nolo contendere to, regardless of adjudication, any offense that is punishable by imprisonment for 1 year or more, or to any offense that involves money laundering, currency transaction reporting, tax evasion, facilitating or furthering terrorism, fraud, or that is otherwise related to the operation of a financial institution, within the 10 years before the effective date of this section;

(e) Does not provide services for any international trust entity that is in bankruptcy, conservatorship, receivership, liquidation, or a similar status under the laws of any country;

(f) Does not provide banking services or promote or sell investments or accept custody of assets;

(g) Does not act as a fiduciary, which includes, but is not limited to, accepting the fiduciary appointment, executing the fiduciary documents that create the fiduciary relationship, or making discretionary decisions regarding the investment or distribution of fiduciary accounts; and

(h) Conducts those activities permissible for an international trust company representative office as described in s. 663.0625.

(2) This moratorium does not prevent the office from otherwise enforcing the financial institutions codes.

(3) An organization or entity that requests to qualify for this moratorium shall notify the office in writing by letter on official letterhead via United States Postal Service or commercial mail delivery service by July 1, 2016, and shall provide the following:

(a) Written proof that it has been organized to do business in this state before October 1, 2013;

(b) The name or names under which it conducts business in this state;

(c) The addresses of its locations from which it conducts business;

(d) A detailed list and description of the activities being conducted at the locations from which it conducts business. The detailed description must include the types of consumers that utilize those activities and an explanation of how those activities serve the business purpose of an international trust entity.

(e) As to each international trust entity the organization or entity provides services for in this state, the following:

1. The name of the international trust entity;

2. A list of the current officers and directors of the international trust entity;

3. The country or countries where the international trust entity is organized;

4. The supervisory or regulatory authority, or equivalent or other similarly sanctioned body, organization, governmental entity, or recognized authority that has licensing, chartering, oversight, or similar responsibilities over the international trust entity;

5. Proof that the international trust entity has been authorized by a charter, license, or similar authorization by operation of law in its home country jurisdiction to engage in trust business;

6. Proof that the international trust entity lawfully exists and is in good standing under the laws of the jurisdiction where it is chartered, licensed, organized, or lawfully existing. The organization or entity shall submit a certificate of good standing or equivalent document issued by the supervisory or regulatory authority, or equivalent or other similarly sanctioned body, organization, governmental entity, or recognized authority that has similar responsibilities, of the country where the international trust entity is licensed, chartered, or has similar authorization by operation of law and is duly organized and lawfully exists;

7. A statement that the international trust entity is not in bankruptcy, conservatorship, receivership, liquidation, or in a similar status under the laws of any country; and

8. Proof that the international trust entity is not

operating under the direct control of the government, regulatory, or supervisory authority of the jurisdiction of its incorporation, through government intervention or any other extraordinary actions, and confirmation that it has not been in such a status or under such control at any time within the 7 years before the date of notification to the office.

(f) A declaration under penalty of perjury signed by an executive officer or managing member of the organization or entity, declaring that the information provided to the office is true and correct to the best of his or her knowledge.

(4) In processing the request to qualify for the moratorium, the office shall confirm the following:

(a) That the international trust entity is adequately supervised by the appropriate regulatory authority, or equivalent or other similarly sanctioned body, organization, governmental entity, or recognized authority that has similar responsibilities in the foreign country where it is organized, chartered, or licensed, or has similar authorization by operation of law; and

(b) That the jurisdiction of the international trust entity or its offices, subsidiaries, or any affiliates that are directly involved in or facilitate the financial services functions, banking, or fiduciary activities of the international trust entity, is not listed on the Financial Action Task Force Public Statement or on its list of jurisdictions with deficiencies in anti-money laundering or counterterrorism.

(5) For purposes of establishing adequate supervision under paragraph (4)(a):

(a) An international trust entity with foreign

establishments is considered adequately supervised if it is subject to consolidated supervision. As used in this paragraph, "consolidated supervision" means supervision that enables the appropriate regulatory authority, or equivalent or other similarly sanctioned body, organization, governmental entity, or recognized authority that has similar responsibilities of the home country (home country supervisor) to evaluate:

1. The safety and soundness of the international trust entity's operations located within the home country supervisor's primary jurisdiction; and

2. The safety and soundness of the operations performed by the international trust entity's offices, subsidiaries, or any affiliates that are directly involved in or facilitate the financial services functions, banking, or fiduciary activities of the international trust entity, wherever located.

(b) An international trust entity with no foreign establishments is considered adequately supervised if the home country supervisor can evaluate the safety and soundness of the international trust entity's operations through its offices or subsidiaries located in the home country. For purposes of this paragraph, the home country supervisor is deemed to be able to evaluate the safety and soundness of the international trust entity if the home country supervisor has the authority to collect and maintain information on the following regulatory components:

1. The technical competence and administrative ability of the management of the international trust entity;

2. The adequacy of the operational, accounting, and internal control systems of the international trust entity,

particularly the international trust entity's ability to monitor and supervise the activities of its offices or subsidiaries wherever located;

3. The adequacy of asset management and asset administration policies and procedures;

4. The capital adequacy of the international trust entity, its offices or subsidiaries as specified by any capital adequacy guidelines in the home country;

5. The earnings of the international trust entity; and

6. The external and internal auditors' reports as well as any management comment letters or any documented corrective action by management.

(c) As used in paragraphs (4)(a), (5)(a), and (5)(b), adequate supervision does not require supervision of companies that control the international trust entity or supervision of companies under common control with the international trust entity but that are not in the international trust entity's chain of control. However, in cases where a holding company is the only controlling element in a trust business group, holding company supervision by a home country supervisor shall be required when it is needed to ensure consolidated supervision of all trust business entities in the group.

(d) If a holding company is not supervised, adequate supervision is deemed to exist if the home country supervisor regulates transactions between the international trust entity and controlling persons or entities under common control.

(e) An international trust entity and its offices or subsidiaries is deemed to be adequately supervised if it is subject to comprehensive supervision. For purposes of this

paragraph, comprehensive supervision:

1. Means supervision that ensures that the supervisory processes and procedures are designed to inform the home country supervisor about the international trust entity's financial condition, including capital position; asset management and asset administration; internal controls and audit; compliance with existing laws and regulations; and capability of management.

2. Does not require the home country supervisor to conduct onsite examinations of the international trust entity or its offices or subsidiaries. However, at a minimum, it requires that the home country supervisor:

a. Is able to determine that the international trust entity and its offices and subsidiaries have adequate procedures for monitoring and controlling its domestic and foreign operations;

b. Is authorized to obtain information, by examination, audits or by other means, on the domestic and foreign operations of the international trust entity, including its offices and subsidiaries, and the authority to demand financial reports which permit analysis of the consolidated condition of the international trust entity;

c. Is able to obtain information on the dealings and relationships between the international trust entity and its offices and subsidiaries, wherever located; and

d. Is authorized by the home country's laws to ensure the safety and soundness of the international trust entity and its offices and subsidiaries.

3. Includes the ability and willingness of the home country supervisor to provide the office early notice of any weaknesses

being experienced by the international trust entities, including its offices or subsidiaries wherever located.

4. Includes the ability of the home country supervisor to provide the office assurance of cooperation by both the international trust entity and the home country supervisor.

(6) The office shall process requests made for inclusion under the moratorium as follows:

(a) Upon receipt of any request, the office shall review the information contained therein, and request any additional information to complete the request to qualify for the moratorium within 30 days after receipt. The organization or entity shall provide the requested additional information within 45 days after the receipt of the notice from the office. If the office does not make such request within 30 days after receipt, the request to qualify for the moratorium is deemed complete as of the date it was received.

(b) Within 20 days after receipt of any additional information requested, the office shall deem the request to qualify for the moratorium complete or provide notification to the organization or entity that the information provided does not satisfy the office's request or requests.

(c) Within 90 days after receipt of a completed request to qualify for the moratorium, the office shall confirm with the organization or entity that they are or are not a party to the moratorium.

1. If the office determines that an organization or entity is not a party to the moratorium, the office shall issue a notice of denial informing the organization or entity of its determination. An organization or entity receiving a notice of

denial may request a hearing under chapter 120 to contest the denial.

2. If the office fails to notify the organization or entity within such time whether or not the organization or entity is a party to the moratorium, then the organization or entity is considered a party to the moratorium by operation of law.

(d) During the period of the moratorium, the office may conduct an onsite visitation of an organization or entity to confirm information provided to the office in deeming the organization or entity qualified for the moratorium. If the office finds that the organization or entity made a material false statement in its request to qualify for the moratorium, the office shall issue an immediate final order suspending the organization's or entity's qualification and disqualifying the organization or entity from participating in the moratorium. A material false statement made in the request to qualify for the moratorium constitutes an immediate and serious danger to the public health, safety, and welfare.

Section 3. Section 663.041, Florida Statutes, and the amendments to section 663.01, Florida Statutes, made by this act, are repealed on July 1, 2017.

Section 4. This act shall take effect upon becoming a law.

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 1106
INTRODUCER:	Appropriations Committee (Recommended by Appropriations Subcommittee on General Government); and Senator Flores
SUBJECT:	International Trust Entities
DATE:	March 2, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Knudson	BI	**Favorable**
2.	Betta/Johnson	DeLoach	AGG	**Recommend: Fav/CS**
3.	Betta/Johnson	Kynoch	AP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1106 revises provisions relating to the regulation of international banking activity by the Office of Financial Regulation (OFR).The bill provides the following changes:

- The OFR will delay the enforcement of the licensure requirements under s. 663.04(4), F.S., relating to an organization or entity in Florida providing services to an international trust entity (ITE) that engages in the activities described in s. 663.0625, F.S. The delay in requirements is provided if the organization or entity meets certain regulatory requirements and provides assurances to the OFR. The moratorium would apply to the ITE, which is the off shore entity and the Florida organization or entity that is providing marketing and customer assistance on behalf of the ITE. The moratorium is repealed July 1, 2017.
- Defines the term, "international trust entity," to mean any international trust company, international business, international business organization, or affiliated or subsidiary entities that are licensed, chartered, or similarly permitted to conduct trust business in a foreign country or countries under the laws of which it is organized and supervised.
- Provides the moratorium does not affect the OFR's authority to enforce other provisions of the Financial Institutions Codes.

The bill provides additional duties to the OFR which can be absorbed within existing resources.

The bill takes effect on October 1, 2016.

II. Present Situation:

International Financial Services Market

A longstanding niche market within the international financial services market is the provision of fiduciary (trustee) services required for the implementation of estate, tax, and asset protection planning. These services traditionally have comprised the administration (documentation preparation, accounting, compliance, and accounting) for a trust and its underlying investments. Services such as banking, asset management, and tax advice, are provided by third parties, as described in the following example:[1]

> Example: A family from Latin America purchasing a residence in Florida has a banking relationship with a Florida-based bank and is advised by Florida counsel. To avoid exposure to U.S. estate tax, the family will be advised to own the property through a non-U.S. company, as the shares in the non-U.S. company are not subject to U.S. estate tax. To provide for the family's long-term planning (local and foreign tax laws and political and security risks), the family may be advised to place the shares in the company's foreign trust.[2]

In the above example, responsibility for the administration of the trust and the underlying company is given to a trust company, which provides this service for a fee. The trust company generally will be part of an organization that provides this service in multiple jurisdictions. The trust company does not promote, sell or accept any financial investments, money, or provide depository or custodial accounts. An international trust company representative office may operate as the Florida-based marketing office for the aforementioned fiduciary services provided by a foreign trust company.[3] Because many of the families who establish foreign trusts travel to Miami, the ITCROs may provide a convenient way for these families to monitor the services of the international trust company without having to travel to the jurisdiction where the trust company has its operations.

State Regulation of International Banking Activities

The Office of Financial Regulation (OFR) is charged with regulating depository and non-depository financial institutions and financial service companies. One of the OFR's primary goals is to protect consumers from financial fraud while preserving the integrity of Florida's markets and financial service industries. To achieve this goal, Florida law provides the OFR with regulatory authority over entities regulated under the Financial Institutions Codes. [4]

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[1] Memorandum from McDonald Hopkins LLC on behalf of the Florida International Administrators Association, *International Trust Company Representative Offices,* (Mar. 8, 2015) (on file with Senate Committee on Banking and Insurance).
[2] *Id.*
[3] *Id.*
[4] Financial Institutions Codes include chs. 655 relating to financial institutions generally, 657 relating to banks and trust companies, 660 relating to trust business, 662 family trust companies, 663 relating to international banking, 665 relating to associations, and 657 relating to savings banks.

International Banking Corporations

The OFR regulates international banking corporations[5] that transact business in Florida. Such entities are subject to licensure by the OFR[6] to transact business in Florida. International banking entities enable depository institutions in the United States to offer deposit and loan services to foreign residents and institutions, and are subject to the jurisdiction of the Board of Governors of the Federal Reserve. The OFR does not regulate institutions that are chartered and regulated by foreign jurisdictions, except to the extent that those foreign institutions seek to engage in the banking or trust business in Florida. If foreign institutions do so, they must obtain a Florida charter and comply with the provisions of ch. 663, F.S., and the applicable Financial Institution Codes.

An international banking corporation may operate through a variety of business models, all of which must be licensed.[7] These models include international bank agencies,[8] international representative offices,[9] international trust company representative offices,[10] international administrative offices,[11] and international branches.[12] The definition of "financial institution"[13] includes international bank agency, an international banking corporation, international branch, international representative office, international administrative office, and international trust company representative office.

If an international banking corporation (IBC) wants to operate an office in this state, including an international trust company representative office, the IBC is required to meet minimum licensure requirements, ongoing safety and soundness requirements, and is subject to the examination and enforcement authority of the OFR including state anti-money laundering and anti-terrorism laws. The OFR may not issue a license to an international banking corporation unless it:

- Holds an unrestricted license to conduct trust business in the foreign country under the law of which it is organized and chartered;
- Has been authorized by the foreign country's trust business regulatory authority to establish the proposed international trust representative office;
- Is adequately supervised by the central bank or trust regulatory agency in the foreign country in which it is organized and chartered;[14]

[5] An international banking corporation, such as a foreign commercial bank, foreign merchant bank, or other foreign institution that engages in banking activities usual in connection with the business of banking in the country where such foreign institution is organized or operating. The term also includes foreign trust companies, or any similar business entities, including, but not limited to, foreign banks with fiduciary powers, that conduct trust business as defined in the codes. See Section 663.01(6), F.S.
[6] Sections 663.04 and 663.05, F.S.
[7] Section 663.06(1), F.S.
[8] Section 663.061, F.S.
[9] Section 663.062, F.S.
[10] Section 663.0625, F.S.
[11] Section 663.063, F.S.
[12] Section 663.064, F.S.
[13] Section 655.005(i), F.S.
[14] Section 663.05(9), F.S. requires the OFR to establish general principles to evaluate the adequacy of supervision of an international banking corporation's foreign establishments. These principles must be based upon the need for cooperative supervisory efforts and must address at a minimum, the capital adequacy, asset quality, management, earnings, liquidity, internal controls, audits, and foreign exchange operations and positions of the international banking corporation. *See* Rule 69U-140.003, F.A.C., *Principles of Adequate Supervision of an International Banking Corporation's Foreign Establishment.*

- Meets all requirements under the Financial Institutions Codes for the operation of a trust company or trust department as if it was a state-chartered trust company or bank authorized to exercise fiduciary powers; and
- Meets a minimum capital requirement of $20 million.

Section 663.02, F.S., provides that international banking corporations having offices in Florida are subject to the provisions of ch. 655, F.S., as though such corporations were state banks or trust companies. Further, s. 663.02, F.S., provides that neither an international bank agency nor an international branch shall have any greater right under, or by virtue of s. 663.02, F.S., than is granted to banks organized under the laws of this state. Section 663.02, F.S., provides that it is the intent of the Legislature that the following provisions apply to such entities:

- Section 655.031, F.S., relating to administrative enforcement guidelines;
- Section 655.032, F.S., relating to investigations, subpoenas, hearings, and witnesses;
- Section 655.0321, F.S., relating to hearings, proceedings, related documents, and restricted access;
- Section 655.033, F.S., relating to cease and desist orders;
- Section 655.037, F.S., relating to removal by the office of an officer, director, committee member, employee, or other person;
- Section 655.041, F.S., relating to administrative fines and enforcement; and
- Section 655.50, F.S., relating to the control of money laundering and terrorist financing; and any law for which the penalty is increased under s. 775.31 F.S., for facilitating or furthering terrorism.

International Bank Agencies and International Branches

International bank agencies and international branches are permitted to conduct activities similar to those of a domestic bank. An international bank agency may make and service loans, act as a custodian, furnish investment advice, conduct foreign exchange activities and trade in securities and commercial paper.[15] An international branch has the same rights and privileges as a federally licensed international branch.[16]

International Representative Offices and International Administrative Offices.

International representative offices and international administrative offices perform activities that are more limited. An international representative office may solicit business, provide information to customers concerning their accounts, answer questions, receive applications for extensions of credit and other banking services, transmit documents on behalf of customers, and make arrangements for customers to transact business on their accounts. [17] An administrative office

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The rule provides that the term, "international banking corporation," also includes foreign trust companies. The rule provides that the term, "comprehensive supervision," includes the ability and willingness of the home country supervisor to provide the OFR early notice of any financial weakness being experienced by the international banking corporation, including its offices or subsidiaries. Further, it includes the ability of the home country supervisor to provide the OFR assurance of cooperation by both the international banking corporation and the home country supervisor.

[15] Section 663.061, F.S.

[16] Section 663.064, F.S.

[17] Section 663.062, F.S.

may provide personnel administration, data processing or recordkeeping, and negotiate, approve, or service loans or extensions of credit and investments.[18]

International Trust Company Representative Offices.

An ITCRO is an office of an international banking corporation or trust company organized and licensed under the laws of a foreign country, which is established or maintained in Florida for engaging in non-fiduciary activities described in s. 663.0625, F.S. An ITCRO may also include any affiliate, subsidiary, or other person that engages in such activities on behalf of such international banking corporation or trust company from an office located in Florida.[19]

The ITCROs are not banks and may not accept deposits or make loans. The activities of a licensed ITCRO are limited to engaging in the following non-fiduciary activities that are ancillary to the trust business of the international banking corporation:

- Advertising, marketing, and soliciting for fiduciary business on behalf of an international banking corporation or trust company;
- Contacting existing or potential customers;
- Answering questions and providing information about matters related to customer accounts;
- Serving as a liaison in Florida between the international banking corporation or trust company and its existing or potential customers (e.g., forwarding requests for distribution or changes in investment objectives, or forwarding forms and funds received from the customer); and
- Such other activities as may be approved by the OFR or rules of the Financial Services Commission.[20]

As of February 2016, there are no ITCROs licensed with the OFR; however, two international administrative offices, ten international bank agencies, six international representative offices, and six international bank branches are licensed with the OFR.[21]

2010 Legislation

In 2010, legislation[22] was enacted to establish the OFR's oversight responsibilities of "offshore" international non-depository trust companies that wanted to maintain an ITCRO in Florida and to address issues posed by shadow banking activities conducted by unregulated entities in Florida that present a high risk of allowing money laundering, terrorist financing, and other illicit activities.[23] The legislation defined the ITCRO entity and established the licensing and regulatory requirements for these entities under the OFR. This legislation was due, in part, to the exposure of the $8 billion dollar Ponzi scheme perpetrated by Allen Stanford.

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[18] Section 663.063, F.S.
[19] Section 663.01(9), F.S.
[20] Section 663.0625, F.S.
[21] Office of Financial Regulation, *Financial Institution Search*, at https://real.flofr.com/ConsumerServices/FinancialInstitutions/InstSrch.aspx (last visited February 20, 2016).
[22] Ch. 2010-9, Laws of Fla.
[23] Office of Financial Regulation, *2016 Agency Legislative Bill Analysis, SB 1106* (Jan. 19, 2016) (on file with the Senate Committee on Banking and Insurance).

Allen Stanford controlled an international group of privately held financial services companies under the umbrella organization Stanford Financial Group, which included Stanford Trust Company Limited (Stanford Trust), a non-depository trust company organized under the laws of Antigua and Barbuda. In late 1998, the Division of Banking within the Department of Banking and Finance[24] entered into a memorandum of understanding (MOU)[25] with the Stanford Trust. This MOU allowed the Stanford Trust to establish a trust representative office in Florida, and delineated permissible and impermissible activities.

In this particular Ponzi scheme, certificates of deposits that promised above market rate returns were sold to customers of the Stanford Financial Group through offices in the United States and abroad with the sales of new accounts being used to fund payments on older certificates and fund Stanford's business operations and lifestyle. Because Florida law did not address representative offices of international non-depository trust companies at that time, Mr. Stanford was able to facilitate his scheme in Florida through the establishment of a representative office of Stanford Trust Company Limited in Miami, Florida. Stanford International Bank, LTD issued the certificates of deposit used to facilitate the scheme, which was also located in Antigua. The scheme is alleged to have involved over 30,000 clients in 136 countries on six continents.

The Financial Action Task Force

The Financial Action Task Force (FATF) is the global standard setting body for anti-money laundering and combating the financing of terrorism (AML/CFT).[26] The FATF identifies jurisdictions that have strategic deficiencies and works with them to address those deficiencies that pose a risk to the international financial system, thereby protecting the international financial system from money laundering and financing of terrorism risks and encouraging greater compliance with the AML/CFT standards.

III. Effect of Proposed Changes:

Sections 1 and 2 amend s. 663.01, F.S., and create s. 663.041, F.S., to impose a moratorium on the OFR's enforcement of ch. 663.04(4), F.S., with respect to the licensure of an organization or entity in Florida providing services to an international trust entity (ITE) that engages in the international trust company representative office (ITCRO) activities described in s. 663.0625, F.S., if certain conditions are met. Further, the moratorium includes any employee or person who manages or controls such an organization or entity that engages in the ITCRO activities. The moratorium is effective until June 30, 2017, for any Florida organization or entity and the ITE. An ITE is defined to mean an international trust company, an international business, an international business organization, or an affiliated or subsidiary entities that is licensed, chartered, or similarly permitted to conduct trust business in a foreign country or countries under the laws of which it is organized and supervised.

[24] Predecessor of the Division of Financial Institutions of the Office of Financial Regulation. *See* ch. 2003-361, Laws of Fla.
[25] State of Florida, Department of Banking and Finance and Stanford Trust Company Limited, Memorandum of Agreement (Dec. 1998) (on file with Senate Committee on Banking and Insurance).
[26] Members of the FATF include 34 member jurisdictions (including the United States) and 2 regional organizations. See http://www.fatf-gafi.org/home/ (last visited Jan. 20, 2016).

Eligibility Requirements for Moratorium

The moratorium on the enforcement of licensing requirements applies to any person who manages or controls or is employed by an organization or entity providing services to an ITE that engages in ITCRO activities that:

- Has been organized to conduct business in Florida before October 1, 2013;
- Has not been fined or sanctioned as a result of any complaint with the OFR or any other state or federal regulatory agency;
- Has not been convicted of a felony or ordered to pay a fine or penalty in any proceeding initiated by any local, state, foreign law enforcement or international agency within ten years before the effective date of the moratorium;
- Has not had any of its directors, executive directors, principal shareholders, or managers or employees arrested for, charged with, convicted of, or pled guilty or nolo contendere to, regardless of adjudication, any offense that is punishable by imprisonment for one year or more, or to any offense involving money laundering, tax evasion, fraud, or that is otherwise related to the operation of a financial institution within ten years before the effective date of this section;
- Does not provide any services to any ITE that is in in bankruptcy, conservatorship, receivership, liquidation, or similar status under the laws of any country;
- Does not provide banking services or promote or sell investments or accept custody of assets;
- Does not act as a fiduciary, including but not limited to, accepting the fiduciary appointment, executing the fiduciary documents that create the fiduciary relationship, make discretionary decisions regarding the investment or distribution of fiduciary accounts; and,
- Conducts those activities permissible for an ITCRO, as described in s. 663.0625, F.S.

Application Process for the Moratorium

An organization or entity that requests to qualify for this moratorium must notify the OFR in writing by July 1, 2016, and provide:

- Written proof the business has been organized and doing business in Florida before October 1, 2013;
- Name or names under which it conducts business in Florida;
- Address of its locations from which it conducts business and a detailed description of the activities being conducted at the locations;
- Name of each ITE, the country it is organized, and its officers and directors for which the organization or entity provides services in Florida.

The organization or entity must also provide assurance about each of these ITEs including that the ITE:

- Has authority to engage in trust business;
- Is in good standing and lawfully exists under the laws of the jurisdiction it is authorized;
- Is not in bankruptcy, or similar status; and
- Is not operating under the direct control of the government or other regulatory authority within seven years before the date of the moratorium notification to the OFR.

The organization or entity must include with the required information a declaration under penalty of perjury signed by the executive officer or managing member that the information provided to the OFR is true and correct to the best of his or her knowledge.

The OFR's Role and Authority

Processing Requests for Moratorium

In processing a request to qualify for the moratorium, the OFR must confirm the following information provided by an organization, entity or the ITE:

- Each ITE is adequately supervised by the appropriate regulatory authority that has similar responsibilities in the foreign country in which it is organized, chartered or licensed, or has similar authorization by operation of law. An ITE with foreign establishments is considered to be adequately supervised if it is subject to consolidated supervision. Consolidated supervision is supervision which enables the appropriate regulatory authority, or equivalent or other similarly sanctioned body, organization, governmental entity or recognized authority that has similar responsibilities of the home country, to evaluate the safety and soundness of the ITE operations. Further, the bill provides additional requirements relating to adequate supervision.
- An ITE (including its officers or subsidiaries) is considered adequately supervised if it is subject to comprehensive supervision. The bill provides that comprehensive supervision is supervision that ensures the supervisory processes and procedures are designed to inform the home country supervisor about the ITE's financial condition, including capital position; asset management and asset administration; internal controls and audit; compliance with existing laws and regulations; and the capability of management. The bill provides additional requirements relating to comprehensive supervision.
- The jurisdiction of the ITE or its offices, subsidiaries, or any affiliates that are directly involved in or facilitate the financial services functions, banking, or fiduciary activities of the ITE, is not listed on the Financial Action Task Force Public Statement or on its list of jurisdictions with deficiencies in anti-money laundering or counterterrorism.

Upon receipt of a moratorium request, the OFR will review the information and request any additional information to complete the request for the moratorium within 30 days after receipt. The organization or entity must provide the additional information within 45 days after the receipt of the notice from the OFR. If the OFR does not request the additional information within 30 days after receipt, the moratorium request is deemed complete as of the date it was received. Within 20 days after receipt of any additional information requested, the OFR must deem the request complete or provide notification to the organization or entity that the information provided does not satisfy the OFR's request.

Within 90 days after receipt of a completed notification, the OFR must confirm with the organization or entity if they are or are not a party to the moratorium. If the OFR fails to notify the organization or entity within the 90 days whether the organization or entity is a party to the moratorium, then the organization or entity is considered a party to the moratorium.

Enforcement Authority

During the moratorium period, the OFR may conduct an onsite visitation of an organization or entity operating in Florida to confirm information provided to the OFR in deeming the organization or entity qualified for the moratorium. If the OFR finds that the organization or entity made a material misstatement in its request to qualify for the moratorium, the OFR must issue an immediate final order suspending the qualification of the organization or entity.

The bill provides that the moratorium does not affect the OFR's authority to otherwise enforce the Financial Institutions Codes.

Section 3 repeals s. 663.041, F.S., and the amendments to s. 663.01, F.S., July 1, 2017.

Section 4 provides the bill will take effect on 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:

The impact of CS/SB 1106 is indeterminate. The bill provides a moratorium on the OFR enforcement of licensure requirements on Florida-based onshore entities engaging in marketing, and other ITCRO activities described under s. 663.0625, F.S., on behalf of ITEs until June 30, 2017. The moratorium would apply to the Florida-based entity and the ITE.[27] An estimated 12 to 15 organizations or entities may qualify for the moratorium. [28]

[27] Email from M. Hinshelwood, Office of Financial Regulation (Feb. 24, 2016) (on file with the Senate Committee on Banking and Insurance).
[28] Telephone interview with J. Mongiovi, Office of Financial Regulation (Feb. 19, 2016) (on file with the Senate Committee on Banking and Insurance). The Florida International Administrators Association provided the estimate to the OFR.

C. Government Sector Impact:

While the bill provides additional duties associated with the moratorium process for the OFR, no additional funds are needed to fulfill this workload.[29]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 663.01 of the Florida Statutes.

This bill creates section 663.041 of the Florida Statutes.

IX. Additional Information:

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

CS by Appropriations on March 1, 2016:
The committee substitute creates a moratorium on the OFR's enforcement of ch. 663, F.S., with respect to the licensure of an organization or entity in Florida providing services to an international trust entity that engages in ITCRO activities and the offshore international trust entity if certain conditions are met. The moratorium is repealed July 1, 2017.

The committee substitute removes provisions creating the Limited Purpose International Trust Company licensure and regulatory program within the OFR.

B. Amendments:

None.

[29] Email from J. Mongiovi, Office of Financial Regulation (Feb. 22, 2016) (on file with the Senate Banking and Insurance Committee).

By Senator Flores

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A bill to be entitled

An act relating to limited purpose international trust company representative offices; amending s. 663.01, F.S.; defining terms; amending ss. 655.966 and 662.111, F.S.; conforming cross-references; amending s. 663.02, F.S.; providing applicability of state banking laws to limited purpose international trust company representative offices; amending s. 663.03, F.S.; revising applicability of certain acts; creating s. 663.045, F.S.; exempting a limited purpose international trust company representative office from licensing requirements; requiring certain entities to be registered; specifying required information on an application for registration; requiring a sworn statement by a specified person affirming certain statements; specifying procedures for the Office of Financial Regulation to review an application; requiring the office to register an applicant if certain criteria are satisfied; specifying procedures for incomplete or deficient applications; specifying time limits for the office to approve or deny an application; specifying procedures for the office to deny an application; requiring an applicant to provide the office with a specified fidelity bond; specifying the duration of a registration; providing that the office is not responsible for examining certain entities regarding the safety and soundness of their operations; providing applicability; amending s. 120.80, F.S.; exempting applications for registration of limited purpose international trust company representative offices from certain provisions of ch. 120, F.S.; creating s. 663.046, F.S.; providing

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procedures and a fee for registration renewals; providing applicability; amending s. 663.055, F.S.; specifying capital requirements for a limited purpose international trust company representative office; creating s. 663.057, F.S.; specifying certain requirements for a limited purpose international trust company representative office; creating s. 663.058, F.S.; requiring a limited purpose international trust company representative office to procure and maintain a specified fidelity bond to indemnify against certain loss; providing fidelity bond requirements for an applicant; providing certain requirements for a corporate surety; requiring a limited purpose international trust company representative office to procure and maintain specified liability insurance coverage to cover certain acts and omissions; amending s. 663.0625, F.S.; specifying permissible and prohibited activities by a limited purpose international trust company representative office and by certain employees; requiring a specified written disclosure; amending s. 663.09, F.S.; requiring a limited purpose international trust company representative office to file specified reports with the office; requiring a limited purpose international trust company representative office to notify the office, on a specified form and within a specified time, of certain events; authorizing the office to conduct an investigation of a limited purpose international trust company representative office;

creating s. 663.095, F.S.; providing grounds for which the office may revoke the registration of a limited purpose international trust company representative office; specifying procedures for the office to revoke a registration; authorizing the office to seek a court order to annul or dissolve a limited purpose international trust company under certain circumstances; creating s. 663.096, F.S.; authorizing the office to issue and serve a complaint for a cease and desist order based on certain violations; specifying procedures for the issuance of a cease and desist order and for contesting the office's action; specifying procedures for the issuance of an emergency cease and desist order; providing requirements for a limited purpose international trust company representative office to wind up its affairs after entry of an order; authorizing the office to seek a court order to annul or dissolve a limited purpose international trust company representative office under certain circumstances; creating s. 663.115, F.S.; providing requirements for a limited purpose international trust company representative office discontinuing its business; amending s. 663.12, F.S.; specifying fees for registration and conversion to or from a license; providing an effective date.

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

Section 1. Present subsections (1) through (9) of section

663.01, Florida Statutes, are redesignated as subsections (2) through (10), respectively, present subsections (10) and (11) of that section are redesignated as subsections (12) and (13), respectively, and new subsections (1) and (11) are added to that section, to read:

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

(1) "Affiliated international trust company" means an international trust company that is a member of the same business organization as a limited purpose international trust company representative office and that does not provide depository, investment management, or brokerage services in conjunction with its trust business. An affiliated international trust company is not an international banking corporation as defined in subsection (7).

(11) "Limited purpose international trust company representative office" means an office organized under the laws of this state and registered and maintained in this state for the purpose of engaging in nonfiduciary activities described in s. 663.0625(2), and which is not licensed as an international trust company representative office.

Section 2. Paragraph (a) of subsection (2) of section 655.966, Florida Statutes, is amended to read:

655.966 Automated teller machine; surcharge disclosure.—

(2)(a) Subject to the requirements of subsection (1), an agreement to operate or share an automated teller machine may not prohibit, limit, or restrict the right of the operator or owner of an automated teller machine, as defined in s. 655.960(3), to charge an access fee or surcharge, not otherwise prohibited under state or federal law, to a customer conducting

a transaction using an account from an international banking corporation as defined in s. 663.01(7) ~~s. 663.01(6)~~.

Section 3. Paragraph (e) of subsection (15) of section 662.111, Florida Statutes, is amended to read:

662.111 Definitions.—As used in this chapter, the term:

(15) "Foreign licensed family trust company" means a family trust company that:

(e) Is not owned by, or a subsidiary of, a corporation, limited liability company, or other business entity that is organized in or licensed by any foreign country as defined in s. 663.01(4) ~~s. 663.01(3)~~.

Section 4. Subsection (3) is added to section 663.02, Florida Statutes, to read:

663.02 Applicability of state banking laws.—

(3)(a) If a limited purpose international trust company representative office limits its activities to the activities authorized under s. 663.0625, other sections of the financial institutions codes do not apply to it except as otherwise expressly provided in this chapter.

(b) A limited purpose international trust company representative office is a financial institution solely for purposes of the applicability of s. 655.012, relating to general supervisory powers and rulemaking, and s. 655.057, relating to records and limitations on public access to records, except if it appears from the context that such provisions are clearly applicable only to banks or trust companies organized under the laws of this state.

(c) This section does not limit the office's authority to investigate an entity to ensure that it does not violate this

chapter or applicable provisions of the financial institutions codes.

Section 5. Section 663.03, Florida Statutes, is amended to read:

663.03 Applicability of the Florida Business Corporation Act and the Florida Revised Limited Liability Company Act.—Notwithstanding ss. 605.0102(25) and (26) and 607.01401(12) ~~s. 607.01401(12)~~, the provisions of chapter 605 and of part I of chapter 607 not in conflict with the financial institutions codes which relate to foreign limited liability companies or foreign corporations apply to all international banking corporations and their offices doing business in this state and to limited purpose international trust company representative offices.

Section 6. Section 663.045, Florida Statutes, is created to read:

663.045 Registration of a limited purpose international trust company representative office; application for registration; approval or disapproval.—

(1) A limited purpose international trust company representative office is not required to obtain a license under this chapter. However, a limited purpose international trust company representative office is required to be registered with the office if it transacts limited purpose international trust company representative office business in this state or maintains in this state any office for carrying on such business. An affiliate, subsidiary, or other person or business entity acting as an agent for, on behalf of, or for the benefit of such limited purpose international trust company

representative office, which engages in such activities in this state or maintains in this state any office for carrying on such business, is also required to be registered with the office.

(2) A person required to be registered under subsection (1) shall register with the office on forms prescribed by the office and provide the following information in English:

(a) The name of the proposed limited purpose international trust company representative office, which need not be in English.

(b) A copy of the articles of incorporation or articles of organization and the bylaws or operating agreement of the proposed limited purpose international trust company representative office.

(c) The physical address and mailing address of the proposed limited purpose international trust company representative office, which must be located in this state.

(d) A statement describing in detail the activities of the proposed limited purpose international trust company representative office.

(e) The name and biographical information of each individual who will initially serve as a director, an officer, a manager, or a member acting in a managerial capacity of the proposed limited purpose international trust company representative office.

(f) The name of the business organization to which the limited purpose international trust company representative office belongs, together with such biographical information as the commission or office may reasonably require by rule for each person who, together with related interests as defined in s.

655.005(1), owns or controls, directly or indirectly, 25 percent or more of the voting stock or nonvoting stock that is convertible into voting stock of the proposed limited purpose international trust company representative office.

(g) The regulatory authorities that any affiliated international trust company is subject to and proof of good standing with such regulatory authorities. Such proof must be translated into English if written in another language.

(h) The amount of the initial capital account of the proposed limited purpose international trust company representative office and the form in which the capital was paid and will be maintained, as stated in a review conducted by an independent certified public accountant licensed in this state.

(i) The type and amount of bonds or insurance that will be procured and maintained by the proposed limited purpose international trust company representative office pursuant to s. 663.058.

(j) A sworn statement signed by an executive officer of the applicant affirming that the following statements are true:

1. The proposed limited purpose international trust company representative office is not providing depository, investment management, or fiduciary services and is providing only the permissible activities as authorized in s. 663.0625(2).

2. No director, officer, manager, or member of the proposed limited purpose international trust company representative office or of any affiliated international trust company served as a director, an officer, a manager, or a member acting in a managerial capacity for an international trust company representative office, an affiliated international trust

company, or a financial institution that was licensed under the financial institutions codes, or by the Federal Government or any other state, the District of Columbia, a territory of the United States, or a foreign country, had that license suspended or revoked within 10 years preceding the date of the application.

3. No director, officer, or manager of, or member acting in a managerial capacity for, the proposed limited purpose international trust company representative office or an affiliated international trust company has been convicted of, or pled guilty or nolo contendere to, regardless of whether adjudication of guilt was entered by the court, or has been the subject of a civil penalty imposed for, a violation of the financial institutions codes, including s. 655.50, chapter 896, or similar state or federal law or related rule, or a crime involving fraud, misrepresentation, or moral turpitude.

4. No director, officer, or manager of, or member acting in a managerial capacity for, the proposed limited purpose international trust company representative office or affiliated international trust company has had a professional license suspended or revoked within the 10 years preceding the date of the application.

5. All information contained in the application is true and correct to the best knowledge of the executive officer signing the sworn statement on behalf of the proposed limited purpose international trust company representative office.

(k) Any other information that is consistent with this section, as required by commission rule.

(3) Upon the filing of the registration application by the

limited purpose international trust company representative office, the office shall conduct an investigation to confirm:

(a) That the persons who will serve as directors or officers of the corporation or, if the applicant is a limited liability company, managers or members acting in a managerial capacity, have not:

1. Been convicted of, or entered a plea of nolo contendere to, a crime involving fraud, misrepresentation, or moral turpitude;

2. Been convicted of, entered a plea of nolo contendere to, or been the subject of a civil penalty imposed for, a violation of the financial institutions codes, including s. 655.50, chapter 896, or similar state or federal law;

3. Been directors, officers, managers, or members of a trust company or financial institution licensed or chartered under the financial institutions codes or by the Federal Government or any other state, the District of Columbia, a territory of the United States, or a foreign country and whose license or charter was suspended or revoked within the 10 years preceding the date of the application;

4. Had a professional license suspended or revoked within the 10 years preceding the date of the application; or

5. Made a false statement of material fact on the application.

(b) That capital accounts of the proposed limited purpose international trust company conforming to s. 663.055(5) will be established and that fidelity bonds and general liability insurance coverage required under s. 663.058 will be issued and effective as of the date the limited purpose international trust

company representative office commences operations.

(c) That each affiliated international trust company with which it intends to engage in the activities authorized under s. 663.0625 is in good standing with the relevant regulatory body that supervises the activity of such international trust company.

(d) That the jurisdiction in which each affiliated international trust company is organized and chartered is not currently listed on the Financial Action Task Force Public Statement or on its list of jurisdictions with deficiencies in anti-money laundering or counter-terrorist financing.

(4) If the investigation required under this section confirms that the applicant has met the requirements of ss. 663.055(5), 663.057, and 663.058, and that the criteria in subsection (3) have been satisfied, the office shall register the applicant to operate as a limited purpose international trust company representative office.

(5) If the registration application is incomplete or the office is unable to verify the information provided with the application, the office shall notify the applicant in writing, and the applicant shall have 30 days after receipt of such notification to provide the required information. The office shall deny the application if the applicant fails to timely provide such information.

(6)(a) Notwithstanding chapter 120, an application may be returned to the applicant on a one-time basis for correction of substantial deficiencies and may be resubmitted without payment of an additional fee if the applicant resubmits the application within 60 days after the date the office returns the

application.

(b) With respect to affiliated international trust companies, if some but not all of the criteria in paragraphs (3)(c) and (d) are met, the applicant may resubmit the application without the affiliated international trust companies that do not meet the criteria, and the office shall permit registration conditioned on the limited purpose international trust company representative office not conducting activities authorized in this state under s. 663.0625 with respect to any such affiliated international trust companies that are removed from the application.

(7) Notwithstanding s. 120.60(1), an application for registration of a limited purpose international trust company representative office must be approved or denied within 180 days after receipt of the original application or receipt of the timely requested additional information or correction of errors or omissions. An application for registration not approved or denied within the 180-day period shall be deemed approved subject to the satisfactory completion of conditions required by statute as a prerequisite to registration and approval of insurance coverage by the appropriate insurer.

(8) If the office determines the criteria in subsection (3) have not been met, the office must provide the applicant with a notice of its intent to deny registration and of the applicant's right to request a hearing pursuant to ss. 120.569 and 120.57.

(9) Before the office may grant approval of a registration, the applicant must provide to the office a fidelity bond that meets the requirements of s. 663.058.

(10) A registration under this chapter shall be valid for 1

year after its effective date.

(11) The office is not responsible for examining a limited purpose international trust company representative office or an affiliated international trust company regarding the safety and soundness of its operations.

(12) A company in operation as of October 1, 2016, which meets the definition of a limited purpose international trust company representative office and is not otherwise licensed under this chapter must apply for registration as a limited purpose international trust company representative office on or before December 30, 2016, or cease doing business in this state.

Section 7. Subsection (3) of section 120.80, Florida Statutes, is amended to read:

120.80 Exceptions and special requirements; agencies.—

(3) OFFICE OF FINANCIAL REGULATION.—

(a) Notwithstanding s. 120.60(1), in proceedings for the issuance, denial, renewal, or amendment of a license or registration or approval of a merger pursuant to title XXXVIII:

1.a. The Office of Financial Regulation of the Financial Services Commission shall have published in the Florida Administrative Register notice of the application within 21 days after receipt.

b. Within 21 days after publication of notice, any person may request a hearing. Failure to request a hearing within 21 days after notice constitutes a waiver of any right to a hearing. The Office of Financial Regulation or an applicant may request a hearing at any time before ~~prior to~~ the issuance of a final order. Hearings shall be conducted pursuant to ss. 120.569 and 120.57, except that the Financial Services Commission shall

by rule provide for participation by the general public.

2. Should a hearing be requested as provided by sub-subparagraph 1.b., the applicant, ~~or~~ licensee, or registrant shall publish at its own cost a notice of the hearing in a newspaper of general circulation in the area affected by the application. The Financial Services Commission may by rule specify the format and size of the notice.

3. Notwithstanding s. 120.60(1), and except as provided in subparagraph 4., an application for license or registration for a new bank, new trust company, new credit union, new savings and loan association, ~~or~~ new licensed family trust company, or new limited purpose international trust company representative office must be approved or denied within 180 days after receipt of the original application or receipt of the timely requested additional information or correction of errors or omissions. An application for such a license or registration or for acquisition of such control which is not approved or denied within the 180-day period or within 30 days after conclusion of a public hearing on the application, whichever is later, shall be deemed approved subject to the satisfactory completion of conditions required by statute as a prerequisite to license or registration and approval of insurance of accounts for a new bank, a new savings and loan association, a new credit union, ~~or~~ a new licensed family trust company by the appropriate insurer, or a new limited purpose international trust company representative office.

4. In the case of an application for license to establish a new bank, trust company, or capital stock savings association in which a foreign national proposes to own or control 10 percent

or more of any class of voting securities, and in the case of an application by a foreign national for approval to acquire control of a bank, trust company, or capital stock savings association, the Office of Financial Regulation shall request that a public hearing be conducted pursuant to ss. 120.569 and 120.57. Notice of such hearing shall be published by the applicant as provided in subparagraph 2. The failure of such foreign national to appear personally at the hearing shall be grounds for denial of the application. Notwithstanding s. 120.60(1) and subparagraph 3., every application involving a foreign national shall be approved or denied within 1 year after receipt of the original application or any timely requested additional information or the correction of any errors or omissions, or within 30 days after the conclusion of the public hearing on the application, whichever is later.

(b) In any application for a license, registration, or merger pursuant to title XXXVIII which is referred by the agency to the division for hearing, the administrative law judge shall complete and submit to the agency and to all parties a written report consisting of findings of fact and rulings on evidentiary matters. The agency shall allow each party at least 10 days in which to submit written exceptions to the report.

Section 8. Section 663.046, Florida Statutes, is created to read:

663.046 Renewal of registration of a limited purpose international trust company representative office.—

(1) Within 45 days before the expiration of the registration, a limited purpose international trust company representative office shall file its annual renewal application

with the office on a form prescribed by the commission. The renewal application must include a sworn declaration by an executive officer of the limited purpose international trust company representative office which:

(a) Attests that the limited purpose international trust company representative office has operated in full compliance with this chapter, chapter 896, or similar state or federal law, or any related rule or regulation, and with all federal laws and regulations that apply to any client of the affiliated international trust company for whom it has conducted activities authorized under s. 663.0625(2).

(b) Describes any material changes to the information provided under s. 663.045 regarding its operations, principal place of business, directors, officers, managers, or members acting in a managerial capacity or any affiliated international trust company since the date of registration.

(c) Demonstrates that the minimum requirements for capital and insurance have been met, as stated in a review prepared by an independent certified public accountant licensed in this state.

(2) A fee of $1,500 must be submitted with the annual renewal application for registration of a limited purpose international trust company representative office. All fees received by the office pursuant to this section shall be deposited into the Financial Institutions' Regulatory Trust Fund pursuant to s. 655.049 for the purpose of administering the provisions of this chapter with respect to registration of limited purpose international trust company representative offices.

(3) The provisions of s. 663.045 relating to conduct of the investigation and issuance or denial of registration apply to a registration renewal under this section.

Section 9. Subsection (4) of section 663.055, Florida Statutes, is amended, and subsection (5) is added to that section, to read:

663.055 Capital requirements.—

(4) For the purpose of this part, the capital accounts of an international banking corporation and a limited purpose international trust company representative office shall be determined in accordance with rules adopted by the commission. In adopting such rules, the commission shall consider similar rules adopted by bank regulatory agencies in the United States and the need to provide reasonably consistent regulatory requirements for international banking corporations which will maintain the safe and sound condition of international banking corporations doing business in this state.

(5) A limited purpose international trust company representative office may not be organized or operated with a capital account containing less than $100,000. Such capital shall be in the form of cash or cash equivalents.

Section 10. Section 663.057, Florida Statutes, is created to read:

663.057 Requirements for a limited purpose international trust company representative office.—A limited purpose international trust company representative office shall maintain:

(1) A principal office physically located in this state where original or true copies of all records and accounts of the

limited purpose international trust company representative office may be accessed and made readily available for examination by the office in accordance with this chapter. A limited purpose international trust company representative office may also maintain one or more branch offices within this state and shall notify the office in writing at least 30 days before the establishment of such branch offices.

(2) A registered agent who has an office in this state at the street address of the registered agent.

(3) All applicable state and local business licenses, charters, and permits.

(4) A deposit account with a state-chartered or national financial institution that has a principal or branch office in this state.

(5) At least one director or manager who is a resident in this state.

Section 11. Section 663.058, Florida Statutes, is created to read:

663.058 Fidelity bonds; insurance.—

(1) A limited purpose international trust company representative office shall procure and maintain a fidelity bond on all active officers, directors, managers, members acting in a managerial capacity, and employees of the company, regardless of whether they receive a salary or other compensation from the company, in order to indemnify the company against loss because of a dishonest, fraudulent, or criminal act or an omission on the part of any such persons, whether acting alone or in combination with other persons.

(2) The fidelity bond required by this section:

(a) Must be issued by an insurer authorized to do business in this state.

(b) May not be less than $500,000.

(c) Must be in a form satisfactory to the office and shall run to the state for the benefit of any claimants in this state against the applicant to secure the faithful performance of the obligations of the applicant regarding the receipt, handling, and transmission of information and documents provided to the applicant. The aggregate liability of the fidelity bond may not exceed the principal sum of the bond. Claimants against the applicant may bring suit directly on the fidelity bond, or the Department of Legal Affairs may bring suit on behalf of the claimants.

(d) May not be cancelled by the applicant or the corporate surety except upon written notice to the office by registered mail. A cancellation may not take effect until 30 days after receipt by the office of the written notice.

(3) The corporate surety must, within 10 days after it pays a claim, give written notice to the office by registered mail of the payment with details sufficient to identify the claimant and the claim or judgment paid.

(4) If the principal sum of the bond is reduced by one or more recoveries or payments, the applicant must furnish a new or additional bond so that the total or aggregate principal sum of the bond equals the sum required in paragraph (2)(b). Alternatively, an applicant may furnish an endorsement executed by the corporate surety reinstating the bond to the required principal sum.

(5) The limited purpose international trust company

representative office shall also procure and maintain general liability insurance coverage under a corporate or group policy with a minimum of $1 million per occurrence and a policy period aggregate limit of $3 million in which it is listed as an insured, to cover the acts and omissions of officers, directors, managers, members acting in a managerial capacity, and employees, regardless of whether the person receives a salary or other compensation from the company.

Section 12. Section 663.0625, Florida Statutes, is amended to read:

663.0625 International trust company representative offices and limited purpose international trust company representative offices; permissible activities~~; requirements~~.—

(1) An international trust company representative office may not act as a fiduciary, but may conduct any nonfiduciary activities that are ancillary to the fiduciary business of its international banking corporation or trust company, which ~~but may not act as a fiduciary. Permissible activities~~ include:

(a) Advertising, marketing, and soliciting for fiduciary business on behalf of an international banking corporation or trust company;

(b) Contacting existing or potential customers, answering questions, and providing information about matters related to their accounts;

(c) Serving as a liaison in this state between the international banking corporation or trust company and its existing or potential customers; and

(d) Engaging in any other activities approved by the office or under rules of the commission.

(2) A limited purpose international trust company representative office that registers pursuant to s. 663.045 may conduct any of the following activities:

(a) Participate in or attend conferences, seminars, or events that are intended for industry or professional participants and are not advertised to the general public, for the purposes of marketing the services of an affiliated international trust company.

(b) Market the services of an affiliated international trust company to lawyers, accountants, banks, licensed financial advisors, and other wealth planning professionals who are licensed by a state, federal, or territorial government or certified by a recognized professional accrediting entity.

(c) In connection with the authorized activities described in paragraphs (a) and (b), engage in name-recognition or branding activities in the form of signage or promotional materials that use the name of the affiliated international trust company or the name of the business organization of which the affiliated international trust company is a member.

(d) Assist clients or referred prospective clients of the affiliated international trust company in communicating with the affiliated international trust company, completing documentation relating to the trust relationship, and obtaining information about matters related to trusts with which they are or may become associated. However, a limited purpose international trust company representative office under this subsection may not have authority to accept such clients on behalf of the affiliated international trust company and may not otherwise bind the affiliated international trust company.

(e) Exercise the powers of a corporation under chapter 607 or a limited liability company under chapter 605 which are reasonably necessary to enable it to fully exercise a power enumerated in this section or authorized by this chapter.

(f) Engage in any other activities consistent with this section, as prescribed by commission rule.

(3)(a) ~~Representatives and~~ Employees, officers, or directors at an international trust company representative office or a limited purpose international trust company representative ~~such~~ office may not act as a fiduciary, accept ~~including, but not limited to, accepting~~ the fiduciary appointment, execute ~~executing~~ the fiduciary documents that create the fiduciary relationship, or make ~~making~~ discretionary decisions regarding the investment or distribution of fiduciary accounts.

(b) A limited purpose international trust company representative office may not accept custody of any property of the client of the affiliated international trust company on behalf of the affiliated international trust company and may not deliver such property to the affiliated international trust company.

(c) A limited purpose international trust company representative office may not solicit business from the general public on behalf of its affiliated international trust company in this state or advertise its services to the general public in this state. This paragraph does not limit a limited purpose international trust company representative office's authorized activities under subsection (2).

(d) A limited purpose international trust company

representative office may not use the words "bank," "trust," or the name of an affiliated international trust company as part of its company or fictitious name.

(e) A limited purpose international trust company representative office may not market to or discuss the services of an affiliated international trust company with any person who has not previously been referred to it by a professional described in paragraph (2)(b) or who is an existing client of an affiliated international trust company.

(4) A limited purpose international trust company representative office shall provide the following written disclosure to a prospective or existing client of its affiliated international trust company: "...(The name of the limited purpose international trust company representative office)... and any affiliated international trust companies are not licensed or authorized to conduct the trust or fiduciary business in Florida." The commission may establish by rule criteria for the size and font of the required disclosure.

Section 13. Section 663.09, Florida Statutes, is amended to read:

663.09 Reports; records; significant events; investigations.—

(1) An international banking corporation doing business in this state shall, at such times and in such form as the commission prescribes, make written reports in the English language to the office, under the oath of one of its officers, managers, or agents transacting business in this state, showing the amount of its assets and liabilities and containing such other matters as the commission or office requires. An

international banking corporation that maintains two or more offices may consolidate such information in one report unless the office otherwise requires for purposes of its supervision of the condition and operations of each such office. The late filing of such reports is subject to an administrative fine as prescribed under s. 655.045(2). If such international banking corporation fails to make such report, as directed by the office, or if such report contains a false statement knowingly made, the same shall be grounds for revocation of the license of the international banking corporation.

(2) The international banking corporation of each state-licensed international bank agency or international branch shall perform or cause to be performed an audit of such international bank agency or international branch. The commission shall, by rule, prescribe the minimum audit procedures including the audit reporting requirements which would satisfy the provisions of this subsection.

(3) Each international banking corporation which operates an office licensed under this part shall cause to be kept, at a location accepted by the office:

(a) Correct and complete books and records of account of the business operations transacted by such office. All policies and procedures governing the operations of such office, as well as any existing general ledger or subsidiary accounts, shall be maintained in the English language. The office may require that any other document not written in the English language which the office deems necessary for the purposes of its regulatory and supervisory functions be translated into English at the expense of the international banking corporation.

(b) Current copies of the charter and bylaws of the international banking corporation, relative to the operations of the office, and minutes of the proceedings of its directors, officers, or committees relative to the business of the office. Such records shall be kept pursuant to s. 655.91 and shall be made available to the office, upon request, at any time during regular business hours of the office. Any failure to keep such records as aforesaid or any refusal to produce such records upon request by the office shall be grounds for suspension or revocation of any license issued under this part.

(4) In addition to any other reports it may be required to make, an international banking corporation which maintains an international bank agency or international branch in this state shall make reports to the office in such form and at such times as the commission prescribes by rule concerning the management, asset quality, capital adequacy, and liquidity of the international banking corporation.

(5) A limited purpose international trust company representative office shall file reports with the office as the commission or the commission may prescribe by rule. The rules may prescribe such reports to be subject to examination by the office as a condition of granting or maintaining the registration.

(6) A limited purpose international trust company representative office shall notify the office within 30 days of learning of the occurrence of any of the following significant events by filing with the office a form disclosing:

(a) Any civil, criminal, or administrative investigation or proceeding initiated by a regulatory or law enforcement

authority against the limited purpose international trust company representative office;

(b) The addition, resignation, or termination of a director or manager, an executive officer, or a member acting in a managerial capacity;

(c) Any change in outside accountants who are used to verify capital accounts;

(d) Any interruption of fidelity bonding or insurance coverage;

(e) Any suspected criminal act perpetrated against the limited purpose international trust company representative office. However, no liability shall be incurred as a result of making a good faith effort to fulfill the disclosure requirement in this paragraph;

(f) The loss of the charter of any affiliated international trust company;

(g) The loss of good standing with the applicable regulatory authorities by any affiliated international trust company;

(h) A change in the company name or fictitious name of the limited purpose international trust company; or

(i) A change with respect to any of the statements certified under s. 663.045.

(7) The disclosure form shall be specified by commission rule. An executive officer of the limited purpose international trust company representative office must swear that the form is authentic and accurate.

(8) The office may conduct an investigation of a limited purpose international trust company representative office at any

time it deems necessary to determine whether a limited purpose international trust company representative office has engaged in any act prohibited under s. 663.0625.

Section 14. Section 663.095, Florida Statutes, is created to read:

663.095 Revocation of registration of a limited purpose international trust company representative office.—

(1) Any of the following constitutes grounds for the office to revoke the registration of a limited purpose international trust company representative office:

(a) The company is not a limited purpose international trust company representative office as defined in this chapter;

(b) A violation of s. 663.055(5), s. 663.057, s. 663.058, or s. 663.0625;

(c) A violation of chapter 896, relating to financial transactions offenses, or any similar state or federal law or any related rule or regulation;

(d) A violation of any commission rule which continues 30 days after written notice from the office;

(e) A violation of any order of the office which continues 30 days after written notice from the office;

(f) A breach of any written agreement with the office;

(g) A prohibited act or practice under s. 663.0625;

(h) A failure to file annual reports or provide information or documents to the office upon written request; or

(i) Conviction of a felony or entry of a plea of guilty or nolo contendere, regardless of adjudication of guilt, by the limited purpose international trust company representative office, or its officers, directors, managers, or persons acting

in a managerial capacity, or an affiliated international trust company in a state or federal court, or in the courts of a foreign country with which the United States maintains diplomatic relations which involves a violation of law relating to fraud, currency transaction reporting, money laundering, theft, or moral turpitude and the charge is equivalent to a felony charge under state or federal law.

(2)(a) Upon a finding of the occurrence of any of the acts set forth in paragraphs (1)(a)-(h), the office may enter an order suspending the company's registration and provide notice of its intention to revoke the registration and of the right to a hearing pursuant to ss. 120.569 and 120.57.

(b) If there has been a violation or failure to disclose a violation under paragraph (1)(i), the office may immediately enter an order revoking the registration.

(c) The limited purpose international trust company representative office shall have 90 days to wind up its affairs after its registration has been revoked. During such time, it may not engage in any of the activities authorized under s. 663.0625, except to the extent required to provide notice that it is winding down its affairs in this state and the name or names and contact information of the persons who may be contacted for additional information.

(d) If after 90 days the company has not provided satisfactory proof to the office that it is no longer in operation, the office may seek an order from the circuit court for the annulment or dissolution of the company. Satisfactory proof shall consist of a corporate resolution authorizing dissolution, a certified copy of articles of dissolution filed

with the Division of Corporations of the Department of State, or documentation confirming the closing of the limited purpose international trust company representative office.

Section 15. Section 663.096, Florida Statutes, is created to read:

663.096 Cease and desist authority.—

(1) The office may issue and serve a complaint upon a limited purpose international trust company representative office or any individual if the office has reason to believe that the limited purpose international trust company representative office or individual named therein is engaging in or has engaged in conduct that:

(a) Indicates the company is not a limited purpose international trust company representative office as defined in this chapter;

(b) Is a violation of s. 663.055(5), s. 663.057, s. 663.058, or s. 663.0625;

(c) Is a violation of any commission rule which continues 30 days after written notice from the office;

(d) Is a violation of any order of the office which continues 30 days after written notice from the office;

(e) Is a breach of any written agreement with the office;

(f) Is a prohibited act or practice pursuant to s. 663.0625;

(g) Is a failure to provide information or documents to the office upon written request within 30 days after such request or such longer time as specified in the request; or

(h) Is a violation of chapter 896 or similar state or federal law or any related rule or regulation.

(2) The complaint must contain the statement of facts and a notice of right to a hearing pursuant to ss. 120.569 and 120.57.

(3) If no hearing is requested within the time allowed by ss. 120.569 and 120.57, or if a hearing is held and the office finds that any of the charges are true, the office may enter an order directing the limited purpose international trust company representative office or the individual named therein to cease and desist from engaging in the conduct complained of and to take corrective action.

(4) If the limited purpose international trust company representative office or the individual named in such order fails to respond to the complaint within the time allotted in ss. 120.569 and 120.57, such failure constitutes a default and justifies the entry of a cease and desist order.

(5) A contested or default cease and desist order is effective when reduced to writing and served upon the licensed limited purpose international trust company representative office or the individual named therein. An uncontested cease and desist order is effective as agreed.

(6) If the office finds that conduct described in subsection (1) has occurred which presents an imminent danger to the public, it may issue an emergency cease and desist order requiring the limited purpose international trust company representative office or individual named therein to immediately cease and desist from engaging in the conduct complained of and to take corrective action. The emergency order is effective immediately upon service of a copy of the order upon the limited purpose international trust company representative office or individual named therein and remains effective for 90 days. If

the office begins nonemergency cease and desist proceedings under subsection (1), the emergency order remains effective until the conclusion of the proceedings under ss. 120.569 and 120.57.

(7) Subject to its rights under chapter 120, a limited purpose international trust company representative office shall have 90 days to wind up its affairs after entry of an order to cease and desist from operating as a limited purpose international trust company representative office. During such time, it may not engage in any of the activities authorized under s. 663.0625, except to the extent required to provide notice that it is winding down its affairs in this state and the name or names and contact information of the persons who may be contacted for additional information. If, after 90 days, a limited purpose international trust company representative office has not provided proof satisfactory to the office that it has terminated operations, the office may seek an order from the circuit court for the annulment or dissolution of the company. Satisfactory proof shall consist of a corporate resolution authorizing dissolution, a certified copy of articles of dissolution filed with the Division of Corporations of the Department of State, or documentation confirming the closing of the limited purpose international trust company representative office.

Section 16. Section 663.115, Florida Statutes, is created to read:

663.115 Discontinuing business.—If a limited purpose international trust company representative office desires to discontinue business, it must file with the office a certified

copy of the resolution of the board of directors, or members or managers of a limited liability company, authorizing that action. The limited purpose international trust company representative office shall voluntarily terminate its registration as a limited purpose international trust company representative office, whereupon it shall be released from any fidelity bonds that it maintained pursuant to s. 663.058.

Section 17. Subsection (1) of section 663.12, Florida Statutes, is amended to read:

663.12 Fees; assessments; fines.—

(1) Each application for a license or registration under ~~the provisions of~~ this part shall be accompanied by a nonrefundable filing fee payable to the office in the following amount:

(a) Ten thousand dollars for establishing a state-chartered investment company.

(b) Ten thousand dollars for establishing an international bank agency or branch.

(c) Five thousand dollars for establishing an international administrative office.

(d) Five thousand dollars for establishing an international representative office.

(e) Five thousand dollars for establishing an international trust company representative office or a limited purpose international trust company representative office.

(f) An amount equal to the initial filing fee for an application to convert from one type of license to another or from a registration to a license. The commission may increase the filing fee for any type of license or registration to an

amount established by rule and calculated in a manner so as to cover the direct and indirect cost of processing such applications.

Section 18. This act shall take effect October 1, 2016.

The Florida Senate

Committee Agenda Request

To: Senator Tom Lee, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: February 25th, 2016

I respectfully request that **Senate Bill #1106**, relating to Limited Purpose International Trust Company Representative Offices, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Anitere Flores

Senator Anitere Flores
Florida Senate, District 37

File signed original with committee office

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/16
Meeting Date

SB 1106
Bill Number (if applicable)

Topic SB 1106 (and PCS)

Amendment Barcode (if applicable)

Name Jamie Champion - Mongiovi

Job Title Director of Communications & Govt. Affairs

Address Florida Office of Financial Regulation
Street

Phone 850. 410-9601

Tallahassee FL 32399
City *State* *Zip*

Email jamie.mongiovi@flofr.com

Speaking: ☐ For ☐ Against ☑ Information

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

Representing Office of Financial Regulation

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)

3/1/16
Meeting Date

SB 1104
Bill Number (if applicable)

710956
Amendment Barcode (if applicable)

Topic Information re. Amendment # 710956

Name Jamie Champion - Mongiovi

Job Title Director of Communications & Govt. Affairs

Address Florida Office of Financial Regulation Phone 850-410-9601
Street

City *State* *Zip*

Email jamie.mongiovi@flofr.com

Speaking: ☐ For ☐ Against ☑ Information

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

Representing Florida Office of Financial Regulation

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 1194
INTRODUCER:	Finance and Tax Committee and Senator Negron
SUBJECT:	Tax Exemption for Senior, Totally Permanently Disabled First Responders
DATE:	February 29, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Present	Yeatman	CA	**Favorable**
2.	Babin	Diez-Arguelles	FT	**Fav/CS**
3.	Babin	Kynoch	AP	**Favorable**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SJR 1194 proposes an amendment to the Florida Constitution to allow the Legislature to provide ad valorem tax relief to a first responder who is age 65 or older and totally permanently disabled as a result of an injury or injuries sustained in the line of duty. The amount of tax relief may equal the total amount or a portion of the ad valorem tax otherwise owed on homestead property.

The joint resolution will require approval by a three-fifths vote of the membership of each house of the Legislature for passage.

If approved by the voters in the general election held November 2016, the joint resolution will become effective on January 1, 2017.

II. Present Situation:

General Overview of Property Taxation

The ad valorem tax or "property tax" is an annual tax levied by counties, municipalities, school districts, and some special districts. The tax is based on the taxable value of property as of

January 1 of each year.[1] The property appraiser annually determines the "just value"[2] of property within the taxing authority and then applies relevant exclusions, assessment limitations, and exemptions to determine the property's "taxable value."[3] Tax bills are mailed in November of each year based on the previous January 1 valuation and payment is due by March 31.

The Florida Constitution prohibits the state from levying ad valorem taxes,[4] and it limits the Legislature's authority to provide for property valuations at less than just value, unless expressly authorized.[5]

The just valuation standard generally requires the property appraiser to consider the highest and best use of property;[6] however, the Florida Constitution authorizes certain types of property to be valued based on their current use (classified use assessments), which often result in lower assessments. Properties that receive classified use treatment in Florida include: agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for noncommercial recreational purposes;[7] land used for conservation purposes;[8] historic properties when authorized by the county or municipality;[9] and certain working waterfront property.[10]

Property Tax Exemptions

The Legislature may only grant property tax exemptions that are authorized in the Florida Constitution, and any modifications to existing property tax exemptions must be consistent with the constitutional provision authorizing the exemption.[11] The following information discusses the constitutional authority for exemptions that disabled persons may receive.

Homestead Exemption

Although not specific to disabled persons, the Florida Constitution provides that every person having legal and equitable title to real estate and who maintains a permanent residence on the real estate (homestead property) is eligible for a $25,000 homestead tax exemption applicable to all ad valorem tax levies, including levies by school districts.[12] An additional $25,000 homestead

[1] Both real property and tangible personal property are subject to tax. Section 192.001(12), F.S., defines "real property" as land, buildings, fixtures, and all other improvements to land. Section 192.001(11)(d), F.S., defines "tangible personal property" as all goods, chattels, and other articles of value capable of manual possession and whose chief value is intrinsic to the article itself.

[2] Property must be valued at "just value" for purposes of property taxation, unless the Florida Constitution provides otherwise. FLA. CONST. art VII, s. 4. Just value has been interpreted by the courts to mean the fair market value that a willing buyer would pay a willing seller for the property in an arm's-length transaction. *See Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

[3] *See* s. 192.001(2) and (16), F.S.

[4] FLA. CONST. art. VII, s. 1(a).

[5] *See* FLA. CONST. art. VII, s. 4.

[6] Section 193.011(2), F.S.

[7] FLA. CONST. art. VII, s. 4(a).

[8] FLA. CONST. art. VII, s. 4(b).

[9] FLA. CONST. art. VII, s. 4(e).

[10] FLA. CONST. art. VII, s. 4(j).

[11] *Sebring Airport Auth. v. McIntyre*, 783 So. 2d 238, 248 (Fla. 2001); *Archer v. Marshall*, 355 So. 2d 781, 784. (Fla. 1978); *Am Fi Inv. Corp. v. Kinney*, 360 So. 2d 415 (Fla. 1978); *See also Sparkman v. State*, 58 So. 2d 431, 432 (Fla. 1952).

[12] FLA. CONST. art VII, s. 6(a) and s. 196.031, F.S.

exemption applies to a homestead's property value between $50,000 and $75,000. The additional exemption does not apply to ad valorem taxes levied by school districts.

General Disability Exemption

The Florida Constitution provides broad authority for exemptions from property taxes for widows and widowers, blind persons, and persons who are totally and permanently disabled.[13] The Legislature has implemented this provision through various property tax exemptions in ch. 196, F.S.

Full Homestead Exemption for Paraplegic, Hemiplegic and Totally and Permanently Disabled Persons confined to Wheelchairs

Section 196.101, F.S., provides a property tax exemption for any real estate used and owned as a homestead by any quadriplegic, and any real estate used and owned as a homestead by a paraplegic, hemiplegic, or other totally and permanently disabled person who must use a wheelchair for mobility or who is legally blind.[14] Generally, in order to qualify for the exemption, the taxpayer must submit evidence of such disability as certified by two licensed physicians of this state or the United States Department of Veterans Affairs or its predecessor.[15] Except for a quadriplegic, applicants must also show that they meet certain income limitations.[16]

Full Homestead Exemption for Totally and Permanently Disabled Veterans

Section 196.081(1), F.S., provides a property tax exemption for the homesteads of totally and permanently disabled veterans who were honorably discharged with a service-connected disability and have a letter from the United States Government certifying their disability are also exempt.

Full Homestead Exemption for Veterans confined to Wheelchairs

Section 196.091, F.S., provides a property tax exemption for the homesteads of totally disabled veterans who were honorably discharged with a service-connected disability and have a letter from the United States Government certifying that the ex-servicemember is receiving or has received special pecuniary assistance for specially adopted housing due to the ex-servicemember's need for a wheelchair.

Homestead Discount for Combat-disabled Veterans

The Florida Constitution provides a property tax discount to honorably-discharged veterans, age 65 or older who are permanently disabled due to a combat-related injury.[17] The exemption applies for partial or total disabilities. For partially disabled persons, the exemption is in proportion to the percentage of their disability.

[13] FLA. CONST. art. VII, s. 3(b)
[14] Section 196.101(1)-(2), F.S.
[15] Section 196.101(3), F.S.
[16] Section 196.101(4), F.S.
[17] FLA. CONST. art. VII, s. 6(e); s. 196.082, F.S.

Homestead Exemption for Surviving Spouses of Veterans and First Responders

The Florida Constitution also authorizes the Legislature to provide, by general law, ad valorem tax relief to the surviving spouse of a veteran who died from service-connected causes while on active duty as a member of the United States Armed Forces, as well as the surviving spouse of a first responder who died in the line of duty.[18] This constitutional provision is implemented in s. 196.081, F.S. The Constitution defines "first responder" as a law enforcement officer, a correctional officer, a firefighter, an emergency medical technician, or a paramedic.[19]

The Constitution defines "in the line of duty" as arising out of and in the actual performance of duty required by employment as a first responder.[20] The term is further defined in statute to include:

- While engaging in law enforcement;
- While performing an activity relating to fire suppression and prevention;
- While responding to a hazardous material emergency;
- While performing rescue activity;
- While providing emergency medical services;
- While performing disaster relief activity;
- While otherwise engaging in emergency response activity; or
- While engaging in a training exercise related to any of the events or activities listed above if the training has been authorized by the employing entity.[21]

III. Effect of Proposed Changes:

The joint resolution proposes an amendment to Article VII, section 6 of the Florida Constitution that would allow the Legislature to provide ad valorem tax relief to a first responder who is age 65 or older and totally permanently disabled as a result of an injury or injuries sustained in the line of duty. The amount of tax relief, to be defined by general law, can equal the total amount or a portion of the ad valorem tax otherwise owed on homestead property.

A causal connection between a disability and service in the line of duty may not be presumed, but must be determined as provided by general law. The term "disability" does not include a chronic condition or chronic disease, unless the injury sustained in the line of duty was the sole cause of the chronic condition or chronic disease.

If approved by 60 percent of voters, the proposed constitutional amendment will be effective January 1, 2017.

[18] FLA. CONST. art. VII, s. 6(f).
[19] FLA. CONST. art. VII, s 6(f)(3)a.
[20] FLA. CONST. art. VII, s. 6(f)(3)b.
[21] Section 196.081(6)(c)2., F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate provisions in Article VII, section 18 of the Florida Constitution do not apply to joint resolutions.

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 utilize 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.'"[22]

Article XI, s. 5(d) of the Florida Constitution requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published once in the 10th week and again in the 6th week immediately preceding the week the election is held. The Department of State estimates that the costs for advertising the proposed constitutional amendment will be approximately $136 per word with a minimum total publishing cost of $151,742.[23]

Article XI, s. 5(e) of the Florida Constitution requires approval by 60 percent of voters for a constitutional amendment to take effect.

[22] *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).
[23] Department of State, *Senate Joint Resolution 1194 Fiscal Analysis* (Jan. 12, 2016) (on file with the Senate Committee on Finance and Tax).

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

CS/SJR 1194 does not have a fiscal impact because, by itself, it does not grant property tax relief. The impact would occur when the Legislature implements the provision through a general bill.

B. Private Sector Impact:

If the bill is approved by the electorate and implemented by the Legislature, totally permanently disabled first responders who are age 65 or older may receive property tax relief.

C. Government Sector Impact:

Article XI, s. 5(d) of the Florida Constitution requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published once in the 10th week and again in the 6th week immediately preceding the week the election is held. The Department of State estimated that the costs for advertising the proposed constitutional amendment will be approximately $136 per word with a minimum total publishing cost of $151,742.[24]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

CS/SJR 1194 substantially amends the following articles of the Florida Constitution: Article VII, section 6 and Article XII.

IX. Additional Information:

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

CS by Finance and Tax on February 8, 2016:
The CS removes a provision that requires the total and permanent disability to be determined by the Social Security Administration. The CS also makes technical changes.

[24] *Id.*

B. Amendments:

None.

By the Committee on Finance and Tax; and Senator Negron

593-03185-16 20161194c1

Senate Joint Resolution

A joint resolution proposing an amendment to Section 6 of Article VII and the creation of a new section in Article XII of the State Constitution to authorize a first responder, who is age 65 or older and totally permanently disabled as a result of an injury sustained in the line of duty, to receive relief from ad valorem taxes assessed on homestead property, if authorized by general law, and to provide an effective date.

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

That the following amendments to Section 6 of Article VII and the creation of a new section in Article XII of the State Constitution are 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 VII

FINANCE AND TAXATION

SECTION 6. Homestead exemptions.—

(a) Every person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner, or another legally or naturally dependent upon the owner, shall be exempt from taxation thereon, except assessments for special benefits, up to the assessed valuation of twenty-five thousand dollars and, for all levies other than school district levies, on the assessed valuation greater than fifty thousand dollars and up to seventy-five thousand dollars, upon establishment of right thereto in the manner prescribed by law. The real estate may be held by legal or equitable title, by the

593-03185-16 20161194c1

entireties, jointly, in common, as a condominium, or indirectly by stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight years. The exemption shall not apply with respect to any assessment roll until such roll is first determined to be in compliance with the provisions of section 4 by a state agency designated by general law. This exemption is repealed on the effective date of any amendment to this Article which provides for the assessment of homestead property at less than just value.

(b) Not more than one exemption shall be allowed any individual or family unit or with respect to any residential unit. No exemption shall exceed the value of the real estate assessable to the owner or, in case of ownership through stock or membership in a corporation, the value of the proportion which the interest in the corporation bears to the assessed value of the property.

(c) By general law and subject to conditions specified therein, the Legislature may provide to renters, who are permanent residents, ad valorem tax relief on all ad valorem tax levies. Such ad valorem tax relief shall be in the form and amount established by general law.

(d) The legislature may, by general law, allow counties or municipalities, for the purpose of their respective tax levies and subject to the provisions of general law, to grant either or both of the following additional homestead tax exemptions:

(1) An exemption not exceeding fifty thousand dollars to any person who has the legal or equitable title to real estate and maintains thereon the permanent residence of the owner and

who has attained age sixty-five and whose household income, as defined by general law, does not exceed twenty thousand dollars; or

(2) An exemption equal to the assessed value of the property to any person who has the legal or equitable title to real estate with a just value less than two hundred and fifty thousand dollars and who has maintained thereon the permanent residence of the owner for not less than twenty-five years and who has attained age sixty-five and whose household income does not exceed the income limitation prescribed in paragraph (1).

The general law must allow counties and municipalities to grant these additional exemptions, within the limits prescribed in this subsection, by ordinance adopted in the manner prescribed by general law, and must provide for the periodic adjustment of the income limitation prescribed in this subsection for changes in the cost of living.

(e) Each veteran who is age 65 or older who is partially or totally permanently disabled shall receive a discount from the amount of the ad valorem tax otherwise owed on homestead property the veteran owns and resides in if the disability was combat related and the veteran was honorably discharged upon separation from military service. The discount shall be in a percentage equal to the percentage of the veteran's permanent, service-connected disability as determined by the United States Department of Veterans Affairs. To qualify for the discount granted by this subsection, an applicant must submit to the county property appraiser, by March 1, an official letter from the United States Department of Veterans Affairs stating the

percentage of the veteran's service-connected disability and such evidence that reasonably identifies the disability as combat related and a copy of the veteran's honorable discharge. If the property appraiser denies the request for a discount, the appraiser must notify the applicant in writing of the reasons for the denial, and the veteran may reapply. The Legislature may, by general law, waive the annual application requirement in subsequent years. This subsection is self-executing and does not require implementing legislation.

(f) By general law and subject to conditions and limitations specified therein, the Legislature may provide ad valorem tax relief equal to the total amount or a portion of the ad valorem tax otherwise owed on homestead property to ~~the~~:

(1) The surviving spouse of a veteran who died from service-connected causes while on active duty as a member of the United States Armed Forces.

(2) The surviving spouse of a first responder who died in the line of duty.

(3) A first responder who is age 65 or older and totally permanently disabled as a result of an injury or injuries sustained in the line of duty. Causal connection between a disability and service in the line of duty shall not be presumed, but must be determined as provided by general law. For purposes of this paragraph, the term "disability" does not include a chronic condition or chronic disease, unless the injury sustained in the line of duty was the sole cause of the chronic condition or chronic disease.

As used in this subsection and as further defined by general

law, the term~~:~~

~~a.~~ "first responder" means a law enforcement officer, a correctional officer, a firefighter, an emergency medical technician, or a paramedic, and the term~~.~~

~~b.~~ "in the line of duty" means arising out of and in the actual performance of duty required by employment as a first responder.

ARTICLE XII

SCHEDULE

Tax exemption for senior, totally permanently disabled first responders.—The amendment to Section 6 of Article VII relating to relief from ad valorem taxes assessed on homestead property for first responders, who are age 65 or older and totally permanently disabled as a result of injuries sustained in the line of duty, takes effect January 1, 2017.

BE IT FURTHER RESOLVED that the following statement be placed on the ballot:

CONSTITUTIONAL AMENDMENT

ARTICLE VII, SECTION 6

ARTICLE XII

TAX EXEMPTION FOR SENIOR, TOTALLY PERMANENTLY DISABLED FIRST RESPONDERS.—Proposing an amendment to the State Constitution to authorize a first responder, who is age 65 or older and totally permanently disabled as a result of injuries sustained in the line of duty, to receive relief from ad valorem taxes assessed on homestead property, if authorized by general law. If approved by voters, the amendment takes effect January 1, 2017.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Subcommittee on Criminal and Civil Justice, *Chair*
Appropriations
Banking and Insurance
Ethics and Elections
Higher Education
Regulated Industries
Rules

SENATOR JOE NEGRON
32nd District

February 8, 2016

Tom Lee, Chair
Committee on Appropriations
201 The Capitol
404 S Monroe Street
Tallahassee, FL 32399-1100

Re: Senate Joint Resolution 1194

Dear Chairman Lee:

I would like to request Senate Joint Resolution 1194 relating to homestead exemption for disabled first responders be placed on the agenda for the next scheduled committee meeting.

Thank you for your consideration of this request.

Sincerely yours,

Joe Negron
State Senator
District 32

JN/hd
c: Cindy Kynoch, Staff Director

REPLY TO:
☐ 3500 SW Corporate Parkway, Suite 204, Palm City, Florida 34990 (772) 219-1665 FAX: (772) 219-1666
☐ 412 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5032

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

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

3/1/16 (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting) 1194

Meeting Date *Bill Number (if applicable)*

Topic Tax Exemption, Senior, Totally, Permanent Disabled First Responder *Amendment Barcode (if applicable)*

Name Martha Cleaver

Job Title Governmental Consultant

Address P.O. Box 11275 *Street*

Tallahassee, FL 32302 *City* *State* *Zip*

Phone 850/491-1945

Email marthacleaver@fapa.net

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Association of Property Appraisers

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)

3/1/16
Meeting Date

1194
Bill Number (if applicable)

Topic Tax exemption for 1st Responders

Amendment Barcode (if applicable)

Name Rocco Salvatori

Job Title Firefighter

Address 345 West Madison
Street

Tallahassee FL 32301
City *State* *Zip*

Phone 850-224-7333

Email roccosalvatori@icloud.com

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

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

Representing Florida Professional Firefighters

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

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/2016
Meeting Date

SB 1194
Bill Number (if applicable)

Topic Tax Exemption for Senior, Totally Disabled First Responders
Amendment Barcode (if applicable)

Name Matt Puckett

Job Title Lobbyist

Address 300 East Brevard st
Street

Tallahassee FL 32301
City *State* *Zip*

Phone N/A

Email

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Police Benevolent Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

S-001 (10/14/14)

The Florida Senate

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 1248
INTRODUCER:	Appropriations Committee; Banking and Insurance Committee; and Senator Diaz de la Portilla
SUBJECT:	Prohibited Insurance Practices
DATE:	March 1, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Billmeier	Knudson	BI	**Fav/CS**
2.	Betta	DeLoach	AGG	**Recommend: Favorable**
3.	Betta	Kynoch	AP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1248 expands the prohibition against a licensed contractor adjusting claims unless the contractor is a licensed public adjuster to include a person that performs emergency remediation or restoration services under an insurance policy and subcontractors to a licensed contractor.

The bill creates requirements for repair, mitigation, and restoration services which apply to personal lines residential coverage and commercial lines residential coverage. The bill provides that a person or entity may not directly or indirectly offer, deliver, receive, or accept any compensation, inducement, or reward greater than $25 for the referral of any business for the repair, mitigation, or restoration of property for which property insurance proceeds are payable. The bill requires that a person or entity that provides emergency remediation or restoration services for an insured under a property insurance policy must provide the insured with a scope of services and materials to be provided for repairs undertaken pursuant to a property insurance claim before the agreement authorizing repairs is executed and provides that the scope of services may be supplemented. The bill also requires notice that any assignment is limited to the scope of the work and that the insured may have claims under the insurance policy. The bill specifies that the requirements related to prohibited practices do not prohibit the use of post-loss, partial assignments in homeowner's insurance claims.

The bill provides that the Department of Financial Services (DFS) will enforce the provisions prohibiting referral fees and the provisions requiring notifications. The DFS may seek a cease

and desist order and may impose, if the cease and desist order is violated, a fine no greater than $10,000 per violation. The DFS may recommend to the appropriate licensing board that disciplinary action be taken if the violator is a licensee.

This bill creates s. 627.717, F.S., to provide that a policyholder who assigns the right to receive the benefit of payment under a property insurance policy is not liable to the assignee for services and materials for which the insurer is liable. It provides that the assignee may not collect or attempt to collect money from, maintain an action at law against, or report a policyholder to a credit agency for payment for which the insurer is liable. An assignee may take action against a policyholder for payment of the amount of the insurance deductible or any amount attributable to upgrades ordered by the policyholder which are not covered under the insurance policy.

The bill has an indeterminate fiscal impact to state funds related to the newly created fines.

The bill takes effect July 1, 2016.

II. Present Situation:

Public Adjusters

A public adjuster is hired and paid for by the policyholder to act on his or her behalf in a claim the policyholder files against an insurance company. Public adjusters can represent a policyholder in any type of insurance claim, not just property insurance claims. Public adjusters, unlike company employee adjusters, operate independently and are not affiliated with any insurance company. Independent and company employee adjusters work for insurance companies. The Department of Financial Services (DFS) regulates all types of adjusters. Section 626.854, F.S., defines "public adjuster" and contains provisions relating to the practice of public adjusting. For example, an insured has the right to rescind a contract within three days of execution.[1]

Assignment of Benefits

In recent years, insurers have complained of abuse of the assignment of benefits process by companies that perform emergency remediation and restoration services. An insurance company recently described the issue in a court filing:

> The typical scenario surrounding the use of an "assignment of benefits" involved vendors and contractors, mostly water remediation companies, who were called by an insured immediately after a loss to perform emergency remediation services, such as water extraction. The vendor came to the insured's home and, before performing any work, required the insured to sign an "assignment of benefits" – when the insured would be most vulnerable to fraud and price-gouging. Vendors advised the insured, "We'll take care of everything for you." The vendor then submitted its bill to the insurer that was, on average, nearly 30 percent higher than comparative estimates from vendors without an assignment of benefits.

[1] *See* s. 626.854(7), F.S.

> Some vendors added to the invoice an additional 20 percent for "overhead and profit," even though a general contractor would not be required or hired to oversee the work. Vendors used these inflated invoices to extract higher settlements from insurers. This, in turn, significantly increases litigation over the vendors' invoices.[2]

Some of the vendors in litigation involving assignment of benefits are contractors regulated by the Department of Business and Professional Regulation. Water remediation companies are not regulated.

The Public Adjuster Statute and Assignment of Benefits Litigation

Subsection 626.854(16), F.S., prohibits licensed contractors or subcontractors from adjusting claims unless they are licensed as public adjusters. Contractors are allowed to discuss or explain a bid for construction or repair of covered property but are not allowed to adjust the claim. In recent litigation over assignment of benefits, insurers have argued that vendors such as contractors or water remediation companies have acted as public adjusters in violation of the law.[3] Section 626.854, F.S., does not contain an explicit prohibition on vendors such as water remediation companies adjusting claims.

Payment for Referrals

Insurers have complained of practices where water remediation companies pay plumbers referral fees if the plumbers refer business to the water remediation companies.[4] Chapter 455, F.S., the licensing statute for many construction professionals, does not prohibit such arrangements.[5] Subsection 626.854(13), F.S., prohibits public adjusters from paying referral fees.

III. Effect of Proposed Changes:

Section 1 amends s. 626.854, F.S., to prohibit a person that performs emergency remediation or restoration services from adjusting a claim on behalf of the insured unless the person is licensed as a public adjuster. The bill provides that subcontractors have the same prohibition against adjusting claims as contractors.

Section 2 creates s. 627.716, F.S., which provides that a person or entity may not directly or indirectly offer, deliver, receive, or accept any compensation, inducement, or reward greater than

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[2] *See Security First Insurance Company v. State of Florida, Office of Insurance Regulation*, Case 1D14-1864 (Fla. 1st DCA), Appellant's Initial Brief at pp. 3-4. (Appellate record citations omitted).

[3] *See Bioscience West, Inc. v. Gulfstream Property and Casualty Insurance Co.*, Case No. 2D14-3946 (Fla. 2d DCA February 5, 2016)(rejecting the insurer's argument that the vendor unlawfully acted as a public adjuster); *One Call Property Services, Inc. v. Security First Ins. Co.*, 165 So.3d 749 (Fla. 4th DCA 2015)(declining to address the insurer's argument that the vendor acted as a public adjuster); *Restoration 1 CFL A/A/O I. Joy White v. State Farm Florida Insurance Company*, Case No. 5D15-1049 (Fla. 5th DCA) and *Start to Finish Restoration, LLC v. Homeowners Choice Property & Casualty Ins. Co.*, Case No. 2D-2206 (Fla. 2nd DCA)(appellees argue in briefs that the vendors engaged in illegal public adjusting; cases are pending before the courts).

[4] *See*, e.g. http://piff.net/assignment-of-benefits-insurance-reform-2015-legislative-proposals-fact-sheet/ (last accessed February 10, 2016).

[5] Referral fees are prohibited for some professionals, such as mold remediates. *See* s. 468.8419(1), F.S.

$25 for the referral of any business for the repair, mitigation, or restoration of property for which property insurance proceeds are payable. Both the person offering the prohibited compensation, inducement, or reward and the person receiving such prohibited payment would be in violation of the statute.

The bill provides that an entity or person, including a contractor licensed under part I of ch. 489, F.S., or a subcontractor to the contractor, that provides emergency remediation or restoration services for an insured under a property insurance policy in this state must:

- Provide an insured with a scope of services and materials to be provided for repairs undertaken pursuant to a property insurance claim before the agreement authorizing such repairs is executed. The bill provides that providing a supplement to the original scope of work does not violate the provision of the bill;
- Notify the insured in writing that any assignment accepted by the person or entity is limited to the scope of the work and that the insured may have other claims under their homeowner's insurance policy that are not covered by the assignment.

The bill provides that it does not prohibit the use of post-loss assignments or partial assignments in homeowner's insurance claims.

The bill gives the DFS enforcement authority over contractors, subcontractors, and other persons that perform repair, mitigation, or restoration of property for which property insurance proceeds are payable regarding the requirements created by this section regarding referrals and notice to policyholders. It provides that the DFS may, in a proceeding initiated pursuant to chapter 120, F.S. (the Administrative Procedures Act), seek a cease and desist order against persons who violated s. 627.716, F.S. The bill provides that if a cease and desist order is violated, the DFS may impose an administrative fine of not more than $10,000 per violation against any person found in violation. Any cease and desist order or administrative fine levied by the DFS may be enforced by appropriate proceedings in the circuit court of the county in which the person resides. The bill provides that the DFS may recommend to the appropriate licensing agency or board that disciplinary action be taken against persons licensed by other agencies or boards.

The bill provides that the provisions of s. 627.716, F.S., apply to personal lines residential coverage and commercial lines residential coverage.[6]

Section 3 of the bill creates s. 627.717, F.S., to provide that a policyholder who assigns the right to receive the benefit of payment under a property insurance policy is not liable to the assignee for services and materials for which the insurer is liable. It provides that the assignee may not collect or attempt to collect money from, maintain an action at law against, or report a policyholder to a credit agency for payment for which the insurer is liable. An assignee may take action against a policyholder for payment of the amount of the insurance deductible or any amount attributable to upgrades ordered by the policyholder which are not covered under the insurance policy.

[6] Personal lines residential coverage consists of the type of coverage provided by homeowner, mobile home owner, dwelling, tenant, condominium unit owner, cooperative unit owner, and similar policies. Commercial lines residential coverage consists of the type of coverage provided by condominium association, cooperative association, apartment building, and similar policies, including policies covering the common elements of a homeowners association. *See* s. 627.4025(1), F.S.

Section 4 provides an effective date of July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

CS/CS/SB 1248 creates a $10,000 fine per violation against a person that directly or indirectly offers, delivers, receives, or accepts any compensation, inducement, or reward greater than $25 for the referral of any business for the repair, mitigation, or restoration of property for which property insurance proceeds are payable. Both the person offering the prohibited compensation, inducement, or reward and the person receiving such prohibited payment would be in violation of the statute.

B. Private Sector Impact:

Water remediation companies and contractors working on property covered by property insurance will have to comply with new contractual provisions created by the bill. The fiscal impact is not known.

Section 3 of the bill will benefit a policyholder who assigns the right to receive the benefit of payment under a property insurance policy by specifying the policyholder is not liable to the assignee for services and materials for which the insurer is liable, except for deductibles and upgrades ordered by the policyholder that are not covered by the insurance policy. Thus, if the assignee receives compensation from the insurer, the assignee cannot subsequently seek redress from the policyholder if the insurer paid less than the assignee was seeking. However, the assignee does not receive from the insurer compensation for work that is performed, the assignee will be able to seek compensation from the policyholder for payment of the insurance deductible or for upgrades ordered by the policyholder which are not covered by the insurance policy.

C. Government Sector Impact:

The bill provides the DFS with regulatory authority over contractors, subcontractors, and other persons performing repairs, mitigations, or restoration of property for which

property insurance proceeds are payable. The DFS does not anticipate a fiscal impact from the bill.[7]

VI. Technical Deficiencies:

Section 2 of the bill inconsistently refers to all "property insurance" and "homeowner's insurance." The provisions of Section 2 apply to services for property covered by "property insurance" on lines 58, 62, and 66. The bill on line 72 requires any person providing emergency remediation or restoration services under a property insurance policy to provide a notice that the insured "may have other claims under their homeowner's insurance policy…." The bill also contains language in line 75 specifying Section 2 does not prohibit the use of post-loss, partial assignments in "homeowner's insurance claims." The inconsistent use of terms could be remedied by referring to residential coverage, as defined in s. 627.4025, F.S., throughout the section. Lines 87-88 of the bill indicate intent that Section 2 only applies to residential coverage, which is defined by s. 627.4025, F.S., to include both personal lines residential property insurance and commercial lines residential property insurance.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 626.854 of the Florida Statutes.

This bill creates sections 627.716 and 627.717 of the Florida Statutes.

IX. Additional Information:

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

CS/CS by Appropriations on March 1, 2016:
The committee substitute:

- Adds a provision providing that a policyholder who assigns the benefit of payment under a property insurance policy is not liable for services and materials for which the insurer is liable;
- Provides that a vendor may provide a supplement to the original scope of work;
- Removes a provision informing consumers that they may wish to contact a public adjuster or attorney;
- Provides that Section 2 of the bill only applies to residential coverage.

CS by Banking and Insurance on February 16, 2016:
The CS added provisions requiring a person or entity performing emergency remediation or restoration services under a property insurance policy to provide the insured with a

[7] *See* Department of Financial Services, *Bill Analysis Senate Bill 1248* (January 13, 2016) (on file with the Committee on Banking and Insurance).

scope of services to be performed before the agreement authorizing repairs is executed. It also added provisions requiring notice relating to assignment of benefits and notice that an insured may wish to contact an attorney or public adjuster. The CS removes provisions relating to a right of rescission and a written estimate.

The CS provides that the DFS may not impose a fine until a person or entity has violated a cease and desist order.

B. Amendments:

None.

547894

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/01/2016	.	
	.	
	.	
	.	

The Committee on Appropriations (Flores) recommended the following:

Senate Amendment (with title amendment)

Between lines 79 and 80
insert:

Section 3. Section 627.717, Florida Statutes, is created to read:

627.717 Assignment of the right to receive benefit of payment; construction.—A policyholder who assigns the right to receive the benefit of payment under a property insurance policy in this state is not liable to the assignee for services and

547894

materials for which the insurer is liable, and the assignee may not collect or attempt to collect money from, maintain an action at law against, or report a policyholder to a credit agency for payment for which the insurer is liable. However, this section does not prohibit the assignee from taking such actions against a policyholder for payment of the amount of the insurance deductible or any amount attributable to upgrades ordered by the policyholder which are not covered under the insurance policy.

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

And the title is amended as follows:

Delete line 19

and insert:

creating s. 627.717, F.S.; providing that a policyholder that assigns the right to receive benefit of payment under a property insurance policy is not liable to the assignee for certain services or materials; prohibiting certain actions by an assignee against a policyholder under specified circumstances; providing an effective date.

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/01/2016	.	
	.	
	.	
	.	

The Committee on Appropriations (Flores) recommended the following:

Senate Amendment (with title amendment)

Delete line 60

and insert:

repairs is executed. A supplement to the original scope of work does not violate this section.

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

And the title is amended as follows:

Delete line 12

and insert:

certain emergency remediation or restoration services;

providing applicability;

218156

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/01/2016	.	
	.	
	.	
	.	

The Committee on Appropriations (Flores) recommended the following:

Senate Amendment

Delete lines 63 - 67
and insert:
work indicated therein and that the insured may have other claims under his or her homeowner's insurance policy which are not covered by this assignment. Nothing in this section prohibits the use of post-

895926

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/01/2016	.	
	.	
	.	
	.	

The Committee on Appropriations (Flores) recommended the following:

Senate Amendment

Delete line 49
and insert:
or reward greater than $500 for the referral of any business for

385036

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/01/2016	.	
	.	
	.	
	.	

The Committee on Appropriations (Flores) recommended the following:

Senate Amendment (with title amendment)

Between lines 79 and 80
insert:
(4) This section applies to residential coverage as described in s. 627.4025(1).

========== T I T L E A M E N D M E N T ==========
And the title is amended as follows:
Between lines 18 and 19

385036

insert:

providing applicability;

407374

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/01/2016	.	
	.	
	.	
	.	

The Committee on Appropriations (Flores) recommended the following:

Senate Amendment (with title amendment)

Between lines 42 and 43
insert:

Section 2. Section 627.70111, Florida Statutes, is created to read:

627.70111 Policy provisions prohibiting certain work after a loss.—An insurer may adopt policy provisions that prohibit any work to be undertaken after a loss, except for temporary measures that are necessary to protect covered property from

407374

further damage before the insurer's onsite inspection of the property and approval of permanent repairs.

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

And the title is amended as follows:

Between lines 6 and 7

insert:

creating s. 627.70111, F.S.; authorizing an insurer to adopt policy provisions prohibiting any work to be undertaken after a loss except for certain temporary measures;

By the Committee on Banking and Insurance; and Senator Diaz de la Portilla

597-03682-16 20161248c1

A bill to be entitled

An act relating to prohibited insurance practices; amending s. 626.854, F.S.; adding entities and persons that may not adjust a claim on behalf of an insured unless licensed and compliant as a public adjuster; revising an exception to include a subcontractor; creating s. 627.716, F.S.; prohibiting a person or entity from certain actions relating to the referral of certain business related to certain repair, mitigation, and restoration services; specifying requirements for an entity or person that provides certain emergency remediation or restoration services; authorizing the Department of Financial Services to seek a cease and desist order and administrative fines for certain violations; authorizing the department to enforce such penalties in a specified circuit court; authorizing the department to recommend disciplinary action to other licensing agencies or boards; providing an effective date.

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

Section 1. Subsection (16) of section 626.854, Florida Statutes, is amended to read:

626.854 "Public adjuster" defined; prohibitions.—The Legislature finds that it is necessary for the protection of the public to regulate public insurance adjusters and to prevent the unauthorized practice of law.

(16) Any ~~A licensed~~ contractor licensed under part I of chapter 489, ~~or a~~ subcontractor to the contractor, or entity or person that performs emergency remediation or restoration

597-03682-16 20161248c1

services for an insured under an insurance policy in this state may not adjust a claim on behalf of an insured unless licensed and compliant as a public adjuster under this chapter. However, the contractor or subcontractor may discuss or explain a bid for construction or repair of covered property with the residential property owner who has suffered loss or damage covered by a property insurance policy, or the insurer of such property, if the contractor or subcontractor is doing so for the usual and customary fees applicable to the work to be performed as stated in the contract between the contractor or subcontractor and the insured.

Section 2. Section 627.716, Florida Statutes, is created to read:

627.716 Prohibited practices related to repair, mitigation, and restoration services; penalties.—

(1) A person or entity may not directly or indirectly offer, deliver, receive, or accept any compensation, inducement, or reward greater than $25 for the referral of any business for the repair, mitigation, or restoration of property for which property insurance proceeds are payable.

(2) An entity or person, including a contractor licensed under part I of chapter 489 or a subcontractor to the contractor, that provides emergency remediation or restoration services for an insured under a property insurance policy in this state must:

(a) Provide an insured with a scope of services and materials to be provided for repairs undertaken pursuant to a property insurance claim before the agreement authorizing such repairs is executed.

(b) Notify the insured in writing that any assignment accepted by the person or entity is limited to the scope of the work indicated therein; that the insured may have other claims under their homeowner's insurance policy that are not covered by this assignment; and that the insured may wish to contact a public adjuster or attorney to evaluate other claims and coverages. Nothing in this section prohibits the use of post-loss, partial assignments in homeowner's insurance claims.

(3) The department may, in a proceeding initiated pursuant to chapter 120, seek a cease and desist order, and if a cease and desist order is violated, impose an administrative fine of not more than $10,000 per violation against any person found in the proceeding to have violated this section. Any cease and desist order or administrative fine levied by the department under this subsection may be enforced by the department by appropriate proceedings in the circuit court of the county in which the person resides. The department may recommend to the appropriate licensing agency or board that disciplinary action be taken against persons licensed by other agencies or boards.

Section 3. This act shall take effect July 1, 2016.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Judiciary, *Chair*
Appropriations Subcommittee on Transportation, Tourism, and Economic Development
Community Affairs
Finance and Tax
Regulated Industries
Rules

SENATOR MIGUEL DIAZ de la PORTILLA
40th District

February 24, 2016

The Honorable Tom Lee
Chairman
Senate Appropriations

Via Email

Dear Chair Lee:

Senate Bill 1248 passed out of the Appropriations Subcommittee on General Government today.

I would very much appreciate it if you would agenda the bill when received. Thank you for your consideration.

Sincerely,

Miguel Diaz de la Portilla
State Senator, District 40

Cc: Ms. Cindy Kynoch, Staff Director; Ms. Alicia Weiss, Committee Administrative Assistant

REPLY TO:
❒ 2100 Coral Way, Suite 505, Miami, Florida 33145 (305) 643-7200
❒ 406 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5040

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

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/16
Meeting Date

1248
Bill Number (if applicable)

Topic Prohibited Insurance Practices

Amendment Barcode (if applicable)

Name Paul Handerhan

Job Title Consultant

Address 120 South Monroe Street
Street

Tallahassee FL 32301
City *State* *Zip*

Phone 561 704 0428

Email PaulR rambaconsulting Group.com

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

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

Representing FAIR

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

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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3/1/16
Meeting Date

1248
Bill Number (if applicable)

Topic Prohibited Insurance

Amendment Barcode (if applicable)

Name John Burrows

Job Title President

Address 2094 Beacon Manor Dr.
Street

Ft. Myers FL 33907
City *State* *Zip*

Phone 239-896-2947

Email john@acpfl.com

Speaking: ☐ For ☑ Against ☐ Information

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

Representing American Construction & Plumbing

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/16
Meeting Date

1248
Bill Number (if applicable)

Topic Prohibited Insurance

Amendment Barcode (if applicable)

Name Carlos Medina

Job Title Owner

Address 7006 Stapoint Ct
Street
Winter Park FL 32792
City *State* *Zip*

Phone 407-235-0577

Email restorativepros@gmail.com

Speaking: ☐ For ☑ Against ☐ Information

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

Representing Restorative Pros 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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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)

3/1/18
Meeting Date

1248
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Prohibited Insurance

Name Carlos Medina

Job Title Owner

Address 7006 Stapoint Ct.
Street
Winter Park FL 32792
City *State* *Zip*

Phone 407-235-0577

Email restorativepros@gmail.com

Speaking: ☐ For ☑ Against ☐ Information

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

Representing Restorative Pros 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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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)

3/1/16
Meeting Date

1248
Bill Number (if applicable)

Topic Prohibited Insurance

Amendment Barcode (if applicable)

Name Ralph Watty

Job Title Owner

Address 3549 Eldragham Ct
Street
Belle Isle FL 32812
City *State* *Zip*

Phone 407-715-4366

Email alphwrestration7@.com

Speaking: ☐ For ☑ Against ☐ Information

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

Representing Restoration 7

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)

3/1/16
Meeting Date

1248
Bill Number (if applicable)

Topic Prohibited Insurance

Amendment Barcode (if applicable)

Name Dave DeBlander

Job Title Owner

Address 3255 Potter St
Street

Pensacola FL 32514
City *State* *Zip*

Phone 407-334-4621

Email dave@proclean restoration.com

Speaking: ☐ For ☑ Against ☐ Information

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

Representing

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/14
Meeting Date

1248
Bill Number (if applicable)

Topic Prohibited Insurance

Amendment Barcode (if applicable)

Name Richie Kidwell

Job Title Owner

Address 941 W. Morse Blvd.
Street

Winter Park FL 32789
City *State* *Zip*

Phone 407-334-4021

Email richiec29@.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Air Quality Assessors

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)

1248

Meeting Date

Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Prohibited Insurance

Name Brian Christiansen

Job Title Owner

Address 4403 Vineland Rd

Street

Orlando FL 32811

City *State* *Zip*

Phone 407-516-7277

Email brianrestoration7.com

Speaking: ☐ For ☑ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against

(The Chair will read this information into the record.)

Representing Restoration 7

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)

3/1/16
Meeting Date

1248
Bill Number (if applicable)

Topic Prohibited Insurance

Amendment Barcode (if applicable)

Name Tom Hayes

Job Title Contractor

Address 121 S Orange Ave #1526
Street
Orlando FL 32801
City *State* *Zip*

Phone 407-800-1224

Email

Speaking: ☐ For ☑ Against ☐ Information

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

Representing

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/16
Meeting Date

1248
Bill Number (if applicable)

Topic Prohib. Ins. Practices

Amendment Barcode (if applicable)

Name Caitlin Murray

Job Title Director of Government Affairs

Address _____ Phone _____
Street

_____ Email _____
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Office of Insurance Regulation

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)

3/1/16
Meeting Date

1248
Bill Number (if applicable)

407374
Amendment Barcode (if applicable)

Topic Prohibited Insurance

Name Tom Hayes

Job Title Contractor

Address 121 S. Orange Ave #1526
Street

Orlando FL 32801
City *State* *Zip*

Phone 407-800-1224

Email

Speaking: ☐ For ☑ Against ☐ Information

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

Representing AHS Construction

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/16
Meeting Date

1248
Bill Number (if applicable)

407374
Amendment Barcode (if applicable)

Topic Prohibited Ins. Practices

Name Annstine M. Ashburn

Job Title VP of Legislative Affairs

Address 2312 Killearn Center Blvd
Street

Tallahassee FL 32308
City *State* *Zip*

Phone 513-3746

Email

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

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

Representing Citizens Property Ins Corp

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/16
Meeting Date

1248
Bill Number (if applicable)

407374
Amendment Barcode (if applicable)

Topic Prohibited Ins Practices

Name Caitlin Murray

Job Title Director of Government Affairs

Address _____ Phone _____
Street

_____ Email _____
City *State* *Zip*

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Office of Insurance Regulation

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)

3/1/16
Meeting Date

1248
Bill Number (if applicable)

407374
Amendment Barcode (if applicable)

Topic Prohibited Insurance

Name Brian Christiansen

Job Title Owner

Address 4403 Vineland Rd
Street

Orlando FL 32811
City *State* *Zip*

Phone 407-516-7277

Email brianrestoration7@com

Speaking: ☐ For ☑ Against ☐ Information

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

Representing Restoration 7

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)

3/1/16
Meeting Date

1248
Bill Number (if applicable)

407374
Amendment Barcode (if applicable)

Topic Prohibited Insurance

Name Richie Kidwell

Job Title Owner

Address 941 W. Morse Blvd #100
Street

Winter Park FL 32789
City *State* *Zip*

Phone 407-334-4621

Email richie@aqa.com

Speaking: ☐ For ☑ Against ☐ Information

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

Representing Air Quality Assessors

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)

3/1/16
Meeting Date

1248
Bill Number (if applicable)

Topic Prohibited Insurance

407374
Amendment Barcode (if applicable)

Name Dave DeBlander

Job Title owner

Address 3255 Potter St
Street

Pensacola FL 32514
City *State* *Zip*

Phone 850-712-1933

Email daveproclean restoration.com

Speaking: ☐ For ☑ Against ☐ Information

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

Representing Pro Clean Restoration

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/16
Meeting Date

1248
Bill Number (if applicable)

Topic Prohibited Insurance Practices

407374
Amendment Barcode (if applicable)

Name John Burrows

Job Title President

Address 2094 Beacon Manor Dr.
Street

Phone 239-896-2947

Ft. Myers FL 33907
City *State* *Zip*

Email johneacpfl.com

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

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

Representing American Construction & Plumbing

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/2016
Meeting Date

1248
Bill Number (if applicable)

Topic Prohibit Insurance Amending

407374
Amendment Barcode (if applicable)

Name Alex Azcano

Job Title Managing Member

Address ~~9628~~ 9628 Eagle Point Ln. Phone 561 718-1131
Street

Lake Worth FLa. 33467 Email AAzcano@bellsouth.net
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Icon Construction FL, 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.

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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)

3/1/16
Meeting Date

1248
Bill Number (if applicable)

Topic PROHIBITED INSURANCE AMENDING

407374
Amendment Barcode (if applicable)

Name DEJAN JEVREMOV

Job Title PRESIDENT

Address 5600 NE 3rd AVE.
Street

Phone (305) 333-5207

MIAMI FL 33137
City *State* *Zip*

Email xact@earthlink.net

Speaking: ☐ For ☐ Against ☐ Information

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

Representing XACT CONSTRUCTION, INC.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date

1248
Bill Number (if applicable)

Topic Prohibited insurance amending

407374
Amendment Barcode (if applicable)

Name David Kays

Job Title Operation Manager

Address 3195 N Power Line Rd suite#110 Phone 586-945-4948
Street

Pompano Beach FL 33069 Email
City State Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Icon Construction

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)

3/1/16
Meeting Date

1248
Bill Number (if applicable)

407374
Amendment Barcode (if applicable)

Topic PROHIBIT INSURANCE AMENDING

Name JOHN PETERS

Job Title MANAGING MEMBER

Address 9153 RIVERSHORE PL
Street

TAMARAC FL 33321
City *State* *Zip*

Phone 954-551-9892

Email JOHN@ICONLLC.US

Speaking: ☐ For ☐ Against ☐ Information

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

Representing ICON CONSTRUCTION FL, LLC

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/16
Meeting Date

1248
Bill Number (if applicable)

407374
Amendment Barcode (if applicable)

Topic Prohibited Insurance

Name Ralph Watty

Job Title Owner

Address 3549 Eldingham Ct
Street

Belle Isle FL 32812
City *State* *Zip*

Phone 407-715-4366

Email ralphwrestoration1@gmail.com

Speaking: ☐ For ☑ Against ☐ Information

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

Representing Restoration 1 of East Orange

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)

3/1/16
Meeting Date

1248
Bill Number (if applicable)

407374
Amendment Barcode (if applicable)

Topic Prohibited Insurance

Name Carole Hayes

Job Title Broker

Address 535 Greenbrier Ave
Street

Celebration FL 34747
City *State* *Zip*

Phone 407-361-6650

Email carolhayesecfl.rr.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing New World Realty

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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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)

3/1/16
Meeting Date

1248
Bill Number (if applicable)

407374
Amendment Barcode (if applicable)

Topic Prohibited Insurance

Name Carlos Medina

Job Title Owner

Address 7006 Stapoint Ct
Street

Winter Park FL 32792
City *State* *Zip*

Phone 407-235-0577

Email restorativepros@gmail.com

Speaking: ☐ For ☑ Against ☐ Information

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

Representing Restorative Pros 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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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)

March 1, 2016
Meeting Date

1248
Bill Number (if applicable)

407374
Amendment Barcode (if applicable)

Topic Prohibited Insurance Practices

Name Foyt Ralston

Job Title

Address 101 North Monroe Street, Suite 900
Street

Phone 850-222-8611

Tallahassee FL 32301
City *State* *Zip*

Email fralston@bmolaw.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Association of Restoration Specialist

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)

3/1/16
Meeting Date

1248
Bill Number (if applicable)

6959246
Amendment Barcode (if applicable)

Topic Prohibited Insurance

Name Carlos Medina

Job Title Owner

Address 7006 Stapoint Ct
Street
Winter Park FL 32792
City *State* *Zip*

Phone 407-235-0577

Email restorativepros@gmail.com

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Restorative Pros Inc.

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/16
Meeting Date

1248
Bill Number (if applicable)

895926
Amendment Barcode (if applicable)

Topic Prohibited Insurance

Name Ralph Natty

Job Title Owner

Address 3549 Eldingham Ct.
Street
Belle Isle FL 32812
City *State* *Zip*

Phone 407-715-4366

Email ralphwerestoration7@.com

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Restoration 1

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)

3/1/16
Meeting Date

1248
Bill Number (if applicable)

895924
Amendment Barcode (if applicable)

Topic Prohibited Insurance

Name Dejan Jevremov

Job Title President

Address 5600 NE 3rd Ave. (*Street*)
Phone (305) 333-5207

Miami (*City*) FL. (*State*) 33137 (*Zip*)
Email xact@earthlink.net

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Xact Construction, 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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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)

3/1/16
Meeting Date

1248
Bill Number (if applicable)

Topic Prohibited Insurance

895926
Amendment Barcode (if applicable)

Name David Kays

Job Title Operation Manager

Address 3195 North Powerline Rd Suite #110 Phone 586-945-4960
Street

Pompano Beach FL 33069 Email
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Icon Construction.

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)

3/1/16
Meeting Date

1248
Bill Number (if applicable)

Topic Prohibited Insurance

895924
Amendment Barcode (if applicable)

Name Carole Hayes

Job Title Broker

Address 535 Greenbrier Ave
Street
Celebration FL 34747
City *State* *Zip*

Phone 407-361-6650

Email carolehayes@gfl.rr.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing New World

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/16
Meeting Date

1248
Bill Number (if applicable)

895924
Amendment Barcode (if applicable)

Topic PROHIBITED INSURANCE

Name JOHN PETERS

Job Title MANAGING MEMBER

Address 9153 PERSHORE PL
Street
TAMARAC FL 33321
City *State* *Zip*

Phone 954 551-9892

Email JOHN@ICONLL.US

Speaking: ☐ For ☐ Against ☐ Information

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

Representing ICON CONSTRUCTION FL, LLC

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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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)

3/1/16
Meeting Date

1248
Bill Number (if applicable)

8915924
Amendment Barcode (if applicable)

Topic Prohibited Insurance

Name Alex Azcano

Job Title Managing member

Address 9628 Eagle Point Ln.
Street

Phone 561-718-1131

Lake Worth | Fla. | 33467
City | *State* | *Zip*

Email AAzcano@bellsouth.net

Speaking: ☐ For ☐ Against ☐ Information

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

Representing ICON Construction Fla, LLC.

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/16
Meeting Date

1248
Bill Number (if applicable)

Topic Prohibited Insurance Practices 895926
Amendment Barcode (if applicable)

Name Dave DeBlander

Job Title Owner

Address 3255 Potter St.
Street

Pensacola FL 32514
City *State* *Zip*

Phone 850-712-1933

Email dave@proclean restoration.com

Speaking: ☑ For ☐ Against ☐ Information

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

Representing ProClean Restoration

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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THE FLORIDA SENATE

APPEARANCE RECORD

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3/1/16
Meeting Date

1246
Bill Number (if applicable)

095926
Amendment Barcode (if applicable)

Topic Prohibited Insurance

Name Richie Kidwell

Job Title Owner

Address 941 W. Morse Blvd #100
Street
Winter Park FL 32789
City *State* *Zip*

Phone 407-334-4621

Email richie@aqa.com

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Air Quality Assessors

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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3/1/16
Meeting Date

1248
Bill Number (if applicable)

Topic Prohibited Insurance Practices

895926
Amendment Barcode (if applicable)

Name Brian Christiansen

Job Title Owner

Address 4403 Vineland Rd.
Street

Phone 407-516-7277

Orlando FL 32811
City *State* *Zip*

Email brianerestoration1.com

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Restoration 1 of Central FL

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/16
Meeting Date

1248
Bill Number (if applicable)

Topic Prohibited Insurance Practices

8959216
Amendment Barcode (if applicable)

Name Tom Hayes

Job Title Contractor

Address 121 S. Orange Ave #1524
Street

Phone 407-800-1224

Orlando FL 32801
City *State* *Zip*

Email AHSCF.TomHe gmail.com

Speaking: ☑ For ☐ Against ☐ Information

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

Representing AHS Construction

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

March 1, 2016
Meeting Date

1248
Bill Number (if applicable)

895926
Amendment Barcode (if applicable)

Topic Prohibited Insurance Practices

Name Foyt Ralston

Job Title

Address 101 North Monroe Street, Suite 900
Street

Tallahassee FL 32301
City *State* *Zip*

Phone 850-222-8611

Email fralston@bmolaw.com

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

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

Representing Florida Association of Restoration Specialist

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

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

March 1, 2016
Meeting Date

1248
Bill Number (if applicable)

218156
Amendment Barcode (if applicable)

Topic Prohibited Insurance Practices

Name Foyt Ralston

Job Title

Address 101 North Monroe Street, Suite 900
Street

Phone 850-222-8611

Tallahassee FL 32301
City *State* *Zip*

Email fralston@bmolaw.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Association of Restoration Specialist

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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THE FLORIDA SENATE

APPEARANCE RECORD

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March 1, 2016
Meeting Date

1248
Bill Number (if applicable)

218156
Amendment Barcode (if applicable)

Topic Prohibited Insurance Practices

Name Foyt Ralston

Job Title

Address 101 North Monroe Street, Suite 900
Street

Phone 850-222-8611

Tallahassee FL 32301
City *State* *Zip*

Email fralston@bmolaw.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Association of Restoration Specialist

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

March 1, 2016
Meeting Date

1248
Bill Number (if applicable)

972486
Amendment Barcode (if applicable)

Topic Prohibited Insurance Practices

Name Foyt Ralston

Job Title

Address 101 North Monroe Street, Suite 900
Street

Phone 850-222-8611

Tallahassee FL 32301
City *State* *Zip*

Email fralston@bmolaw.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Association of Restoration Specialist

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

March 1, 2016
Meeting Date

1248
Bill Number (if applicable)

~~548~~ 547894
Amendment Barcode (if applicable)

Topic Prohibited Insurance Practices

Name Foyt Ralston

Job Title

Address 101 North Monroe Street, Suite 900
Street

Phone 850-222-8611

Tallahassee FL 32301
City *State* *Zip*

Email fralston@bmolaw.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Association of Restoration Specialist

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

Mar 1 2016
Meeting Date

1218
Bill Number (if applicable)

[redacted]
Amendment Barcode (if applicable)

Topic Prohibited Tns Practices

Name Caitlin Murray

Job Title Director of Government Affairs

Address _____ Phone _____
Street

_____ Email _____
City *State* *Zip*

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Office of Insurance Regulation

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

The Florida Senate

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 1250 (760580)
INTRODUCER:	Appropriations Committee (Recommended by Appropriations Subcommittee on Health and Human Services); Children, Families, and Elder Affairs Committee; and Senator Latvala
SUBJECT:	Behavioral Health Workforce
DATE:	February 29, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Crosier	Hendon	CF	**Fav/CS**
2.	Brown	Pigott	AHS	**Recommend: Fav/CS**
3.	Brown	Kynoch	AP	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 1250 expands the behavioral health workforce, recognizes the need for additional psychiatrists is of critical state concern, integrates primary care and psychiatry, and allows persons with disqualifying offenses that occurred five or more years ago to work under the supervision of certain qualified personnel until a final determination regarding the request for an exemption from disqualification is made.

The bill authorizes physician assistants (PAs) and advanced registered nurse practitioners (ARNPs) to prescribe controlled substances with certain limitations.

The bill requires a PA or an ARNP who prescribes any controlled substance for the treatment of chronic, nonmalignant pain, to register with the Department of Health (DOH) as a controlled substance prescribing practitioner. This new requirement also subjects PAs and ARNPs who are registered as controlled substance prescribing practitioners to meet the statutory practice standards for such prescribing practitioners. Additionally, the bill provides that only a physician may dispense medication or prescribe a controlled substance on the premises of a registered pain management clinic.

The bill makes the process of retaining a patient in a receiving facility, or placing a patient in a treatment facility under the Baker Act, more efficient by allowing the psychiatrist providing the

first opinion and the psychiatrist or clinical psychologist providing a second opinion to examine the patient through electronic means. Currently, only the psychiatrist or clinical psychologist providing a second opinion may perform an examination electronically.

The bill provides that persons employed directly or under contract with the Department of Corrections (DOC) in an inmate substance abuse program are exempt from a fingerprinting and background check requirement unless they have direct contact with unmarried inmates under the age of 18 or with inmates who are developmentally disabled.

The bill expands who is eligible to be a service provider in a substance abuse program by allowing persons who have had a disqualifying offense that occurred five or more years ago and who have requested an exemption from disqualification to work with adults with substance abuse disorders.

The bill requires a hospital to provide advance notice to certain obstetrical physicians within 90 days before it closes its obstetrical department or ceases to provide obstetrical services.

The bill adds human trafficking to the required continuing medical education (CE) requirements for allopathic and osteopath physicians, physician assistants, anesthesiology assistants, nurses, dentists, dental hygienists, dental lab personnel, psychologists, social workers, mental health counselors, and marriage and family therapists. Such licensees must complete two hours of CE courses on domestic violence *and human trafficking*, approved by the respective board, every third biennial re-licensure or recertification cycle.

The bill has an indeterminate fiscal impact.

The bill, except as otherwise expressly provided, takes effect upon becoming law.

II. Present Situation:

Behavioral Health Workforce Shortage

The Institute of Medicine (IOM) has chronicled efforts, beginning as early as the 1970s, to deal with workforce issues regarding mental and substance abuse disorders, but notes that most have not been sustained long enough or have not been comprehensive enough to remedy the problems.[1] Shortages of qualified workers, recruitment and retention of staff, and an aging

[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, pg. r, citing the following Institute of Medicine reports: Institute of Medicine, (2006), *Improving the quality of health care for mental and substance-use conditions.*, Washington, DC, National Academies Press; Institute of Medicine, (2003), Greiner, A., & Knebel, E. (Eds.), *Health professions education: A bridge to quality.*, Washington, DC, National Academies Press; Institute of Medicine, (2004), Smedley, B. D., Butler, A. S., Bristow, L. R. (Eds.), *In the nation's compelling interest: Ensuring diversity in the health-care workforce.*, Washington, DC, National Academies Press; and Institute of Medicine, & Eden, J., (2012), *The mental health and substance use workforce for older adults: In whose hands?*, Washington, DC, National Academies Press; *available at* https://store.samhsa.gov/shin/content/PEP13-RTC-BHWORK/PEP13-RTC-BHWORK.pdf (last accessed on February 18, 2016).

workforce have long been cited as problems.[2] 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.[3] Recruitment and retention efforts are hampered by inadequate compensation, which discourages many from entering or remaining in the field.[4] In addition, the misperceptions and prejudice surrounding mental and substance use disorders and those who experience them may be imputed to those who work in the field.[5]

Of additional concern, the IOM found that the workforce is unprepared to meet the mental and substance use disorder treatment needs of the rapidly growing population of older adults. The IOM data indicate that 5.6 to 8 million older adults have one or more mental health and substance use conditions which compound the care they need. However, there is a shortage of mental health or substance abuse practitioners who are trained with this population.[6]

The IOM projects that by 2020, there will be 12,625 child and adolescent psychologists needed, but a supply of only 8,312 is anticipated.[7] In 2010, the Substance Abuse and Mental Health Services Administration (SAMHSA) reported that more than two-thirds of primary care physicians who tried to obtain outpatient mental health services for their patients reported they were unsuccessful because of shortages in mental health care providers, health plan barriers, and lack of coverage or inadequate coverage.

As of January 2016, the Health Resources and Services Administration has designed 4,362 Mental Health Professional Shortage Areas, including at least one in each state, the District of Columbia, and each of the territories.[8]

Behavioral Health Practice

In the U.S., states generally require a person to achieve higher levels of education to become a mental health counselor compared to that of a substance abuse counselor. As of 2011, 49 states required a master's degree to qualify as a mental health counselor but 23 states did not require any college degree to qualify as a substance abuse counselor. For behavioral health care disciplines, independent practice requires a master's degree in most states; however, for addiction counselors, data available a decade ago indicated that about 50-55 percent of those certified or practicing in the field held at least a master's degree, 75 percent held a bachelor's degree, and the reminder had either completed some college or held a high school diploma or equivalent degree.[9]

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[2] 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, pg. 4, available at https://store.samhsa.gov/shin/content/PEP13-RTC-BHWORK/PEP13-RTC-BHWORK.pdf (last accessed on February 18, 2016).
[3] *Id.*
[4] *Id.*
[5] *Id.*
[6] *Id.*
[7] *Id.* At 10.
[8] Health Resources and Services Administration, *Data Warehouse, Health Professional Shortage Areas (HPSA)* and *Medically Underserved Areas/Populations (MUA/P),* available at http://datawarehouse.hrsa.gov/topics/shortageAreas.aspx (last accessed on February 6, 2016).
[9] *Supra* note 2.

Because of major changes to the field of behavioral health, including the integration of behavioral health and primary care, behavioral health workers are in need of additional pre-service training and continuing education.[10] Behavioral health has moved to a chronic care, public health model to define needed services. This model recognizes the importance of prevention, the primacy of long-term recovery as its key construct, and is shaped by those with experience of recovery.[11] This new care model will require a diverse, skilled, and trained workforce that employs a range of workers, including people in recovery, recovery specialists, case workers, and highly trained specialists.[12] In fact, the movement to include primary care providers in the field of behavioral health has led to a lack of consensus as to which health care provider types make up the workforce.[13] Generally, however, the workforce is made up of professionals practicing psychiatry, clinical psychology, clinical social work, advanced practice psychiatric nursing, marriage and family therapy, substance abuse counseling, and counseling[14]

Involuntary Examination and Inpatient Placement under the Baker Act

In 1971, the Legislature passed the Florida Mental Health Act, also known as the Baker Act[15], codified in part I of ch. 394, F.S., to address mental health needs in the state.[16] The Baker Act provides the authority and process for the voluntary and involuntary examination of persons with evidence of a mental illness and the subsequent inpatient or outpatient placement of such individuals for treatment.

The Department of Children and Families (DCF) administers the Baker Act through receiving facilities that examine persons with evidence of mental illness. Receiving facilities are designated by the DCF and may be public or private facilities that provide the examination and short-term treatment of persons who meet the criteria under the Baker Act.[17] Subsequent to examination at a receiving facility, a person who requires further treatment may be transported to a treatment facility. Treatment facilities designated by the DCF are state hospitals (e.g. Florida

[10] *Id*. at 4-5.
[11] *Id*. at 6.
[12] *Id*.
[13] Congressional Research Service, *The Mental Health Workforce: A Primer*, April 16, 2015, *available at* http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=3&cad=rja&uact=8&ved=0ahUKEwjK9voubzKAhVCVyYKHYx5DHYQFgguMAI&url=http%3A%2F%2Ffas.org%2Fsgp%2Fcrs%2Fmisc%2FR43255.pdf&usg=AFQjCNHkmHp_4SMtmCWS7gImwEWxhPGl1g&sig2=5JBwSXTV1PHBeGZJGig0Xw(last accessed on February 6, 2016).
[14] *Id.* At 2 (using the Substance Abuse and Mental Health Services Administration definition).
[15] "The Baker Act" is named for its sponsor, Representative Maxine E. Baker, one of the first two women from Dade County elected to office in the Florida Legislature. As chair of the House Committee on Mental Health, she championed the treatment of mental illness in a manner that would not sacrifice a patient's rights and dignity. Baker served five terms as a member of the Florida House of Representatives from 1963-1972 and was instrumental in the passage of the Florida Mental Health Act. *See* University of Florida Smathers Libraries, *A Guide to the Maxine E. Baker Papers*, *available at* http://www.library.ufl.edu/spec/pkyonge/baker.htm (last accessed January 21, 2016), and Department of Children and Families and University of South Florida, Department of Mental Health and Law, *Baker Act Handbook and User Reference Guide 2014 (2014), available at* http://myflfamilies.com/service-programs/mentalhealth/baker-act (select "2014 Baker Act Manual) (last accessed January 21, 2016).
[16] Chapter 71-131, s. 1, Laws of Fla.
[17] Section 394.455(32), F.S.

State Hospital) which provide extended treatment and hospitalization beyond what is provided in a receiving facility.[18]

Current law provides that an involuntary examination may be initiated if there is reason to believe a person has a mental illness, and, because of the illness:[19]

- The person has refused a voluntary examination after explanation of the purpose of the exam or is unable to determine for himself or herself that an examination is needed; and
- The person is likely to suffer from self-neglect or substantial harm to her or his well-being, or be a danger to himself or herself or others.

Courts, law enforcement officers, and certain health care practitioners are authorized to initiate such involuntary examinations.[20] A circuit court may enter an ex parte order stating a person meets the criteria for involuntary examination. A law enforcement officer[21] may take a person into custody who appears to meet the criteria for involuntary examination and transport them to a receiving facility for examination. Health care practitioners may initiate an involuntary examination by executing the Certificate of a Professional Initiating an Involuntary Examination, an official form adopted in DCF rule.[22] The health care practitioner must have examined the person within the preceding 48 hours and must state that the person meets the criteria for involuntary examination.[23] The Baker Act currently authorizes the following health care practitioners to initiate an involuntary examination by certificate:[24]

- A physician licensed under ch. 458, F.S., or ch. 459, F.S., who has experience in the diagnosis and treatment of mental and nervous disorders;
- A clinical psychologist, as defined in s. 490.003(7), F.S., with three years of postdoctoral experience in the practice of clinical psychology, inclusive of the experience required for licensure;
- A physician or psychologist employed by a facility operated by the U.S. Department of Veterans Affairs that qualifies as a receiving or treatment facility;
- A psychiatric nurse licensed under part I of ch. 464, F.S., who has a master's degree or a doctorate in psychiatric nursing, holds a national advanced practice certification as a

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[18] Section 394.463(1), F.S.

[19] Section 394.463(2)(a)1.-3., F.S.

[20] "Law enforcement officer" means any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. This definition includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency. s. 943.10(1), F.S.

[21] The Certificate of a Professional Initiating an Involuntary Examination is a form created by the DCF which must be executed by health care practitioners initiating an involuntary examination under the Baker Act. The form contains information related to the person's diagnosis and the health care practitioner's personal observations of statements and behaviors that support the involuntary examination of such person. See Florida Department of Children and Families, CF-MH 3052b, incorporated by reference in Rule 65E-.280, F.A.C., and available at http://www.dcf.state.fl.us/programs/samh/MentalHealth/laws/3052b.pdf. (last visited February 6, 2016).

[22] Section 394.463(2)(a)3., F.S.

[23] *Id.*

[24] *Id.*

psychiatric mental health advance practice nurse, and has two years of post-master's clinical experience under the supervision of a physician;
- A mental health counselor licensed under ch. 491, F.S.;
- A marriage and family therapist licensed under ch. 491, F.S.; and
- A clinical social worker licensed under ch. 491, F.S.

In 2014, there were 181,471 involuntary examinations initiated in the state. Law enforcement initiated half of the involuntary examinations (50.18 percent), followed closely by mental health professionals (47.86 percent), with the remaining initiated pursuant to ex parte orders by judges (1.96 percent).[25]

Background Screening of Substance Abuse Treatment Provider Staff

Substance abuse treatment programs are licensed by the DCF Substance Abuse Program Office under authority granted in s. 397.401, F.S., which provides that it is unlawful for any person to act as a substance abuse service provider unless he or she is licensed or exempt from licensure. In order to obtain a license, a provider must apply to the DCF and submit "sufficient information to conduct background screening as provided in s. 397.451, F.S."[26] According to administrative rule, the required documentation is verification that fingerprinting and background checks have been completed as required by ch. 397, F.S., and ch. 435, F.S.[27]

Section 397.451, F.S., requires that "all owners, directors, and chief financial officers of service providers are subject to level 2 background screening as provided under chapter 435, F.S." All service provider personnel who have direct contact with children receiving services or with adults who are developmentally disabled receiving services are subject to level 2 background screening as provided under chapter 435, F.S. Church or nonprofit religious organizations that are exempt from licensure as substance abuse treatment programs must also comply with personnel screening requirements.

Exemptions from personnel screening requirements include:
- Persons who volunteer at a program for less than 40 hours per month and who are under direct and constant supervision by persons who meet all screening requirements;
- Service providers who are exempt from licensing; and
- Persons employed by the Department of Corrections (DOC) in a substance abuse service program who have direct contact with unmarried inmates under the age of 18 or with inmates who are developmentally disabled.[28]

The requirements for level 1 and level 2 screening are found in ch. 435, F.S. Level 1 screening includes, at a minimum, employment history checks and statewide criminal correspondence checks through the Florida Department of Law Enforcement (FDLE), a check of the Dru Sjodin

[25] Annette Christy & Christina Guenther, Baker Act Reporting Center, College of Behavioral & Community Sciences, University of South Florida, *Annual Report of Baker Act Data: summary of 2014 Data*, available at http://bakeract.fmhi.usf.edu/document/BA_Annual_2014.pdf (last visited February 6, 2016).
[26] Section 397.403, F.S.
[27] Rule 65D-30.003(6)(s), F.A.C.
[28] Section 397.451(2)(c), F.S.

National Sex Offender Public Website,[29] and may include criminal records checks through local law enforcement agencies. Level 2 screening is required for all employees in positions designated by law as positions of trust or responsibility, and it includes security background investigations which consist of at least fingerprinting, statewide criminal and juvenile records checks through FDLE, and federal criminal records checks through the Federal Bureau of Investigation (FBI) and may include local criminal records checks through local law enforcement agencies.[30]

Under certain circumstances, the DCF may grant an exemption from disqualification as provided in s. 435.07, F.S. These circumstances are:

- Felonies committed more than three years prior to the date of disqualification;
- Misdemeanors prohibited under any of specified Florida Statutes or under similar statutes of other jurisdictions;
- Offenses that were felonies when committed but are now misdemeanors;
- Findings of delinquency; or
- Commissions of acts of domestic violence as defined in s. 741.30, F.S.

Under s. 435.07, F.S., employees bear the burden of proving, by clear and convincing evidence, they should not be disqualified and have administrative hearing rights under ch. 120, F.S., for denials.[31] However, the DCF may not remove a disqualification for or grant an exemption to an individual who is found guilty of, regardless of adjudication, or who has entered a plea of nolo contendere or guilty to, any felony covered by s. 435.03, F.S., solely by pardon, executive clemency, or restoration of civil rights.[32]

Substance Abuse Treatment Provider Staff

Since many substance abuse treatment programs employ persons who are themselves in recovery, the DCF is authorized to grant additional exemptions from disqualification for employees of substance abuse treatment programs.[33] Employees must submit a request for an exemption for disqualification within 30 days after being notified of a pending disqualification. Pending disposition of the exemption request, an employee's employment may not be adversely affected. However, upon disapproval of a request for an exemption the service provider must immediately dismiss the employee from employment.[34]

[29] The Dru Sjodin National Sex Offender Public Website is a U.S. government website that links public state, territorial, and tribal sex offender registries in one national search site. The website is available at https://www.nsopw.gov/ (last visited February 6, 2016.
[30] Section 435.04(1), F.S.
[31] The employee must set forth sufficient evidence of rehabilitation, such as the circumstances surrounding the criminal incident, the time period that has elapsed since the incident, the nature of the harm to the victim, and the history of the employee since the incident.
[32] Section 435.07(4), F.S.
[33] Section 397.451(4)(b), F.S., provides exemptions for crimes under ss. 817.563, 893.13, and 893.147, F.S. These exemptions only apply to providers who treat adolescents age 13 and older; as well as personnel who work exclusively with adults.
[34] Section 397.451(1)(f), F.S.

Physician Assistants

A physician assistant (PA) is a person who has completed an approved medical training program and is licensed to perform medical services, as delegated by a supervising physician.[35] Chapter 458, F.S., sets forth the provisions for the regulation of the practice of allopathic medicine by the Board of Medicine (BOM). Chapter 459, F.S., similarly sets forth the provisions for the regulation of the practice of osteopathic medicine by the Board of Osteopathic Medicine (BOOM). PAs are regulated by both boards. Licensure of PAs is overseen jointly by the boards through the Council on Physician Assistants.[36] During the 2014-2015 state fiscal year, there were 6,744 in-state, actively licensed PAs in Florida.[37]

Physician Assistants are trained and required by statute to work under the supervision and control of allopathic or osteopathic physicians.[38] The BOM and the BOOM have adopted rules that set out the general principles a supervising physician must use in developing the scope of practice of the PA under both direct[39] and indirect[40] supervision. A supervising physician's decision to permit a PA to perform a task or procedure under direct or indirect supervision must be based on reasonable medical judgment regarding the probability of morbidity and mortality to the patient. The supervising physician must be certain that the PA is knowledgeable and skilled in performing the tasks and procedures assigned.[41] Each physician, or group of physicians supervising a licensed PA, must be qualified in the medical areas in which the PA is to work and is individually or collectively responsible and liable for the performance and the acts and omissions of the PA.[42]

Current law allows a supervisory physician to delegate authority to prescribe or dispense any medication used in the physician's practice, except controlled substances, general anesthetics, and radiographic contrast materials.[43] However, the law allows a supervisory physician to delegate authority to a PA to order any medication, including controlled substances, general anesthetics, and radiographic contrast materials, for a patient during the patient's stay in a facility licensed under ch. 395, F.S.[44]

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[35] Sections 458.347(2)(e) and 459.022(2)(e), F.S.

[36] The council consists of three physicians who are members of the Board of Medicine; one physician who is a member of the Board of Osteopathic Medicine; and a physician assistant appointed by the State Surgeon General. (s. 458.348(9), F.S. and s. 459.022(9), F.S.)

[37] Florida Dep't of Health, Division of Medical Quality Assurance, *Annual Report and Long Range Plan Fiscal Year 2014-2015*, p. 11, *available at* http://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/_documents/annual-report-1415.pdf, (last visited Feb. 1, 2016).

[38] Sections 458.347(4), and 459.022(4), F.S.

[39] "Direct supervision" requires the physician to be on the premises and immediately available. (*See* Rules 64B8-30.001(4) and 64B15-6.001(4), F.A.C.).

[40] "Indirect supervision" requires the physician to be within reasonable physical proximity. (Rules 64B8-30.001(5) and 64B15-6.001(5), F.A.C.

[41] Rules 64B8-30.012(2) and 64B15-6.010(2), F.A.C.

[42] Sections 458.347(3) and (15) and 459.022(3) and (15), F.S.

[43] Sections 458.347(4)(e) and (f)1., and 459.022(4)(e), F.S.

[44] *See* s. 395.002(16), F.S. The facilities licensed under chapter 395 are hospitals, ambulatory surgical centers, and mobile surgical facilities.

Licenses are renewed biennially.[45] At the time of renewal, a PA must demonstrate that he or she has met the continuing medical education requirements of 100 hours and must submit a sworn statement that he or she has not been convicted of any felony in the previous two years.[46] If a PA is licensed as a prescribing PA, an additional 10 hours of continuing medical education in the specialty areas of his or her supervising physician must be completed.[47]

According to the American Academy of Physician Assistants, all accredited PA educational programs include pharmacology courses, and the average amount of formal classroom instruction in pharmacology is 75 hours.[48] Course topics, include pharmacokintetics, drug interactions, adverse effects, contraindications, indications, and dosage, generally by doctoral-level pharmacologists or clinical pharmacists.[49] Additionally, pharmacology education occurs on all clinical clerkships or rotations.[50]

A PA may only practice under the delegated authority of a supervising physician. A physician may not supervise more than four PAs at any time.[51]

Advanced Registered Nurse Practitioners

Part I of ch. 464, F.S., governs the licensure and regulation of advanced registered nurse practitioners (ARNPs) in Florida. Nurses are licensed by the Department of Health (DOH) and are regulated by the Board of Nursing (BON).[52] There are 22,003 actively licensed ARNPs in Florida.[53]

In Florida, an ARNP is a licensed nurse who is certified in advanced or specialized nursing practice and may practice as a certified registered nurse anesthetist, a certified nurse midwife, or a nurse practitioner.[54] Section 464.003(2), F.S., defines "advanced or specialized nursing practice" to include the performance of advanced-level nursing acts approved by the BON, which by virtue of post-basic specialized education, training, and experience are appropriately performed by an ARNP.[55]

Pursuant to s. 464.012(3), F.S., ARNPs may only perform nursing practices delineated in an established protocol filed with the BON that is filed within 30 days of entering into a supervisory

[45] For timely renewed licenses, the renewal fee is $275 and the prescribing registration fee is $150. Additionally, at the time of renewal, the PA must pay an unlicensed activity fee of $5. See Rules 64B8-30.019 and 64B15-6.013, F.A.C. [43] Sections 458.347(7)(c)-(d) and 459.022(7)(c)-(d), F.S.
[46] Sections 458.347(7)(c)-(d) and 459.022(7)(c)-(d), F.S.
[47] Rules 64B8-30.005(6) and 64B15-6.0035(6), F.A.C.
[48] American Academy of Physician Assistants, *PAs as Prescribers of Controlled Medications, Professional Issues – Issue Brief* (Dec. 2013), (on file with the staff of the Senate Committee on Children, Families & Elder Affairs).
[49] *Id.*
[50] *Id.*
[51] Sections 458.347(3) and 459.022(3), F.S.
[52] Section 464.004, F.S.
[53] E-mail correspondence with the Department of Health (Nov. 9, 2015). This number includes all active licenses, including out of state practitioners.
[54] Section 464.003(3), F.S.
[55] Section 464.003(2), F.S.

relationship with a physician and upon biennial license renewal.[56] Florida law allows a primary care physician to supervise ARNPs in up to four offices, in addition to the physician's primary practice location.[57] If the physician provides specialty health care services, then only two medical offices, in additional to the physician's primary practice location, may be supervised.

The supervision limitations do not apply in the following facilities:
- Hospitals;
- Colleges of medicine or nursing;
- Nonprofit family-planning clinics;
- Rural and federally qualified health centers;
- Nursing homes;
- Assisted living facilities;
- Student health care centers or school health clinics; or
- Other government facilities.[58]

To ensure appropriate medical care, the number of ARNPs a supervising physician may supervise is limited based on consideration of the following factors:
- Risk to the patient;
- Educational preparation, specialty, and experience in relation to the supervising physician's protocol;
- Complexity and risk of the procedures;
- Practice setting; and
- Availability of the supervising physician or dentist.[59]

Controlled Substances

Controlled substances are drugs with the potential for abuse. Chapter 893, F.S., sets forth the Florida Comprehensive Drug Abuse Prevention and Control Act (Act) and classifies controlled substances into five categories, known as schedules.[60] The distinguishing factors between the different drug schedules are the "potential for abuse" of the substance and whether there is a currently accepted medical use for the substance. Schedules are used to regulate the manufacture, distribution, preparation and dispensing of the substances. The Act provides requirements for the prescribing and administering of controlled substances by health care practitioners and proper dispensing by pharmacists and health care practitioners.[61]

As of January 1, 2012, every physician, podiatrist, or dentist, who prescribes controlled substances in the state for the treatment of chronic nonmalignant pain,[62] must register as a

[56] Physicians are also required to provide notice of the written protocol and the supervisory relationship to the Board of Medicine or Board of Osteopathic Medicine, respectively. See ss. 458.348 and 459.025, F.S.
[57] Sections 458.348(4) and 459.025(3), F.S.
[58] Sections 458.348(4)(e) and 459.025(3)(e), F.S.
[59] Rule 64B9-4.010, F.A.C.
[60] *See* s. 893.03, F.S.
[61] Sections 893.04 and 893.05, F.S.
[62] "Chronic nonmalignant pain" is defined as pain unrelated to cancer which persists beyond the usual course of disease or the injury that is the cause of the pain or more than 90 days after surgery. Section 456.44(1)(e), F.S.

controlled substance prescribing practitioner and comply with certain practice standards specified in statute and rule.[63]

Patients being treated with controlled substances for chronic nonmalignant pain must be seen by their prescribing practitioners at least once every three months to monitor progress and compliance, and detailed medical records relating to such treatment must be maintained.[64] Patients at special risk for drug abuse or diversion may require consultation with or a referral to an addiction medicine physician or a psychiatrist.[65] Anyone with signs or symptoms of substance abuse must be immediately referred to a pain-management physician, an addiction medicine specialist, or an addiction medicine facility.[66]

Obstetrical Departments in Hospitals

Hospitals are required to report the services which will be provided by the hospital as a requirement of licensure. These services are listed on the hospital's license. A hospital must notify the Agency for Health Care Administration (AHCA) of any change of service that affects information on the hospital's license by submitting a revised licensure application between 60 and 120 days in advance of the change.[67] The list of services is also used for the AHCA's inventory of hospital emergency services. According to the AHCA website, there are currently 143 hospitals in Florida that offer emergency obstetrical services.[68]

Provider Hospitals

Section 383.336, F.S., defines the term "provider hospital" and creates certain requirements for such hospitals. A provider hospital is defined as a hospital in which 30 or more births occur annually that are paid for partly or fully by state funds or federal funds administered by the state.[69] Physicians in such hospitals are required to comply with additional practice parameters[70] designed to reduce the number of unnecessary cesarean sections performed within the hospital. These parameters must be followed by physicians when performing cesarean sections partially or fully paid for by the state.

The statute also requires provider hospitals to establish a peer review board consisting of obstetric physicians and other persons with credentials to perform cesarean sections within the hospital. The board is required to review, on a monthly basis, all cesarean sections performed within the hospital that were partially or fully funded by the state.

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[63] Chapter 2011-141, s. 3, Laws of Fla. (creating ss. 456.44, F.S., effective July 1, 2011).
[64] Section 465.44(3)(d), F.S.
[65] Section 465.44(3)(e), F.S.
[66] Section 456.44(3)(g), F.S.
[67] AHCA, *Senate Bill 380 Analysis* (December 20, 2013) (on file with Senate Committee on Health Policy). See also ss. 408.806(2)(c) and 395.1041(2), F.S.
[68] Report generated by http://www.floridahealthfinder.gov/index.html on Nov. 24, 2015 (on file with the Senate Committee on Health Policy).
[69] Section 383.336 (1), F.S.
[70] These parameters are established by the Office of the State Surgeon General in consultation with the Board of Medicine and the Florida Obstetric and Gynecologic Society and are required to address, at a minimum, the feasibility of attempting a vaginal delivery, dystocia, fetal distress, and fetal malposition.

These provisions are not currently being implemented, and DOH rules regarding provider hospitals were repealed by ss. 9-10 of ch. 2012-31, Laws of Florida.

Closure of an Obstetrical Department in Bartow, Florida

In June of 2007, Bartow Regional Medical Center in Polk County announced to patients and physicians that it would close its obstetrics department at the end of July of the same year.[71] Although many obstetrical physicians could continue to see patients in their offices, they would no longer be able to deliver babies at the hospital.[72] Physicians and the local community protested the short timeframe for ceasing to offer obstetrical services. According to the Florida Medical Association and several physicians who worked at the hospital, the short notice "endangered pregnant women who [were] too close to delivery for obstetricians at other hospitals to want them as patients."[73]

Continuing Education (CE) for Health Care Practitioners

Section 456.031, F.S., requires allopathic and osteopath physicians, physician assistants, anesthesiology assistants, nurses, dentists, dental hygienists, dental lab personnel, psychologists, social workers, mental health counselors, and marriage and family therapists licensed under chs. 458, 459, Part I of chs. 464, 466, 490 and 491, F.S., to obtain two hours of CE on domestic violence every third biennium, or every six years. The law allows each board to approve equivalent courses to satisfy this requirement. Reporting of CE hours is mandatory for these professions through the licensee's CE Broker account.

Florida law defines "domestic violence" as any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member.[74]

Section 456.031, F.S., sets out the required CE course content for domestic violence, as follows:

- Data and information on the number of patients in that professional's practice who are likely to be victims of domestic violence;
- The number who are likely to be perpetrators of domestic violence;
- Screening procedures for determining whether a patient has any history of being either a victim or a perpetrator of domestic violence; and
- Instruction on how to provide patients with information on resources in the local community, such as domestic violence centers and other advocacy groups, that provide legal aid, shelter, victim counseling, batterer counseling, or child protection services.

[71] Jennifer Starling, *Community Unites Against OB Closure*, THE POLK DEMOCRAT, July 12, 2007, *available at* http://ufdc.ufl.edu/UF00028292/00258/1x?vo=12, (last visited Nov. 24, 2015).
[72] Robin W. Adams, *Bartow Hospital Plan Criticized*, THE LEDGER, July 11, 2007, *available at* http://www.theledger.com/article/20070711/NEWS/707110433?p=1&tc=pg&tc=ar. (last visited Nov. 24, 2015).
[73] Id.
[74] *See* s. 741.28, F.S.

Florida law defines "human trafficking" to mean transporting, soliciting, recruiting, harboring, providing, enticing, maintaining, or obtaining another person for the purpose of exploitation of that person.[75]

Currently there is no requirement for allopathic and osteopath physicians, physician assistants, anesthesiology assistants, nurses, dentists, dental hygienists, dental lab personnel, psychologists, social workers, mental health counselors, or marriage and family therapists, to complete any CEs on human trafficking, either at initial licensure or renewal.

According to the Department of Health's Division of Medical Quality Assurance (MQA) Annual Report and Long Range Plan for Fiscal Year 2014-2015, there are 48,941 in-state allopathic physicians,[76] 6,216 osteopathic physicians,[77] 6,744 physician assistants, 197 anesthesiologist assistants, 304,666 nurses,[78] 10,981 dentists, 11,589 dental hygienists, 1,023 dental lab personnel, 5,086 psychologists, 7,971 social workers, 9,054 mental health counselors and 1,667 marriage and family therapists holding active licenses in Florida.[79]

III. Effect of Proposed Changes:

Section 1 amends s. 110.12315, F.S., to allow advanced registered nurse practitioners and physician assistants to write prescriptions under the state employees' prescription drug program for brand name drugs under certain conditions.

Section 2 amends s. 310.071, F.S., to allow applicants for certification as a deputy pilot of a watercraft or vessel to meet certain requirements and minimum standards for passing a physical examination. Such standards must include zero tolerance for any controlled substance unless the applicant is under the care of, and the controlled substance was prescribed by, a physician, advanced registered nurse practitioner (ARNP), or physician assistant (PA).

Section 3 amends s. 310.073, F.S., to require applicants for state licensure as a pilot of a watercraft or vessel to meet certain minimum standards for physical and mental capabilities necessary to carry out their professional duties. Such minimum standards must include zero tolerance for any controlled substance unless the applicant is under the care of, and the controlled substance was prescribed by, a physician, ARNP, or PA.

Section 4 amends s. 310.081, F.S., to allow licensed pilots to hold their licenses so long as they meet certain minimum standards. Such standards include zero tolerance for any controlled

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[75] *See* s. 787.06(2)(d), F.S.
[76] Florida Dep't of Health, Division of Medical Quality Assurance, *Annual Report and Long Range Plan Fiscal Year 2014-2015*, p. 11-13, *available at* http://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/_documents/annual-report-1415.pdf, (last visited Jan. 26, 2016). The 48,941 active allopathic physicians includes: 226 house physicians; 146 limited license physicians; 335 critical need physicians, 8 medical expert physicians, 1 Mayo Clinic limited license physician; 40 medical facility physicians; 2 public health physicians; and 1 public psychiatry physician.
[77] *Id*. The 7216 osteopathic physicians includes 5,264 osteopathic physicians, 5 osteopathic limited license physicians, and 2 osteopathic expert physicians.
[78] *Id*. The 304,566 nurses includes 18,250 ARNPs, 26 ARNP/CNS, 131 CNS, 217,315 RNs, and 68,844 LPNs,
[79] *See* supra note 3.

substance unless the applicant is under the care of, and the controlled substance was prescribed by, a physician, advanced registered nurse practitioner or physician assistant.

Section 5 amends 394.453, F.S., to provide legislative intent to address a behavioral health workforce shortage in the state. The bill finds that there is a need for additional psychiatrists and recommends the establishment of an additional psychiatry program to be offered by one of Florida's medical schools, which shall seek to integrate primary care and psychiatry, and other evolving models of care for persons with mental health and substance use disorders. Additionally, the bill finds that the use of telemedicine for patient evaluation, case management, and ongoing care will improve management of patient care and reduce costs of transportation.

Section 6 amends s. 394.467, F.S., to allow a psychiatrist providing the first opinion and a psychiatrist or clinical psychologist providing a second opinion about the patient's placement, to examine the patient electronically.

Section 7 amends s. 395.1051, F.S., to require hospitals to notify physicians within 90 days before the hospital closes its obstetrical department or ceases to provide obstetrical services.

Section 8 amends s. 397.451, F.S., to clarify that persons employed with the Department of Corrections (DOC) in an inmate substance abuse program are exempt from fingerprinting and background check requirement, unless they have direct contact with unmarried inmates under the age of 18 or with inmates who are developmentally disabled. The current law erroneously states the inverse.

The bill also provides that a person who has had a disqualifying offense that occurred five or more years ago and who has requested an exemption from disqualification to work with adults with substance abuse disorders, must work under the supervision of qualified professionals under chapter 490 or chapter 491 or a master's level certified addiction professional until "the agency" makes a final determination regarding the request for an exemption from disqualification.

Section 9 amends s. 456.031, F.S., to require allopathic and osteopath physicians, physician assistants, anesthesiology assistants, nurses, dentists, dental hygienists, dental lab personnel, psychologists, social workers, mental health counselors, and marriage and family therapists to complete two hours of Continuing Education (CE) on domestic violence and human trafficking as part of every third biennial license renewal, which is every six years. The course content for domestic violence remains unchanged.

The bill sets out the required course content for the human trafficking portion of the course as follows:

- Data and information on the types and extent of labor and sex trafficking;
- Factors that place a person at greater risk of being a trafficking victim;
- Patient safety and security;
- Management of medical records of patients who are trafficking victims;
- Public and private social services available for rescue, food, clothing, and shelter referrals;
- Hotlines for reporting human trafficking maintained by the National Human Trafficking Resource Center and the U.S. Department of Homeland Security;

- Validated assessment tools for the identification of trafficking victims;
- General indicators that a person may be a victim of human trafficking;
- Procedures for sharing information related to human trafficking with a patient; and
- Referral options for legal and social services as appropriate.

Confirmation of completing the CE hours is due when submitting fees for every third biennial re-licensure or recertification. The form of the confirmation is left to the discretion of the respective board.[80] The board may approve equivalent courses to satisfy this statute's requirements. The two CE hours on domestic violence and human trafficking may be included in the total CE hours required by the profession, unless the CE requirement for the profession is less than 30 hours biennially. A person holding two or more licenses under this section may satisfy the CE requirements for each license upon proof of completion of one, two-hour, course during the time frame.

The bill provides for disciplinary action under s. 456.072(1)(k), F.S., for failure to comply with the CE requirements and requires the respective board to include completion of a board-approved course as part of any discipline imposed. The bill allows each board to adopt rules to carry out this statute.

Section 10 amends s. 456.072, F.S., to provide that an ARNP who prescribed or dispensed in a manner that violates the standards of practice is subject to disciplinary action.

Section 11 amends s. 456.44, F.S., to increase access to behavioral health treatment by allowing PAs licensed under chapters 458 or 459, F.S., and ARNPs certified under part I of ch. 464, F.S., to prescribe controlled substances listed in Schedule II, Schedule III, or Schedule IV as defined in s. 893.03, F.S., for the treatment of chronic nonmalignant pain under certain conditions.

Section 12 amends s. 458.3265, F.S., to allow only physicians licensed under chapters 458 or 459, F.S., to dispense medication or prescribe controlled substance regulated under ch. 893 on the premises of a registered pain-management clinic.

Section 13 amends s. 459.0137, F.S., to allow only physicians licensed under chapters or 458 or 459, F.S., to dispense medication or prescribe controlled substance regulated under ch. 893 on the premises of a registered pain-management clinic.

Section 14 amends s. 458.347, F.S., to provide that three of the ten continuing medical education hours required for a PA must consist of a continuing education court on the safe and effective prescribing of controlled substance medications. The continuing education must be offered by a statewide professional association of physicians in this state accredited to provide educational activities designated by the American Medical Association Physician's Recognition Award

[80] See The Department of Health, *Continuing Education – CE,* http://www.floridahealth.gov/licensing-and-regulation/ce.html, (last visited Jan. 22, 2016). Currently, the DOH requires all licensees to report all CEs at the time of renewal through the department's electronic tracking system. It happens automatically when a licensee attempts to renew his or her license. If the licensee's CE records are complete, they will be able to renew without interruption. If the licensee's CE records are not complete, they will be prompted to enter their remaining CE hours before proceeding with their license renewal.

Category I Credit or designated by the American Academy of Physician Assistants as a Category I Credit.

Section 15 amends s. 458.347, F.S., to direct the establishment of a formulary of medicinal drugs that a fully licensed PA may not prescribe. The formulary must include certain drugs and must limit the prescription of Schedule II controlled substance to a seven-day supply and restrict the prescribing of psychiatric mental health controlled substances to children under 18 years of age, effective January 1, 2017.

Section 16 amends s. 464.003, F.S., to provide that an ARNP may perform certain acts of medical diagnosis and treatment, prescription, and operation as authorized within the framework of an established supervisory protocol.

Section 17 amends s. 464.012, F.S., to direct the Board of Nursing to establish a committee to recommend a formulary of controlled substances that an ARNP may not prescribe or may prescribe only for specific uses or in limited quantities. The bill sets out who will be members of the committee and that the committee's initial recommendation is to be adopted no later than October 31, 2016.

Section 18 amends s. 464.012, F.S., to allow ARNPs to prescribe, dispense, administer, or order any drug but may only prescribe or dispense a controlled substance if the ARNP meets specified education and training requirements, effective January 1, 2017.

Section 19 amends s. 464.013, F.S., to provide that ARNPs must meet certain continuing education requirements and participate in at least three hours of continuing education requirements on the safe and effective prescription of controlled substances.

Section 20 amends 2. 464.018, F.S., to specify the acts that constitute grounds for denial of a license or disciplinary actions for ARNPs.

Section 21 amends s. 893.02, F.S., to include ARNPs and PAs in the definition of practitioner.

Section 22 amends s. 948.03, F.S., to provide that a probationer is prohibited from using intoxicants or possessing any drugs or narcotics unless prescribed by a physician, ARNP, or PA.

Section 23 amends s. 458.348, F.S., to correct cross-referencing.

Section 24 amends s. 459.025, F.S., to correct cross-referencing.

Section 25 reenacts s. 458.331, F.S., for the purpose of incorporating the amendment made by the bill to s. 456.072, F.S.

Section 26 reenacts s. 458.347, F.S., for the purpose of incorporating the amendment made by the bill to s. 456.072, F.S.

Section 27 reenacts s. 459.015, F.S., for the purpose of incorporating the amendment made by the bill to s. 456.072, F.S.

Section 28 reenacts s. 459.022, F.S., for the purpose of incorporating the amendment made by the bill to s. 456.072, F.S.

Section 29 reenacts s. 459.0158, F.S., for the purpose of incorporating the amendment made by the bill to s. 456.072, F.S.

Section 30 reenacts s. 456.072(1)(mm), F.S., for the purpose of incorporating the amendment made by the bill to s. 456.44, F.S.

Section 31 reenacts s. 459.02751, F.S., for the purpose of incorporating the amendment made by the bill to s. 456.44, F.S.

Section 32 reenacts s. 458.303, F.S., for the purpose of incorporating the amendment made by the bill to s. 458.347, F.S.

Section 33 reenacts s. 458.3475, F.S., for the purpose of incorporating the amendment made by the bill to s. 458.347, F.S.

Section 34 reenacts s. 459.022, F.S., for the purpose of incorporating the amendment made by the bill to s. 458.347 F.S.

Section 35 reenacts s. 459.023, F.S., for the purpose of incorporating the amendment made by the bill to s. 458.347, F.S.

Section 36 reenacts s. 456.041, F.S., for the purpose of incorporating the amendment made by the bill to s. 464.012, F.S.

Section 37 reenacts s. 458.348, F.S., for the purpose of incorporating the amendment made by the bill to s. 464.012, F.S.

Section 38 reenacts s. 464.0205, F.S., for the purpose of incorporating the amendment made by the bill to s. 464.013, F.S.

Section 39 reenacts s. 320.0848, F.S., for the purpose of incorporating the amendment made by the bill to s. 464.018, F.S.

Section 40 reenacts s. 464.008, F.S., for the purpose of incorporating the amendment made by the bill to s. 464.018, F.S.

Section 41 reenacts s. 464.009, F.S., for the purpose of incorporating the amendment made by the bill to s. 464.018, F.S.

Section 42 reenacts s. 464.0205, F.S., for the purpose of incorporating the amendment made by the bill to s. 464.018, F.S.

Section 43 reenacts s. 775.051, F.S., for the purpose of incorporating the amendment made by the bill to s. 893.02, F.S.

Section 44 reenacts s. 944.17, F.S., for the purpose of incorporating the amendment made by this the bill to s. 948.03, F.S.

Section 45 reenacts s. 948.101, F.S., for the purpose of incorporating the amendment made by the bill to s. 948.03, F.S.

Section 46 reenacts s. 948.101, F.S., for the purpose of incorporating the amendment made by the bill to s. 948.03, F.S.

Section 47 provides that except as otherwise expressly provided, the act shall take effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other:

PCS/CS/SB 1250 is a bill relating to the "behavioral health workforce." Article III, section 6 of the Florida Constitution requires that [e]very law shall embrace but one subject and matter properly connected therewith and the subject shall be briefly expressed in the title." The bill in section 7, requires hospitals to provide physicians with notice before a hospital closes its obstetrical department or ceases to provide obstetrical services. Consideration should be given to revising the "relating to" clause in the bill's title or whether certain provisions of the bill constitute more than "one subject and matter properly connected therewith."

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Under PCS/CS/SB 1250, health care entities may experience some cost savings by allowing additional practitioners to provide treatment and care. Cost savings may be passed on to patients.

C. Government Sector Impact:

The Department of Health may experience an indeterminate workload impact for handling additional complaints and conducting additional investigations due to the expanded scope of practice for advanced registered nurse practitioners (ARNPs) and physician assistants (PAs).

VI. Technical Deficiencies:

The bill amends s. 397.451, F.S., to provide that a person who has had a disqualifying offense that occurred five or more years ago and who has requested an exemption from disqualification to work with adults with substance abuse disorders, must work under the supervision of qualified professionals under chapter 490, F.S. or chapter 491, F.S. or a master's level certified addiction professional until "the agency" makes a final determination regarding the request for an exemption from disqualification. Chapter 391, F.S., refers to several different types of agencies, and it is unclear which agency is being referenced under the bill.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 110.12315, 310.071, 310.073, 310.081, 394.453, 394.467, 395.1051, 397.451, 456.031, 456.072, 456.44, 458.3265, 459.0137, 458.347, 464.003, 464.012, 464.013, 464.018, 893.02, 948.03, 458.348, and 459.025.

This bill reenacts the following sections of the Florida Statutes: 458.331, 458.347, 459.015, 459.022, 464.0205, 465.0158, 456.072, 466.02751, 458.303, 458.3475, 459.022, 459.023, 456.041, 458.348, 464.0205, 320.0848, 464.008, 464.009, 464.0205, 775.051, 944.17, 948.001, and 948.101.

IX. Additional Information:

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

Recommended CS/CS by Appropriations Subcommittee on Health and Human Services on February 24, 2016:
The proposed CS adds human trafficking to the required continuing medical education (CE) requirements for allopathic and osteopath physicians, physician assistants, anesthesiology assistants, nurses, dentists, dental hygienists, dental lab personnel, psychologists, social workers, mental health counselors, and marriage and family

therapists. Under the bill, such licensees must complete two hours of CE courses on domestic violence and human trafficking, approved by the respective board, every third biennial re-licensure or recertification cycle.

CS by Children, Families, and Elder Affairs on February 10, 2016:

- Removes language expanding the Statewide Medicaid Residency Program to include psychiatry in the list of primary care specialty programs included in the program.
- Requires hospitals notify physicians within 90 days of the closing of an obstetrical department.
- Provides grounds for disciplinary actions for advanced registered nurse practitioners (ARNPs) and physician assistants.
- Provides required hours for continuing education credits for ARNPs and physician assistants prescribing controlled substances.
- Directs the Board of Nursing (BON) to establish a formulary of controlled substances that ARNPs cannot prescribe.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/01/2016	.	
	.	
	.	
	.	

The Committee on Appropriations (Latvala) recommended the following:

Senate Amendment

Delete line 442
and insert:
of this section by July 1, 2017.

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576-04126-16

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Health and Human Services)

A bill to be entitled

An act relating to the health care workforce; amending s. 110.12315, F.S.; expanding the categories of persons who may prescribe brand name drugs under the prescription drug program when medically necessary; amending ss. 310.071, 310.073, and 310.081, F.S.; exempting controlled substances prescribed by an advanced registered nurse practitioner or a physician assistant from the disqualifications for certification or licensure, and for continued certification or licensure, as a deputy pilot or state pilot; amending s. 394.453, F.S.; revising legislative intent; amending s. 394.467, F.S.; authorizing procedures for recommending admission of a patient to a treatment facility; amending s. 395.1051, F.S.; requiring a hospital to provide specified advance notice to certain obstetrical physicians before it closes its obstetrical department or ceases to provide obstetrical services; amending s. 397.451, F.S.; revising provisions relating to exemptions from disqualification for certain service provider personnel; amending s. 456.031, F.S.; providing that certain licensing boards must require specified licensees to complete a specified continuing education course that includes a section on human trafficking as a condition of relicensure or recertification; providing requirements and procedures related to the

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course; amending s. 456.072, F.S.; providing mandatory administrative penalties for certain violations relating to prescribing or dispensing a controlled substance; amending s. 456.44, F.S.; providing a definition; deleting an obsolete date; requiring advanced registered nurse practitioners and physician assistants who prescribe controlled substances for certain pain to make a certain designation, comply with registration requirements, and follow specified standards of practice; providing applicability; amending ss. 458.3265 and 459.0137, F.S.; limiting the authority to prescribe a controlled substance in a pain-management clinic only to a physician licensed under chapter 458 or chapter 459, F.S.; amending s. 458.347, F.S.; revising the required continuing education requirements for a physician assistant; requiring that a specified formulary limit the prescription of certain controlled substances by physician assistants as of a specified date; amending s. 464.003, F.S.; redefining the term "advanced or specialized nursing practice"; deleting the joint committee established in the definition; amending s. 464.012, F.S.; requiring the Board of Nursing to establish a committee to recommend a formulary of controlled substances that may not be prescribed, or may be prescribed only on a limited basis, by an advanced registered nurse practitioner; specifying the membership of the committee; providing parameters for the formulary; requiring that the formulary be adopted

by board rule; specifying the process for amending the formulary and imposing a burden of proof; limiting the formulary's application in certain instances; requiring the board to adopt the committee's initial recommendations by a specified date; authorizing an advanced registered nurse practitioner to prescribe, dispense, administer, or order drugs, including certain controlled substances under certain circumstances, as of a specified date; amending s. 464.013, F.S.; revising continuing education requirements for renewal of a license or certificate; amending s. 464.018, F.S.; specifying acts that constitute grounds for denial of a license or for disciplinary action against an advanced registered nurse practitioner; amending s. 893.02, F.S.; redefining the term "practitioner" to include advanced registered nurse practitioners and physician assistants under the Florida Comprehensive Drug Abuse Prevention and Control Act for the purpose of prescribing controlled substances if a certain requirement is met; amending s. 948.03, F.S.; providing that possession of drugs or narcotics prescribed by an advanced registered nurse practitioner or a physician assistant does not violate a prohibition relating to the possession of drugs or narcotics during probation; amending ss. 458.348 and 459.025, F.S.; conforming provisions to changes made by the act; reenacting ss. 458.331(10), 458.347(7)(g), 459.015(10), 459.022(7)(f), and 465.0158(5)(b), F.S.,

relating to grounds for disciplinary action against certain licensed health care practitioners or applicants, physician assistant licensure, the imposition of penalties upon physician assistants by the Board of Osteopathic Medicine, and nonresident sterile compounding permits, respectively, to incorporate the amendment made by the act to s. 456.072, F.S., in references thereto; reenacting ss. 456.072(1)(mm) and 466.02751, F.S., relating to grounds for discipline of certain licensed health care practitioners or applicants and dentist practitioner profiles, respectively, to incorporate the amendment made by the act to s. 456.44, F.S., in references thereto; reenacting ss. 458.303, 458.3475(7)(b), 459.022(4)(e) and (9)(c), and 459.023(7)(b), F.S., relating to the nonapplicability of certain provisions to specified health care practitioners, and the duties of the Board of Medicine and the Board of Osteopathic Medicine with respect to anesthesiologist assistants, respectively, to incorporate the amendment made by the act to s. 458.347, F.S., in references thereto; reenacting ss. 456.041(1)(a) and 458.348(1) and (2), F.S., relating to practitioner profiles and notice and standards for formal supervisory relationships, respectively, to incorporate the amendment made by the act to s. 464.012, F.S., in references thereto; reenacting s. 464.0205(7), F.S., relating to certification as a retired volunteer nurse to incorporate the amendment made by the act to s.

464.013, F.S., in a reference thereto; reenacting ss. 320.0848(11), 464.008(2), 464.009(5), and 464.0205(1)(b), (3), and (4)(b), F.S., relating to violations of provisions for disability parking, licensure by examination of registered nurses and licensed practical nurses, licensure by endorsement to practice professional or practical nursing, disciplinary actions against nursing applicants or licensees, and retired volunteer nurse certifications, respectively, to incorporate the amendment made by the act to s. 464.018, F.S., in references thereto; reenacting s. 775.051, F.S., relating to exclusion as a defense and nonadmissibility as evidence of voluntary intoxication to incorporate the amendment made by the act to s. 893.02, F.S., in a reference thereto; reenacting ss. 944.17(3)(a), 948.001(8), and 948.101(1)(e), F.S., relating to receipt by the state correctional system of certain persons sentenced to incarceration, the definition of the term "probation," and the terms and conditions of community control, respectively, to incorporate the amendment made by the act to s. 948.03, F.S., in references thereto; providing effective dates.

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

Section 1. Subsection (7) of section 110.12315, Florida Statutes, is amended to read:

110.12315 Prescription drug program.—The state employees'

prescription drug program is established. This program shall be administered by the Department of Management Services, according to the terms and conditions of the plan as established by the relevant provisions of the annual General Appropriations Act and implementing legislation, subject to the following conditions:

(7) The department shall establish the reimbursement schedule for prescription pharmaceuticals dispensed under the program. Reimbursement rates for a prescription pharmaceutical must be based on the cost of the generic equivalent drug if a generic equivalent exists, unless the physician, advanced registered nurse practitioner, or physician assistant prescribing the pharmaceutical clearly states on the prescription that the brand name drug is medically necessary or that the drug product is included on the formulary of drug products that may not be interchanged as provided in chapter 465, in which case reimbursement must be based on the cost of the brand name drug as specified in the reimbursement schedule adopted by the department.

Section 2. Paragraph (c) of subsection (1) of section 310.071, Florida Statutes, is amended, and subsection (3) of that section is republished, to read:

310.071 Deputy pilot certification.—

(1) In addition to meeting other requirements specified in this chapter, each applicant for certification as a deputy pilot must:

(c) Be in good physical and mental health, as evidenced by documentary proof of having satisfactorily passed a complete physical examination administered by a licensed physician within the preceding 6 months. The board shall adopt rules to establish

requirements for passing the physical examination, which rules shall establish minimum standards for the physical or mental capabilities necessary to carry out the professional duties of a certificated deputy pilot. Such standards shall include zero tolerance for any controlled substance regulated under chapter 893 unless that individual is under the care of a physician, advanced registered nurse practitioner, or physician assistant and that controlled substance was prescribed by that physician, advanced registered nurse practitioner, or physician assistant. To maintain eligibility as a certificated deputy pilot, each certificated deputy pilot must annually provide documentary proof of having satisfactorily passed a complete physical examination administered by a licensed physician. The physician must know the minimum standards and certify that the certificateholder satisfactorily meets the standards. The standards for certificateholders shall include a drug test.

(3) The initial certificate issued to a deputy pilot shall be valid for a period of 12 months, and at the end of this period, the certificate shall automatically expire and shall not be renewed. During this period, the board shall thoroughly evaluate the deputy pilot's performance for suitability to continue training and shall make appropriate recommendations to the department. Upon receipt of a favorable recommendation by the board, the department shall issue a certificate to the deputy pilot, which shall be valid for a period of 2 years. The certificate may be renewed only two times, except in the case of a fully licensed pilot who is cross-licensed as a deputy pilot in another port, and provided the deputy pilot meets the requirements specified for pilots in paragraph (1)(c).

Section 3. Subsection (3) of section 310.073, Florida Statutes, is amended to read:

310.073 State pilot licensing.—In addition to meeting other requirements specified in this chapter, each applicant for license as a state pilot must:

(3) Be in good physical and mental health, as evidenced by documentary proof of having satisfactorily passed a complete physical examination administered by a licensed physician within the preceding 6 months. The board shall adopt rules to establish requirements for passing the physical examination, which rules shall establish minimum standards for the physical or mental capabilities necessary to carry out the professional duties of a licensed state pilot. Such standards shall include zero tolerance for any controlled substance regulated under chapter 893 unless that individual is under the care of a physician, advanced registered nurse practitioner, or physician assistant and that controlled substance was prescribed by that physician, advanced registered nurse practitioner, or physician assistant. To maintain eligibility as a licensed state pilot, each licensed state pilot must annually provide documentary proof of having satisfactorily passed a complete physical examination administered by a licensed physician. The physician must know the minimum standards and certify that the licensee satisfactorily meets the standards. The standards for licensees shall include a drug test.

Section 4. Paragraph (b) of subsection (3) of section 310.081, Florida Statutes, is amended to read:

310.081 Department to examine and license state pilots and certificate deputy pilots; vacancies.—

(3) Pilots shall hold their licenses or certificates pursuant to the requirements of this chapter so long as they:

(b) Are in good physical and mental health as evidenced by documentary proof of having satisfactorily passed a physical examination administered by a licensed physician or physician assistant within each calendar year. The board shall adopt rules to establish requirements for passing the physical examination, which rules shall establish minimum standards for the physical or mental capabilities necessary to carry out the professional duties of a licensed state pilot or a certificated deputy pilot. Such standards shall include zero tolerance for any controlled substance regulated under chapter 893 unless that individual is under the care of a physician, advanced registered nurse practitioner, or physician assistant and that controlled substance was prescribed by that physician, advanced registered nurse practitioner, or physician assistant. To maintain eligibility as a certificated deputy pilot or licensed state pilot, each certificated deputy pilot or licensed state pilot must annually provide documentary proof of having satisfactorily passed a complete physical examination administered by a licensed physician. The physician must know the minimum standards and certify that the certificateholder or licensee satisfactorily meets the standards. The standards for certificateholders and for licensees shall include a drug test.

Upon resignation or in the case of disability permanently affecting a pilot's ability to serve, the state license or certificate issued under this chapter shall be revoked by the department.

Section 5. Section 394.453, Florida Statutes, is amended to read:

394.453 Legislative intent.—It is the intent of the Legislature to authorize and direct the Department of Children and Families to evaluate, research, plan, and recommend to the Governor and the Legislature programs designed to reduce the occurrence, severity, duration, and disabling aspects of mental, emotional, and behavioral disorders. It is the intent of the Legislature that treatment programs for such disorders shall include, but not be limited to, comprehensive health, social, educational, and rehabilitative services to persons requiring intensive short-term and continued treatment in order to encourage them to assume responsibility for their treatment and recovery. It is intended that such persons be provided with emergency service and temporary detention for evaluation when required; that they be admitted to treatment facilities on a voluntary basis when extended or continuing care is needed and unavailable in the community; that involuntary placement be provided only when expert evaluation determines that it is necessary; that any involuntary treatment or examination be accomplished in a setting which is clinically appropriate and most likely to facilitate the person's return to the community as soon as possible; and that individual dignity and human rights be guaranteed to all persons who are admitted to mental health facilities or who are being held under s. 394.463. It is the further intent of the Legislature that the least restrictive means of intervention be employed based on the individual needs of each person, within the scope of available services. It is the policy of this state that the use of restraint and seclusion

on clients is justified only as an emergency safety measure to be used in response to imminent danger to the client or others. It is, therefore, the intent of the Legislature to achieve an ongoing reduction in the use of restraint and seclusion in programs and facilities serving persons with mental illness. The Legislature further finds the need for additional psychiatrists to be of critical state concern and recommends the establishment of an additional psychiatry program to be offered by one of Florida's schools of medicine currently not offering psychiatry. The program shall seek to integrate primary care and psychiatry and other evolving models of care for persons with mental health and substance use disorders. Additionally, the Legislature finds that the use of telemedicine for patient evaluation, case management, and ongoing care will improve management of patient care and reduce costs of transportation.

Section 6. Subsection (2) of section 394.467, Florida Statutes, is amended to read:

394.467 Involuntary inpatient placement.—

(2) ADMISSION TO A TREATMENT FACILITY.—A patient may be retained by a receiving facility or involuntarily placed in a treatment facility upon the recommendation of the administrator of the receiving facility where the patient has been examined and after adherence to the notice and hearing procedures provided in s. 394.4599. The recommendation must be supported by the opinion of a psychiatrist and the second opinion of a clinical psychologist or another psychiatrist, both of whom have personally examined the patient within the preceding 72 hours, that the criteria for involuntary inpatient placement are met. However, in a county that has a population of fewer than 50,000,

if the administrator certifies that a psychiatrist or clinical psychologist is not available to provide the second opinion, the second opinion may be provided by a licensed physician who has postgraduate training and experience in diagnosis and treatment of mental and nervous disorders or by a psychiatric nurse. Any ~~second~~ opinion authorized in this subsection may be conducted through a face-to-face examination, in person or by electronic means. Such recommendation shall be entered on an involuntary inpatient placement certificate that authorizes the receiving facility to retain the patient pending transfer to a treatment facility or completion of a hearing.

Section 7. Section 395.1051, Florida Statutes, is amended to read:

395.1051 Duty to notify patients and physicians.—

(1) An appropriately trained person designated by each licensed facility shall inform each patient, or an individual identified pursuant to s. 765.401(1), in person about adverse incidents that result in serious harm to the patient. Notification of outcomes of care which ~~that~~ result in harm to the patient under this section does ~~shall~~ not constitute an acknowledgment or admission of liability and may not~~, nor can it~~ be introduced as evidence.

(2) A hospital shall notify each obstetrical physician who has privileges at the hospital at least 90 days before the hospital closes its obstetrical department or ceases to provide obstetrical services.

Section 8. Paragraphs (e) and (f) of subsection (1) and paragraph (b) of subsection (4) of section 397.451, Florida Statutes, are amended to read:

397.451 Background checks of service provider personnel.—

(1) PERSONNEL BACKGROUND CHECKS; REQUIREMENTS AND EXCEPTIONS.—

(e) Personnel employed directly or under contract with the Department of Corrections in an inmate substance abuse program ~~who have direct contact with unmarried inmates under the age of 18 or with inmates who are developmentally disabled~~ are exempt from the fingerprinting and background check requirements of this section unless they have direct contact with unmarried inmates under the age of 18 or with inmates who are developmentally disabled.

(f) Service provider personnel who request an exemption from disqualification must submit the request within 30 days after being notified of the disqualification. If 5 years or more have elapsed since the most recent disqualifying offense, service provider personnel may work with adults with substance use disorders under the supervision of a qualified professional licensed under chapter 490 or chapter 491 or a master's level certified addiction professional until the agency makes a final determination regarding the request for an exemption from disqualification ~~Upon notification of the disqualification, the service provider shall comply with requirements regarding exclusion from employment in s. 435.06~~.

(4) EXEMPTIONS FROM DISQUALIFICATION.—

(b) Since rehabilitated substance abuse impaired persons are effective in the successful treatment and rehabilitation of individuals with substance use disorders ~~substance abuse impaired adolescents~~, for service providers which treat adolescents 13 years of age and older, service provider

personnel whose background checks indicate crimes under s. 817.563, s. 893.13, or s. 893.147 may be exempted from disqualification from employment pursuant to this paragraph.

Section 9. Effective July 1, 2016, section 456.031, Florida Statutes, is amended to read:

456.031 Requirement for instruction on domestic violence and human trafficking.—

(1)(a) The appropriate board shall require each person licensed or certified under chapter 458, chapter 459, part I of chapter 464, chapter 466, chapter 467, chapter 490, or chapter 491 to complete a 2-hour continuing education course, approved by the board, on domestic violence, as defined in s. 741.28, and on human trafficking, as defined in s. 787.06(2), as part of every third biennial relicensure or recertification.

1. The domestic violence section of the course must ~~shall~~ consist of data and information on the number of patients in that professional's practice who are likely to be victims of domestic violence and the number who are likely to be perpetrators of domestic violence, screening procedures for determining whether a patient has any history of being either a victim or a perpetrator of domestic violence, and instruction on how to provide such patients with information on, or how to refer such patients to, resources in the local community, such as domestic violence centers and other advocacy groups, that provide legal aid, shelter, victim counseling, batterer counseling, or child protection services.

2. The human trafficking section of the course must consist of data and information on the types of human trafficking, such as labor and sex, and the extent of human trafficking; factors

that place a person at greater risk for being a victim of human trafficking; management of medical records of patients who are human trafficking victims; patient safety and security; public and private social services available for rescue, food, clothing, and shelter referrals; hotlines for reporting human trafficking maintained by the National Human Trafficking Resource Center and the United States Department of Homeland Security; validated assessment tools for identifying human trafficking victims and general indicators that a person may be a victim of human trafficking; procedures for sharing information related to human trafficking with a patient; and referral options for legal and social services.

(b) Each ~~such~~ licensee or certificateholder shall submit confirmation of having completed the continuing education ~~such~~ course, on a form provided by the board, when submitting fees for every third biennial relicensure or recertification ~~renewal~~.

(c) The board may approve additional equivalent courses that may be used to satisfy the requirements of paragraph (a). Each licensing board that requires a licensee to complete a continuing education ~~an educational~~ course pursuant to this subsection may include the hour required for completion of the course in the total hours of continuing education required by law for the ~~such~~ profession, unless the continuing education requirements for the ~~such~~ profession consist of fewer than 30 hours of continuing education biennially.

(d) Any person holding two or more licenses subject to ~~the provisions of~~ this subsection must ~~shall~~ be permitted to show proof of completion of ~~having taken~~ one board-approved course on domestic violence and human trafficking, for purposes of

relicensure or recertification for additional licenses.

(e) Failure to comply with the requirements of this subsection shall constitute grounds for disciplinary action under each respective practice act and under s. 456.072(1)(k). In addition to discipline by the board, the licensee shall be required to complete the board-approved ~~such~~ course under this subsection.

(2) Each board may adopt rules to carry out the provisions of this section.

Section 10. Subsection (7) of section 456.072, Florida Statutes, is amended to read:

456.072 Grounds for discipline; penalties; enforcement.—

(7) Notwithstanding subsection (2), upon a finding that a physician has prescribed or dispensed a controlled substance, or caused a controlled substance to be prescribed or dispensed, in a manner that violates the standard of practice set forth in s. 458.331(1)(q) or (t), s. 459.015(1)(t) or (x), s. 461.013(1)(o) or (s), or s. 466.028(1)(p) or (x), or that an advanced registered nurse practitioner has prescribed or dispensed a controlled substance, or caused a controlled substance to be prescribed or dispensed in a manner that violates the standard of practice set forth in s. 464.018(1)(n) or s. 464.018(1)(p)6., the physician or advanced registered nurse practitioner shall be suspended for a period of not less than 6 months and pay a fine of not less than $10,000 per count. Repeated violations shall result in increased penalties.

Section 11. Section 456.44, Florida Statutes, is amended to read:

456.44 Controlled substance prescribing.—

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

(a) "Addiction medicine specialist" means a board-certified psychiatrist with a subspecialty certification in addiction medicine or who is eligible for such subspecialty certification in addiction medicine, an addiction medicine physician certified or eligible for certification by the American Society of Addiction Medicine, or an osteopathic physician who holds a certificate of added qualification in Addiction Medicine through the American Osteopathic Association.

(b) "Adverse incident" means any incident set forth in s. 458.351(4)(a)-(e) or s. 459.026(4)(a)-(e).

(c) "Board-certified pain management physician" means a physician who possesses board certification in pain medicine by the American Board of Pain Medicine, board certification by the American Board of Interventional Pain Physicians, or board certification or subcertification in pain management or pain medicine by a specialty board recognized by the American Association of Physician Specialists or the American Board of Medical Specialties or an osteopathic physician who holds a certificate in Pain Management by the American Osteopathic Association.

(d) "Board eligible" means successful completion of an anesthesia, physical medicine and rehabilitation, rheumatology, or neurology residency program approved by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association for a period of 6 years from successful completion of such residency program.

(e) "Chronic nonmalignant pain" means pain unrelated to cancer which persists beyond the usual course of disease or the

injury that is the cause of the pain or more than 90 days after surgery.

(f) "Mental health addiction facility" means a facility licensed under chapter 394 or chapter 397.

(g) "Registrant" means a physician, physician assistant, or advanced registered nurse practitioner who meets the requirements of subsection (2).

(2) REGISTRATION. ~~Effective January 1, 2012,~~ A physician licensed under chapter 458, chapter 459, chapter 461, or chapter 466, a physician assistant licensed under chapter 458 or chapter 459, or an advanced registered nurse practitioner certified under part I of chapter 464 who prescribes any controlled substance, listed in Schedule II, Schedule III, or Schedule IV as defined in s. 893.03, for the treatment of chronic nonmalignant pain, must:

(a) Designate himself or herself as a controlled substance prescribing practitioner on his or her ~~the physician's~~ practitioner profile.

(b) Comply with the requirements of this section and applicable board rules.

(3) STANDARDS OF PRACTICE.—The standards of practice in this section do not supersede the level of care, skill, and treatment recognized in general law related to health care licensure.

(a) A complete medical history and a physical examination must be conducted before beginning any treatment and must be documented in the medical record. The exact components of the physical examination shall be left to the judgment of the registrant ~~clinician~~ who is expected to perform a physical

examination proportionate to the diagnosis that justifies a treatment. The medical record must, at a minimum, document the nature and intensity of the pain, current and past treatments for pain, underlying or coexisting diseases or conditions, the effect of the pain on physical and psychological function, a review of previous medical records, previous diagnostic studies, and history of alcohol and substance abuse. The medical record shall also document the presence of one or more recognized medical indications for the use of a controlled substance. Each registrant must develop a written plan for assessing each patient's risk of aberrant drug-related behavior, which may include patient drug testing. Registrants must assess each patient's risk for aberrant drug-related behavior and monitor that risk on an ongoing basis in accordance with the plan.

(b) Each registrant must develop a written individualized treatment plan for each patient. The treatment plan shall state objectives that will be used to determine treatment success, such as pain relief and improved physical and psychosocial function, and shall indicate if any further diagnostic evaluations or other treatments are planned. After treatment begins, the registrant ~~physician~~ shall adjust drug therapy to the individual medical needs of each patient. Other treatment modalities, including a rehabilitation program, shall be considered depending on the etiology of the pain and the extent to which the pain is associated with physical and psychosocial impairment. The interdisciplinary nature of the treatment plan shall be documented.

(c) The registrant ~~physician~~ shall discuss the risks and benefits of the use of controlled substances, including the

risks of abuse and addiction, as well as physical dependence and its consequences, with the patient, persons designated by the patient, or the patient's surrogate or guardian if the patient is incompetent. The registrant ~~physician~~ shall use a written controlled substance agreement between the registrant ~~physician~~ and the patient outlining the patient's responsibilities, including, but not limited to:

1. Number and frequency of controlled substance prescriptions and refills.

2. Patient compliance and reasons for which drug therapy may be discontinued, such as a violation of the agreement.

3. An agreement that controlled substances for the treatment of chronic nonmalignant pain shall be prescribed by a single treating registrant ~~physician~~ unless otherwise authorized by the treating registrant ~~physician~~ and documented in the medical record.

(d) The patient shall be seen by the registrant ~~physician~~ at regular intervals, not to exceed 3 months, to assess the efficacy of treatment, ensure that controlled substance therapy remains indicated, evaluate the patient's progress toward treatment objectives, consider adverse drug effects, and review the etiology of the pain. Continuation or modification of therapy shall depend on the registrant's ~~physician's~~ evaluation of the patient's progress. If treatment goals are not being achieved, despite medication adjustments, the registrant ~~physician~~ shall reevaluate the appropriateness of continued treatment. The registrant ~~physician~~ shall monitor patient compliance in medication usage, related treatment plans, controlled substance agreements, and indications of substance

abuse or diversion at a minimum of 3-month intervals.

(e) The registrant ~~physician~~ shall refer the patient as necessary for additional evaluation and treatment in order to achieve treatment objectives. Special attention shall be given to those patients who are at risk for misusing their medications and those whose living arrangements pose a risk for medication misuse or diversion. The management of pain in patients with a history of substance abuse or with a comorbid psychiatric disorder requires extra care, monitoring, and documentation and requires consultation with or referral to an addiction medicine specialist or psychiatrist.

(f) A registrant ~~physician registered under this section~~ must maintain accurate, current, and complete records that are accessible and readily available for review and comply with the requirements of this section, the applicable practice act, and applicable board rules. The medical records must include, but are not limited to:

1. The complete medical history and a physical examination, including history of drug abuse or dependence.

2. Diagnostic, therapeutic, and laboratory results.

3. Evaluations and consultations.

4. Treatment objectives.

5. Discussion of risks and benefits.

6. Treatments.

7. Medications, including date, type, dosage, and quantity prescribed.

8. Instructions and agreements.

9. Periodic reviews.

10. Results of any drug testing.

11. A photocopy of the patient's government-issued photo identification.

12. If a written prescription for a controlled substance is given to the patient, a duplicate of the prescription.

13. The registrant's ~~physician's~~ full name presented in a legible manner.

(g) A registrant shall immediately refer patients with signs or symptoms of substance ~~abuse shall be immediately referred~~ to a board-certified pain management physician, an addiction medicine specialist, or a mental health addiction facility as it pertains to drug abuse or addiction unless the registrant is a physician who is board-certified or board-eligible in pain management. Throughout the period of time before receiving the consultant's report, a prescribing registrant ~~physician~~ shall clearly and completely document medical justification for continued treatment with controlled substances and those steps taken to ensure medically appropriate use of controlled substances by the patient. Upon receipt of the consultant's written report, the prescribing registrant ~~physician~~ shall incorporate the consultant's recommendations for continuing, modifying, or discontinuing controlled substance therapy. The resulting changes in treatment shall be specifically documented in the patient's medical record. Evidence or behavioral indications of diversion shall be followed by discontinuation of controlled substance therapy, and the patient shall be discharged, and all results of testing and actions taken by the registrant ~~physician~~ shall be documented in the patient's medical record.

This subsection does not apply to a board-eligible or board-certified anesthesiologist, physiatrist, rheumatologist, or neurologist, or to a board-certified physician who has surgical privileges at a hospital or ambulatory surgery center and primarily provides surgical services. This subsection does not apply to a board-eligible or board-certified medical specialist who has also completed a fellowship in pain medicine approved by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association, or who is board eligible or board certified in pain medicine by the American Board of Pain Medicine or a board approved by the American Board of Medical Specialties or the American Osteopathic Association and performs interventional pain procedures of the type routinely billed using surgical codes. This subsection does not apply to a registrant, physician, advanced registered nurse practitioner, or physician assistant who prescribes medically necessary controlled substances for a patient during an inpatient stay in a hospital licensed under chapter 395.

Section 12. Paragraph (b) of subsection (2) of section 458.3265, Florida Statutes, is amended to read:

458.3265 Pain-management clinics.—

(2) PHYSICIAN RESPONSIBILITIES.—These responsibilities apply to any physician who provides professional services in a pain-management clinic that is required to be registered in subsection (1).

(b) Only ~~a person may not dispense any medication on the premises of a registered pain-management clinic unless he or she is~~ a physician licensed under this chapter or chapter 459 may dispense medication or prescribe a controlled substance

regulated under chapter 893 on the premises of a registered pain-management clinic.

Section 13. Paragraph (b) of subsection (2) of section 459.0137, Florida Statutes, is amended to read:

459.0137 Pain-management clinics.—

(2) PHYSICIAN RESPONSIBILITIES.—These responsibilities apply to any osteopathic physician who provides professional services in a pain-management clinic that is required to be registered in subsection (1).

(b) Only ~~a person may not dispense any medication on the premises of a registered pain-management clinic unless he or she is~~ a physician licensed under this chapter or chapter 458 may dispense medication or prescribe a controlled substance regulated under chapter 893 on the premises of a registered pain-management clinic.

Section 14. Paragraph (e) of subsection (4) of section 458.347, Florida Statutes, is amended, and paragraph (c) of subsection (9) of that section is republished, to read:

458.347 Physician assistants.—

(4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

(e) A supervisory physician may delegate to a fully licensed physician assistant the authority to prescribe or dispense any medication used in the supervisory physician's practice unless such medication is listed on the formulary created pursuant to paragraph (f). A fully licensed physician assistant may only prescribe or dispense such medication under the following circumstances:

1. A physician assistant must clearly identify to the patient that he or she is a physician assistant. Furthermore,

the physician assistant must inform the patient that the patient has the right to see the physician prior to any prescription being prescribed or dispensed by the physician assistant.

2. The supervisory physician must notify the department of his or her intent to delegate, on a department-approved form, before delegating such authority and notify the department of any change in prescriptive privileges of the physician assistant. Authority to dispense may be delegated only by a supervising physician who is registered as a dispensing practitioner in compliance with s. 465.0276.

3. The physician assistant must file with the department a signed affidavit that he or she has completed a minimum of 10 continuing medical education hours in the specialty practice in which the physician assistant has prescriptive privileges with each licensure renewal application. Three of the 10 hours must consist of a continuing education course on the safe and effective prescribing of controlled substance medications offered by a statewide professional association of physicians in this state accredited to provide educational activities designated for the American Medical Association Physician's Recognition Award Category I Credit or designated by the American Academy of Physician Assistants as a Category 1 Credit.

4. The department may issue a prescriber number to the physician assistant granting authority for the prescribing of medicinal drugs authorized within this paragraph upon completion of the foregoing requirements. The physician assistant shall not be required to independently register pursuant to s. 465.0276.

5. The prescription must be written in a form that complies with chapter 499 and must contain, in addition to the

supervisory physician's name, address, and telephone number, the physician assistant's prescriber number. Unless it is a drug or drug sample dispensed by the physician assistant, the prescription must be filled in a pharmacy permitted under chapter 465 and must be dispensed in that pharmacy by a pharmacist licensed under chapter 465. The appearance of the prescriber number creates a presumption that the physician assistant is authorized to prescribe the medicinal drug and the prescription is valid.

6. The physician assistant must note the prescription or dispensing of medication in the appropriate medical record.

(9) COUNCIL ON PHYSICIAN ASSISTANTS.—The Council on Physician Assistants is created within the department.

(c) The council shall:

1. Recommend to the department the licensure of physician assistants.

2. Develop all rules regulating the use of physician assistants by physicians under this chapter and chapter 459, except for rules relating to the formulary developed under paragraph (4)(f). The council shall also develop rules to ensure that the continuity of supervision is maintained in each practice setting. The boards shall consider adopting a proposed rule developed by the council at the regularly scheduled meeting immediately following the submission of the proposed rule by the council. A proposed rule submitted by the council may not be adopted by either board unless both boards have accepted and approved the identical language contained in the proposed rule. The language of all proposed rules submitted by the council must be approved by both boards pursuant to each respective board's

guidelines and standards regarding the adoption of proposed rules. If either board rejects the council's proposed rule, that board must specify its objection to the council with particularity and include any recommendations it may have for the modification of the proposed rule.

3. Make recommendations to the boards regarding all matters relating to physician assistants.

4. Address concerns and problems of practicing physician assistants in order to improve safety in the clinical practices of licensed physician assistants.

Section 15. Effective January 1, 2017, paragraph (f) of subsection (4) of section 458.347, Florida Statutes, is amended to read:

458.347 Physician assistants.—

(4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

(f)1. The council shall establish a formulary of medicinal drugs that a fully licensed physician assistant having prescribing authority under this section or s. 459.022 may not prescribe. The formulary must include ~~controlled substances as defined in chapter 893,~~ general anesthetics~~,~~ and radiographic contrast materials, and must limit the prescription of Schedule II controlled substances as defined in s. 893.03 to a 7-day supply. The formulary must also restrict the prescribing of psychiatric mental health controlled substances for children under 18 years of age.

2. In establishing the formulary, the council shall consult with a pharmacist licensed under chapter 465, but not licensed under this chapter or chapter 459, who shall be selected by the State Surgeon General.

3. Only the council shall add to, delete from, or modify the formulary. Any person who requests an addition, deletion, or modification of a medicinal drug listed on such formulary has the burden of proof to show cause why such addition, deletion, or modification should be made.

4. The boards shall adopt the formulary required by this paragraph, and each addition, deletion, or modification to the formulary, by rule. Notwithstanding any provision of chapter 120 to the contrary, the formulary rule shall be effective 60 days after the date it is filed with the Secretary of State. Upon adoption of the formulary, the department shall mail a copy of such formulary to each fully licensed physician assistant having prescribing authority under this section or s. 459.022, and to each pharmacy licensed by the state. The boards shall establish, by rule, a fee not to exceed $200 to fund the provisions of this paragraph and paragraph (e).

Section 16. Subsection (2) of section 464.003, Florida Statutes, is amended to read:

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

(2) "Advanced or specialized nursing practice" means, in addition to the practice of professional nursing, the performance of advanced-level nursing acts approved by the board which, by virtue of postbasic specialized education, training, and experience, are appropriately performed by an advanced registered nurse practitioner. Within the context of advanced or specialized nursing practice, the advanced registered nurse practitioner may perform acts of nursing diagnosis and nursing treatment of alterations of the health status. The advanced registered nurse practitioner may also perform acts of medical

diagnosis and treatment, prescription, and operation as authorized within the framework of an established supervisory protocol ~~which are identified and approved by a joint committee composed of three members appointed by the Board of Nursing, two of whom must be advanced registered nurse practitioners; three members appointed by the Board of Medicine, two of whom must have had work experience with advanced registered nurse practitioners; and the State Surgeon General or the State Surgeon General's designee. Each committee member appointed by a board shall be appointed to a term of 4 years unless a shorter term is required to establish or maintain staggered terms. The Board of Nursing shall adopt rules authorizing the performance of any such acts approved by the joint committee. Unless otherwise specified by the joint committee, such acts must be performed under the general supervision of a practitioner licensed under chapter 458, chapter 459, or chapter 466 within the framework of standing protocols which identify the medical acts to be performed and the conditions for their performance.~~ The department may, by rule, require that a copy of the protocol be filed with the department along with the notice required by s. 458.348.

Section 17. Section 464.012, Florida Statutes, is amended to read:

464.012 Certification of advanced registered nurse practitioners; fees; controlled substance prescribing.—

(1) Any nurse desiring to be certified as an advanced registered nurse practitioner shall apply to the department and submit proof that he or she holds a current license to practice professional nursing and that he or she meets one or more of the

following requirements as determined by the board:

(a) Satisfactory completion of a formal postbasic educational program of at least one academic year, the primary purpose of which is to prepare nurses for advanced or specialized practice.

(b) Certification by an appropriate specialty board. Such certification shall be required for initial state certification and any recertification as a registered nurse anesthetist or nurse midwife. The board may by rule provide for provisional state certification of graduate nurse anesthetists and nurse midwives for a period of time determined to be appropriate for preparing for and passing the national certification examination.

(c) Graduation from a program leading to a master's degree in a nursing clinical specialty area with preparation in specialized practitioner skills. For applicants graduating on or after October 1, 1998, graduation from a master's degree program shall be required for initial certification as a nurse practitioner under paragraph (4)(c). For applicants graduating on or after October 1, 2001, graduation from a master's degree program shall be required for initial certification as a registered nurse anesthetist under paragraph (4)(a).

(2) The board shall provide by rule the appropriate requirements for advanced registered nurse practitioners in the categories of certified registered nurse anesthetist, certified nurse midwife, and nurse practitioner.

(3) An advanced registered nurse practitioner shall perform those functions authorized in this section within the framework of an established protocol that is filed with the board upon

biennial license renewal and within 30 days after entering into a supervisory relationship with a physician or changes to the protocol. The board shall review the protocol to ensure compliance with applicable regulatory standards for protocols. The board shall refer to the department licensees submitting protocols that are not compliant with the regulatory standards for protocols. A practitioner currently licensed under chapter 458, chapter 459, or chapter 466 shall maintain supervision for directing the specific course of medical treatment. Within the established framework, an advanced registered nurse practitioner may:

(a) Monitor and alter drug therapies.

(b) Initiate appropriate therapies for certain conditions.

(c) Perform additional functions as may be determined by rule in accordance with s. 464.003(2).

(d) Order diagnostic tests and physical and occupational therapy.

(4) In addition to the general functions specified in subsection (3), an advanced registered nurse practitioner may perform the following acts within his or her specialty:

(a) The certified registered nurse anesthetist may, to the extent authorized by established protocol approved by the medical staff of the facility in which the anesthetic service is performed, perform any or all of the following:

1. Determine the health status of the patient as it relates to the risk factors and to the anesthetic management of the patient through the performance of the general functions.

2. Based on history, physical assessment, and supplemental laboratory results, determine, with the consent of the

responsible physician, the appropriate type of anesthesia within the framework of the protocol.

3. Order under the protocol preanesthetic medication.

4. Perform under the protocol procedures commonly used to render the patient insensible to pain during the performance of surgical, obstetrical, therapeutic, or diagnostic clinical procedures. These procedures include ordering and administering regional, spinal, and general anesthesia; inhalation agents and techniques; intravenous agents and techniques; and techniques of hypnosis.

5. Order or perform monitoring procedures indicated as pertinent to the anesthetic health care management of the patient.

6. Support life functions during anesthesia health care, including induction and intubation procedures, the use of appropriate mechanical supportive devices, and the management of fluid, electrolyte, and blood component balances.

7. Recognize and take appropriate corrective action for abnormal patient responses to anesthesia, adjunctive medication, or other forms of therapy.

8. Recognize and treat a cardiac arrhythmia while the patient is under anesthetic care.

9. Participate in management of the patient while in the postanesthesia recovery area, including ordering the administration of fluids and drugs.

10. Place special peripheral and central venous and arterial lines for blood sampling and monitoring as appropriate.

(b) The certified nurse midwife may, to the extent authorized by an established protocol which has been approved by

the medical staff of the health care facility in which the midwifery services are performed, or approved by the nurse midwife's physician backup when the delivery is performed in a patient's home, perform any or all of the following:

1. Perform superficial minor surgical procedures.

2. Manage the patient during labor and delivery to include amniotomy, episiotomy, and repair.

3. Order, initiate, and perform appropriate anesthetic procedures.

4. Perform postpartum examination.

5. Order appropriate medications.

6. Provide family-planning services and well-woman care.

7. Manage the medical care of the normal obstetrical patient and the initial care of a newborn patient.

(c) The nurse practitioner may perform any or all of the following acts within the framework of established protocol:

1. Manage selected medical problems.

2. Order physical and occupational therapy.

3. Initiate, monitor, or alter therapies for certain uncomplicated acute illnesses.

4. Monitor and manage patients with stable chronic diseases.

5. Establish behavioral problems and diagnosis and make treatment recommendations.

(5) The board shall certify, and the department shall issue a certificate to, any nurse meeting the qualifications in this section. The board shall establish an application fee not to exceed $100 and a biennial renewal fee not to exceed $50. The board is authorized to adopt such other rules as are necessary

to implement the provisions of this section.

(6)(a) The board shall establish a committee to recommend a formulary of controlled substances that an advanced registered nurse practitioner may not prescribe or may prescribe only for specific uses or in limited quantities. The committee must consist of three advanced registered nurse practitioners licensed under this section, recommended by the Board of Nursing; three physicians licensed under chapter 458 or chapter 459 who have work experience with advanced registered nurse practitioners, recommended by the Board of Medicine; and a pharmacist licensed under chapter 465 who holds a Doctor of Pharmacy degree, recommended by the Board of Pharmacy. The committee may recommend an evidence-based formulary applicable to all advanced registered nurse practitioners which is limited by specialty certification, is limited to approved uses of controlled substances, or is subject to other similar restrictions the committee finds are necessary to protect the health, safety, and welfare of the public. The formulary must restrict the prescribing of psychiatric mental health controlled substances for children under 18 years of age to advanced registered nurse practitioners who also are psychiatric nurses as defined in s. 394.455. The formulary must also limit the prescribing of Schedule II controlled substances as defined in s. 893.03 to a 7-day supply, except that such restriction does not apply to controlled substances that are psychiatric medications prescribed by psychiatric nurses as defined in s. 394.455.

(b) The board shall adopt by rule the recommended formulary and any revisions to the formulary which it finds are supported

by evidence-based clinical findings presented by the Board of Medicine, the Board of Osteopathic Medicine, or the Board of Dentistry.

(c) The formulary required under this subsection does not apply to a controlled substance that is dispensed for administration pursuant to an order, including an order for medication authorized by subparagraph (4)(a)3., subparagraph (4)(a)4., or subparagraph (4)(a)9.

(d) The board shall adopt the committee's initial recommendation no later October 31, 2016.

Section 18. Effective January 1, 2017, subsection (3) of section 464.012, Florida Statutes, as amended by this act, is amended to read:

464.012 Certification of advanced registered nurse practitioners; fees; controlled substance prescribing.—

(3) An advanced registered nurse practitioner shall perform those functions authorized in this section within the framework of an established protocol that is filed with the board upon biennial license renewal and within 30 days after entering into a supervisory relationship with a physician or changes to the protocol. The board shall review the protocol to ensure compliance with applicable regulatory standards for protocols. The board shall refer to the department licensees submitting protocols that are not compliant with the regulatory standards for protocols. A practitioner currently licensed under chapter 458, chapter 459, or chapter 466 shall maintain supervision for directing the specific course of medical treatment. Within the established framework, an advanced registered nurse practitioner may:

(a) Prescribe, dispense, administer, or order any drug; however, an advanced registered nurse practitioner may only prescribe or dispense a controlled substance as defined in s. 893.03 if the advanced registered nurse practitioner has graduated from a program leading to a master's or doctoral degree in a clinical nursing specialty area with training in specialized practitioner skills. ~~Monitor and alter drug therapies.~~

(b) Initiate appropriate therapies for certain conditions.

(c) Perform additional functions as may be determined by rule in accordance with s. 464.003(2).

(d) Order diagnostic tests and physical and occupational therapy.

Section 19. Subsection (3) of section 464.013, Florida Statutes, is amended to read:

464.013 Renewal of license or certificate.—

(3) The board shall by rule prescribe up to 30 hours of continuing education biennially as a condition for renewal of a license or certificate.

(a) A nurse who is certified by a health care specialty program accredited by the National Commission for Certifying Agencies or the Accreditation Board for Specialty Nursing Certification is exempt from continuing education requirements. The criteria for programs must ~~shall~~ be approved by the board.

(b) Notwithstanding the exemption in paragraph (a), as part of the maximum 30 hours of continuing education hours required under this subsection, advanced registered nurse practitioners certified under s. 464.012 must complete at least 3 hours of continuing education on the safe and effective prescription of

controlled substances. Such continuing education courses must be offered by a statewide professional association of physicians in this state accredited to provide educational activities designated for the American Medical Association Physician's Recognition Award Category 1 Credit, the American Nurses Credentialing Center, the American Association of Nurse Anesthetists, or the American Association of Nurse Practitioners and may be offered in a distance-learning format.

Section 20. Paragraph (p) is added to subsection (1) of section 464.018, Florida Statutes, and subsection (2) of that section is republished, to read:

464.018 Disciplinary actions.—

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):

(p) For an advanced registered nurse practitioner:

1. Presigning blank prescription forms.

2. Prescribing for office use any medicinal drug appearing on Schedule II in chapter 893.

3. Prescribing, ordering, dispensing, administering, supplying, selling, or giving a drug that is an amphetamine or a sympathomimetic amine drug, or a compound designated in s. 893.03(2) as a Schedule II controlled substance, to or for any person except for:

a. The treatment of narcolepsy; hyperkinesis; behavioral syndrome in children characterized by the developmentally inappropriate symptoms of moderate to severe distractibility, short attention span, hyperactivity, emotional lability, and impulsivity; or drug-induced brain dysfunction.

b. The differential diagnostic psychiatric evaluation of

depression or the treatment of depression shown to be refractory to other therapeutic modalities.

c. The clinical investigation of the effects of such drugs or compounds when an investigative protocol is submitted to, reviewed by, and approved by the department before such investigation is begun.

4. Prescribing, ordering, dispensing, administering, supplying, selling, or giving growth hormones, testosterone or its analogs, human chorionic gonadotropin (HCG), or other hormones for the purpose of muscle building or to enhance athletic performance. As used in this subparagraph, the term "muscle building" does not include the treatment of injured muscle. A prescription written for the drug products identified in this subparagraph may be dispensed by a pharmacist with the presumption that the prescription is for legitimate medical use.

5. Promoting or advertising on any prescription form a community pharmacy unless the form also states: "This prescription may be filled at any pharmacy of your choice."

6. Prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including a controlled substance, other than in the course of his or her professional practice. For the purposes of this subparagraph, it is legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the advanced registered nurse practitioner's professional practice, without regard to his or her intent.

7. Prescribing, dispensing, or administering a medicinal

drug appearing on any schedule set forth in chapter 893 to himself or herself, except a drug prescribed, dispensed, or administered to the advanced registered nurse practitioner by another practitioner authorized to prescribe, dispense, or administer medicinal drugs.

8. Prescribing, ordering, dispensing, administering, supplying, selling, or giving amygdalin (laetrile) to any person.

9. Dispensing a substance designated in s. 893.03(2) or (3) as a substance controlled in Schedule II or Schedule III, respectively, in violation of s. 465.0276.

10. Promoting or advertising through any communication medium the use, sale, or dispensing of a substance designated in s. 893.03 as a controlled substance.

(2) The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).

Section 21. Subsection (21) of section 893.02, Florida Statutes, is amended to read:

893.02 Definitions.—The following words and phrases as used in this chapter shall have the following meanings, unless the context otherwise requires:

(21) "Practitioner" means a physician licensed under ~~pursuant to~~ chapter 458, a dentist licensed under ~~pursuant to~~ chapter 466, a veterinarian licensed under ~~pursuant to~~ chapter 474, an osteopathic physician licensed under ~~pursuant to~~ chapter 459, an advanced registered nurse practitioner certified under

chapter 464, a naturopath licensed under ~~pursuant to~~ chapter 462, a certified optometrist licensed under ~~pursuant to~~ chapter 463, or a podiatric physician licensed under ~~pursuant to~~ chapter 461, or a physician assistant licensed under chapter 458 or chapter 459, provided such practitioner holds a valid federal controlled substance registry number.

Section 22. Paragraph (n) of subsection (1) of section 948.03, Florida Statutes, is amended to read:

948.03 Terms and conditions of probation.—

(1) The court shall determine the terms and conditions of probation. Conditions specified in this section do not require oral pronouncement at the time of sentencing and may be considered standard conditions of probation. These conditions may include among them the following, that the probationer or offender in community control shall:

(n) Be prohibited from using intoxicants to excess or possessing any drugs or narcotics unless prescribed by a physician, advanced registered nurse practitioner, or physician assistant. The probationer or community controllee may ~~shall~~ not knowingly visit places where intoxicants, drugs, or other dangerous substances are unlawfully sold, dispensed, or used.

Section 23. Paragraph (a) of subsection (1) and subsection (2) of section 458.348, Florida Statutes, are amended to read:

458.348 Formal supervisory relationships, standing orders, and established protocols; notice; standards.—

(1) NOTICE.—

(a) When a physician enters into a formal supervisory relationship or standing orders with an emergency medical technician or paramedic licensed pursuant to s. 401.27, which

relationship or orders contemplate the performance of medical acts, or when a physician enters into an established protocol with an advanced registered nurse practitioner, which protocol contemplates the performance of medical ~~acts identified and approved by the joint committee pursuant to s. 464.003(2) or~~ acts set forth in s. 464.012(3) and (4), the physician shall submit notice to the board. The notice shall contain a statement in substantially the following form:

I, ...(name and professional license number of physician)..., of ...(address of physician)... have hereby entered into a formal supervisory relationship, standing orders, or an established protocol with ...(number of persons)... emergency medical technician(s), ...(number of persons)... paramedic(s), or ...(number of persons)... advanced registered nurse practitioner(s).

(2) ESTABLISHMENT OF STANDARDS BY JOINT COMMITTEE.—The joint committee ~~created under s. 464.003(2)~~ shall determine minimum standards for the content of established protocols pursuant to which an advanced registered nurse practitioner may perform medical acts ~~identified and approved by the joint committee pursuant to s. 464.003(2)~~ or acts set forth in s. 464.012(3) and (4) and shall determine minimum standards for supervision of such acts by the physician, unless the joint committee determines that any act set forth in s. 464.012(3) or (4) is not a medical act. Such standards shall be based on risk to the patient and acceptable standards of medical care and shall take into account the special problems of medically

underserved areas. The standards developed by the joint committee shall be adopted as rules by the Board of Nursing and the Board of Medicine for purposes of carrying out their responsibilities pursuant to part I of chapter 464 and this chapter, respectively, but neither board shall have disciplinary powers over the licensees of the other board.

Section 24. Paragraph (a) of subsection (1) of section 459.025, Florida Statutes, is amended to read:

459.025 Formal supervisory relationships, standing orders, and established protocols; notice; standards.—

(1) NOTICE.—

(a) When an osteopathic physician enters into a formal supervisory relationship or standing orders with an emergency medical technician or paramedic licensed pursuant to s. 401.27, which relationship or orders contemplate the performance of medical acts, or when an osteopathic physician enters into an established protocol with an advanced registered nurse practitioner, which protocol contemplates the performance of medical acts ~~identified and approved by the joint committee pursuant to s. 464.003(2)~~ or acts set forth in s. 464.012(3) and (4), the osteopathic physician shall submit notice to the board. The notice must contain a statement in substantially the following form:

I, ...(name and professional license number of osteopathic physician)..., of ...(address of osteopathic physician)... have hereby entered into a formal supervisory relationship, standing orders, or an established protocol with ...(number of persons)... emergency medical technician(s), ...(number of

persons)... paramedic(s), or ...(number of persons)... advanced registered nurse practitioner(s).

Section 25. For the purpose of incorporating the amendment made by this act to section 456.072, Florida Statutes, in a reference thereto, subsection (10) of section 458.331, Florida Statutes, is reenacted to read:

458.331 Grounds for disciplinary action; action by the board and department.—

(10) A probable cause panel convened to consider disciplinary action against a physician assistant alleged to have violated s. 456.072 or this section must include one physician assistant. The physician assistant must hold a valid license to practice as a physician assistant in this state and be appointed to the panel by the Council of Physician Assistants. The physician assistant may hear only cases involving disciplinary actions against a physician assistant. If the appointed physician assistant is not present at the disciplinary hearing, the panel may consider the matter and vote on the case in the absence of the physician assistant. The training requirements set forth in s. 458.307(4) do not apply to the appointed physician assistant. Rules need not be adopted to implement this subsection.

Section 26. For the purpose of incorporating the amendment made by this act to section 456.072, Florida Statutes, in a reference thereto, paragraph (g) of subsection (7) of section 458.347, Florida Statutes, is reenacted to read:

458.347 Physician assistants.—

(7) PHYSICIAN ASSISTANT LICENSURE.—

(g) The Board of Medicine may impose any of the penalties

authorized under ss. 456.072 and 458.331(2) upon a physician assistant if the physician assistant or the supervising physician has been found guilty of or is being investigated for any act that constitutes a violation of this chapter or chapter 456.

Section 27. For the purpose of incorporating the amendment made by this act to section 456.072, Florida Statutes, in a reference thereto, subsection (10) of section 459.015, Florida Statutes, is reenacted to read:

459.015 Grounds for disciplinary action; action by the board and department.—

(10) A probable cause panel convened to consider disciplinary action against a physician assistant alleged to have violated s. 456.072 or this section must include one physician assistant. The physician assistant must hold a valid license to practice as a physician assistant in this state and be appointed to the panel by the Council of Physician Assistants. The physician assistant may hear only cases involving disciplinary actions against a physician assistant. If the appointed physician assistant is not present at the disciplinary hearing, the panel may consider the matter and vote on the case in the absence of the physician assistant. The training requirements set forth in s. 458.307(4) do not apply to the appointed physician assistant. Rules need not be adopted to implement this subsection.

Section 28. For the purpose of incorporating the amendment made by this act to section 456.072, Florida Statutes, in a reference thereto, paragraph (f) of subsection (7) of section 459.022, Florida Statutes, is reenacted to read:

459.022 Physician assistants.—

(7) PHYSICIAN ASSISTANT LICENSURE.—

(f) The Board of Osteopathic Medicine may impose any of the penalties authorized under ss. 456.072 and 459.015(2) upon a physician assistant if the physician assistant or the supervising physician has been found guilty of or is being investigated for any act that constitutes a violation of this chapter or chapter 456.

Section 29. For the purpose of incorporating the amendment made by this act to section 456.072, Florida Statutes, in a reference thereto, subsection (5) of section 465.0158, Florida Statutes, is reenacted to read:

465.0158 Nonresident sterile compounding permit.—

(5) In accordance with this chapter, the board may deny, revoke, or suspend the permit of; fine; or reprimand a permittee for:

(a) Failure to comply with this section;

(b) A violation listed under s. 456.0635, s. 456.065, or s. 456.072, except s. 456.072(1)(s) or (1)(u);

(c) A violation under s. 465.0156(5); or

(d) A violation listed under s. 465.016.

Section 30. For the purpose of incorporating the amendment made by this act to section 456.44, Florida Statutes, in a reference thereto, paragraph (mm) of subsection (1) of section 456.072, Florida Statutes, is reenacted to read:

456.072 Grounds for discipline; penalties; enforcement.—

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(mm) Failure to comply with controlled substance prescribing requirements of s. 456.44.

Section 31. For the purpose of incorporating the amendment made by this act to section 456.44, Florida Statutes, in a reference thereto, section 466.02751, Florida Statutes, is reenacted to read:

466.02751 Establishment of practitioner profile for designation as a controlled substance prescribing practitioner.—The Department of Health shall establish a practitioner profile for dentists licensed under this chapter for a practitioner's designation as a controlled substance prescribing practitioner as provided in s. 456.44.

Section 32. For the purpose of incorporating the amendment made by this act to section 458.347, Florida Statutes, in a reference thereto, section 458.303, Florida Statutes, is reenacted to read:

458.303 Provisions not applicable to other practitioners; exceptions, etc.—

(1) The provisions of ss. 458.301, 458.305, 458.307, 458.309, 458.311, 458.313, 458.315, 458.317, 458.319, 458.321, 458.327, 458.329, 458.331, 458.337, 458.339, 458.341, 458.343, 458.345, 458.347, and this section shall have no application to:

(a) Other duly licensed health care practitioners acting within their scope of practice authorized by statute.

(b) Any physician lawfully licensed in another state or territory or foreign country, when meeting duly licensed physicians of this state in consultation.

(c) Commissioned medical officers of the Armed Forces of the United States and of the Public Health Service of the United

States while on active duty and while acting within the scope of their military or public health responsibilities.

(d) Any person while actually serving without salary or professional fees on the resident medical staff of a hospital in this state, subject to the provisions of s. 458.321.

(e) Any person furnishing medical assistance in case of an emergency.

(f) The domestic administration of recognized family remedies.

(g) The practice of the religious tenets of any church in this state.

(h) Any person or manufacturer who, without the use of drugs or medicine, mechanically fits or sells lenses, artificial eyes or limbs, or other apparatus or appliances or is engaged in the mechanical examination of eyes for the purpose of constructing or adjusting spectacles, eyeglasses, or lenses.

(2) Nothing in s. 458.301, s. 458.305, s. 458.307, s. 458.309, s. 458.311, s. 458.313, s. 458.319, s. 458.321, s. 458.327, s. 458.329, s. 458.331, s. 458.337, s. 458.339, s. 458.341, s. 458.343, s. 458.345, s. 458.347, or this section shall be construed to prohibit any service rendered by a registered nurse or a licensed practical nurse, if such service is rendered under the direct supervision and control of a licensed physician who provides specific direction for any service to be performed and gives final approval to all services performed. Further, nothing in this or any other chapter shall be construed to prohibit any service rendered by a medical assistant in accordance with the provisions of s. 458.3485.

Section 33. For the purpose of incorporating the amendment

made by this act to section 458.347, Florida Statutes, in a reference thereto, paragraph (b) of subsection (7) of section 458.3475, Florida Statutes, is reenacted to read:

458.3475 Anesthesiologist assistants.—

(7) ANESTHESIOLOGIST AND ANESTHESIOLOGIST ASSISTANT TO ADVISE THE BOARD.—

(b) In addition to its other duties and responsibilities as prescribed by law, the board shall:

1. Recommend to the department the licensure of anesthesiologist assistants.

2. Develop all rules regulating the use of anesthesiologist assistants by qualified anesthesiologists under this chapter and chapter 459, except for rules relating to the formulary developed under s. 458.347(4)(f). The board shall also develop rules to ensure that the continuity of supervision is maintained in each practice setting. The boards shall consider adopting a proposed rule at the regularly scheduled meeting immediately following the submission of the proposed rule. A proposed rule may not be adopted by either board unless both boards have accepted and approved the identical language contained in the proposed rule. The language of all proposed rules must be approved by both boards pursuant to each respective board's guidelines and standards regarding the adoption of proposed rules.

3. Address concerns and problems of practicing anesthesiologist assistants to improve safety in the clinical practices of licensed anesthesiologist assistants.

Section 34. For the purpose of incorporating the amendment made by this act to section 458.347, Florida Statutes, in

references thereto, paragraph (e) of subsection (4) and paragraph (c) of subsection (9) of section 459.022, Florida Statutes, are reenacted to read:

459.022 Physician assistants.—

(4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

(e) A supervisory physician may delegate to a fully licensed physician assistant the authority to prescribe or dispense any medication used in the supervisory physician's practice unless such medication is listed on the formulary created pursuant to s. 458.347. A fully licensed physician assistant may only prescribe or dispense such medication under the following circumstances:

1. A physician assistant must clearly identify to the patient that she or he is a physician assistant. Furthermore, the physician assistant must inform the patient that the patient has the right to see the physician prior to any prescription being prescribed or dispensed by the physician assistant.

2. The supervisory physician must notify the department of her or his intent to delegate, on a department-approved form, before delegating such authority and notify the department of any change in prescriptive privileges of the physician assistant. Authority to dispense may be delegated only by a supervisory physician who is registered as a dispensing practitioner in compliance with s. 465.0276.

3. The physician assistant must file with the department a signed affidavit that she or he has completed a minimum of 10 continuing medical education hours in the specialty practice in which the physician assistant has prescriptive privileges with each licensure renewal application.

4. The department may issue a prescriber number to the physician assistant granting authority for the prescribing of medicinal drugs authorized within this paragraph upon completion of the foregoing requirements. The physician assistant shall not be required to independently register pursuant to s. 465.0276.

5. The prescription must be written in a form that complies with chapter 499 and must contain, in addition to the supervisory physician's name, address, and telephone number, the physician assistant's prescriber number. Unless it is a drug or drug sample dispensed by the physician assistant, the prescription must be filled in a pharmacy permitted under chapter 465, and must be dispensed in that pharmacy by a pharmacist licensed under chapter 465. The appearance of the prescriber number creates a presumption that the physician assistant is authorized to prescribe the medicinal drug and the prescription is valid.

6. The physician assistant must note the prescription or dispensing of medication in the appropriate medical record.

(9) COUNCIL ON PHYSICIAN ASSISTANTS.—The Council on Physician Assistants is created within the department.

(c) The council shall:

1. Recommend to the department the licensure of physician assistants.

2. Develop all rules regulating the use of physician assistants by physicians under chapter 458 and this chapter, except for rules relating to the formulary developed under s. 458.347. The council shall also develop rules to ensure that the continuity of supervision is maintained in each practice setting. The boards shall consider adopting a proposed rule

developed by the council at the regularly scheduled meeting immediately following the submission of the proposed rule by the council. A proposed rule submitted by the council may not be adopted by either board unless both boards have accepted and approved the identical language contained in the proposed rule. The language of all proposed rules submitted by the council must be approved by both boards pursuant to each respective board's guidelines and standards regarding the adoption of proposed rules. If either board rejects the council's proposed rule, that board must specify its objection to the council with particularity and include any recommendations it may have for the modification of the proposed rule.

3. Make recommendations to the boards regarding all matters relating to physician assistants.

4. Address concerns and problems of practicing physician assistants in order to improve safety in the clinical practices of licensed physician assistants.

Section 35. For the purpose of incorporating the amendment made by this act to section 458.347, Florida Statutes, in a reference thereto, paragraph (b) of subsection (7) of section 459.023, Florida Statutes, is reenacted to read:

459.023 Anesthesiologist assistants.—

(7) ANESTHESIOLOGIST AND ANESTHESIOLOGIST ASSISTANT TO ADVISE THE BOARD.—

(b) In addition to its other duties and responsibilities as prescribed by law, the board shall:

1. Recommend to the department the licensure of anesthesiologist assistants.

2. Develop all rules regulating the use of anesthesiologist

assistants by qualified anesthesiologists under this chapter and chapter 458, except for rules relating to the formulary developed under s. 458.347(4)(f). The board shall also develop rules to ensure that the continuity of supervision is maintained in each practice setting. The boards shall consider adopting a proposed rule at the regularly scheduled meeting immediately following the submission of the proposed rule. A proposed rule may not be adopted by either board unless both boards have accepted and approved the identical language contained in the proposed rule. The language of all proposed rules must be approved by both boards pursuant to each respective board's guidelines and standards regarding the adoption of proposed rules.

3. Address concerns and problems of practicing anesthesiologist assistants to improve safety in the clinical practices of licensed anesthesiologist assistants.

Section 36. For the purpose of incorporating the amendment made by this act to section 464.012, Florida Statutes, in a reference thereto, paragraph (a) of subsection (1) of section 456.041, Florida Statutes, is reenacted to read:

456.041 Practitioner profile; creation.—

(1)(a) The Department of Health shall compile the information submitted pursuant to s. 456.039 into a practitioner profile of the applicant submitting the information, except that the Department of Health shall develop a format to compile uniformly any information submitted under s. 456.039(4)(b). Beginning July 1, 2001, the Department of Health may compile the information submitted pursuant to s. 456.0391 into a practitioner profile of the applicant submitting the

information. The protocol submitted pursuant to s. 464.012(3) must be included in the practitioner profile of the advanced registered nurse practitioner.

Section 37. For the purpose of incorporating the amendment made by this act to section 464.012, Florida Statutes, in references thereto, subsections (1) and (2) of section 458.348, Florida Statutes, are reenacted to read:

458.348 Formal supervisory relationships, standing orders, and established protocols; notice; standards.—

(1) NOTICE.—

(a) When a physician enters into a formal supervisory relationship or standing orders with an emergency medical technician or paramedic licensed pursuant to s. 401.27, which relationship or orders contemplate the performance of medical acts, or when a physician enters into an established protocol with an advanced registered nurse practitioner, which protocol contemplates the performance of medical acts identified and approved by the joint committee pursuant to s. 464.003(2) or acts set forth in s. 464.012(3) and (4), the physician shall submit notice to the board. The notice shall contain a statement in substantially the following form:

I, ...(name and professional license number of physician)..., of ...(address of physician)... have hereby entered into a formal supervisory relationship, standing orders, or an established protocol with ...(number of persons)... emergency medical technician(s), ...(number of persons)... paramedic(s), or ...(number of persons)... advanced registered nurse practitioner(s).

(b) Notice shall be filed within 30 days of entering into

the relationship, orders, or protocol. Notice also shall be provided within 30 days after the physician has terminated any such relationship, orders, or protocol.

(2) ESTABLISHMENT OF STANDARDS BY JOINT COMMITTEE.—The joint committee created under s. 464.003(2) shall determine minimum standards for the content of established protocols pursuant to which an advanced registered nurse practitioner may perform medical acts identified and approved by the joint committee pursuant to s. 464.003(2) or acts set forth in s. 464.012(3) and (4) and shall determine minimum standards for supervision of such acts by the physician, unless the joint committee determines that any act set forth in s. 464.012(3) or (4) is not a medical act. Such standards shall be based on risk to the patient and acceptable standards of medical care and shall take into account the special problems of medically underserved areas. The standards developed by the joint committee shall be adopted as rules by the Board of Nursing and the Board of Medicine for purposes of carrying out their responsibilities pursuant to part I of chapter 464 and this chapter, respectively, but neither board shall have disciplinary powers over the licensees of the other board.

Section 38. For the purpose of incorporating the amendment made by this act to section 464.013, Florida Statutes, in a reference thereto, subsection (7) of section 464.0205, Florida Statutes, is reenacted to read:

464.0205 Retired volunteer nurse certificate.—

(7) The retired volunteer nurse certificate shall be valid for 2 years, and a certificateholder may reapply for a certificate so long as the certificateholder continues to meet

the eligibility requirements of this section. Any legislatively mandated continuing education on specific topics must be completed by the certificateholder prior to renewal; otherwise, the provisions of s. 464.013 do not apply.

Section 39. For the purpose of incorporating the amendment made by this act to section 464.018, Florida Statutes, in a reference thereto, subsection (11) of section 320.0848, Florida Statutes, is reenacted to read:

320.0848 Persons who have disabilities; issuance of disabled parking permits; temporary permits; permits for certain providers of transportation services to persons who have disabilities.—

(11) A violation of this section is grounds for disciplinary action under s. 458.331, s. 459.015, s. 460.413, s. 461.013, s. 463.016, or s. 464.018, as applicable.

Section 40. For the purpose of incorporating the amendment made by this act to section 464.018, Florida Statutes, in a reference thereto, subsection (2) of section 464.008, Florida Statutes, is reenacted to read:

464.008 Licensure by examination.—

(2) Each applicant who passes the examination and provides proof of meeting the educational requirements specified in subsection (1) shall, unless denied pursuant to s. 464.018, be entitled to licensure as a registered professional nurse or a licensed practical nurse, whichever is applicable.

Section 41. For the purpose of incorporating the amendment made by this act to section 464.018, Florida Statutes, in a reference thereto, subsection (5) of section 464.009, Florida Statutes, is reenacted to read:

464.009 Licensure by endorsement.—

(5) The department shall not issue a license by endorsement to any applicant who is under investigation in another state, jurisdiction, or territory of the United States for an act which would constitute a violation of this part or chapter 456 until such time as the investigation is complete, at which time the provisions of s. 464.018 shall apply.

Section 42. For the purpose of incorporating the amendment made by this act to section 464.018, Florida Statutes, in references thereto, paragraph (b) of subsection (1), subsection (3), and paragraph (b) of subsection (4) of section 464.0205, Florida Statutes, are reenacted to read:

464.0205 Retired volunteer nurse certificate.—

(1) Any retired practical or registered nurse desiring to serve indigent, underserved, or critical need populations in this state may apply to the department for a retired volunteer nurse certificate by providing:

(b) Verification that the applicant had been licensed to practice nursing in any jurisdiction in the United States for at least 10 years, had retired or plans to retire, intends to practice nursing only pursuant to the limitations provided by the retired volunteer nurse certificate, and has not committed any act that would constitute a violation under s. 464.018(1).

(3) The board may deny a retired volunteer nurse certificate to any applicant who has committed, or who is under investigation or prosecution for, any act that would constitute a ground for disciplinary action under s. 464.018.

(4) A retired volunteer nurse receiving certification from the board shall:

(b) Comply with the minimum standards of practice for nurses and be subject to disciplinary action for violations of s. 464.018, except that the scope of practice for certified volunteers shall be limited to primary and preventive health care, or as further defined by board rule.

Section 43. For the purpose of incorporating the amendment made by this act to section 893.02, Florida Statutes, in a reference thereto, section 775.051, Florida Statutes, is reenacted to read:

775.051 Voluntary intoxication; not a defense; evidence not admissible for certain purposes; exception.—Voluntary intoxication resulting from the consumption, injection, or other use of alcohol or other controlled substance as described in chapter 893 is not a defense to any offense proscribed by law. Evidence of a defendant's voluntary intoxication is not admissible to show that the defendant lacked the specific intent to commit an offense and is not admissible to show that the defendant was insane at the time of the offense, except when the consumption, injection, or use of a controlled substance under chapter 893 was pursuant to a lawful prescription issued to the defendant by a practitioner as defined in s. 893.02.

Section 44. For the purpose of incorporating the amendment made by this act to section 948.03, Florida Statutes, in a reference thereto, paragraph (a) of subsection (3) of section 944.17, Florida Statutes, is reenacted to read:

944.17 Commitments and classification; transfers.—

(3)(a) Notwithstanding the provisions of s. 948.03, only those persons who are convicted and sentenced in circuit court to a cumulative sentence of incarceration for 1 year or more,

whether sentence is imposed in the same or separate circuits, may be received by the department into the state correctional system. Such persons shall be delivered to the custody of the department at such reception and classification centers as shall be provided for this purpose.

Section 45. For the purpose of incorporating the amendment made by this act to section 948.03, Florida Statutes, in a reference thereto, subsection (8) of section 948.001, Florida Statutes, is reenacted to read:

948.001 Definitions.—As used in this chapter, the term:

(8) "Probation" means a form of community supervision requiring specified contacts with parole and probation officers and other terms and conditions as provided in s. 948.03.

Section 46. For the purpose of incorporating the amendment made by this act to section 948.03, Florida Statutes, in a reference thereto, paragraph (e) of subsection (1) of section 948.101, Florida Statutes, is reenacted to read:

948.101 Terms and conditions of community control.—

(1) The court shall determine the terms and conditions of community control. Conditions specified in this subsection do not require oral pronouncement at the time of sentencing and may be considered standard conditions of community control. The court shall require intensive supervision and surveillance for an offender placed into community control, which may include, but is not limited to:

(e) The standard conditions of probation set forth in s. 948.03.

Section 47. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

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 1250
INTRODUCER:	Appropriations Committee (Recommended by Appropriations Subcommittee on Health and Human Services); Children, Families, and Elder Affairs Committee; and Senator Latvala
SUBJECT:	Behavioral Health Workforce
DATE:	March 3, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Crosier	Hendon	CF	**Fav/CS**
2.	Brown	Pigott	AHS	**Recommend: Fav/CS**
3.	Brown	Kynoch	AP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1250 expands the behavioral health workforce, recognizes the need for additional psychiatrists is of critical state concern, integrates primary care and psychiatry, and allows persons with disqualifying offenses that occurred five or more years ago to work under the supervision of certain qualified personnel until a final determination regarding the request for an exemption from disqualification is made.

The bill authorizes physician assistants (PAs) and advanced registered nurse practitioners (ARNPs) to prescribe controlled substances with certain limitations.

The bill requires a PA or an ARNP who prescribes any controlled substance for the treatment of chronic, nonmalignant pain, to register with the Department of Health (DOH) as a controlled substance prescribing practitioner. This new requirement also subjects PAs and ARNPs who are registered as controlled substance prescribing practitioners to meet the statutory practice standards for such prescribing practitioners. Additionally, the bill provides that only a physician may dispense medication or prescribe a controlled substance on the premises of a registered pain management clinic.

The bill makes the process of retaining a patient in a receiving facility, or placing a patient in a treatment facility under the Baker Act, more efficient by allowing the psychiatrist providing the

first opinion and the psychiatrist or clinical psychologist providing a second opinion to examine the patient through electronic means. Currently, only the psychiatrist or clinical psychologist providing a second opinion may perform an examination electronically.

The bill provides that persons employed directly or under contract with the Department of Corrections (DOC) in an inmate substance abuse program are exempt from a fingerprinting and background check requirement unless they have direct contact with unmarried inmates under the age of 18 or with inmates who are developmentally disabled.

The bill expands who is eligible to be a service provider in a substance abuse program by allowing persons who have had a disqualifying offense that occurred five or more years ago and who have requested an exemption from disqualification to work with adults with substance abuse disorders.

The bill requires a hospital to provide advance notice to certain obstetrical physicians within 90 days before it closes its obstetrical department or ceases to provide obstetrical services.

The bill adds human trafficking to the required continuing medical education (CE) requirements for allopathic and osteopath physicians, physician assistants, anesthesiology assistants, nurses, dentists, dental hygienists, dental lab personnel, psychologists, social workers, mental health counselors, and marriage and family therapists. Such licensees must complete two hours of CE courses on domestic violence *and human trafficking*, approved by the respective board, every third biennial re-licensure or recertification cycle.

The bill has an indeterminate fiscal impact.

The bill, except as otherwise expressly provided, takes effect upon becoming law.

II. Present Situation:

Behavioral Health Workforce Shortage

The Institute of Medicine (IOM) has chronicled efforts, beginning as early as the 1970s, to deal with workforce issues regarding mental and substance abuse disorders, but notes that most have not been sustained long enough or have not been comprehensive enough to remedy the problems.[1] Shortages of qualified workers, recruitment and retention of staff, and an aging

[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, pg. r, citing the following Institute of Medicine reports: Institute of Medicine, (2006), *Improving the quality of health care for mental and substance-use conditions.*, Washington, DC, National Academies Press; Institute of Medicine, (2003), Greiner, A., & Knebel, E. (Eds.), *Health professions education: A bridge to quality.*, Washington, DC, National Academies Press; Institute of Medicine, (2004), Smedley, B. D., Butler, A. S., Bristow, L. R. (Eds.), *In the nation's compelling interest: Ensuring diversity in the health-care workforce.*, Washington, DC, National Academies Press; and Institute of Medicine, & Eden, J., (2012), *The mental health and substance use workforce for older adults: In whose hands?*, Washington, DC, National Academies Press; *available at* https://store.samhsa.gov/shin/content/PEP13-RTC-BHWORK/PEP13-RTC-BHWORK.pdf (last accessed on February 18, 2016).

workforce have long been cited as problems.[2] 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.[3] Recruitment and retention efforts are hampered by inadequate compensation, which discourages many from entering or remaining in the field.[4] In addition, the misperceptions and prejudice surrounding mental and substance use disorders and those who experience them may be imputed to those who work in the field.[5]

Of additional concern, the IOM found that the workforce is unprepared to meet the mental and substance use disorder treatment needs of the rapidly growing population of older adults. The IOM data indicate that 5.6 to 8 million older adults have one or more mental health and substance use conditions which compound the care they need. However, there is a shortage of mental health or substance abuse practitioners who are trained with this population.[6]

The IOM projects that by 2020, there will be 12,625 child and adolescent psychologists needed, but a supply of only 8,312 is anticipated.[7] In 2010, the Substance Abuse and Mental Health Services Administration (SAMHSA) reported that more than two-thirds of primary care physicians who tried to obtain outpatient mental health services for their patients reported they were unsuccessful because of shortages in mental health care providers, health plan barriers, and lack of coverage or inadequate coverage.

As of January 2016, the Health Resources and Services Administration has designed 4,362 Mental Health Professional Shortage Areas, including at least one in each state, the District of Columbia, and each of the territories.[8]

Behavioral Health Practice

In the U.S., states generally require a person to achieve higher levels of education to become a mental health counselor compared to that of a substance abuse counselor. As of 2011, 49 states required a master's degree to qualify as a mental health counselor but 23 states did not require any college degree to qualify as a substance abuse counselor. For behavioral health care disciplines, independent practice requires a master's degree in most states; however, for addiction counselors, data available a decade ago indicated that about 50-55 percent of those certified or practicing in the field held at least a master's degree, 75 percent held a bachelor's degree, and the reminder had either completed some college or held a high school diploma or equivalent degree.[9]

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[2] 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, pg. 4, available at https://store.samhsa.gov/shin/content/PEP13-RTC-BHWORK/PEP13-RTC-BHWORK.pdf (last accessed on February 18, 2016).
[3] *Id.*
[4] *Id.*
[5] *Id.*
[6] *Id.*
[7] *Id.* At 10.
[8] Health Resources and Services Administration, *Data Warehouse, Health Professional Shortage Areas (HPSA)* and *Medically Underserved Areas/Populations (MUA/P),* available at http://datawarehouse.hrsa.gov/topics/shortageAreas.aspx (last accessed on February 6, 2016).
[9] *Supra* note 2.

Because of major changes to the field of behavioral health, including the integration of behavioral health and primary care, behavioral health workers are in need of additional pre-service training and continuing education.[10] Behavioral health has moved to a chronic care, public health model to define needed services. This model recognizes the importance of prevention, the primacy of long-term recovery as its key construct, and is shaped by those with experience of recovery.[11] This new care model will require a diverse, skilled, and trained workforce that employs a range of workers, including people in recovery, recovery specialists, case workers, and highly trained specialists.[12] In fact, the movement to include primary care providers in the field of behavioral health has led to a lack of consensus as to which health care provider types make up the workforce.[13] Generally, however, the workforce is made up of professionals practicing psychiatry, clinical psychology, clinical social work, advanced practice psychiatric nursing, marriage and family therapy, substance abuse counseling, and counseling.[14]

Involuntary Examination and Inpatient Placement under the Baker Act

In 1971, the Legislature passed the Florida Mental Health Act, also known as the Baker Act[15], codified in part I of ch. 394, F.S., to address mental health needs in the state.[16] The Baker Act provides the authority and process for the voluntary and involuntary examination of persons with evidence of a mental illness and the subsequent inpatient or outpatient placement of such individuals for treatment.

The Department of Children and Families (DCF) administers the Baker Act through receiving facilities that examine persons with evidence of mental illness. Receiving facilities are designated by the DCF and may be public or private facilities that provide the examination and short-term treatment of persons who meet the criteria under the Baker Act.[17] Subsequent to examination at a receiving facility, a person who requires further treatment may be transported to a treatment facility. Treatment facilities designated by the DCF are state hospitals (e.g. Florida

[10] *Id*. at 4-5.
[11] *Id*. at 6.
[12] *Id*.
[13] Congressional Research Service, *The Mental Health Workforce: A Primer*, April 16, 2015, *available at* http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=3&cad=rja&uact=8&ved=0ahUKEwjK9voubzKAhVCVyYKHYx5DHYQFgguMAI&url=http%3A%2F%2Ffas.org%2Fsgp%2Fcrs%2Fmisc%2FR43255.pdf&usg=AFQjCNHkmHp_4SMtmCWS7gImwEWxhPGl1g&sig2=5JBwSXTV1PHBeGZJGig0Xw(last accessed on February 6, 2016).
[14] *Id.* At 2 (using the Substance Abuse and Mental Health Services Administration definition).
[15] "The Baker Act" is named for its sponsor, Representative Maxine E. Baker, one of the first two women from Dade County elected to office in the Florida Legislature. As chair of the House Committee on Mental Health, she championed the treatment of mental illness in a manner that would not sacrifice a patient's rights and dignity. Baker served five terms as a member of the Florida House of Representatives from 1963-1972 and was instrumental in the passage of the Florida Mental Health Act. *See* University of Florida Smathers Libraries, *A Guide to the Maxine E. Baker Papers*, *available at* http://www.library.ufl.edu/spec/pkyonge/baker.htm (last accessed January 21, 2016), and Department of Children and Families and University of South Florida, Department of Mental Health and Law, *Baker Act Handbook and User Reference Guide 2014 (2014), available at* http://myflfamilies.com/service-programs/mentalhealth/baker-act (select "2014 Baker Act Manual) (last accessed January 21, 2016).
[16] Chapter 71-131, s. 1, Laws of Fla.
[17] Section 394.455(32), F.S.

State Hospital) which provide extended treatment and hospitalization beyond what is provided in a receiving facility.[18]

Current law provides that an involuntary examination may be initiated if there is reason to believe a person has a mental illness, and, because of the illness:[19]

- The person has refused a voluntary examination after explanation of the purpose of the exam or is unable to determine for himself or herself that an examination is needed; and
- The person is likely to suffer from self-neglect or substantial harm to her or his well-being, or be a danger to himself or herself or others.

Courts, law enforcement officers, and certain health care practitioners are authorized to initiate such involuntary examinations.[20] A circuit court may enter an ex parte order stating a person meets the criteria for involuntary examination. A law enforcement officer[21] may take a person into custody who appears to meet the criteria for involuntary examination and transport them to a receiving facility for examination. Health care practitioners may initiate an involuntary examination by executing the Certificate of a Professional Initiating an Involuntary Examination, an official form adopted in DCF rule.[22] The health care practitioner must have examined the person within the preceding 48 hours and must state that the person meets the criteria for involuntary examination.[23] The Baker Act currently authorizes the following health care practitioners to initiate an involuntary examination by certificate:[24]

- A physician licensed under ch. 458, F.S., or ch. 459, F.S., who has experience in the diagnosis and treatment of mental and nervous disorders;
- A clinical psychologist, as defined in s. 490.003(7), F.S., with three years of postdoctoral experience in the practice of clinical psychology, inclusive of the experience required for licensure;
- A physician or psychologist employed by a facility operated by the U.S. Department of Veterans Affairs that qualifies as a receiving or treatment facility;
- A psychiatric nurse licensed under part I of ch. 464, F.S., who has a master's degree or a doctorate in psychiatric nursing, holds a national advanced practice certification as a

[18] Section 394.463(1), F.S.

[19] Section 394.463(2)(a)1.-3., F.S.

[20] "Law enforcement officer" means any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. This definition includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency. s. 943.10(1), F.S.

[21] The Certificate of a Professional Initiating an Involuntary Examination is a form created by the DCF which must be executed by health care practitioners initiating an involuntary examination under the Baker Act. The form contains information related to the person's diagnosis and the health care practitioner's personal observations of statements and behaviors that support the involuntary examination of such person. See Florida Department of Children and Families, CF-MH 3052b, incorporated by reference in Rule 65E-.280, F.A.C., and available at http://www.dcf.state.fl.us/programs/samh/MentalHealth/laws/3052b.pdf. (last visited February 6, 2016).

[22] Section 394.463(2)(a)3., F.S.

[23] *Id.*

[24] *Id.*

psychiatric mental health advance practice nurse, and has two years of post-master's clinical experience under the supervision of a physician;
- A mental health counselor licensed under ch. 491, F.S.;
- A marriage and family therapist licensed under ch. 491, F.S.; and
- A clinical social worker licensed under ch. 491, F.S.

In 2014, there were 181,471 involuntary examinations initiated in the state. Law enforcement initiated half of the involuntary examinations (50.18 percent), followed closely by mental health professionals (47.86 percent), with the remaining initiated pursuant to ex parte orders by judges (1.96 percent).[25]

Background Screening of Substance Abuse Treatment Provider Staff

Substance abuse treatment programs are licensed by the DCF Substance Abuse Program Office under authority granted in s. 397.401, F.S., which provides that it is unlawful for any person to act as a substance abuse service provider unless he or she is licensed or exempt from licensure. In order to obtain a license, a provider must apply to the DCF and submit "sufficient information to conduct background screening as provided in s. 397.451, F.S."[26] According to administrative rule, the required documentation is verification that fingerprinting and background checks have been completed as required by ch. 397, F.S., and ch. 435, F.S.[27]

Section 397.451, F.S., requires that "all owners, directors, and chief financial officers of service providers are subject to level 2 background screening as provided under chapter 435, F.S." All service provider personnel who have direct contact with children receiving services or with adults who are developmentally disabled receiving services are subject to level 2 background screening as provided under chapter 435, F.S. Church or nonprofit religious organizations that are exempt from licensure as substance abuse treatment programs must also comply with personnel screening requirements.

Exemptions from personnel screening requirements include:
- Persons who volunteer at a program for less than 40 hours per month and who are under direct and constant supervision by persons who meet all screening requirements;
- Service providers who are exempt from licensing; and
- Persons employed by the Department of Corrections (DOC) in a substance abuse service program who have direct contact with unmarried inmates under the age of 18 or with inmates who are developmentally disabled.[28]

The requirements for level 1 and level 2 screening are found in ch. 435, F.S. Level 1 screening includes, at a minimum, employment history checks and statewide criminal correspondence checks through the Florida Department of Law Enforcement (FDLE), a check of the Dru Sjodin

[25] Annette Christy & Christina Guenther, Baker Act Reporting Center, College of Behavioral & Community Sciences, University of South Florida, *Annual Report of Baker Act Data: summary of 2014 Data,* available at http://bakeract.fmhi.usf.edu/document/BA_Annual_2014.pdf (last visited February 6, 2016).
[26] Section 397.403, F.S.
[27] Rule 65D-30.003(6)(s), F.A.C.
[28] Section 397.451(2)(c), F.S.

National Sex Offender Public Website,[29] and may include criminal records checks through local law enforcement agencies. Level 2 screening is required for all employees in positions designated by law as positions of trust or responsibility, and it includes security background investigations which consist of at least fingerprinting, statewide criminal and juvenile records checks through FDLE, and federal criminal records checks through the Federal Bureau of Investigation (FBI) and may include local criminal records checks through local law enforcement agencies.[30]

Under certain circumstances, the DCF may grant an exemption from disqualification as provided in s. 435.07, F.S. These circumstances are:

- Felonies committed more than three years prior to the date of disqualification;
- Misdemeanors prohibited under any of specified Florida Statutes or under similar statutes of other jurisdictions;
- Offenses that were felonies when committed but are now misdemeanors;
- Findings of delinquency; or
- Commissions of acts of domestic violence as defined in s. 741.30, F.S.

Under s. 435.07, F.S., employees bear the burden of proving, by clear and convincing evidence, they should not be disqualified and have administrative hearing rights under ch. 120, F.S., for denials.[31] However, the DCF may not remove a disqualification for or grant an exemption to an individual who is found guilty of, regardless of adjudication, or who has entered a plea of nolo contendere or guilty to, any felony covered by s. 435.03, F.S., solely by pardon, executive clemency, or restoration of civil rights.[32]

Substance Abuse Treatment Provider Staff

Since many substance abuse treatment programs employ persons who are themselves in recovery, the DCF is authorized to grant additional exemptions from disqualification for employees of substance abuse treatment programs.[33] Employees must submit a request for an exemption for disqualification within 30 days after being notified of a pending disqualification. Pending disposition of the exemption request, an employee's employment may not be adversely affected. However, upon disapproval of a request for an exemption the service provider must immediately dismiss the employee from employment.[34]

[29] The Dru Sjodin National Sex Offender Public Website is a U.S. government website that links public state, territorial, and tribal sex offender registries in one national search site. The website is available at https://www.nsopw.gov/ (last visited February 6, 2016.
[30] Section 435.04(1), F.S.
[31] The employee must set forth sufficient evidence of rehabilitation, such as the circumstances surrounding the criminal incident, the time period that has elapsed since the incident, the nature of the harm to the victim, and the history of the employee since the incident.
[32] Section 435.07(4), F.S.
[33] Section 397.451(4)(b), F.S., provides exemptions for crimes under ss. 817.563, 893.13, and 893.147, F.S. These exemptions only apply to providers who treat adolescents age 13 and older; as well as personnel who work exclusively with adults.
[34] Section 397.451(1)(f), F.S.

Physician Assistants

A physician assistant (PA) is a person who has completed an approved medical training program and is licensed to perform medical services, as delegated by a supervising physician.[35] Chapter 458, F.S., sets forth the provisions for the regulation of the practice of allopathic medicine by the Board of Medicine (BOM). Chapter 459, F.S., similarly sets forth the provisions for the regulation of the practice of osteopathic medicine by the Board of Osteopathic Medicine (BOOM). PAs are regulated by both boards. Licensure of PAs is overseen jointly by the boards through the Council on Physician Assistants.[36] During the 2014-2015 state fiscal year, there were 6,744 in-state, actively licensed PAs in Florida.[37]

Physician Assistants are trained and required by statute to work under the supervision and control of allopathic or osteopathic physicians.[38] The BOM and the BOOM have adopted rules that set out the general principles a supervising physician must use in developing the scope of practice of the PA under both direct[39] and indirect[40] supervision. A supervising physician's decision to permit a PA to perform a task or procedure under direct or indirect supervision must be based on reasonable medical judgment regarding the probability of morbidity and mortality to the patient. The supervising physician must be certain that the PA is knowledgeable and skilled in performing the tasks and procedures assigned.[41] Each physician, or group of physicians supervising a licensed PA, must be qualified in the medical areas in which the PA is to work and is individually or collectively responsible and liable for the performance and the acts and omissions of the PA.[42]

Current law allows a supervisory physician to delegate authority to prescribe or dispense any medication used in the physician's practice, except controlled substances, general anesthetics, and radiographic contrast materials.[43] However, the law allows a supervisory physician to delegate authority to a PA to order any medication, including controlled substances, general anesthetics, and radiographic contrast materials, for a patient during the patient's stay in a facility licensed under ch. 395, F.S.[44]

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[35] Sections 458.347(2)(e) and 459.022(2)(e), F.S.

[36] The council consists of three physicians who are members of the Board of Medicine; one physician who is a member of the Board of Osteopathic Medicine; and a physician assistant appointed by the State Surgeon General. (s. 458.348(9), F.S. and s. 459.022(9), F.S.)

[37] Florida Dep't of Health, Division of Medical Quality Assurance, *Annual Report and Long Range Plan Fiscal Year 2014-2015*, p. 11, *available at* http://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/_documents/annual-report-1415.pdf, (last visited Feb. 1, 2016).

[38] Sections 458.347(4), and 459.022(4), F.S.

[39] "Direct supervision" requires the physician to be on the premises and immediately available. (*See* Rules 64B8-30.001(4) and 64B15-6.001(4), F.A.C.).

[40] "Indirect supervision" requires the physician to be within reasonable physical proximity. (Rules 64B8-30.001(5) and 64B15-6.001(5), F.A.C.

[41] Rules 64B8-30.012(2) and 64B15-6.010(2), F.A.C.

[42] Sections 458.347(3) and (15) and 459.022(3) and (15), F.S.

[43] Sections 458.347(4)(e) and (f)1., and 459.022(4)(e), F.S.

[44] *See* s. 395.002(16), F.S. The facilities licensed under chapter 395 are hospitals, ambulatory surgical centers, and mobile surgical facilities.

Licenses are renewed biennially.[45] At the time of renewal, a PA must demonstrate that he or she has met the continuing medical education requirements of 100 hours and must submit a sworn statement that he or she has not been convicted of any felony in the previous two years.[46] If a PA is licensed as a prescribing PA, an additional 10 hours of continuing medical education in the specialty areas of his or her supervising physician must be completed.[47]

According to the American Academy of Physician Assistants, all accredited PA educational programs include pharmacology courses, and the average amount of formal classroom instruction in pharmacology is 75 hours.[48] Course topics, include pharmacokintetics, drug interactions, adverse effects, contraindications, indications, and dosage, generally by doctoral-level pharmacologists or clinical pharmacists.[49] Additionally, pharmacology education occurs on all clinical clerkships or rotations.[50]

A PA may only practice under the delegated authority of a supervising physician. A physician may not supervise more than four PAs at any time.[51]

Advanced Registered Nurse Practitioners

Part I of ch. 464, F.S., governs the licensure and regulation of advanced registered nurse practitioners (ARNPs) in Florida. Nurses are licensed by the Department of Health (DOH) and are regulated by the Board of Nursing (BON).[52] There are 22,003 actively licensed ARNPs in Florida.[53]

In Florida, an ARNP is a licensed nurse who is certified in advanced or specialized nursing practice and may practice as a certified registered nurse anesthetist, a certified nurse midwife, or a nurse practitioner.[54] Section 464.003(2), F.S., defines "advanced or specialized nursing practice" to include the performance of advanced-level nursing acts approved by the BON, which by virtue of post-basic specialized education, training, and experience are appropriately performed by an ARNP.[55]

Pursuant to s. 464.012(3), F.S., ARNPs may only perform nursing practices delineated in an established protocol filed with the BON that is filed within 30 days of entering into a supervisory

[45] For timely renewed licenses, the renewal fee is $275 and the prescribing registration fee is $150. Additionally, at the time of renewal, the PA must pay an unlicensed activity fee of $5. See Rules 64B8-30.019 and 64B15-6.013, F.A.C. [43] Sections 458.347(7)(c)-(d) and 459.022(7)(c)-(d), F.S.
[46] Sections 458.347(7)(c)-(d) and 459.022(7)(c)-(d), F.S.
[47] Rules 64B8-30.005(6) and 64B15-6.0035(6), F.A.C.
[48] American Academy of Physician Assistants, *PAs as Prescribers of Controlled Medications, Professional Issues – Issue Brief* (Dec. 2013), (on file with the staff of the Senate Committee on Children, Families & Elder Affairs).
[49] *Id.*
[50] *Id.*
[51] Sections 458.347(3) and 459.022(3), F.S.
[52] Section 464.004, F.S.
[53] E-mail correspondence with the Department of Health (Nov. 9, 2015). This number includes all active licenses, including out of state practitioners.
[54] Section 464.003(3), F.S.
[55] Section 464.003(2), F.S.

relationship with a physician and upon biennial license renewal.[56] Florida law allows a primary care physician to supervise ARNPs in up to four offices, in addition to the physician's primary practice location.[57] If the physician provides specialty health care services, then only two medical offices, in additional to the physician's primary practice location, may be supervised.

The supervision limitations do not apply in the following facilities:
- Hospitals;
- Colleges of medicine or nursing;
- Nonprofit family-planning clinics;
- Rural and federally qualified health centers;
- Nursing homes;
- Assisted living facilities;
- Student health care centers or school health clinics; or
- Other government facilities.[58]

To ensure appropriate medical care, the number of ARNPs a supervising physician may supervise is limited based on consideration of the following factors:
- Risk to the patient;
- Educational preparation, specialty, and experience in relation to the supervising physician's protocol;
- Complexity and risk of the procedures;
- Practice setting; and
- Availability of the supervising physician or dentist.[59]

Controlled Substances

Controlled substances are drugs with the potential for abuse. Chapter 893, F.S., sets forth the Florida Comprehensive Drug Abuse Prevention and Control Act (Act) and classifies controlled substances into five categories, known as schedules.[60] The distinguishing factors between the different drug schedules are the "potential for abuse" of the substance and whether there is a currently accepted medical use for the substance. Schedules are used to regulate the manufacture, distribution, preparation and dispensing of the substances. The Act provides requirements for the prescribing and administering of controlled substances by health care practitioners and proper dispensing by pharmacists and health care practitioners.[61]

As of January 1, 2012, every physician, podiatrist, or dentist, who prescribes controlled substances in the state for the treatment of chronic nonmalignant pain,[62] must register as a

[56] Physicians are also required to provide notice of the written protocol and the supervisory relationship to the Board of Medicine or Board of Osteopathic Medicine, respectively. See ss. 458.348 and 459.025, F.S.
[57] Sections 458.348(4) and 459.025(3), F.S.
[58] Sections 458.348(4)(e) and 459.025(3)(e), F.S.
[59] Rule 64B9-4.010, F.A.C.
[60] *See* s. 893.03, F.S.
[61] Sections 893.04 and 893.05, F.S.
[62] "Chronic nonmalignant pain" is defined as pain unrelated to cancer which persists beyond the usual course of disease or the injury that is the cause of the pain or more than 90 days after surgery. Section 456.44(1)(e), F.S.

controlled substance prescribing practitioner and comply with certain practice standards specified in statute and rule.[63]

Patients being treated with controlled substances for chronic nonmalignant pain must be seen by their prescribing practitioners at least once every three months to monitor progress and compliance, and detailed medical records relating to such treatment must be maintained.[64] Patients at special risk for drug abuse or diversion may require consultation with or a referral to an addiction medicine physician or a psychiatrist.[65] Anyone with signs or symptoms of substance abuse must be immediately referred to a pain-management physician, an addiction medicine specialist, or an addiction medicine facility.[66]

Obstetrical Departments in Hospitals

Hospitals are required to report the services which will be provided by the hospital as a requirement of licensure. These services are listed on the hospital's license. A hospital must notify the Agency for Health Care Administration (AHCA) of any change of service that affects information on the hospital's license by submitting a revised licensure application between 60 and 120 days in advance of the change.[67] The list of services is also used for the AHCA's inventory of hospital emergency services. According to the AHCA website, there are currently 143 hospitals in Florida that offer emergency obstetrical services.[68]

Provider Hospitals

Section 383.336, F.S., defines the term "provider hospital" and creates certain requirements for such hospitals. A provider hospital is defined as a hospital in which 30 or more births occur annually that are paid for partly or fully by state funds or federal funds administered by the state.[69] Physicians in such hospitals are required to comply with additional practice parameters[70] designed to reduce the number of unnecessary cesarean sections performed within the hospital. These parameters must be followed by physicians when performing cesarean sections partially or fully paid for by the state.

The statute also requires provider hospitals to establish a peer review board consisting of obstetric physicians and other persons with credentials to perform cesarean sections within the hospital. The board is required to review, on a monthly basis, all cesarean sections performed within the hospital that were partially or fully funded by the state.

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[63] Chapter 2011-141, s. 3, Laws of Fla. (creating ss. 456.44, F.S., effective July 1, 2011).
[64] Section 465.44(3)(d), F.S.
[65] Section 465.44(3)(e), F.S.
[66] Section 456.44(3)(g), F.S.
[67] AHCA, *Senate Bill 380 Analysis* (December 20, 2013) (on file with Senate Committee on Health Policy). See also ss. 408.806(2)(c) and 395.1041(2), F.S.
[68] Report generated by http://www.floridahealthfinder.gov/index.html on Nov. 24, 2015 (on file with the Senate Committee on Health Policy).
[69] Section 383.336 (1), F.S.
[70] These parameters are established by the Office of the State Surgeon General in consultation with the Board of Medicine and the Florida Obstetric and Gynecologic Society and are required to address, at a minimum, the feasibility of attempting a vaginal delivery, dystocia, fetal distress, and fetal malposition.

These provisions are not currently being implemented, and DOH rules regarding provider hospitals were repealed by ss. 9-10 of ch. 2012-31, Laws of Florida.

Closure of an Obstetrical Department in Bartow, Florida

In June of 2007, Bartow Regional Medical Center in Polk County announced to patients and physicians that it would close its obstetrics department at the end of July of the same year.[71] Although many obstetrical physicians could continue to see patients in their offices, they would no longer be able to deliver babies at the hospital.[72] Physicians and the local community protested the short timeframe for ceasing to offer obstetrical services. According to the Florida Medical Association and several physicians who worked at the hospital, the short notice "endangered pregnant women who [were] too close to delivery for obstetricians at other hospitals to want them as patients."[73]

Continuing Education (CE) for Health Care Practitioners

Section 456.031, F.S., requires allopathic and osteopath physicians, physician assistants, anesthesiology assistants, nurses, dentists, dental hygienists, dental lab personnel, psychologists, social workers, mental health counselors, and marriage and family therapists licensed under chs. 458, 459, Part I of chs. 464, 466, 490 and 491, F.S., to obtain two hours of CE on domestic violence every third biennium, or every six years. The law allows each board to approve equivalent courses to satisfy this requirement. Reporting of CE hours is mandatory for these professions through the licensee's CE Broker account.

Florida law defines "domestic violence" as any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member.[74]

Section 456.031, F.S., sets out the required CE course content for domestic violence, as follows:

- Data and information on the number of patients in that professional's practice who are likely to be victims of domestic violence;
- The number who are likely to be perpetrators of domestic violence;
- Screening procedures for determining whether a patient has any history of being either a victim or a perpetrator of domestic violence; and
- Instruction on how to provide patients with information on resources in the local community, such as domestic violence centers and other advocacy groups, that provide legal aid, shelter, victim counseling, batterer counseling, or child protection services.

[71] Jennifer Starling, *Community Unites Against OB Closure*, THE POLK DEMOCRAT, July 12, 2007, *available at* http://ufdc.ufl.edu/UF00028292/00258/1x?vo=12, (last visited Nov. 24, 2015).
[72] Robin W. Adams, *Bartow Hospital Plan Criticized*, THE LEDGER, July 11, 2007, *available at* http://www.theledger.com/article/20070711/NEWS/707110433?p=1&tc=pg&tc=ar. (last visited Nov. 24, 2015).
[73] Id.
[74] *See* s. 741.28, F.S.

Florida law defines "human trafficking" to mean transporting, soliciting, recruiting, harboring, providing, enticing, maintaining, or obtaining another person for the purpose of exploitation of that person.[75]

Currently there is no requirement for allopathic and osteopath physicians, physician assistants, anesthesiology assistants, nurses, dentists, dental hygienists, dental lab personnel, psychologists, social workers, mental health counselors, or marriage and family therapists, to complete any CEs on human trafficking, either at initial licensure or renewal.

According to the Department of Health's Division of Medical Quality Assurance (MQA) Annual Report and Long Range Plan for Fiscal Year 2014-2015, there are 48,941 in-state allopathic physicians,[76] 6,216 osteopathic physicians,[77] 6,744 physician assistants, 197 anesthesiologist assistants, 304,666 nurses,[78] 10,981 dentists, 11,589 dental hygienists, 1,023 dental lab personnel, 5,086 psychologists, 7,971 social workers, 9,054 mental health counselors and 1,667 marriage and family therapists holding active licenses in Florida.[79]

III. Effect of Proposed Changes:

Section 1 amends s. 110.12315, F.S., to allow advanced registered nurse practitioners and physician assistants to write prescriptions under the state employees' prescription drug program for brand name drugs under certain conditions.

Section 2 amends s. 310.071, F.S., to allow applicants for certification as a deputy pilot of a watercraft or vessel to meet certain requirements and minimum standards for passing a physical examination. Such standards must include zero tolerance for any controlled substance unless the applicant is under the care of, and the controlled substance was prescribed by, a physician, advanced registered nurse practitioner (ARNP), or physician assistant (PA).

Section 3 amends s. 310.073, F.S., to require applicants for state licensure as a pilot of a watercraft or vessel to meet certain minimum standards for physical and mental capabilities necessary to carry out their professional duties. Such minimum standards must include zero tolerance for any controlled substance unless the applicant is under the care of, and the controlled substance was prescribed by, a physician, ARNP, or PA.

Section 4 amends s. 310.081, F.S., to allow licensed pilots to hold their licenses so long as they meet certain minimum standards. Such standards include zero tolerance for any controlled

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[75] *See* s. 787.06(2)(d), F.S.
[76] Florida Dep't of Health, Division of Medical Quality Assurance, *Annual Report and Long Range Plan Fiscal Year 2014-2015*, p. 11-13, *available at* http://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/_documents/annual-report-1415.pdf, (last visited Jan. 26, 2016). The 48,941 active allopathic physicians includes: 226 house physicians; 146 limited license physicians; 335 critical need physicians, 8 medical expert physicians, 1 Mayo Clinic limited license physician; 40 medical facility physicians; 2 public health physicians; and 1 public psychiatry physician.
[77] *Id*. The 7216 osteopathic physicians includes 5,264 osteopathic physicians, 5 osteopathic limited license physicians, and 2 osteopathic expert physicians.
[78] *Id*. The 304,566 nurses includes 18,250 ARNPs, 26 ARNP/CNS, 131 CNS, 217,315 RNs, and 68,844 LPNs,
[79] *See* supra note 3.

substance unless the applicant is under the care of, and the controlled substance was prescribed by, a physician, advanced registered nurse practitioner or physician assistant.

Section 5 amends 394.453, F.S., to provide legislative intent to address a behavioral health workforce shortage in the state. The bill finds that there is a need for additional psychiatrists and recommends the establishment of an additional psychiatry program to be offered by one of Florida's medical schools, which shall seek to integrate primary care and psychiatry, and other evolving models of care for persons with mental health and substance use disorders. Additionally, the bill finds that the use of telemedicine for patient evaluation, case management, and ongoing care will improve management of patient care and reduce costs of transportation.

Section 6 amends s. 394.467, F.S., to allow a psychiatrist providing the first opinion and a psychiatrist or clinical psychologist providing a second opinion about the patient's placement, to examine the patient electronically.

Section 7 amends s. 395.1051, F.S., to require hospitals to notify physicians within 90 days before the hospital closes its obstetrical department or ceases to provide obstetrical services.

Section 8 amends s. 397.451, F.S., to clarify that persons employed with the Department of Corrections (DOC) in an inmate substance abuse program are exempt from fingerprinting and background check requirement, unless they have direct contact with unmarried inmates under the age of 18 or with inmates who are developmentally disabled. The current law erroneously states the inverse.

The bill also provides that a person who has had a disqualifying offense that occurred five or more years ago and who has requested an exemption from disqualification to work with adults with substance abuse disorders, must work under the supervision of qualified professionals under chapter 490 or chapter 491 or a master's level certified addiction professional until "the agency" makes a final determination regarding the request for an exemption from disqualification.

Section 9 amends s. 456.031, F.S., to require allopathic and osteopath physicians, physician assistants, anesthesiology assistants, nurses, dentists, dental hygienists, dental lab personnel, psychologists, social workers, mental health counselors, and marriage and family therapists to complete two hours of Continuing Education (CE) on domestic violence and human trafficking as part of every third biennial license renewal, which is every six years. The course content for domestic violence remains unchanged.

The bill sets out the required course content for the human trafficking portion of the course as follows:

- Data and information on the types and extent of labor and sex trafficking;
- Factors that place a person at greater risk of being a trafficking victim;
- Patient safety and security;
- Management of medical records of patients who are trafficking victims;
- Public and private social services available for rescue, food, clothing, and shelter referrals;
- Hotlines for reporting human trafficking maintained by the National Human Trafficking Resource Center and the U.S. Department of Homeland Security;

- Validated assessment tools for the identification of trafficking victims;
- General indicators that a person may be a victim of human trafficking;
- Procedures for sharing information related to human trafficking with a patient; and
- Referral options for legal and social services as appropriate.

Confirmation of completing the CE hours is due when submitting fees for every third biennial re-licensure or recertification. The form of the confirmation is left to the discretion of the respective board.[80] The board may approve equivalent courses to satisfy this statute's requirements. The two CE hours on domestic violence and human trafficking may be included in the total CE hours required by the profession, unless the CE requirement for the profession is less than 30 hours biennially. A person holding two or more licenses under this section may satisfy the CE requirements for each license upon proof of completion of one, two-hour, course during the time frame.

The bill provides for disciplinary action under s. 456.072(1)(k), F.S., for failure to comply with the CE requirements and requires the respective board to include completion of a board-approved course as part of any discipline imposed. The bill provides that each board may adopt rules to carry out the provisions of s. 456.031, F.S., by July 1, 2017.

Section 10 amends s. 456.072, F.S., to provide that an ARNP who prescribed or dispensed in a manner that violates the standards of practice is subject to disciplinary action.

Section 11 amends s. 456.44, F.S., to increase access to behavioral health treatment by allowing PAs licensed under chapters 458 or 459, F.S., and ARNPs certified under part I of ch. 464, F.S., to prescribe controlled substances listed in Schedule II, Schedule III, or Schedule IV as defined in s. 893.03, F.S., for the treatment of chronic nonmalignant pain under certain conditions.

Section 12 amends s. 458.3265, F.S., to allow only physicians licensed under chapters 458 or 459, F.S., to dispense medication or prescribe controlled substance regulated under ch. 893 on the premises of a registered pain-management clinic.

Section 13 amends s. 459.0137, F.S., to allow only physicians licensed under chapters or 458 or 459, F.S., to dispense medication or prescribe controlled substance regulated under ch. 893 on the premises of a registered pain-management clinic.

Section 14 amends s. 458.347, F.S., to provide that three of the ten continuing medical education hours required for a PA must consist of a continuing education court on the safe and effective prescribing of controlled substance medications. The continuing education must be offered by a statewide professional association of physicians in this state accredited to provide educational activities designated by the American Medical Association Physician's Recognition Award

[80] See The Department of Health, *Continuing Education – CE,* http://www.floridahealth.gov/licensing-and-regulation/ce.html, (last visited Jan. 22, 2016). Currently, the DOH requires all licensees to report all CEs at the time of renewal through the department's electronic tracking system. It happens automatically when a licensee attempts to renew his or her license. If the licensee's CE records are complete, they will be able to renew without interruption. If the licensee's CE records are not complete, they will be prompted to enter their remaining CE hours before proceeding with their license renewal.

Category I Credit or designated by the American Academy of Physician Assistants as a Category I Credit.

Section 15 amends s. 458.347, F.S., to direct the establishment of a formulary of medicinal drugs that a fully licensed PA may not prescribe. The formulary must include certain drugs and must limit the prescription of Schedule II controlled substance to a seven-day supply and restrict the prescribing of psychiatric mental health controlled substances to children under 18 years of age, effective January 1, 2017.

Section 16 amends s. 464.003, F.S., to provide that an ARNP may perform certain acts of medical diagnosis and treatment, prescription, and operation as authorized within the framework of an established supervisory protocol.

Section 17 amends s. 464.012, F.S., to direct the Board of Nursing to establish a committee to recommend a formulary of controlled substances that an ARNP may not prescribe or may prescribe only for specific uses or in limited quantities. The bill sets out who will be members of the committee and that the committee's initial recommendation is to be adopted no later than October 31, 2016.

Section 18 amends s. 464.012, F.S., to allow ARNPs to prescribe, dispense, administer, or order any drug but may only prescribe or dispense a controlled substance if the ARNP meets specified education and training requirements, effective January 1, 2017.

Section 19 amends s. 464.013, F.S., to provide that ARNPs must meet certain continuing education requirements and participate in at least three hours of continuing education requirements on the safe and effective prescription of controlled substances.

Section 20 amends 2. 464.018, F.S., to specify the acts that constitute grounds for denial of a license or disciplinary actions for ARNPs.

Section 21 amends s. 893.02, F.S., to include ARNPs and PAs in the definition of practitioner.

Section 22 amends s. 948.03, F.S., to provide that a probationer is prohibited from using intoxicants or possessing any drugs or narcotics unless prescribed by a physician, ARNP, or PA.

Section 23 amends s. 458.348, F.S., to correct cross-referencing.

Section 24 amends s. 459.025, F.S., to correct cross-referencing.

Section 25 reenacts s. 458.331, F.S., for the purpose of incorporating the amendment made by the bill to s. 456.072, F.S.

Section 26 reenacts s. 458.347, F.S., for the purpose of incorporating the amendment made by the bill to s. 456.072, F.S.

Section 27 reenacts s. 459.015, F.S., for the purpose of incorporating the amendment made by the bill to s. 456.072, F.S.

Section 28 reenacts s. 459.022, F.S., for the purpose of incorporating the amendment made by the bill to s. 456.072, F.S.

Section 29 reenacts s. 459.0158, F.S., for the purpose of incorporating the amendment made by the bill to s. 456.072, F.S.

Section 30 reenacts s. 456.072(1)(mm), F.S., for the purpose of incorporating the amendment made by the bill to s. 456.44, F.S.

Section 31 reenacts s. 459.02751, F.S., for the purpose of incorporating the amendment made by the bill to s. 456.44, F.S.

Section 32 reenacts s. 458.303, F.S., for the purpose of incorporating the amendment made by the bill to s. 458.347, F.S.

Section 33 reenacts s. 458.3475, F.S., for the purpose of incorporating the amendment made by the bill to s. 458.347, F.S.

Section 34 reenacts s. 459.022, F.S., for the purpose of incorporating the amendment made by the bill to s. 458.347 F.S.

Section 35 reenacts s. 459.023, F.S., for the purpose of incorporating the amendment made by the bill to s. 458.347, F.S.

Section 36 reenacts s. 456.041, F.S., for the purpose of incorporating the amendment made by the bill to s. 464.012, F.S.

Section 37 reenacts s. 458.348, F.S., for the purpose of incorporating the amendment made by the bill to s. 464.012, F.S.

Section 38 reenacts s. 464.0205, F.S., for the purpose of incorporating the amendment made by the bill to s. 464.013, F.S.

Section 39 reenacts s. 320.0848, F.S., for the purpose of incorporating the amendment made by the bill to s. 464.018, F.S.

Section 40 reenacts s. 464.008, F.S., for the purpose of incorporating the amendment made by the bill to s. 464.018, F.S.

Section 41 reenacts s. 464.009, F.S., for the purpose of incorporating the amendment made by the bill to s. 464.018, F.S.

Section 42 reenacts s. 464.0205, F.S., for the purpose of incorporating the amendment made by the bill to s. 464.018, F.S.

Section 43 reenacts s. 775.051, F.S., for the purpose of incorporating the amendment made by the bill to s. 893.02, F.S.

Section 44 reenacts s. 944.17, F.S., for the purpose of incorporating the amendment made by this the bill to s. 948.03, F.S.

Section 45 reenacts s. 948.101, F.S., for the purpose of incorporating the amendment made by the bill to s. 948.03, F.S.

Section 46 reenacts s. 948.101, F.S., for the purpose of incorporating the amendment made by the bill to s. 948.03, F.S.

Section 47 provides that except as otherwise expressly provided, the act shall take effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other:

CS/CS/SB 1250 is a bill relating to the "behavioral health workforce." Article III, section 6 of the Florida Constitution requires that [e]very law shall embrace but one subject and matter properly connected therewith and the subject shall be briefly expressed in the title." The bill in section 7, requires hospitals to provide physicians with notice before a hospital closes its obstetrical department or ceases to provide obstetrical services. Consideration should be given to revising the "relating to" clause in the bill's title or whether certain provisions of the bill constitute more than "one subject and matter properly connected therewith."

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Under CS/CS/SB 1250, health care entities may experience some cost savings by allowing additional practitioners to provide treatment and care. Cost savings may be passed on to patients.

C. Government Sector Impact:

The Department of Health may experience an indeterminate workload impact for handling additional complaints and conducting additional investigations due to the expanded scope of practice for advanced registered nurse practitioners (ARNPs) and physician assistants (PAs).

VI. Technical Deficiencies:

The bill amends s. 397.451, F.S., to provide that a person who has had a disqualifying offense that occurred five or more years ago and who has requested an exemption from disqualification to work with adults with substance abuse disorders, must work under the supervision of qualified professionals under chapter 490, F.S. or chapter 491, F.S. or a master's level certified addiction professional until "the agency" makes a final determination regarding the request for an exemption from disqualification. Chapter 391, F.S., refers to several different types of agencies, and it is unclear which agency is being referenced under the bill.

VII. Related Issues:

In section 9, the bill provides that each board may adopt rules to carry out the provisions of s. 456.031, F.S., by July 1, 2017. The intent and effect of this provision are unclear. Under current law, the boards are authorized to adopt such rules without reference to a date certain. By adding the reference to July 1, 2017, at line 442 the bill seems to provide that the authorization for rulemaking expires on that date, not only for CE requirements created by the bill, but also for all other CE requirements currently contained in s. 456.031, F.S.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 110.12315, 310.071, 310.073, 310.081, 394.453, 394.467, 395.1051, 397.451, 456.031, 456.072, 456.44, 458.3265, 459.0137, 458.347, 464.003, 464.012, 464.013, 464.018, 893.02, 948.03, 458.348, and 459.025.

This bill reenacts the following sections of the Florida Statutes: 458.331, 458.347, 459.015, 459.022, 464.0205, 465.0158, 456.072, 466.02751, 458.303, 458.3475, 459.022, 459.023, 456.041, 458.348, 464.0205, 320.0848, 464.008, 464.009, 464.0205, 775.051, 944.17, 948.001, and 948.101.

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 March 1, 2016:
The committee substitute adds human trafficking to the required continuing medical education (CE) requirements for allopathic and osteopath physicians, physician assistants, anesthesiology assistants, nurses, dentists, dental hygienists, dental lab personnel, psychologists, social workers, mental health counselors, and marriage and family therapists. Under the bill, such licensees must complete two hours of CE courses on domestic violence and human trafficking, approved by the respective board, every third biennial re-licensure or recertification cycle. The CS also provides that each board may adopt rules to carry out the provisions of s. 456.031, F.S., by July 1, 2017.

CS by Children, Families, and Elder Affairs on February 10, 2016:
- Removes language expanding the Statewide Medicaid Residency Program to include psychiatry in the list of primary care specialty programs included in the program.
- Requires hospitals notify physicians within 90 days of the closing of an obstetrical department.
- Provides grounds for disciplinary actions for advanced registered nurse practitioners (ARNPs) and physician assistants.
- Provides required hours for continuing education credits for ARNPs and physician assistants prescribing controlled substances.
- Directs the Board of Nursing (BON) to establish a formulary of controlled substances that ARNPs cannot prescribe.

B. Amendments:

None.

By the Committee on Children, Families, and Elder Affairs; and Senator Latvala

586-03330-16 20161250c1

A bill to be entitled

An act relating to behavioral health workforce; amending s. 110.12315, F.S.; expanding the categories of persons who may prescribe brand name drugs under the prescription drug program when medically necessary; amending ss. 310.071, 310.073, and 310.081, F.S.; exempting controlled substances prescribed by an advanced registered nurse practitioner or a physician assistant from the disqualifications for certification or licensure, and for continued certification or licensure, as a deputy pilot or state pilot; amending s. 394.453, F.S.; revising legislative intent; amending s. 394.467, F.S.; authorizing procedures for recommending admission of a patient to a treatment facility; amending s. 395.1051, F.S.; requiring a hospital to provide specified advance notice to certain obstetrical physicians before it closes its obstetrical department or ceases to provide obstetrical services; amending s. 397.451, F.S.; revising provisions relating to exemptions from disqualification for certain service provider personnel; amending s. 456.072, F.S.; providing mandatory administrative penalties for certain violations relating to prescribing or dispensing a controlled substance; amending s. 456.44, F.S.; providing a definition; deleting an obsolete date; requiring advanced registered nurse practitioners and physician assistants who prescribe controlled substances for certain pain to make a certain designation, comply with registration requirements, and follow specified standards of practice; providing

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applicability; amending ss. 458.3265 and 459.0137, F.S.; limiting the authority to prescribe a controlled substance in a pain-management clinic only to a physician licensed under chapter 458 or chapter 459, F.S.; amending s. 458.347, F.S.; revising the required continuing education requirements for a physician assistant; requiring that a specified formulary limit the prescription of certain controlled substances by physician assistants as of a specified date; amending s. 464.003, F.S.; redefining the term "advanced or specialized nursing practice"; deleting the joint committee established in the definition; amending s. 464.012, F.S.; requiring the Board of Nursing to establish a committee to recommend a formulary of controlled substances that may not be prescribed, or may be prescribed only on a limited basis, by an advanced registered nurse practitioner; specifying the membership of the committee; providing parameters for the formulary; requiring that the formulary be adopted by board rule; specifying the process for amending the formulary and imposing a burden of proof; limiting the formulary's application in certain instances; requiring the board to adopt the committee's initial recommendations by a specified date; authorizing an advanced registered nurse practitioner to prescribe, dispense, administer, or order drugs, including certain controlled substances under certain circumstances, as of a specified date; amending s. 464.013, F.S.; revising continuing education

requirements for renewal of a license or certificate; amending s. 464.018, F.S.; specifying acts that constitute grounds for denial of a license or for disciplinary action against an advanced registered nurse practitioner; amending s. 893.02, F.S.; redefining the term "practitioner" to include advanced registered nurse practitioners and physician assistants under the Florida Comprehensive Drug Abuse Prevention and Control Act for the purpose of prescribing controlled substances if a certain requirement is met; amending s. 948.03, F.S.; providing that possession of drugs or narcotics prescribed by an advanced registered nurse practitioner or a physician assistant does not violate a prohibition relating to the possession of drugs or narcotics during probation; amending ss. 458.348 and 459.025, F.S.; conforming provisions to changes made by the act; reenacting ss. 458.331(10), 458.347(7)(g), 459.015(10), 459.022(7)(f), and 465.0158(5)(b), F.S., relating to grounds for disciplinary action against certain licensed health care practitioners or applicants, physician assistant licensure, the imposition of penalties upon physician assistants by the Board of Osteopathic Medicine, and nonresident sterile compounding permits, respectively, to incorporate the amendment made by the act to s. 456.072, F.S., in references thereto; reenacting ss. 456.072(1)(mm) and 466.02751, F.S., relating to grounds for discipline of certain licensed health care

practitioners or applicants and dentist practitioner profiles, respectively, to incorporate the amendment made by the act to s. 456.44, F.S., in references thereto; reenacting ss. 458.303, 458.3475(7)(b), 459.022(4)(e) and (9)(c), and 459.023(7)(b), F.S., relating to the nonapplicability of certain provisions to specified health care practitioners, and the duties of the Board of Medicine and the Board of Osteopathic Medicine with respect to anesthesiologist assistants, respectively, to incorporate the amendment made by the act to s. 458.347, F.S., in references thereto; reenacting ss. 456.041(1)(a) and 458.348(1) and (2), F.S., relating to practitioner profiles and notice and standards for formal supervisory relationships, respectively, to incorporate the amendment made by the act to s. 464.012, F.S., in references thereto; reenacting s. 464.0205(7), F.S., relating to certification as a retired volunteer nurse to incorporate the amendment made by the act to s. 464.013, F.S., in a reference thereto; reenacting ss. 320.0848(11), 464.008(2), 464.009(5), and 464.0205(1)(b), (3), and (4)(b), F.S., relating to violations of provisions for disability parking, licensure by examination of registered nurses and licensed practical nurses, licensure by endorsement to practice professional or practical nursing, disciplinary actions against nursing applicants or licensees, and retired volunteer nurse certifications, respectively, to incorporate the amendment made by the

act to s. 464.018, F.S., in references thereto; reenacting s. 775.051, F.S., relating to exclusion as a defense and nonadmissibility as evidence of voluntary intoxication to incorporate the amendment made by the act to s. 893.02, F.S., in a reference thereto; reenacting ss. 944.17(3)(a), 948.001(8), and 948.101(1)(e), F.S., relating to receipt by the state correctional system of certain persons sentenced to incarceration, the definition of the term "probation," and the terms and conditions of community control, respectively, to incorporate the amendment made by the act to s. 948.03, F.S., in references thereto; providing effective dates.

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

Section 1. Subsection (7) of section 110.12315, Florida Statutes, is amended to read:

110.12315 Prescription drug program.—The state employees' prescription drug program is established. This program shall be administered by the Department of Management Services, according to the terms and conditions of the plan as established by the relevant provisions of the annual General Appropriations Act and implementing legislation, subject to the following conditions:

(7) The department shall establish the reimbursement schedule for prescription pharmaceuticals dispensed under the program. Reimbursement rates for a prescription pharmaceutical must be based on the cost of the generic equivalent drug if a generic equivalent exists, unless the physician, advanced

registered nurse practitioner, or physician assistant prescribing the pharmaceutical clearly states on the prescription that the brand name drug is medically necessary or that the drug product is included on the formulary of drug products that may not be interchanged as provided in chapter 465, in which case reimbursement must be based on the cost of the brand name drug as specified in the reimbursement schedule adopted by the department.

Section 2. Paragraph (c) of subsection (1) of section 310.071, Florida Statutes, is amended, and subsection (3) of that section is republished, to read:

310.071 Deputy pilot certification.—

(1) In addition to meeting other requirements specified in this chapter, each applicant for certification as a deputy pilot must:

(c) Be in good physical and mental health, as evidenced by documentary proof of having satisfactorily passed a complete physical examination administered by a licensed physician within the preceding 6 months. The board shall adopt rules to establish requirements for passing the physical examination, which rules shall establish minimum standards for the physical or mental capabilities necessary to carry out the professional duties of a certificated deputy pilot. Such standards shall include zero tolerance for any controlled substance regulated under chapter 893 unless that individual is under the care of a physician, advanced registered nurse practitioner, or physician assistant and that controlled substance was prescribed by that physician, advanced registered nurse practitioner, or physician assistant. To maintain eligibility as a certificated deputy pilot, each

certificated deputy pilot must annually provide documentary proof of having satisfactorily passed a complete physical examination administered by a licensed physician. The physician must know the minimum standards and certify that the certificateholder satisfactorily meets the standards. The standards for certificateholders shall include a drug test.

(3) The initial certificate issued to a deputy pilot shall be valid for a period of 12 months, and at the end of this period, the certificate shall automatically expire and shall not be renewed. During this period, the board shall thoroughly evaluate the deputy pilot's performance for suitability to continue training and shall make appropriate recommendations to the department. Upon receipt of a favorable recommendation by the board, the department shall issue a certificate to the deputy pilot, which shall be valid for a period of 2 years. The certificate may be renewed only two times, except in the case of a fully licensed pilot who is cross-licensed as a deputy pilot in another port, and provided the deputy pilot meets the requirements specified for pilots in paragraph (1)(c).

Section 3. Subsection (3) of section 310.073, Florida Statutes, is amended to read:

310.073 State pilot licensing.—In addition to meeting other requirements specified in this chapter, each applicant for license as a state pilot must:

(3) Be in good physical and mental health, as evidenced by documentary proof of having satisfactorily passed a complete physical examination administered by a licensed physician within the preceding 6 months. The board shall adopt rules to establish requirements for passing the physical examination, which rules

shall establish minimum standards for the physical or mental capabilities necessary to carry out the professional duties of a licensed state pilot. Such standards shall include zero tolerance for any controlled substance regulated under chapter 893 unless that individual is under the care of a physician, advanced registered nurse practitioner, or physician assistant and that controlled substance was prescribed by that physician, advanced registered nurse practitioner, or physician assistant. To maintain eligibility as a licensed state pilot, each licensed state pilot must annually provide documentary proof of having satisfactorily passed a complete physical examination administered by a licensed physician. The physician must know the minimum standards and certify that the licensee satisfactorily meets the standards. The standards for licensees shall include a drug test.

Section 4. Paragraph (b) of subsection (3) of section 310.081, Florida Statutes, is amended to read:

310.081 Department to examine and license state pilots and certificate deputy pilots; vacancies.—

(3) Pilots shall hold their licenses or certificates pursuant to the requirements of this chapter so long as they:

(b) Are in good physical and mental health as evidenced by documentary proof of having satisfactorily passed a physical examination administered by a licensed physician or physician assistant within each calendar year. The board shall adopt rules to establish requirements for passing the physical examination, which rules shall establish minimum standards for the physical or mental capabilities necessary to carry out the professional duties of a licensed state pilot or a certificated deputy pilot.

Such standards shall include zero tolerance for any controlled substance regulated under chapter 893 unless that individual is under the care of a physician, advanced registered nurse practitioner, or physician assistant and that controlled substance was prescribed by that physician, advanced registered nurse practitioner, or physician assistant. To maintain eligibility as a certificated deputy pilot or licensed state pilot, each certificated deputy pilot or licensed state pilot must annually provide documentary proof of having satisfactorily passed a complete physical examination administered by a licensed physician. The physician must know the minimum standards and certify that the certificateholder or licensee satisfactorily meets the standards. The standards for certificateholders and for licensees shall include a drug test.

Upon resignation or in the case of disability permanently affecting a pilot's ability to serve, the state license or certificate issued under this chapter shall be revoked by the department.

Section 5. Section 394.453, Florida Statutes, is amended to read:

394.453 Legislative intent.—It is the intent of the Legislature to authorize and direct the Department of Children and Families to evaluate, research, plan, and recommend to the Governor and the Legislature programs designed to reduce the occurrence, severity, duration, and disabling aspects of mental, emotional, and behavioral disorders. It is the intent of the Legislature that treatment programs for such disorders shall include, but not be limited to, comprehensive health, social,

educational, and rehabilitative services to persons requiring intensive short-term and continued treatment in order to encourage them to assume responsibility for their treatment and recovery. It is intended that such persons be provided with emergency service and temporary detention for evaluation when required; that they be admitted to treatment facilities on a voluntary basis when extended or continuing care is needed and unavailable in the community; that involuntary placement be provided only when expert evaluation determines that it is necessary; that any involuntary treatment or examination be accomplished in a setting which is clinically appropriate and most likely to facilitate the person's return to the community as soon as possible; and that individual dignity and human rights be guaranteed to all persons who are admitted to mental health facilities or who are being held under s. 394.463. It is the further intent of the Legislature that the least restrictive means of intervention be employed based on the individual needs of each person, within the scope of available services. It is the policy of this state that the use of restraint and seclusion on clients is justified only as an emergency safety measure to be used in response to imminent danger to the client or others. It is, therefore, the intent of the Legislature to achieve an ongoing reduction in the use of restraint and seclusion in programs and facilities serving persons with mental illness. The Legislature further finds the need for additional psychiatrists to be of critical state concern and recommends the establishment of an additional psychiatry program to be offered by one of Florida's schools of medicine currently not offering psychiatry. The program shall seek to integrate primary care and psychiatry

and other evolving models of care for persons with mental health and substance use disorders. Additionally, the Legislature finds that the use of telemedicine for patient evaluation, case management, and ongoing care will improve management of patient care and reduce costs of transportation.

Section 6. Subsection (2) of section 394.467, Florida Statutes, is amended to read:

394.467 Involuntary inpatient placement.—

(2) ADMISSION TO A TREATMENT FACILITY.—A patient may be retained by a receiving facility or involuntarily placed in a treatment facility upon the recommendation of the administrator of the receiving facility where the patient has been examined and after adherence to the notice and hearing procedures provided in s. 394.4599. The recommendation must be supported by the opinion of a psychiatrist and the second opinion of a clinical psychologist or another psychiatrist, both of whom have personally examined the patient within the preceding 72 hours, that the criteria for involuntary inpatient placement are met. However, in a county that has a population of fewer than 50,000, if the administrator certifies that a psychiatrist or clinical psychologist is not available to provide the second opinion, the second opinion may be provided by a licensed physician who has postgraduate training and experience in diagnosis and treatment of mental and nervous disorders or by a psychiatric nurse. Any ~~second~~ opinion authorized in this subsection may be conducted through a face-to-face examination, in person or by electronic means. Such recommendation shall be entered on an involuntary inpatient placement certificate that authorizes the receiving facility to retain the patient pending transfer to a treatment

facility or completion of a hearing.

Section 7. Section 395.1051, Florida Statutes, is amended to read:

395.1051 Duty to notify patients and physicians.—

(1) An appropriately trained person designated by each licensed facility shall inform each patient, or an individual identified pursuant to s. 765.401(1), in person about adverse incidents that result in serious harm to the patient. Notification of outcomes of care which ~~that~~ result in harm to the patient under this section does ~~shall~~ not constitute an acknowledgment or admission of liability and may not~~, nor can it~~ be introduced as evidence.

(2) A hospital shall notify each obstetrical physician who has privileges at the hospital at least 90 days before the hospital closes its obstetrical department or ceases to provide obstetrical services.

Section 8. Paragraphs (e) and (f) of subsection (1) and paragraph (b) of subsection (4) of section 397.451, Florida Statutes, are amended to read:

397.451 Background checks of service provider personnel.—

(1) PERSONNEL BACKGROUND CHECKS; REQUIREMENTS AND EXCEPTIONS.—

(e) Personnel employed directly or under contract with the Department of Corrections in an inmate substance abuse program ~~who have direct contact with unmarried inmates under the age of 18 or with inmates who are developmentally disabled~~ are exempt from the fingerprinting and background check requirements of this section unless they have direct contact with unmarried inmates under the age of 18 or with inmates who are

developmentally disabled.

(f) Service provider personnel who request an exemption from disqualification must submit the request within 30 days after being notified of the disqualification. If 5 years or more have elapsed since the most recent disqualifying offense, service provider personnel may work with adults with substance use disorders under the supervision of a qualified professional licensed under chapter 490 or chapter 491 or a master's level certified addiction professional until the agency makes a final determination regarding the request for an exemption from disqualification ~~Upon notification of the disqualification, the service provider shall comply with requirements regarding exclusion from employment in s. 435.06~~.

(4) EXEMPTIONS FROM DISQUALIFICATION.—

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

Section 9. Subsection (7) of section 456.072, Florida Statutes, is amended to read:

456.072 Grounds for discipline; penalties; enforcement.—

(7) Notwithstanding subsection (2), upon a finding that a physician has prescribed or dispensed a controlled substance, or caused a controlled substance to be prescribed or dispensed, in a manner that violates the standard of practice set forth in s.

458.331(1)(q) or (t), s. 459.015(1)(t) or (x), s. 461.013(1)(o) or (s), or s. 466.028(1)(p) or (x), or that an advanced registered nurse practitioner has prescribed or dispensed a controlled substance, or caused a controlled substance to be prescribed or dispensed in a manner that violates the standard of practice set forth in s. 464.018(1)(n) or s. 464.018(1)(p)6., the physician or advanced registered nurse practitioner shall be suspended for a period of not less than 6 months and pay a fine of not less than $10,000 per count. Repeated violations shall result in increased penalties.

Section 10. Section 456.44, Florida Statutes, is amended to read:

456.44 Controlled substance prescribing.—

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

(a) "Addiction medicine specialist" means a board-certified psychiatrist with a subspecialty certification in addiction medicine or who is eligible for such subspecialty certification in addiction medicine, an addiction medicine physician certified or eligible for certification by the American Society of Addiction Medicine, or an osteopathic physician who holds a certificate of added qualification in Addiction Medicine through the American Osteopathic Association.

(b) "Adverse incident" means any incident set forth in s. 458.351(4)(a)-(e) or s. 459.026(4)(a)-(e).

(c) "Board-certified pain management physician" means a physician who possesses board certification in pain medicine by the American Board of Pain Medicine, board certification by the American Board of Interventional Pain Physicians, or board certification or subcertification in pain management or pain

medicine by a specialty board recognized by the American Association of Physician Specialists or the American Board of Medical Specialties or an osteopathic physician who holds a certificate in Pain Management by the American Osteopathic Association.

(d) "Board eligible" means successful completion of an anesthesia, physical medicine and rehabilitation, rheumatology, or neurology residency program approved by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association for a period of 6 years from successful completion of such residency program.

(e) "Chronic nonmalignant pain" means pain unrelated to cancer which persists beyond the usual course of disease or the injury that is the cause of the pain or more than 90 days after surgery.

(f) "Mental health addiction facility" means a facility licensed under chapter 394 or chapter 397.

(g) "Registrant" means a physician, physician assistant, or advanced registered nurse practitioner who meets the requirements of subsection (2).

(2) REGISTRATION. ~~Effective January 1, 2012,~~ A physician licensed under chapter 458, chapter 459, chapter 461, or chapter 466, a physician assistant licensed under chapter 458 or chapter 459, or an advanced registered nurse practitioner certified under part I of chapter 464 who prescribes any controlled substance, listed in Schedule II, Schedule III, or Schedule IV as defined in s. 893.03, for the treatment of chronic nonmalignant pain, must:

(a) Designate himself or herself as a controlled substance

prescribing practitioner on his or her ~~the physician's~~ practitioner profile.

(b) Comply with the requirements of this section and applicable board rules.

(3) STANDARDS OF PRACTICE.—The standards of practice in this section do not supersede the level of care, skill, and treatment recognized in general law related to health care licensure.

(a) A complete medical history and a physical examination must be conducted before beginning any treatment and must be documented in the medical record. The exact components of the physical examination shall be left to the judgment of the registrant ~~clinician~~ who is expected to perform a physical examination proportionate to the diagnosis that justifies a treatment. The medical record must, at a minimum, document the nature and intensity of the pain, current and past treatments for pain, underlying or coexisting diseases or conditions, the effect of the pain on physical and psychological function, a review of previous medical records, previous diagnostic studies, and history of alcohol and substance abuse. The medical record shall also document the presence of one or more recognized medical indications for the use of a controlled substance. Each registrant must develop a written plan for assessing each patient's risk of aberrant drug-related behavior, which may include patient drug testing. Registrants must assess each patient's risk for aberrant drug-related behavior and monitor that risk on an ongoing basis in accordance with the plan.

(b) Each registrant must develop a written individualized treatment plan for each patient. The treatment plan shall state

objectives that will be used to determine treatment success, such as pain relief and improved physical and psychosocial function, and shall indicate if any further diagnostic evaluations or other treatments are planned. After treatment begins, the registrant ~~physician~~ shall adjust drug therapy to the individual medical needs of each patient. Other treatment modalities, including a rehabilitation program, shall be considered depending on the etiology of the pain and the extent to which the pain is associated with physical and psychosocial impairment. The interdisciplinary nature of the treatment plan shall be documented.

(c) The registrant ~~physician~~ shall discuss the risks and benefits of the use of controlled substances, including the risks of abuse and addiction, as well as physical dependence and its consequences, with the patient, persons designated by the patient, or the patient's surrogate or guardian if the patient is incompetent. The registrant ~~physician~~ shall use a written controlled substance agreement between the registrant ~~physician~~ and the patient outlining the patient's responsibilities, including, but not limited to:

1. Number and frequency of controlled substance prescriptions and refills.

2. Patient compliance and reasons for which drug therapy may be discontinued, such as a violation of the agreement.

3. An agreement that controlled substances for the treatment of chronic nonmalignant pain shall be prescribed by a single treating registrant ~~physician~~ unless otherwise authorized by the treating registrant ~~physician~~ and documented in the medical record.

(d) The patient shall be seen by the registrant ~~physician~~ at regular intervals, not to exceed 3 months, to assess the efficacy of treatment, ensure that controlled substance therapy remains indicated, evaluate the patient's progress toward treatment objectives, consider adverse drug effects, and review the etiology of the pain. Continuation or modification of therapy shall depend on the registrant's ~~physician's~~ evaluation of the patient's progress. If treatment goals are not being achieved, despite medication adjustments, the registrant ~~physician~~ shall reevaluate the appropriateness of continued treatment. The registrant ~~physician~~ shall monitor patient compliance in medication usage, related treatment plans, controlled substance agreements, and indications of substance abuse or diversion at a minimum of 3-month intervals.

(e) The registrant ~~physician~~ shall refer the patient as necessary for additional evaluation and treatment in order to achieve treatment objectives. Special attention shall be given to those patients who are at risk for misusing their medications and those whose living arrangements pose a risk for medication misuse or diversion. The management of pain in patients with a history of substance abuse or with a comorbid psychiatric disorder requires extra care, monitoring, and documentation and requires consultation with or referral to an addiction medicine specialist or psychiatrist.

(f) A registrant ~~physician registered under this section~~ must maintain accurate, current, and complete records that are accessible and readily available for review and comply with the requirements of this section, the applicable practice act, and applicable board rules. The medical records must include, but

are not limited to:

1. The complete medical history and a physical examination, including history of drug abuse or dependence.

2. Diagnostic, therapeutic, and laboratory results.

3. Evaluations and consultations.

4. Treatment objectives.

5. Discussion of risks and benefits.

6. Treatments.

7. Medications, including date, type, dosage, and quantity prescribed.

8. Instructions and agreements.

9. Periodic reviews.

10. Results of any drug testing.

11. A photocopy of the patient's government-issued photo identification.

12. If a written prescription for a controlled substance is given to the patient, a duplicate of the prescription.

13. The registrant's ~~physician's~~ full name presented in a legible manner.

(g) A registrant shall immediately refer patients with signs or symptoms of substance ~~abuse shall be immediately referred~~ to a board-certified pain management physician, an addiction medicine specialist, or a mental health addiction facility as it pertains to drug abuse or addiction unless the registrant is a physician who is board-certified or board-eligible in pain management. Throughout the period of time before receiving the consultant's report, a prescribing registrant ~~physician~~ shall clearly and completely document medical justification for continued treatment with controlled

substances and those steps taken to ensure medically appropriate use of controlled substances by the patient. Upon receipt of the consultant's written report, the prescribing registrant ~~physician~~ shall incorporate the consultant's recommendations for continuing, modifying, or discontinuing controlled substance therapy. The resulting changes in treatment shall be specifically documented in the patient's medical record. Evidence or behavioral indications of diversion shall be followed by discontinuation of controlled substance therapy, and the patient shall be discharged, and all results of testing and actions taken by the registrant ~~physician~~ shall be documented in the patient's medical record.

This subsection does not apply to a board-eligible or board-certified anesthesiologist, physiatrist, rheumatologist, or neurologist, or to a board-certified physician who has surgical privileges at a hospital or ambulatory surgery center and primarily provides surgical services. This subsection does not apply to a board-eligible or board-certified medical specialist who has also completed a fellowship in pain medicine approved by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association, or who is board eligible or board certified in pain medicine by the American Board of Pain Medicine or a board approved by the American Board of Medical Specialties or the American Osteopathic Association and performs interventional pain procedures of the type routinely billed using surgical codes. This subsection does not apply to a registrant, physician, advanced registered nurse practitioner, or physician assistant who prescribes medically necessary

controlled substances for a patient during an inpatient stay in a hospital licensed under chapter 395.

Section 11. Paragraph (b) of subsection (2) of section 458.3265, Florida Statutes, is amended to read:

458.3265 Pain-management clinics.—

(2) PHYSICIAN RESPONSIBILITIES.—These responsibilities apply to any physician who provides professional services in a pain-management clinic that is required to be registered in subsection (1).

(b) Only ~~a person may not dispense any medication on the premises of a registered pain-management clinic unless he or she is~~ a physician licensed under this chapter or chapter 459 may dispense medication or prescribe a controlled substance regulated under chapter 893 on the premises of a registered pain-management clinic.

Section 12. Paragraph (b) of subsection (2) of section 459.0137, Florida Statutes, is amended to read:

459.0137 Pain-management clinics.—

(2) PHYSICIAN RESPONSIBILITIES.—These responsibilities apply to any osteopathic physician who provides professional services in a pain-management clinic that is required to be registered in subsection (1).

(b) Only ~~a person may not dispense any medication on the premises of a registered pain-management clinic unless he or she is~~ a physician licensed under this chapter or chapter 458 may dispense medication or prescribe a controlled substance regulated under chapter 893 on the premises of a registered pain-management clinic.

Section 13. Paragraph (e) of subsection (4) of section

458.347, Florida Statutes, is amended, and paragraph (c) of subsection (9) of that section is republished, to read:

458.347 Physician assistants.—

(4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

(e) A supervisory physician may delegate to a fully licensed physician assistant the authority to prescribe or dispense any medication used in the supervisory physician's practice unless such medication is listed on the formulary created pursuant to paragraph (f). A fully licensed physician assistant may only prescribe or dispense such medication under the following circumstances:

1. A physician assistant must clearly identify to the patient that he or she is a physician assistant. Furthermore, the physician assistant must inform the patient that the patient has the right to see the physician prior to any prescription being prescribed or dispensed by the physician assistant.

2. The supervisory physician must notify the department of his or her intent to delegate, on a department-approved form, before delegating such authority and notify the department of any change in prescriptive privileges of the physician assistant. Authority to dispense may be delegated only by a supervising physician who is registered as a dispensing practitioner in compliance with s. 465.0276.

3. The physician assistant must file with the department a signed affidavit that he or she has completed a minimum of 10 continuing medical education hours in the specialty practice in which the physician assistant has prescriptive privileges with each licensure renewal application. Three of the 10 hours must consist of a continuing education course on the safe and

effective prescribing of controlled substance medications offered by a statewide professional association of physicians in this state accredited to provide educational activities designated for the American Medical Association Physician's Recognition Award Category I Credit or designated by the American Academy of Physician Assistants as a Category 1 Credit.

4. The department may issue a prescriber number to the physician assistant granting authority for the prescribing of medicinal drugs authorized within this paragraph upon completion of the foregoing requirements. The physician assistant shall not be required to independently register pursuant to s. 465.0276.

5. The prescription must be written in a form that complies with chapter 499 and must contain, in addition to the supervisory physician's name, address, and telephone number, the physician assistant's prescriber number. Unless it is a drug or drug sample dispensed by the physician assistant, the prescription must be filled in a pharmacy permitted under chapter 465 and must be dispensed in that pharmacy by a pharmacist licensed under chapter 465. The appearance of the prescriber number creates a presumption that the physician assistant is authorized to prescribe the medicinal drug and the prescription is valid.

6. The physician assistant must note the prescription or dispensing of medication in the appropriate medical record.

(9) COUNCIL ON PHYSICIAN ASSISTANTS.—The Council on Physician Assistants is created within the department.

(c) The council shall:

1. Recommend to the department the licensure of physician assistants.

2. Develop all rules regulating the use of physician assistants by physicians under this chapter and chapter 459, except for rules relating to the formulary developed under paragraph (4)(f). The council shall also develop rules to ensure that the continuity of supervision is maintained in each practice setting. The boards shall consider adopting a proposed rule developed by the council at the regularly scheduled meeting immediately following the submission of the proposed rule by the council. A proposed rule submitted by the council may not be adopted by either board unless both boards have accepted and approved the identical language contained in the proposed rule. The language of all proposed rules submitted by the council must be approved by both boards pursuant to each respective board's guidelines and standards regarding the adoption of proposed rules. If either board rejects the council's proposed rule, that board must specify its objection to the council with particularity and include any recommendations it may have for the modification of the proposed rule.

3. Make recommendations to the boards regarding all matters relating to physician assistants.

4. Address concerns and problems of practicing physician assistants in order to improve safety in the clinical practices of licensed physician assistants.

Section 14. Effective January 1, 2017, paragraph (f) of subsection (4) of section 458.347, Florida Statutes, is amended to read:

458.347 Physician assistants.—

(4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

(f)1. The council shall establish a formulary of medicinal

drugs that a fully licensed physician assistant having prescribing authority under this section or s. 459.022 may not prescribe. The formulary must include ~~controlled substances as defined in chapter 893,~~ general anesthetics~~,~~ and radiographic contrast materials, and must limit the prescription of Schedule II controlled substances as defined in s. 893.03 to a 7-day supply. The formulary must also restrict the prescribing of psychiatric mental health controlled substances for children under 18 years of age.

2. In establishing the formulary, the council shall consult with a pharmacist licensed under chapter 465, but not licensed under this chapter or chapter 459, who shall be selected by the State Surgeon General.

3. Only the council shall add to, delete from, or modify the formulary. Any person who requests an addition, deletion, or modification of a medicinal drug listed on such formulary has the burden of proof to show cause why such addition, deletion, or modification should be made.

4. The boards shall adopt the formulary required by this paragraph, and each addition, deletion, or modification to the formulary, by rule. Notwithstanding any provision of chapter 120 to the contrary, the formulary rule shall be effective 60 days after the date it is filed with the Secretary of State. Upon adoption of the formulary, the department shall mail a copy of such formulary to each fully licensed physician assistant having prescribing authority under this section or s. 459.022, and to each pharmacy licensed by the state. The boards shall establish, by rule, a fee not to exceed $200 to fund the provisions of this paragraph and paragraph (e).

Section 15. Subsection (2) of section 464.003, Florida Statutes, is amended to read:

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

(2) "Advanced or specialized nursing practice" means, in addition to the practice of professional nursing, the performance of advanced-level nursing acts approved by the board which, by virtue of postbasic specialized education, training, and experience, are appropriately performed by an advanced registered nurse practitioner. Within the context of advanced or specialized nursing practice, the advanced registered nurse practitioner may perform acts of nursing diagnosis and nursing treatment of alterations of the health status. The advanced registered nurse practitioner may also perform acts of medical diagnosis and treatment, prescription, and operation as authorized within the framework of an established supervisory protocol ~~which are identified and approved by a joint committee composed of three members appointed by the Board of Nursing, two of whom must be advanced registered nurse practitioners; three members appointed by the Board of Medicine, two of whom must have had work experience with advanced registered nurse practitioners; and the State Surgeon General or the State Surgeon General's designee. Each committee member appointed by a board shall be appointed to a term of 4 years unless a shorter term is required to establish or maintain staggered terms. The Board of Nursing shall adopt rules authorizing the performance of any such acts approved by the joint committee. Unless otherwise specified by the joint committee, such acts must be performed under the general supervision of a practitioner licensed under chapter 458, chapter 459, or chapter 466 within~~

~~the framework of standing protocols which identify the medical acts to be performed and the conditions for their performance.~~ The department may, by rule, require that a copy of the protocol be filed with the department along with the notice required by s. 458.348.

Section 16. Section 464.012, Florida Statutes, is amended to read:

464.012 Certification of advanced registered nurse practitioners; fees; controlled substance prescribing.—

(1) Any nurse desiring to be certified as an advanced registered nurse practitioner shall apply to the department and submit proof that he or she holds a current license to practice professional nursing and that he or she meets one or more of the following requirements as determined by the board:

(a) Satisfactory completion of a formal postbasic educational program of at least one academic year, the primary purpose of which is to prepare nurses for advanced or specialized practice.

(b) Certification by an appropriate specialty board. Such certification shall be required for initial state certification and any recertification as a registered nurse anesthetist or nurse midwife. The board may by rule provide for provisional state certification of graduate nurse anesthetists and nurse midwives for a period of time determined to be appropriate for preparing for and passing the national certification examination.

(c) Graduation from a program leading to a master's degree in a nursing clinical specialty area with preparation in specialized practitioner skills. For applicants graduating on or

after October 1, 1998, graduation from a master's degree program shall be required for initial certification as a nurse practitioner under paragraph (4)(c). For applicants graduating on or after October 1, 2001, graduation from a master's degree program shall be required for initial certification as a registered nurse anesthetist under paragraph (4)(a).

(2) The board shall provide by rule the appropriate requirements for advanced registered nurse practitioners in the categories of certified registered nurse anesthetist, certified nurse midwife, and nurse practitioner.

(3) An advanced registered nurse practitioner shall perform those functions authorized in this section within the framework of an established protocol that is filed with the board upon biennial license renewal and within 30 days after entering into a supervisory relationship with a physician or changes to the protocol. The board shall review the protocol to ensure compliance with applicable regulatory standards for protocols. The board shall refer to the department licensees submitting protocols that are not compliant with the regulatory standards for protocols. A practitioner currently licensed under chapter 458, chapter 459, or chapter 466 shall maintain supervision for directing the specific course of medical treatment. Within the established framework, an advanced registered nurse practitioner may:

(a) Monitor and alter drug therapies.

(b) Initiate appropriate therapies for certain conditions.

(c) Perform additional functions as may be determined by rule in accordance with s. 464.003(2).

(d) Order diagnostic tests and physical and occupational

therapy.

(4) In addition to the general functions specified in subsection (3), an advanced registered nurse practitioner may perform the following acts within his or her specialty:

(a) The certified registered nurse anesthetist may, to the extent authorized by established protocol approved by the medical staff of the facility in which the anesthetic service is performed, perform any or all of the following:

1. Determine the health status of the patient as it relates to the risk factors and to the anesthetic management of the patient through the performance of the general functions.

2. Based on history, physical assessment, and supplemental laboratory results, determine, with the consent of the responsible physician, the appropriate type of anesthesia within the framework of the protocol.

3. Order under the protocol preanesthetic medication.

4. Perform under the protocol procedures commonly used to render the patient insensible to pain during the performance of surgical, obstetrical, therapeutic, or diagnostic clinical procedures. These procedures include ordering and administering regional, spinal, and general anesthesia; inhalation agents and techniques; intravenous agents and techniques; and techniques of hypnosis.

5. Order or perform monitoring procedures indicated as pertinent to the anesthetic health care management of the patient.

6. Support life functions during anesthesia health care, including induction and intubation procedures, the use of appropriate mechanical supportive devices, and the management of

fluid, electrolyte, and blood component balances.

7. Recognize and take appropriate corrective action for abnormal patient responses to anesthesia, adjunctive medication, or other forms of therapy.

8. Recognize and treat a cardiac arrhythmia while the patient is under anesthetic care.

9. Participate in management of the patient while in the postanesthesia recovery area, including ordering the administration of fluids and drugs.

10. Place special peripheral and central venous and arterial lines for blood sampling and monitoring as appropriate.

(b) The certified nurse midwife may, to the extent authorized by an established protocol which has been approved by the medical staff of the health care facility in which the midwifery services are performed, or approved by the nurse midwife's physician backup when the delivery is performed in a patient's home, perform any or all of the following:

1. Perform superficial minor surgical procedures.

2. Manage the patient during labor and delivery to include amniotomy, episiotomy, and repair.

3. Order, initiate, and perform appropriate anesthetic procedures.

4. Perform postpartum examination.

5. Order appropriate medications.

6. Provide family-planning services and well-woman care.

7. Manage the medical care of the normal obstetrical patient and the initial care of a newborn patient.

(c) The nurse practitioner may perform any or all of the following acts within the framework of established protocol:

1. Manage selected medical problems.

2. Order physical and occupational therapy.

3. Initiate, monitor, or alter therapies for certain uncomplicated acute illnesses.

4. Monitor and manage patients with stable chronic diseases.

5. Establish behavioral problems and diagnosis and make treatment recommendations.

(5) The board shall certify, and the department shall issue a certificate to, any nurse meeting the qualifications in this section. The board shall establish an application fee not to exceed $100 and a biennial renewal fee not to exceed $50. The board is authorized to adopt such other rules as are necessary to implement the provisions of this section.

(6)(a) The board shall establish a committee to recommend a formulary of controlled substances that an advanced registered nurse practitioner may not prescribe or may prescribe only for specific uses or in limited quantities. The committee must consist of three advanced registered nurse practitioners licensed under this section, recommended by the Board of Nursing; three physicians licensed under chapter 458 or chapter 459 who have work experience with advanced registered nurse practitioners, recommended by the Board of Medicine; and a pharmacist licensed under chapter 465 who holds a Doctor of Pharmacy degree, recommended by the Board of Pharmacy. The committee may recommend an evidence-based formulary applicable to all advanced registered nurse practitioners which is limited by specialty certification, is limited to approved uses of controlled substances, or is subject to other similar

restrictions the committee finds are necessary to protect the health, safety, and welfare of the public. The formulary must restrict the prescribing of psychiatric mental health controlled substances for children under 18 years of age to advanced registered nurse practitioners who also are psychiatric nurses as defined in s. 394.455. The formulary must also limit the prescribing of Schedule II controlled substances as defined in s. 893.03 to a 7-day supply, except that such restriction does not apply to controlled substances that are psychiatric medications prescribed by psychiatric nurses as defined in s. 394.455.

(b) The board shall adopt by rule the recommended formulary and any revisions to the formulary which it finds are supported by evidence-based clinical findings presented by the Board of Medicine, the Board of Osteopathic Medicine, or the Board of Dentistry.

(c) The formulary required under this subsection does not apply to a controlled substance that is dispensed for administration pursuant to an order, including an order for medication authorized by subparagraph (4)(a)3., subparagraph (4)(a)4., or subparagraph (4)(a)9.

(d) The board shall adopt the committee's initial recommendation no later October 31, 2016.

Section 17. Effective January 1, 2017, subsection (3) of section 464.012, Florida Statutes, as amended by this act, is amended to read:

464.012 Certification of advanced registered nurse practitioners; fees; controlled substance prescribing.—

(3) An advanced registered nurse practitioner shall perform

those functions authorized in this section within the framework of an established protocol that is filed with the board upon biennial license renewal and within 30 days after entering into a supervisory relationship with a physician or changes to the protocol. The board shall review the protocol to ensure compliance with applicable regulatory standards for protocols. The board shall refer to the department licensees submitting protocols that are not compliant with the regulatory standards for protocols. A practitioner currently licensed under chapter 458, chapter 459, or chapter 466 shall maintain supervision for directing the specific course of medical treatment. Within the established framework, an advanced registered nurse practitioner may:

(a) Prescribe, dispense, administer, or order any drug; however, an advanced registered nurse practitioner may only prescribe or dispense a controlled substance as defined in s. 893.03 if the advanced registered nurse practitioner has graduated from a program leading to a master's or doctoral degree in a clinical nursing specialty area with training in specialized practitioner skills. ~~Monitor and alter drug therapies.~~

(b) Initiate appropriate therapies for certain conditions.

(c) Perform additional functions as may be determined by rule in accordance with s. 464.003(2).

(d) Order diagnostic tests and physical and occupational therapy.

Section 18. Subsection (3) of section 464.013, Florida Statutes, is amended to read:

464.013 Renewal of license or certificate.—

(3) The board shall by rule prescribe up to 30 hours of continuing education biennially as a condition for renewal of a license or certificate.

(a) A nurse who is certified by a health care specialty program accredited by the National Commission for Certifying Agencies or the Accreditation Board for Specialty Nursing Certification is exempt from continuing education requirements. The criteria for programs must ~~shall~~ be approved by the board.

(b) Notwithstanding the exemption in paragraph (a), as part of the maximum 30 hours of continuing education hours required under this subsection, advanced registered nurse practitioners certified under s. 464.012 must complete at least 3 hours of continuing education on the safe and effective prescription of controlled substances. Such continuing education courses must be offered by a statewide professional association of physicians in this state accredited to provide educational activities designated for the American Medical Association Physician's Recognition Award Category 1 Credit, the American Nurses Credentialing Center, the American Association of Nurse Anesthetists, or the American Association of Nurse Practitioners and may be offered in a distance-learning format.

Section 19. Paragraph (p) is added to subsection (1) of section 464.018, Florida Statutes, and subsection (2) of that section is republished, to read:

464.018 Disciplinary actions.—

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):

(p) For an advanced registered nurse practitioner:

1. Presigning blank prescription forms.

2. Prescribing for office use any medicinal drug appearing on Schedule II in chapter 893.

3. Prescribing, ordering, dispensing, administering, supplying, selling, or giving a drug that is an amphetamine or a sympathomimetic amine drug, or a compound designated in s. 893.03(2) as a Schedule II controlled substance, to or for any person except for:

a. The treatment of narcolepsy; hyperkinesis; behavioral syndrome in children characterized by the developmentally inappropriate symptoms of moderate to severe distractibility, short attention span, hyperactivity, emotional lability, and impulsivity; or drug-induced brain dysfunction.

b. The differential diagnostic psychiatric evaluation of depression or the treatment of depression shown to be refractory to other therapeutic modalities.

c. The clinical investigation of the effects of such drugs or compounds when an investigative protocol is submitted to, reviewed by, and approved by the department before such investigation is begun.

4. Prescribing, ordering, dispensing, administering, supplying, selling, or giving growth hormones, testosterone or its analogs, human chorionic gonadotropin (HCG), or other hormones for the purpose of muscle building or to enhance athletic performance. As used in this subparagraph, the term "muscle building" does not include the treatment of injured muscle. A prescription written for the drug products identified in this subparagraph may be dispensed by a pharmacist with the presumption that the prescription is for legitimate medical use.

5. Promoting or advertising on any prescription form a

community pharmacy unless the form also states: "This prescription may be filled at any pharmacy of your choice."

6. Prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including a controlled substance, other than in the course of his or her professional practice. For the purposes of this subparagraph, it is legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the advanced registered nurse practitioner's professional practice, without regard to his or her intent.

7. Prescribing, dispensing, or administering a medicinal drug appearing on any schedule set forth in chapter 893 to himself or herself, except a drug prescribed, dispensed, or administered to the advanced registered nurse practitioner by another practitioner authorized to prescribe, dispense, or administer medicinal drugs.

8. Prescribing, ordering, dispensing, administering, supplying, selling, or giving amygdalin (laetrile) to any person.

9. Dispensing a substance designated in s. 893.03(2) or (3) as a substance controlled in Schedule II or Schedule III, respectively, in violation of s. 465.0276.

10. Promoting or advertising through any communication medium the use, sale, or dispensing of a substance designated in s. 893.03 as a controlled substance.

(2) The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any

applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).

Section 20. Subsection (21) of section 893.02, Florida Statutes, is amended to read:

893.02 Definitions.—The following words and phrases as used in this chapter shall have the following meanings, unless the context otherwise requires:

(21) "Practitioner" means a physician licensed under ~~pursuant to~~ chapter 458, a dentist licensed under ~~pursuant to~~ chapter 466, a veterinarian licensed under ~~pursuant to~~ chapter 474, an osteopathic physician licensed under ~~pursuant to~~ chapter 459, an advanced registered nurse practitioner certified under chapter 464, a naturopath licensed under ~~pursuant to~~ chapter 462, a certified optometrist licensed under ~~pursuant to~~ chapter 463, or a podiatric physician licensed under ~~pursuant to~~ chapter 461, or a physician assistant licensed under chapter 458 or chapter 459, provided such practitioner holds a valid federal controlled substance registry number.

Section 21. Paragraph (n) of subsection (1) of section 948.03, Florida Statutes, is amended to read:

948.03 Terms and conditions of probation.—

(1) The court shall determine the terms and conditions of probation. Conditions specified in this section do not require oral pronouncement at the time of sentencing and may be considered standard conditions of probation. These conditions may include among them the following, that the probationer or offender in community control shall:

(n) Be prohibited from using intoxicants to excess or

possessing any drugs or narcotics unless prescribed by a physician, advanced registered nurse practitioner, or physician assistant. The probationer or community controllee may ~~shall~~ not knowingly visit places where intoxicants, drugs, or other dangerous substances are unlawfully sold, dispensed, or used.

Section 22. Paragraph (a) of subsection (1) and subsection (2) of section 458.348, Florida Statutes, are amended to read:

458.348 Formal supervisory relationships, standing orders, and established protocols; notice; standards.—

(1) NOTICE.—

(a) When a physician enters into a formal supervisory relationship or standing orders with an emergency medical technician or paramedic licensed pursuant to s. 401.27, which relationship or orders contemplate the performance of medical acts, or when a physician enters into an established protocol with an advanced registered nurse practitioner, which protocol contemplates the performance of medical ~~acts identified and approved by the joint committee pursuant to s. 464.003(2) or~~ acts set forth in s. 464.012(3) and (4), the physician shall submit notice to the board. The notice shall contain a statement in substantially the following form:

I, ...(name and professional license number of physician)..., of ...(address of physician)... have hereby entered into a formal supervisory relationship, standing orders, or an established protocol with ...(number of persons)... emergency medical technician(s), ...(number of persons)... paramedic(s), or ...(number of persons)... advanced registered nurse practitioner(s).

(2) ESTABLISHMENT OF STANDARDS BY JOINT COMMITTEE.—The joint committee ~~created under s. 464.003(2)~~ shall determine minimum standards for the content of established protocols pursuant to which an advanced registered nurse practitioner may perform medical acts ~~identified and approved by the joint committee pursuant to s. 464.003(2)~~ or acts set forth in s. 464.012(3) and (4) and shall determine minimum standards for supervision of such acts by the physician, unless the joint committee determines that any act set forth in s. 464.012(3) or (4) is not a medical act. Such standards shall be based on risk to the patient and acceptable standards of medical care and shall take into account the special problems of medically underserved areas. The standards developed by the joint committee shall be adopted as rules by the Board of Nursing and the Board of Medicine for purposes of carrying out their responsibilities pursuant to part I of chapter 464 and this chapter, respectively, but neither board shall have disciplinary powers over the licensees of the other board.

Section 23. Paragraph (a) of subsection (1) of section 459.025, Florida Statutes, is amended to read:

459.025 Formal supervisory relationships, standing orders, and established protocols; notice; standards.—

(1) NOTICE.—

(a) When an osteopathic physician enters into a formal supervisory relationship or standing orders with an emergency medical technician or paramedic licensed pursuant to s. 401.27, which relationship or orders contemplate the performance of medical acts, or when an osteopathic physician enters into an

established protocol with an advanced registered nurse practitioner, which protocol contemplates the performance of medical acts ~~identified and approved by the joint committee pursuant to s. 464.003(2)~~ or acts set forth in s. 464.012(3) and (4), the osteopathic physician shall submit notice to the board. The notice must contain a statement in substantially the following form:

I, ...(name and professional license number of osteopathic physician)..., of ...(address of osteopathic physician)... have hereby entered into a formal supervisory relationship, standing orders, or an established protocol with ...(number of persons)... emergency medical technician(s), ...(number of persons)... paramedic(s), or ...(number of persons)... advanced registered nurse practitioner(s).

Section 24. For the purpose of incorporating the amendment made by this act to section 456.072, Florida Statutes, in a reference thereto, subsection (10) of section 458.331, Florida Statutes, is reenacted to read:

458.331 Grounds for disciplinary action; action by the board and department.—

(10) A probable cause panel convened to consider disciplinary action against a physician assistant alleged to have violated s. 456.072 or this section must include one physician assistant. The physician assistant must hold a valid license to practice as a physician assistant in this state and be appointed to the panel by the Council of Physician Assistants. The physician assistant may hear only cases involving disciplinary actions against a physician assistant. If

the appointed physician assistant is not present at the disciplinary hearing, the panel may consider the matter and vote on the case in the absence of the physician assistant. The training requirements set forth in s. 458.307(4) do not apply to the appointed physician assistant. Rules need not be adopted to implement this subsection.

Section 25. For the purpose of incorporating the amendment made by this act to section 456.072, Florida Statutes, in a reference thereto, paragraph (g) of subsection (7) of section 458.347, Florida Statutes, is reenacted to read:

458.347 Physician assistants.—

(7) PHYSICIAN ASSISTANT LICENSURE.—

(g) The Board of Medicine may impose any of the penalties authorized under ss. 456.072 and 458.331(2) upon a physician assistant if the physician assistant or the supervising physician has been found guilty of or is being investigated for any act that constitutes a violation of this chapter or chapter 456.

Section 26. For the purpose of incorporating the amendment made by this act to section 456.072, Florida Statutes, in a reference thereto, subsection (10) of section 459.015, Florida Statutes, is reenacted to read:

459.015 Grounds for disciplinary action; action by the board and department.—

(10) A probable cause panel convened to consider disciplinary action against a physician assistant alleged to have violated s. 456.072 or this section must include one physician assistant. The physician assistant must hold a valid license to practice as a physician assistant in this state and

be appointed to the panel by the Council of Physician Assistants. The physician assistant may hear only cases involving disciplinary actions against a physician assistant. If the appointed physician assistant is not present at the disciplinary hearing, the panel may consider the matter and vote on the case in the absence of the physician assistant. The training requirements set forth in s. 458.307(4) do not apply to the appointed physician assistant. Rules need not be adopted to implement this subsection.

Section 27. For the purpose of incorporating the amendment made by this act to section 456.072, Florida Statutes, in a reference thereto, paragraph (f) of subsection (7) of section 459.022, Florida Statutes, is reenacted to read:

459.022 Physician assistants.—

(7) PHYSICIAN ASSISTANT LICENSURE.—

(f) The Board of Osteopathic Medicine may impose any of the penalties authorized under ss. 456.072 and 459.015(2) upon a physician assistant if the physician assistant or the supervising physician has been found guilty of or is being investigated for any act that constitutes a violation of this chapter or chapter 456.

Section 28. For the purpose of incorporating the amendment made by this act to section 456.072, Florida Statutes, in a reference thereto, subsection (5) of section 465.0158, Florida Statutes, is reenacted to read:

465.0158 Nonresident sterile compounding permit.—

(5) In accordance with this chapter, the board may deny, revoke, or suspend the permit of; fine; or reprimand a permittee for:

(a) Failure to comply with this section;

(b) A violation listed under s. 456.0635, s. 456.065, or s. 456.072, except s. 456.072(1)(s) or (1)(u);

(c) A violation under s. 465.0156(5); or

(d) A violation listed under s. 465.016.

Section 29. For the purpose of incorporating the amendment made by this act to section 456.44, Florida Statutes, in a reference thereto, paragraph (mm) of subsection (1) of section 456.072, Florida Statutes, is reenacted to read:

456.072 Grounds for discipline; penalties; enforcement.—

(1) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (2) may be taken:

(mm) Failure to comply with controlled substance prescribing requirements of s. 456.44.

Section 30. For the purpose of incorporating the amendment made by this act to section 456.44, Florida Statutes, in a reference thereto, section 466.02751, Florida Statutes, is reenacted to read:

466.02751 Establishment of practitioner profile for designation as a controlled substance prescribing practitioner.—The Department of Health shall establish a practitioner profile for dentists licensed under this chapter for a practitioner's designation as a controlled substance prescribing practitioner as provided in s. 456.44.

Section 31. For the purpose of incorporating the amendment made by this act to section 458.347, Florida Statutes, in a reference thereto, section 458.303, Florida Statutes, is reenacted to read:

458.303 Provisions not applicable to other practitioners; exceptions, etc.—

(1) The provisions of ss. 458.301, 458.305, 458.307, 458.309, 458.311, 458.313, 458.315, 458.317, 458.319, 458.321, 458.327, 458.329, 458.331, 458.337, 458.339, 458.341, 458.343, 458.345, 458.347, and this section shall have no application to:

(a) Other duly licensed health care practitioners acting within their scope of practice authorized by statute.

(b) Any physician lawfully licensed in another state or territory or foreign country, when meeting duly licensed physicians of this state in consultation.

(c) Commissioned medical officers of the Armed Forces of the United States and of the Public Health Service of the United States while on active duty and while acting within the scope of their military or public health responsibilities.

(d) Any person while actually serving without salary or professional fees on the resident medical staff of a hospital in this state, subject to the provisions of s. 458.321.

(e) Any person furnishing medical assistance in case of an emergency.

(f) The domestic administration of recognized family remedies.

(g) The practice of the religious tenets of any church in this state.

(h) Any person or manufacturer who, without the use of drugs or medicine, mechanically fits or sells lenses, artificial eyes or limbs, or other apparatus or appliances or is engaged in the mechanical examination of eyes for the purpose of constructing or adjusting spectacles, eyeglasses, or lenses.

(2) Nothing in s. 458.301, s. 458.305, s. 458.307, s. 458.309, s. 458.311, s. 458.313, s. 458.319, s. 458.321, s. 458.327, s. 458.329, s. 458.331, s. 458.337, s. 458.339, s. 458.341, s. 458.343, s. 458.345, s. 458.347, or this section shall be construed to prohibit any service rendered by a registered nurse or a licensed practical nurse, if such service is rendered under the direct supervision and control of a licensed physician who provides specific direction for any service to be performed and gives final approval to all services performed. Further, nothing in this or any other chapter shall be construed to prohibit any service rendered by a medical assistant in accordance with the provisions of s. 458.3485.

Section 32. For the purpose of incorporating the amendment made by this act to section 458.347, Florida Statutes, in a reference thereto, paragraph (b) of subsection (7) of section 458.3475, Florida Statutes, is reenacted to read:

458.3475 Anesthesiologist assistants.—

(7) ANESTHESIOLOGIST AND ANESTHESIOLOGIST ASSISTANT TO ADVISE THE BOARD.—

(b) In addition to its other duties and responsibilities as prescribed by law, the board shall:

1. Recommend to the department the licensure of anesthesiologist assistants.

2. Develop all rules regulating the use of anesthesiologist assistants by qualified anesthesiologists under this chapter and chapter 459, except for rules relating to the formulary developed under s. 458.347(4)(f). The board shall also develop rules to ensure that the continuity of supervision is maintained in each practice setting. The boards shall consider adopting a

proposed rule at the regularly scheduled meeting immediately following the submission of the proposed rule. A proposed rule may not be adopted by either board unless both boards have accepted and approved the identical language contained in the proposed rule. The language of all proposed rules must be approved by both boards pursuant to each respective board's guidelines and standards regarding the adoption of proposed rules.

3. Address concerns and problems of practicing anesthesiologist assistants to improve safety in the clinical practices of licensed anesthesiologist assistants.

Section 33. For the purpose of incorporating the amendment made by this act to section 458.347, Florida Statutes, in references thereto, paragraph (e) of subsection (4) and paragraph (c) of subsection (9) of section 459.022, Florida Statutes, are reenacted to read:

459.022 Physician assistants.—

(4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

(e) A supervisory physician may delegate to a fully licensed physician assistant the authority to prescribe or dispense any medication used in the supervisory physician's practice unless such medication is listed on the formulary created pursuant to s. 458.347. A fully licensed physician assistant may only prescribe or dispense such medication under the following circumstances:

1. A physician assistant must clearly identify to the patient that she or he is a physician assistant. Furthermore, the physician assistant must inform the patient that the patient has the right to see the physician prior to any prescription

being prescribed or dispensed by the physician assistant.

2. The supervisory physician must notify the department of her or his intent to delegate, on a department-approved form, before delegating such authority and notify the department of any change in prescriptive privileges of the physician assistant. Authority to dispense may be delegated only by a supervisory physician who is registered as a dispensing practitioner in compliance with s. 465.0276.

3. The physician assistant must file with the department a signed affidavit that she or he has completed a minimum of 10 continuing medical education hours in the specialty practice in which the physician assistant has prescriptive privileges with each licensure renewal application.

4. The department may issue a prescriber number to the physician assistant granting authority for the prescribing of medicinal drugs authorized within this paragraph upon completion of the foregoing requirements. The physician assistant shall not be required to independently register pursuant to s. 465.0276.

5. The prescription must be written in a form that complies with chapter 499 and must contain, in addition to the supervisory physician's name, address, and telephone number, the physician assistant's prescriber number. Unless it is a drug or drug sample dispensed by the physician assistant, the prescription must be filled in a pharmacy permitted under chapter 465, and must be dispensed in that pharmacy by a pharmacist licensed under chapter 465. The appearance of the prescriber number creates a presumption that the physician assistant is authorized to prescribe the medicinal drug and the prescription is valid.

6. The physician assistant must note the prescription or dispensing of medication in the appropriate medical record.

(9) COUNCIL ON PHYSICIAN ASSISTANTS.—The Council on Physician Assistants is created within the department.

(c) The council shall:

1. Recommend to the department the licensure of physician assistants.

2. Develop all rules regulating the use of physician assistants by physicians under chapter 458 and this chapter, except for rules relating to the formulary developed under s. 458.347. The council shall also develop rules to ensure that the continuity of supervision is maintained in each practice setting. The boards shall consider adopting a proposed rule developed by the council at the regularly scheduled meeting immediately following the submission of the proposed rule by the council. A proposed rule submitted by the council may not be adopted by either board unless both boards have accepted and approved the identical language contained in the proposed rule. The language of all proposed rules submitted by the council must be approved by both boards pursuant to each respective board's guidelines and standards regarding the adoption of proposed rules. If either board rejects the council's proposed rule, that board must specify its objection to the council with particularity and include any recommendations it may have for the modification of the proposed rule.

3. Make recommendations to the boards regarding all matters relating to physician assistants.

4. Address concerns and problems of practicing physician assistants in order to improve safety in the clinical practices

of licensed physician assistants.

Section 34. For the purpose of incorporating the amendment made by this act to section 458.347, Florida Statutes, in a reference thereto, paragraph (b) of subsection (7) of section 459.023, Florida Statutes, is reenacted to read:

459.023 Anesthesiologist assistants.—

(7) ANESTHESIOLOGIST AND ANESTHESIOLOGIST ASSISTANT TO ADVISE THE BOARD.—

(b) In addition to its other duties and responsibilities as prescribed by law, the board shall:

1. Recommend to the department the licensure of anesthesiologist assistants.

2. Develop all rules regulating the use of anesthesiologist assistants by qualified anesthesiologists under this chapter and chapter 458, except for rules relating to the formulary developed under s. 458.347(4)(f). The board shall also develop rules to ensure that the continuity of supervision is maintained in each practice setting. The boards shall consider adopting a proposed rule at the regularly scheduled meeting immediately following the submission of the proposed rule. A proposed rule may not be adopted by either board unless both boards have accepted and approved the identical language contained in the proposed rule. The language of all proposed rules must be approved by both boards pursuant to each respective board's guidelines and standards regarding the adoption of proposed rules.

3. Address concerns and problems of practicing anesthesiologist assistants to improve safety in the clinical practices of licensed anesthesiologist assistants.

Section 35. For the purpose of incorporating the amendment made by this act to section 464.012, Florida Statutes, in a reference thereto, paragraph (a) of subsection (1) of section 456.041, Florida Statutes, is reenacted to read:

456.041 Practitioner profile; creation.—

(1)(a) The Department of Health shall compile the information submitted pursuant to s. 456.039 into a practitioner profile of the applicant submitting the information, except that the Department of Health shall develop a format to compile uniformly any information submitted under s. 456.039(4)(b). Beginning July 1, 2001, the Department of Health may compile the information submitted pursuant to s. 456.0391 into a practitioner profile of the applicant submitting the information. The protocol submitted pursuant to s. 464.012(3) must be included in the practitioner profile of the advanced registered nurse practitioner.

Section 36. For the purpose of incorporating the amendment made by this act to section 464.012, Florida Statutes, in references thereto, subsections (1) and (2) of section 458.348, Florida Statutes, are reenacted to read:

458.348 Formal supervisory relationships, standing orders, and established protocols; notice; standards.—

(1) NOTICE.—

(a) When a physician enters into a formal supervisory relationship or standing orders with an emergency medical technician or paramedic licensed pursuant to s. 401.27, which relationship or orders contemplate the performance of medical acts, or when a physician enters into an established protocol with an advanced registered nurse practitioner, which protocol

contemplates the performance of medical acts identified and approved by the joint committee pursuant to s. 464.003(2) or acts set forth in s. 464.012(3) and (4), the physician shall submit notice to the board. The notice shall contain a statement in substantially the following form:

I, ...(name and professional license number of physician)..., of ...(address of physician)... have hereby entered into a formal supervisory relationship, standing orders, or an established protocol with ...(number of persons)... emergency medical technician(s), ...(number of persons)... paramedic(s), or ...(number of persons)... advanced registered nurse practitioner(s).

(b) Notice shall be filed within 30 days of entering into the relationship, orders, or protocol. Notice also shall be provided within 30 days after the physician has terminated any such relationship, orders, or protocol.

(2) ESTABLISHMENT OF STANDARDS BY JOINT COMMITTEE.—The joint committee created under s. 464.003(2) shall determine minimum standards for the content of established protocols pursuant to which an advanced registered nurse practitioner may perform medical acts identified and approved by the joint committee pursuant to s. 464.003(2) or acts set forth in s. 464.012(3) and (4) and shall determine minimum standards for supervision of such acts by the physician, unless the joint committee determines that any act set forth in s. 464.012(3) or (4) is not a medical act. Such standards shall be based on risk to the patient and acceptable standards of medical care and shall take into account the special problems of medically underserved areas. The standards developed by the joint

committee shall be adopted as rules by the Board of Nursing and the Board of Medicine for purposes of carrying out their responsibilities pursuant to part I of chapter 464 and this chapter, respectively, but neither board shall have disciplinary powers over the licensees of the other board.

Section 37. For the purpose of incorporating the amendment made by this act to section 464.013, Florida Statutes, in a reference thereto, subsection (7) of section 464.0205, Florida Statutes, is reenacted to read:

464.0205 Retired volunteer nurse certificate.—

(7) The retired volunteer nurse certificate shall be valid for 2 years, and a certificateholder may reapply for a certificate so long as the certificateholder continues to meet the eligibility requirements of this section. Any legislatively mandated continuing education on specific topics must be completed by the certificateholder prior to renewal; otherwise, the provisions of s. 464.013 do not apply.

Section 38. For the purpose of incorporating the amendment made by this act to section 464.018, Florida Statutes, in a reference thereto, subsection (11) of section 320.0848, Florida Statutes, is reenacted to read:

320.0848 Persons who have disabilities; issuance of disabled parking permits; temporary permits; permits for certain providers of transportation services to persons who have disabilities.—

(11) A violation of this section is grounds for disciplinary action under s. 458.331, s. 459.015, s. 460.413, s. 461.013, s. 463.016, or s. 464.018, as applicable.

Section 39. For the purpose of incorporating the amendment

made by this act to section 464.018, Florida Statutes, in a reference thereto, subsection (2) of section 464.008, Florida Statutes, is reenacted to read:

464.008 Licensure by examination.—

(2) Each applicant who passes the examination and provides proof of meeting the educational requirements specified in subsection (1) shall, unless denied pursuant to s. 464.018, be entitled to licensure as a registered professional nurse or a licensed practical nurse, whichever is applicable.

Section 40. For the purpose of incorporating the amendment made by this act to section 464.018, Florida Statutes, in a reference thereto, subsection (5) of section 464.009, Florida Statutes, is reenacted to read:

464.009 Licensure by endorsement.—

(5) The department shall not issue a license by endorsement to any applicant who is under investigation in another state, jurisdiction, or territory of the United States for an act which would constitute a violation of this part or chapter 456 until such time as the investigation is complete, at which time the provisions of s. 464.018 shall apply.

Section 41. For the purpose of incorporating the amendment made by this act to section 464.018, Florida Statutes, in references thereto, paragraph (b) of subsection (1), subsection (3), and paragraph (b) of subsection (4) of section 464.0205, Florida Statutes, are reenacted to read:

464.0205 Retired volunteer nurse certificate.—

(1) Any retired practical or registered nurse desiring to serve indigent, underserved, or critical need populations in this state may apply to the department for a retired volunteer

nurse certificate by providing:

(b) Verification that the applicant had been licensed to practice nursing in any jurisdiction in the United States for at least 10 years, had retired or plans to retire, intends to practice nursing only pursuant to the limitations provided by the retired volunteer nurse certificate, and has not committed any act that would constitute a violation under s. 464.018(1).

(3) The board may deny a retired volunteer nurse certificate to any applicant who has committed, or who is under investigation or prosecution for, any act that would constitute a ground for disciplinary action under s. 464.018.

(4) A retired volunteer nurse receiving certification from the board shall:

(b) Comply with the minimum standards of practice for nurses and be subject to disciplinary action for violations of s. 464.018, except that the scope of practice for certified volunteers shall be limited to primary and preventive health care, or as further defined by board rule.

Section 42. For the purpose of incorporating the amendment made by this act to section 893.02, Florida Statutes, in a reference thereto, section 775.051, Florida Statutes, is reenacted to read:

775.051 Voluntary intoxication; not a defense; evidence not admissible for certain purposes; exception.—Voluntary intoxication resulting from the consumption, injection, or other use of alcohol or other controlled substance as described in chapter 893 is not a defense to any offense proscribed by law. Evidence of a defendant’s voluntary intoxication is not admissible to show that the defendant lacked the specific intent

to commit an offense and is not admissible to show that the defendant was insane at the time of the offense, except when the consumption, injection, or use of a controlled substance under chapter 893 was pursuant to a lawful prescription issued to the defendant by a practitioner as defined in s. 893.02.

Section 43. For the purpose of incorporating the amendment made by this act to section 948.03, Florida Statutes, in a reference thereto, paragraph (a) of subsection (3) of section 944.17, Florida Statutes, is reenacted to read:

944.17 Commitments and classification; transfers.—

(3)(a) Notwithstanding the provisions of s. 948.03, only those persons who are convicted and sentenced in circuit court to a cumulative sentence of incarceration for 1 year or more, whether sentence is imposed in the same or separate circuits, may be received by the department into the state correctional system. Such persons shall be delivered to the custody of the department at such reception and classification centers as shall be provided for this purpose.

Section 44. For the purpose of incorporating the amendment made by this act to section 948.03, Florida Statutes, in a reference thereto, subsection (8) of section 948.001, Florida Statutes, is reenacted to read:

948.001 Definitions.—As used in this chapter, the term:

(8) "Probation" means a form of community supervision requiring specified contacts with parole and probation officers and other terms and conditions as provided in s. 948.03.

Section 45. For the purpose of incorporating the amendment made by this act to section 948.03, Florida Statutes, in a reference thereto, paragraph (e) of subsection (1) of section

948.101, Florida Statutes, is reenacted to read:

948.101 Terms and conditions of community control.—

(1) The court shall determine the terms and conditions of community control. Conditions specified in this subsection do not require oral pronouncement at the time of sentencing and may be considered standard conditions of community control. The court shall require intensive supervision and surveillance for an offender placed into community control, which may include, but is not limited to:

(e) The standard conditions of probation set forth in s. 948.03.

Section 46. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

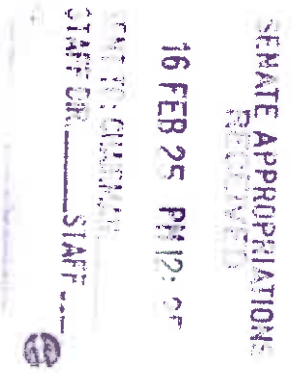
THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Subcommittee on Transportation, Tourism, and Economic Development, *Chair*
Appropriations
Commerce and Tourism
Governmental Oversight and Accountability
Regulated Industries
Rules

SENATOR JACK LATVALA
20th District

February 24, 2016



The Honorable Tom Lee, Chair
Senate Appropriations Committee
201 The Capitol
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Lee:

I respectfully request consideration of Senate Bill 1250/Behavioral Health Workforce by the Senate Appropriations Committee at your earliest convenience.

This bill expands the authority of a psychiatric nurse to approve the release of a patient from a receiving facility, also authorizing procedures for recommending admission of a patient to a treatment facility, adding psychiatry to a list of primary care specialties under the Statewide Medicaid Residency Program, and requiring advanced registered nurse practitioners and physician assistants who prescribe controlled substances for pain management to make a certain designation, comply with registration requirements, and follow specified standards of practice. etc..

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

Sincerely,

Jack Latvala
State Senator
District 20

Cc: Cindy Kynoch, Staff Director; Lisa Roberts, Administrative Assistant

REPLY TO:
☐ 26133 U.S. Highway 19 North, Suite 201, Clearwater, Florida 33763 (727) 793-2797 FAX: (727) 793-2799
☐ 408 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5020

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

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/16
Meeting Date

1250
Bill Number (if applicable)

Topic App. Drugs

Amendment Barcode (if applicable)

Name Greg Pound

Job Title

Address 9166 Sunrise Dr.
Street

9166 Sunrise Dr.
City *State* *Zip*

Phone

Email

Speaking: ☐ For ☐ Against ☒ Information

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

Representing Pinellas County Florida Government Corruption.

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)

3/1/16
Meeting Date

1250
Bill Number (if applicable)

Topic Behavioral Workforce

Amendment Barcode (if applicable)

Name Alisa LaPolt - lobbyist

Job Title PO Box 1344

Address
Street

Phone 850-443-1319

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 Florida Nurses Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-1-16
Meeting Date

1250
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name THAD LOWREY

Job Title VP Governmental Relations

Address 7720 Washington St.
Street

Port Richey FL 34668
City *State* *Zip*

Phone 727-992-8508

Email Howrey@operationpar.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing OPERATION PAR

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)

3-1-16
Meeting Date

1250
Bill Number (if applicable)

Topic Behavioral Health Workforce

Amendment Barcode (if applicable)

Name Allison Carvajal

Job Title

Address 1036 Hamilton Dr
Street

Tallahassee FL 32317
City *State* *Zip*

Phone 850 321 7090

Email Allison@frambassocialthy.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Nurse Practitioners 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.

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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)

3-1-16
Meeting Date

1250
Bill Number (if applicable)

Topic Behavioral Health Workforce

Amendment Barcode (if applicable)

Name Martha De Castro

Job Title VP for Nursing

Address 306 E. College Ave
Street

Tallahassee FL 32317
City *State* *Zip*

Phone 850-222-9800

Email martha@fha.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Hospital Association

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

Duplicate

THE FLORIDA SENATE

APPEARANCE RECORD

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

3 1 16
Meeting Date

1250
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Workforce/ mental health

Name Dan Hendrickson

Job Title Advocacy Committee Chair

Address 319 E Park Ave, PO Box 1201
Street

Phone 850 570-1967

Tallahassee — Fl — 32302
City — *State* — *Zip*

Email danbhendrickson@comcast.net

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Big Bend Mental Health Coalition, NAMI Tallahassee,

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)

3 / 1 /2016
Meeting Date

Topic _____ Bill Number 1250 *(if applicable)*

Name BRIAN PITTS Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

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

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

Speaking: ☐ For ☐ Against ☑ Information

Representing JUSTICE-2-JESUS

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

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

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

The Florida Senate

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 1262
INTRODUCER:	Appropriations Committee; Finance and Tax Committee; Military and Veterans Affairs, Space, and Domestic Security Committee; and Senator Simpson
SUBJECT:	Emergency Management
DATE:	March 2, 2016
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sanders	Ryon	MS	**Fav/CS**
2.	Fournier	Diez-Arguelles	FT	**Fav/CS**
3.	Fournier	Kynoch	AP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/CS/SB 1262 provides that out-of-state businesses and employees who enter this state to perform emergency-related work during a disaster-response period are excluded from certain registration and licensing requirements and taxes.

Specifically, the bill provides that an out-of-state business performing emergency-related work or conducting operations pursuant to a mutual aid agreement during a disaster-response period is not considered to have established a level of presence that would require the business to register, file, and remit state or local taxes or fees. Such an out-of-state business would not be subject to any of the following:

- Reemployment assistance taxes;
- State or local professional or occupational licensing requirements or related fees;
- Local business taxes;
- Taxes on the operation of commercial motor vehicles;
- Corporate income tax; and
  Tangible personal property tax on specified equipment brought into the state by the out-of-state business.

Additionally, an out-of-state employee performing emergency-related work in this state is not required to comply with state or local occupational licensing requirements, or pay related fees. An out-of-state business or out-of-state employee who remains in this state after the disaster-response period is not entitled to the exclusions provided in the bill and will be subject to the state's normal standards for establishing presence or residency or doing business in this state.

The bill takes effect upon becoming law.

II. Present Situation:

Emergency Management

According to the Florida Division of Emergency Management (FDEM), Florida may be considered the most vulnerable state in the nation to the impacts from hurricanes, tropical storms, and tropical depressions. In addition, the state of Florida is vulnerable to numerous other types of severe weather such as tornadoes, drought, various types of flooding, and extreme temperatures, including freezes. The vulnerable geography and environment of the state combined with the subtropical climate create continuous threats from these severe weather events.[1]

Florida Division of Emergency Management

The FDEM administers programs to rapidly apply all available aid to impacted communities stricken by emergency.[2] The FDEM is responsible for maintaining a comprehensive statewide program of emergency management to ensure that Florida is prepared to respond to emergencies, recover from them, and mitigate against their impacts. In doing so, the FDEM coordinates efforts with and among the federal government, other state agencies, local governments, school boards, and private agencies that have a role in emergency management.[3]

Emergency Management Powers of the Governor

The Governor is responsible for meeting the dangers presented to this state and its people by emergencies.[4] In the event of an emergency beyond local control, the Governor, or his or her designee, may assume direct operational control over all or any part of the emergency management functions within this state.[5] As part of the Governor's power, he or she may by executive order or proclamation declare a state of emergency. A state of emergency has the force and effect of law and assists in the management of an emergency by activating the emergency mitigation, response, and recovery aspects of the state, local, and interjurisdictional emergency management plans applicable to the political subdivision or area in question.[6] A state of emergency may be declared if the Governor finds that an emergency has occurred or is imminent.

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[1] Florida Division of Emergency Management, *The State of Florida Tropical and Non-Tropical Severe Weather Annex to the 2014 Florida Comprehensive Emergency Management Plan, available at* http://www.floridadisaster.org/documents/CEMP/2014/2014%20Hazard%20Annexes/2014%20Tropical%20and%20Non-Tropical%20Severe%20Weather%20Annex%20%20to%20the%20CEMP.pdf (last visited, Feb. 3, 2016).
[2] Section 14.2016, F.S.
[3] Section 252.35(1), F.S.
[4] Section 252.36(1)(a), F.S.
[5] Id.
[6] Section 252.36, F.S.

Section 213.055, F.S., provides that certain actions to waive or suspend a revenue law may be implemented only when the Governor has declared a state of emergency pursuant to s. 252.36, F.S. These actions are the granting of refunds of state and local taxes on donated motor and diesel fuel in cases in which the state solicits the donation, and the extension of due dates for tax returns and payments, plus a waiver of accrued interest on taxes due prior to and during the period of the disaster.

A state of emergency may continue for no longer than 60 days unless renewed by the Governor.[7] The Legislature by concurrent resolution may terminate a state of emergency at any time.[8]

Other States' Legislation Regarding Disaster Assistance Providers

The American Legislative Exchange Council (ALEC) and the National Conference of State Legislatures (NCSL) have approved model legislation for states to consider to address states' tax and regulatory policies that have historically slowed efforts to respond to natural disasters. The model legislation proposes that activities for repairing damage to critical communications networks and utility-related infrastructure in a state during and after an officially-declared disaster or emergency should not establish a nexus for state and local business activity tax purposes and business licensing. The NCSL Executive Committee Task Force on State and Local Taxation initially adopted this model legislation in 2011 and the ALEC Board of Directors adopted it in 2012.

A December 2011 NCSL resolution emphasizes the importance of repairing and replacing damaged infrastructure, specifically buildings, roads, communications networks, and utility lines, caused by an emergency or disaster.[9] According to the NCSL, such damage results in an interruption of crucial civic and business services to a state's citizens and that the demand for resources to repair and replace the damaged property and infrastructure can exceed local capacity.[10] In order to promptly address an interruption of service companies may need to bring in resources on a temporary basis from out-of-state, including materials, equipment, temporary shelters, and personnel to assist in the repair and restoration of the damaged infrastructure and property.[11] Twenty-two state legislatures have enacted the model legislation and it is currently effective in 21 states.[12]

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[7] Section 252.36(2), F.S.
[8] Id.
[9] National Conference of State Legislatures, *NCSL Resolution on Response to Declared Disaster to Repair and Replace Damaged Infrastructure* (Dec. 2011), *available at* http://www.ncsl.org/ncsl-in-dc/standing-committees/communications-financial-services-and-interstate-commerce/resolution-on-response-to-declared-disasters.aspx (last visited Jan. 28, 2016).
[10] Id.
[11] Id.
[12] National Conference of State Legislatures, *NCSL Disaster Legislation Status Update* (Jan. 2016), *available at* http://www.ncsl.org/research/telecommunications-and-information-technology/ncsl-disaster-legislation-status.aspx (last visited Jan. 26, 2016).

State Revenue Sources Referenced in the Bill

Reemployment Assistance Taxes

Florida's Reemployment Assistance Program imposes a tax on wages paid by Florida employers to pay for unemployment benefits received by unemployed individuals. The tax imposed on the first $7,000 of compensation paid to each employee. The tax rate varies from 0.1 percent to 5.4 percent depending upon the benefit experience of the employer.[13]

Professional and Occupational Licensing Fees

The Department of Business and Professional Regulation (DBPR) is the agency charged with licensing and regulating various businesses and professionals in this state. Many professions and occupations pay annual or biennial examination and license fees designed to cover the cost of regulation.[14] Section 455.213, F.S., provides the general provisions for issuance of professional licensure by the DBPR.

There are 22 professions regulated by DBPR. Cumulatively, there are more than 450 fees associated with the regulation of these professions. The fees range from $5 to $2,500.[15]

Local Business Taxes

The local business tax is the method by which a local government grants the privilege of engaging in or managing any business, profession, and occupation within its jurisdiction. Counties and municipalities may levy a business tax, and the tax proceeds are considered general revenue for the local government.[16]

Taxes on the Operation of Commercial Motor Vehicles

Motor vehicles and mobile homes must register annually in Florida. License fees for private autos and light trucks range from $14.50 to $32.50 according to vehicle weight. License fees for truck tractors are based on gross vehicle weight and range from $60.75 to $1,322. Mobile home license fees range from $20 to $80 according to length, and recreational vehicle license fees are $27 to $47.25 depending on vehicle type and weight.[17]

Corporate Income Tax

Certain corporations doing business in Florida must pay a tax of 5.5 percent of income earned in Florida.

Tangible Personal Property Tax

Tangible Personal Property (TPP)--all goods, chattels, and other articles of value (excluding some vehicular items) capable of manual possession and whose chief value is intrinsic to the

[13] Florida Revenue Estimating Conference, *2016 Florida Tax Handbook*, 150.
[14] Id. at 147.
[15] Id. at 148.
[16] Office of Economic and Demographic Research, *2014 Local Government Financial Information* Handbook, *Local Business Tax* (Dec. 2014), 147.
[17] Supra note 15, at 132.

article itself—is subject to ad valorem taxation. Inventory and household goods are excluded from this tax.[18]

Anyone who owns TPP on January 1 and who has a proprietorship, partnership, or corporation, or is a self-employed agent or contractor, must file a tangible personal property return with the property appraiser by April 1 of each year.[19] Tangible personal property physically present in the state on or after January 1 for temporary purposes only (30 days or less) is not subject to assessment for property tax purposes.[20]

III. Effect of Proposed Changes:

Out-of-State Businesses and Employees Performing Emergency-related Work

Section 1 of the bill amends s. 213.055, F.S., to provide that out-of-state businesses and employees who enter this state to perform emergency-related work during a disaster-response period are excluded from certain registration and licensing requirements and taxes.

The bill defines the following terms:

Disaster-response period means:

- A period that begins 10 calendar days before the first day of a declared state of emergency and ends on the 60th calendar day after the end of the declared state of emergency; or
- A period that begins on the date that an out-of-state business enters this state in good faith under a mutual aid agreement and in anticipation of or in response to a disaster or emergency, regardless of whether a state of emergency is declared, and ends on the date that the work is concluded, or seven calendar days after the out-of-state business enters this state, whichever occurs first.

Emergency-related work means repairing, renovating, installing, building, rendering services, or other business activities that relate to infrastructure that has been damaged, impaired, or destroyed by an event that has resulted in a declaration of a state of emergency; or rendering such services or performing such activities in anticipation of a disaster, regardless of whether a state of emergency is declared.

Infrastructure means public roads; public bridges; property, equipment and related support facilities owned or used by communication networks, electric generating systems, electric transmission and distribution systems, gas distribution systems, or water pipelines.

Mutual aid agreement means an agreement to which one or more business entities are parties and under which a public utility, municipally owned utility, electric cooperative, a natural gas special district, a natural gas transmission pipeline, or a joint agency owning, operating, or owning and operating infrastructure used for electric generation, electric or gas transmission, or electric or gas distribution in this state may request that an out-of-state business perform work in this state in anticipation of a disaster or an emergency.

[18] Section 192.001(11)(d), F.S.
[19] See s. 193.062, F.S.
[20] Section 192.03(2), F.S.

Out-of-state business means a business entity that:

- Does not have a presence in this state, except with respect to the performance of emergency-related work, and conducts no business in this state, and whose services are requested by a registered business or by a unit of state or local government for purposes of performing emergency-related work in this state; and
- Is not registered and does not have tax filings or presence sufficient to require the collection or payment of a tax in this state during the tax year immediately before the disaster-response period. The term also includes a business entity that is affiliated with a registered business solely through common ownership.

Out-of-state employee means an employee who does not work in this state, except for emergency-related work on infrastructure during a disaster-response period.

Registered business means a business entity that is registered to do business in this state before the disaster-response period begins.

The bill provides that an out-of-state business performing emergency-related work or conducting operations pursuant to a mutual aid agreement during a disaster-response period is not considered to have established a level of presence that would require that business to register, file, and remit state or local taxes or fees. Such an out-of-state business would not be subject to any of the following:

- Reemployment assistance taxes;
- State or local professional or occupational licensing requirements or related fees;
- Local business taxes;
- Taxes on the operation of commercial motor vehicles;
- Corporate Income Tax; and
- Tangible personal property tax on specified equipment brought into the state by the out-of-state business.

Additionally, an out-of-state employee whose only employment in this state is for the performance of emergency-related work or pursuant to a mutual aid agreement during a disaster-response period is not required to comply with state or local occupational licensing requirements or related fees.

An out-of-state business or out-of-state employee who remains in this state after the disaster-response period is not entitled to the exclusions provided in the bill and will be subject to the state's normal standards for establishing presence or residency or doing business in this state.

The bill takes effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Under CS/CS/CS/SB 1262, out-of-state businesses and employees who enter this state in order to perform emergency-related work may experience tax relief.

C. Government Sector Impact:

According to the Revenue Estimating Conference, the bill has a zero or negative but indeterminate, nonrecurring fiscal impact.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 213.055 of the Florida Statutes.

IX. Additional Information:

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

CS/CS/CS by Appropriations on March 1, 2016:
The committee substitute removes the section of the bill related to the Deepwater Horizon oil spill. It also limits the definition of "infrastructure" for the purposes of out-of-state businesses and employees responding to a disaster or emergency.

CS/CS by Finance and Tax on February 16, 2016:
The CS/CS amends s. 213.055, F.S., to clarify that the provisions of subsection (3) apply during a period before a state of emergency has been declared, while subsections (1) and (2) apply only during a declared state of emergency. The definition of "emergency-

related work" is clarified to include work done in response to, as well as in anticipation of, a disaster or emergency. The CS also clarifies that "infrastructure" includes electric transmission and distribution systems, and that an "out-of-state employee" is limited to performing emergency-related work on infrastructure in this state.

CS by Military and Veterans Affairs, Space, and Domestic Security on February 1, 2016:
As it relates to out-of-state business conducting emergency-related work in this state, the CS does the following:

- Relocates the bill provisions from the State Emergency Management Act (ch. 252) to the tax chapter (ch. 213) of the Florida Statutes.
- Removes the Gross Receipts Tax from the list of taxes that do not apply to an out-of-state business.
- Changes references to "disaster-related work or emergency-related work" to strictly "emergency-related work" and refines the definition of the term.
- Removes the provision allowing the Florida Division of Emergency Management to request notification from out-of-state businesses as they enter the state to perform emergency-related work.

The CS also addresses a settlement agreement between the Gulf states and BP with respect to economic and other claims arising from the Deepwater Horizon oil spill.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/01/2016	.	
	.	
	.	
	.	

The Committee on Appropriations (Galvano) recommended the following:

Senate Amendment (with title amendment)

Delete lines 66 - 157

and insert:

3. "Infrastructure" means public roads; public bridges; property, equipment, and related support facilities owned or used by communication networks, electric generating systems, electric transmission and distribution systems, gas transmission and distribution systems, or water pipelines.

4. "Mutual aid agreement" means an agreement to which two

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or more business entities are parties and under which a public utility, a municipally owned utility, an electric cooperative, a natural gas special district, a natural gas transmission pipeline, or a joint agency owning, operating, or owning and operating infrastructure used for electric generation, electric or gas transmission, or electric or gas distribution in this state may request that an out-of-state business perform work in this state in anticipation of a disaster or an emergency.

5. "Out-of-state business" means a business entity that:

a. Does not have a presence in this state, except with respect to the performance of emergency-related work, and conducts no business in this state, and whose services are requested by a registered business or by a unit of state or local government for purposes of performing emergency-related work in this state; and

b. Is not registered and does not have tax filings or presence sufficient to require the collection or payment of a tax in this state during the tax year immediately before the disaster-response period. The term also includes a business entity that is affiliated with a registered business solely through common ownership.

6. "Out-of-state employee" means an employee who does not work in this state, except for emergency-related work on infrastructure during a disaster-response period.

7. "Registered business" means a business entity that is registered to do business in this state before the disaster-response period begins.

(b)1. Notwithstanding any other law, an out-of-state business that is conducting operations within this state during

a disaster-response period solely for purposes of performing emergency-related work or pursuant to a mutual aid agreement is not considered to have established a level of presence that would require that business to register, file, and remit state or local taxes or fees or require that business to be subject to any registration, licensing, or filing requirements in this state. For purposes of any state or local tax on or measured, in whole or in part, by net or gross income or receipts, the activity of the out-of-state business conducted in this state during the disaster-response period must be disregarded with respect to any filing requirements for such tax, including the filing required for a consolidated group of which the out-of-state business may be a part. This includes the following:

a. Reemployment assistance taxes.

b. State or local professional or occupational licensing requirements or related fees.

c. Local business taxes.

d. Taxes on the operation of commercial motor vehicles.

e. Corporate income tax.

f. Tangible personal property tax and use tax on equipment that is brought into the state by the out-of-state business, used by the out-of-state business only to perform emergency-related work during the disaster-response period, and removed from the state by the out-of-state business following the disaster-response period.

2. Notwithstanding any other law, an out-of-state employee whose only employment in this state is for the performance of emergency-related work or pursuant to a mutual aid agreement during a disaster-response period is not required to comply with

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state or local occupational licensing requirements or related fees.

(c) An out-of-state business or out-of-state employee who remains in this state after the disaster-response period is not entitled to the privileges provided in this subsection for activities performed after the disaster-response period ends and is subject to the state's normal standards for establishing presence or residency or for doing business in the state.

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

And the title is amended as follows:

Delete lines 9 - 14

and insert:

period; providing an effective date.

By the Committees on Finance and Tax; and Military and Veterans Affairs, Space, and Domestic Security; and Senator Simpson

593-03614-16 20161262c2

A bill to be entitled

An act relating to emergency management; amending s. 213.055, F.S.; defining terms; providing that out-of-state businesses and employees who enter the state in response to a disaster or an emergency are excluded from certain registration and licensing requirements and taxes; specifying the obligations of an out-of-state business or employee after the disaster-response period; amending s. 288.8013, F.S.; revising the source of the principal for the Recovery Fund administered by Triumph Gulf Coast, Inc.; providing that moneys accounting for the principal of the fund must be transferred to the Recovery Fund within a specified timeframe; providing an effective date.

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

Section 1. Section 213.055, Florida Statutes, is amended to read:

213.055 Declared emergency; waiver or suspension of specified revenue laws and other requirements. ~~The following actions to waive or suspend a revenue law may be implemented only when the Governor has declared a state of emergency pursuant to s. 252.36.~~

(1)(a) The Governor and Cabinet may grant refunds of state and local taxes on motor and diesel fuel donated during a ~~declared~~ state of emergency declared pursuant to s. 252.36 for official emergency use in cases in which the state solicits the donation. The refunds may be implemented by a vote of the majority of the Governor and Cabinet during a public meeting or by a majority jointly signing a written order.

593-03614-16 20161262c2

(b) The authorized refunds of state and local taxes on motor and diesel fuel apply to taxes imposed by chapter 206.

(2) Notwithstanding any other provision of law, the executive director of the Department of Revenue may implement the following actions during a ~~declared~~ state of emergency declared pursuant to s. 252.36 for those revenue sources over which the department is granted administrative control pursuant to s. 213.05:

(a) Extend the stipulated due date for tax returns and accompanying tax payments; and

(b) Waive interest that accrues during the period of the state of emergency on taxes due prior to and during the period of the disaster.

(3)(a) As used in this subsection, the term:

1. "Disaster-response period" means:

a. A period that begins 10 calendar days before the first day of a state of emergency declared pursuant to s. 252.36 and ends on the 60th calendar day after the end of the declared state of emergency; or

b. A period that begins on the date that an out-of-state business enters this state in good faith under a mutual aid agreement and in anticipation of a disaster or an emergency, regardless of whether a state of emergency is declared, and ends on the date that the work is concluded, or 7 calendar days after the out-of-state business enters this state, whichever occurs first.

2. "Emergency-related work" means repairing, renovating, installing, building, rendering services, or other business activities that relate to infrastructure that has been damaged,

impaired, or destroyed by an event that has resulted in a declaration of a state of emergency; or rendering such services or performing such activities in anticipation of or in response to a disaster or an emergency, regardless of whether a state of emergency is declared.

3. "Infrastructure" means public roads; public bridges; property and equipment owned or used by communication networks, electric generating systems, electric transmission and distribution systems, gas distribution systems, or water pipelines; and related support facilities that serve multiple persons which include, but are not limited to, buildings, offices, power and communication lines and poles, pipes, structures, and equipment.

4. "Mutual aid agreement" means an agreement to which two or more business entities are parties and under which a public utility, municipally owned utility, electric cooperative, or joint agency owning, operating, or owning and operating infrastructure used for electric generation, transmission, or distribution in this state may request that an out-of-state business perform work in this state in anticipation of a disaster or an emergency.

5. "Out-of-state business" means a business entity that:

a. Does not have a presence in this state, except with respect to the performance of emergency-related work, and conducts no business in this state, and whose services are requested by a registered business or by a unit of state or local government for purposes of performing emergency-related work in this state; and

b. Is not registered and does not have tax filings or

presence sufficient to require the collection or payment of a tax in this state during the tax year immediately before the disaster-response period. The term also includes a business entity that is affiliated with a registered business solely through common ownership.

6. "Out-of-state employee" means an employee who does not work in this state, except for emergency-related work on infrastructure during a disaster-response period.

7. "Registered business" means a business entity that is registered to do business in this state before the disaster-response period begins.

(b)1. Notwithstanding any other law, an out-of-state business that is conducting operations within this state during a disaster-response period solely for purposes of performing emergency-related work or pursuant to a mutual aid agreement is not considered to have established a level of presence that would require that business to register, file, and remit state or local taxes or fees or require that business to be subject to any registration, licensing, or filing requirements in this state. For purposes of any state or local tax on or measured, in whole or in part, by net or gross income or receipts, the activity of the out-of-state business conducted in this state during the disaster-response period must be disregarded with respect to any filing requirements for such tax, including the filing required for a consolidated group of which the out-of-state business may be a part. This includes the following:

a. Reemployment assistance taxes.

b. State or local professional or occupational licensing requirements or related fees.

c. Local business taxes.

d. Taxes on the operation of commercial motor vehicles.

e. Corporate income tax.

f. Tangible personal property tax and use tax on equipment that is brought into the state by the out-of-state business, used by the out-of-state business only to perform emergency-related work during the disaster-response period, and removed from the state by the out-of-state business following the disaster-response period.

2. Notwithstanding any other law, an out-of-state employee whose only employment in this state is for the performance of emergency-related work or pursuant to a mutual aid agreement during a disaster-response period is not required to comply with state or local occupational licensing requirements or related fees.

(c) An out-of-state business or out-of-state employee who remains in this state after the disaster-response period is not entitled to the privileges provided in this subsection for activities performed after the disaster-response period ends and is subject to the state's normal standards for establishing presence or residency or for doing business in the state.

Section 2. Subsection (2) of section 288.8013, Florida Statutes, is amended to read:

288.8013 Triumph Gulf Coast, Inc.; Recovery Fund; creation; investment.—

(2) Triumph Gulf Coast, Inc., must create and administer the Recovery Fund for the benefit of the disproportionately affected counties. The principal of the fund shall derive from 75 percent of all funds received by the state pursuant to the

September 2015 settlement agreement between the gulf states and the BP entities with respect to economic and other claims arising from the Deepwater Horizon oil spill ~~recovered by the Attorney General for economic damage to the state resulting from the Deepwater Horizon disaster~~, after payment of reasonable and necessary attorney fees, costs, and expenses, including such attorney fees, costs, and expenses pursuant to s. 16.0155. Moneys that account for the principal of the Recovery Fund shall be transferred to the Recovery Fund no later than 30 days after they are received.

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

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 1310
INTRODUCER:	Appropriations Committee; Agriculture Committee; and Senator Hutson
SUBJECT:	Agriculture
DATE:	March 3, 2016
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Weidenbenner	Becker	AG	**Fav/CS**
2.	Blizzard	DeLoach	AGG	**Recommend: Favorable**
3.	Blizzard	Kynoch	AP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1310 modifies provisions in several areas within the Department of Agriculture and Consumer Services (DACS). Specifically the bill:

- Allows agricultural lands currently assessed at a de minimis value of up to $50 per acre for property tax purposes due to participation in a state or federal eradication or quarantine program to be replanted and retain the de minimis value for a period of five years;
- Preempts regulatory authority for commercial feed and feedstuff to the DACS;
- Establishes specific penalties enforceable at the state level, including enhanced penalties under certain circumstances for persons knowingly dealing in any manner with plant pests, or introducing or releasing plant pests in this state without a special permit from the DACS;
- Authorizes the DACS to seek reimbursement for reasonable expenses incurred in its plant pest control or eradication program;
- Provides that the removal or destruction of trees, shrubs, or other vegetation may be prohibited on "conservation easements", except when necessary for maintenance purposes or forest management; and
- Allows livestock grazing on "conservation easements" if such activity is a current or historic use on the site and is conducted in accordance with best management practices adopted by the DACS.

On February 5, 2016, the Revenue Estimating Conference determined the bill will reduce local property tax receipts by $.2 million on a recurring basis beginning in Fiscal Year 2018-2019.

Additionally, the Criminal Justice Impact Conference determined that the bill will have a positive insignificant impact on state prison beds.

The bill provides an effective date of July 1, 2016.

II. Present Situation:

Burning of Agriculture Crops

Currently, authorization must be obtained from the Florida Forest Service of the Department of Agriculture and Consumer Services (DACS) to conduct noncertified burning, certified prescribed burning, or certified pile burning. Additionally, open burning authorization programs of local governments must be approved by the Florida Forest Service.[1] The Florida Forest Service regulates the burning of agricultural crops on land classified as agricultural pursuant to the authority of s. 590.125, F.S.[2] Further authority for exercise of this power can be found in ss. 590.02(1)(i) and 590.02(10)(a), F.S.

Special Agricultural Land Assessment for Abandoned Citrus Groves

Section 193.461, F.S., allows properties used for bona fide agricultural purposes to be valued for property tax purposes based on their current agricultural use, rather than the highest and best use otherwise required.[3] Generally, tax assessments for qualifying agricultural lands are lower than tax assessments for other uses.

In 2000, the Legislature passed an expansive agricultural bill in response to the spread of citrus canker.[4] As part of the effort to quarantine infected citrus lands, the Legislature amended s. 193.461, F.S., to allow lands classified as agricultural for assessment purposes to be assessed at a de minimis value of up to $50 per acre –below what even a typical agricultural assessment might be – if they participate in a state or federal eradication or quarantine program.[5] To participate, these lands must be cleared and remain fallow.[6] As long as they remain unplanted and are not converted to some other income-producing use, they retain the $50 per acre assessment.

Some infected groves have been abandoned by the owner. The DACS has initiated a comprehensive Citrus Health Response Program (CHRP) to encourage the removal and destruction of abandoned citrus groves. The DACS has interpreted the $50 per acre valuation to apply to lands in the CHRP program because it is a state eradication or quarantine program.

[1] Section 590.125(2), (3), (4), and (6), F.S.
[2] Department of Agriculture and Consumer Services (DACS), *Senate Bill 1310 Analysis* (Jan. 12, 2016) (on file with the Senate Committee on Agriculture.
[3] FLA. CONST. art. VII, s. 4(a); *compare* s. 193.011(2), F.S., and s. 193.461, F.S.
[4] Chapter 2000-308, Laws of Fla.
[5] Chapter 2000-308, s. 3, Laws of Fla.
[6] Section 193.461(7), F.S.

However, the CHRP program is not specifically mentioned in the statute,[7] and some property appraisers are questioning whether current law allows this treatment.

Commercial Feed and Feedstuff

"Commercial feed" is all materials or combinations of materials that are distributed or intended to be distributed for use as feed or for mixing in a feed for animals other than humans.[8] "Feedstuff" is edible materials, other than commercial feed, that are distributed for animal consumption and that contribute energy or nutrients, or both, to an animal diet.[9] The department has indicated that it, as well as local governments, are authorized to regulate commercial feed and feedstuff for quality, safety, labeling requirements, and standards. At present, there is no regulation of animal feed and feedstuff through local ordinances. The federal Food and Drug Administration is currently promulgating regulations which would bring the manufacture and distribution of commercial livestock feed and ingredients to a standard of sanitation safe for both human handling and animal consumption through the Food Safety Modernization Act. The bill would clarify the department's preemptive authority to regulate, inspect, sample, and analyze any commercial feed and feedstuff to eliminate potential duplication of regulation. This is supported by the Florida Feed Association.

Penalties for Certain Handling of Plant Pests

Laws covering the plant industry are covered in ch. 581, F.S. The powers, duties, and jurisdiction over the plant industry are enforced and under the control of the Division of Plant Industry within the Department of Agriculture and Consumer Services (DACS). The introduction of plant pests is prohibited except under special permit issued by the Division of Plant Industry, which is the sole issuing agency for such special permits.[10] In general, any violation of ch. 581, F.S., subjects the violator to being charged with a first degree misdemeanor and a fine up to $5,000. An eradication program to combat an invasive plant pest, such as the Giant African Land Snail, has caused the DACS to expend $11.5 million over four years.[11] There is no provision in Florida Statutes to recover this type of costs.

Conservation Easement

A conservation easement is a right or interest in real property which is appropriate to retaining land or water areas predominantly in their natural, scenic, open, agricultural or wooded condition.[12] Conservation easements are meant to retain areas as suitable habitat for fish, plants or wildlife or to retain the structural integrity or physical appearance of sites or properties of historical, architectural, archaeological or cultural significance. The purpose of a conservation easement is accomplished by restricting the amount of development allowed on a piece of

[7] Florida Department of Agriculture and Consumer Services, *Citrus Health Response Program Update Abandoned Grove Initiative*, http://freshfromflorida.s3.amazonaws.com/Media%2FFiles%2FPlant-Industry-Files%2FCHRP2%2FCHRP+Update+Abandoned+Grove82015.pdf
[8] Section 580.031(2), F.S.
[9] Section 580.031(10), F.S.
[10] Section 581.083(1), F.S.
[11] DACS, *Senate Bill 1310 Analysis*.
[12] Section 704.06, F.S.

property, limiting other land uses, and maintaining existing areas of conservation interest on a piece of property in their natural condition.

Many conservation easements are required as a part of the conditions of regulatory permits. Other conservation easements are held by non-profit land trusts, usually obtained by donation from landowners who benefit from various local, state and federal tax deductions. Additionally, in Florida conservation easements can be purchased from landowners by state, water management districts, and local conservation land acquisition programs.

Conservation easements are fundamentally different from conservation lands that the state owns in fee-simple. First, the landowner retains title to the land and only gives up certain rights that he or she would otherwise have on the property. The landowner, not the state, continues to manage the land subject to restrictions.[13] Landowners who have managed their lands for silvicultural resources, wetland protection, pasture for cattle grazing, or for hunting can continue to do so under a conservation easement. However, a landowner would not be allowed to revert back to historic uses to justify cattle grazing if it was not being presently used for that purpose.

III. Effect of Proposed Changes:

Section 1 amends s. 193.461, F.S., to specifically name the CHRP program as a program that qualifies for the $50 per acre assessment for agricultural lands that are taken out of production in participation with a federal or state eradication or quarantine program. The bill amends the program to apply the $50 per acre assessment for five years after the owner executes a compliance agreement with the administering program. The bill also allows participating lands to be replanted with citrus and continue to receive the $50 per acre assessment for five years.

Section 2 creates s. 580.0365, F.S., to preempt the regulatory authority for commercial feed and feedstuff to the DACS in order to eliminate duplication of regulation.

Section 3 amends s. 581.211, F.S., to provide penalties for persons:

- Knowingly dealing in any manner with plant pests, or introducing or releasing plant pests in this state without a special permit from the Division of Plant Industry within the DACS. Violators:
  - Commit a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, F.S.
  - Are subject to an administrative fine pursuant to s. 570.091, F.S., in the Class II category (up to $5,000).
  - May have a certificate of registration or a certificate of inspection suspended or revoked.
  - May be liable for payment of all reasonable costs and expenses incurred by the DACS which moneys shall be deposited into the Plant Industry Trust Fund.
- Conducting themselves in such a manner that results in the declaration of an agricultural emergency by the Commissioner of Agriculture or the implementation of a control or eradication program by DACS or the United States Department of Agriculture. Violators:

[13] Florida Department of Environmental Protection, *The Division of State Lands Conservation Easement Program*, https://www.dep.state.fl.us/lands/files/ConservationEasement_WhitePaper.pdf.

- Commit a felony of the second degree if there has been a declaration of an agricultural emergency by the Commissioner of Agriculture or the implementation of a control or eradication program by the DACS or the United States Department of Agriculture.
- Are subject to an administrative fine pursuant to s. 570.091, F.S. in the Class IV category (up to $10,000).
- May have a certificate of registration or certificate of inspection suspended or revoked.
- May be liable for payment of all reasonable costs and expenses incurred by the DACS which must be deposited in the Plant Industry Trust Fund.

Section 4 amends s. 704.06, F.S., to revise the definition of "conservation easement" to provide that conservation easements may prohibit or limit the removal or destruction of trees, shrubs, or other vegetation, except when necessary for maintenance purposes or forest management. It also provides that a permitted use of an agricultural condition may include, but is not limited to, livestock grazing, if the activity is a current or historic use of the land, on the condition that future livestock grazing is conducted in accordance with Best Management Practices (BMPs) adopted by the DACS. Additionally, the bill specifies that the ability to allow maintenance, forest management, and certain permitted uses within conservation easements does not restrict or diminish the authority of any unit of government to allow forest management and livestock grazing as a compatible use on lands subject to a conservation easement.

Section 6 provides that this bill takes effect July 1, 2016.

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:

See Government Sector Impact.

B. Private Sector Impact:

CS/CS/SB 1310 may have an indeterminate negative fiscal impact on persons knowingly dealing in any manner with plant pests, or introducing or releasing plant pests in this state without a special permit from the DACS. Such individuals may be subjected to increased fines and penalties.

The bill may have an indeterminate positive fiscal impact on land owners who participate in an eradication or quarantine program by allowing them to retain their agricultural lands classification pursuant to a compliance agreement.

C. Government Sector Impact:

The bill amends the greenbelt law to allow citrus lands to retain agricultural classification for five years after execution of a compliance agreement, and requires property tax collectors to assess the lands at a de minimis value during the five-year term of the agreement when such lands have been replanted. On February 5, 2016, the Revenue Estimating Conference determined the provisions in this bill related to agricultural land classification will reduce local property tax receipts by $.2 million on a recurring basis beginning in Fiscal Year 2018-2019.

The Criminal Justice Impact Conference, which provides the official estimate of the prison bed impact of legislation, met on January 29, 2016, and estimated this bill will have a positive insignificant prison bed impact (an increase of 10 or fewer prison beds).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 163.3162, 193.461, 581.211, and 704.06.

This bill creates section 580.0365 of the Florida Statutes.

IX. Additional Information:

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

CS/CS by Appropriations on March 1, 2016:
The committee substitute:

- Revises the definition of "conservation easement" to prohibit or limit the removal or destruction of trees, shrubs, or other vegetation conservation easements, except when necessary for maintenance purposes or forest management;
- Provides that a permitted use of land in an agricultural condition may include, but is not limited to, livestock grazing, if the activity is a current or historic use of the land, if livestock grazing is done in accordance with Best Management Practices (BMPs) adopted by the DACS;

- Specifies that the ability to allow maintenance, forest management, and certain permitted uses within conservation easements does not alter the current authority of governmental units to allow forest management and livestock grazing on conservation easements.

CS by Agriculture on January 19, 2016:
The committee substitute:

- Provides that citrus lands taken out of production pursuant to a state or federal eradication or quarantine program, including the Citrus Health Response Program (CHRP), shall continue to be classified as agricultural land and appraised at a de minimis value of $50 per acre during the 5-year term of the agreement.
- Modifies the meaning of "conservation easement" to provide that a permitted use of an agricultural condition may include livestock grazing if the activity is a current or historic use of the land; it further requires future livestock grazing be in compliance with BMPs adopted by the DACS.

B. Amendments:

None.

529632

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/01/2016	.	
	.	
	.	
	.	

The Committee on Appropriations (Grimsley) recommended the following:

Senate Amendment (with title amendment)

Delete lines 23 - 29.

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

And the title is amended as follows:

Delete lines 2 - 5

and insert:

An act relating to agriculture;

427514

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/01/2016	.	
	.	
	.	
	.	

The Committee on Appropriations (Grimsley) recommended the following:

Senate Amendment

Delete lines 112 - 135
and insert:
Section 5. Subsection (1) of section 704.06, Florida Statutes, is amended to read:
704.06 Conservation easements; creation; acquisition; enforcement.—
(1) As used in this section, "conservation easement" means a right or interest in real property which is appropriate to

427514

retaining land or water areas predominantly in their natural, scenic, open, agricultural, or wooded condition; retaining such areas as suitable habitat for fish, plants, or wildlife; retaining the structural integrity or physical appearance of sites or properties of historical, architectural, archaeological, or cultural significance; or maintaining existing land uses and which prohibits or limits any or all of the following:

(a) Construction or placing of buildings, roads, signs, billboards or other advertising, utilities, or other structures on or above the ground.

(b) Dumping or placing of soil or other substance or material as landfill or dumping or placing of trash, waste, or unsightly or offensive materials.

(c) Removal or destruction of trees, shrubs, or other vegetation, except when needed for maintenance purposes or as part of forest management conducted in accordance with applicable best management practices adopted by the Department of Agriculture and Consumer Services.

(d) Excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other material substance in such manner as to affect the surface.

(e) Surface use except for purposes that permit the land or water area to remain predominantly in its natural or agricultural condition. An allowable surface use may include, but is not limited to, livestock grazing, if such activity is a current or historic use and if such future use within the conservation easement area is conducted in accordance with applicable best management practices adopted by the Department

of Agriculture and Consumer Services.

(f) Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation.

(g) Acts or uses detrimental to such retention of land or water areas.

(h) Acts or uses detrimental to the preservation of the structural integrity or physical appearance of sites or properties of historical, architectural, archaeological, or cultural significance.

Paragraphs (c) and (e) do not restrict or diminish the authority of any unit of government to allow forest management and livestock grazing as a compatible use on lands subject to a conservation easement.

By the Committee on Agriculture; and Senator Hutson

575-02292-16 20161310c1

A bill to be entitled

An act relating to agriculture; amending s. 163.3162, F.S.; providing sole authority to regulate the burning of agricultural crops on certain lands to the Department of Agriculture and Consumer Services; amending s. 193.461, F.S.; revising the period during which certain agricultural lands in eradication or quarantine programs continue to be classified as such; providing for the classification of such lands that are replanted in citrus; creating s. 580.0365, F.S.; preempting regulatory authority over commercial feed and feedstuff to the department; amending s. 581.211, F.S.; providing penalties for certain handling of plant pests without a special permit from the Division of Plant Industry within the department; specifying that moneys collected must be deposited into the Plant Industry Trust Fund; amending s. 704.06, F.S.; revising the definition of the term "conservation easement"; providing an effective date.

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

Section 1. Subsection (5) is added to section 163.3162, Florida Statutes, to read:

163.3162 Agricultural Lands and Practices.—

(5) BURNING OF AGRICULTURAL CROPS.—The Department of Agriculture and Consumer Services has the sole authority to regulate the burning of agricultural crops on land classified as agricultural land pursuant to s. 193.461.

Section 2. Paragraph (a) of subsection (7) of section 193.461, Florida Statutes, is amended to read:

193.461 Agricultural lands; classification and assessment;

575-02292-16 20161310c1

mandated eradication or quarantine program.—

(7)(a) Lands classified for assessment purposes as agricultural lands which are taken out of production by a state or federal eradication or quarantine program, including the Citrus Health Response Program, shall continue to be classified as agricultural lands for 5 years after the date of execution of a compliance agreement between the landowner and the Department of Agriculture and Consumer Services, or a federal agency, as applicable, pursuant to ~~the duration of~~ such program or successor programs. Lands under these programs which are converted to fallow or otherwise nonincome-producing uses shall continue to be classified as agricultural lands and shall be assessed at a de minimis value of up to $50 per acre on a single-year assessment methodology while converted. Lands under these programs which are replanted in citrus pursuant to the requirements of the compliance agreement shall continue to be classified as agricultural lands and shall be assessed at a de minimis value of up to $50 per acre, on a single-year assessment methodology, during the 5-year term of the agreement.~~;~~ However, lands converted to other income-producing agricultural uses permissible under such programs shall be assessed pursuant to this section. Land under a mandated eradication or quarantine program which is diverted from an agricultural to a nonagricultural use shall be assessed under s. 193.011.

Section 3. Section 580.0365, Florida Statutes, is created to read:

580.0365 Preemption of regulatory authority over commercial feed and feedstuff.—In order to provide for uniform regulation throughout the state, the state preempts all regulation over

commercial feed and feedstuff to the department. Notwithstanding any other provision of law, the authority to regulate, inspect, sample, and analyze any commercial feed or feedstuff distributed in this state or to exercise the powers and duties under this chapter, including the assessment of any penalties for violations of this chapter, is preempted to the department. If any rule adopted by, or final order of, the department relating to commercial feed and feedstuff is in conflict with any other provision or restriction under a local ordinance or administrative rule adopted by, or final order of, an entity or agency other than the department, this section shall govern and such local ordinance, rule, or order is preempted.

Section 4. Subsections (4) and (5) are added to section 581.211, Florida Statutes, to read:

581.211 Penalties for violations.—

(4) A person who knowingly acquires, imports, possesses, sells or offers to sell, trades or offers to trade, barters or offers to barter, moves or causes to be moved, introduces, or releases a plant pest in this state without a special permit from the division:

(a) Commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083;

(b) Is subject to an administrative fine pursuant to s. 570.971 in the Class II category for each violation of this chapter;

(c) May have a certificate of registration or certificate of inspection suspended or revoked; and

(d) Is liable for the payment of all reasonable costs and expenses incurred by the department in a plant pest control or

eradication program. Moneys collected pursuant to this section shall be deposited into the Plant Industry Trust Fund.

(5) A person who knowingly acquires, imports, possesses, sells or offers to sell, trades or offers to trade, barters or offers to barter, moves or causes to be moved, introduces, or releases a plant pest in this state without a special permit from the division that results in the issuance of a declaration of an agricultural emergency by the Commissioner of Agriculture or the implementation of a control or eradication program by the department or the United States Department of Agriculture:

(a) Commits a felony of the second degree, punishable as provided in s. 775.082 or s. 775.083;

(b) Is subject to an administrative fine pursuant to s. 570.971 in the Class IV category for each violation of this chapter;

(c) May have a certificate of registration or certificate of inspection suspended or revoked; and

(d) Is liable for the payment of all reasonable costs and expenses incurred by the department in a plant pest control or eradication program. Moneys collected pursuant to this section shall be deposited into the Plant Industry Trust Fund.

Section 5. Paragraphs (c) and (e) of subsection (1) of section 704.06, Florida Statutes, are amended to read:

704.06 Conservation easements; creation; acquisition; enforcement.—

(1) As used in this section, "conservation easement" means a right or interest in real property which is appropriate to retaining land or water areas predominantly in their natural, scenic, open, agricultural, or wooded condition; retaining such

areas as suitable habitat for fish, plants, or wildlife; retaining the structural integrity or physical appearance of sites or properties of historical, architectural, archaeological, or cultural significance; or maintaining existing land uses and which prohibits or limits any or all of the following:

(c) Removal or destruction of trees, shrubs, or other vegetation except when necessary for maintenance purposes.

(e) Surface use except for purposes that permit the land or water area to remain predominantly in its natural or agricultural condition. Such agricultural condition may include livestock grazing if the activity is a current or historic use of the land and if future livestock grazing within the conservation easement area is conducted in accordance with applicable best management practices adopted by the Department of Agriculture and Consumer Services.

Section 6. This act shall take effect July 1, 2016.

The Florida Senate

Committee Agenda Request

To: Senator Tom Lee, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: February 18, 2016

I respectfully request that **Senate Bill #1310**, relating to Agriculture, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Senator Travis Hutson
Florida Senate, District 6

File signed original with committee office

S-020 (03/2004)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/16
Meeting Date

1310
Bill Number (if applicable)

Topic Agriculture

Amendment Barcode (if applicable)

Name Martha Cleaver

Job Title Governmental Consultant

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City *State* *Zip*

Phone 850|491-1945

Email marthacleaver@fapa.net

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Association of Property Appraisers

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)

Duplicate

THE FLORIDA SENATE

APPEARANCE RECORD

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

03/01/2016
Meeting Date

SB 1310
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Agriculture

Name Howard E. "Gene" Adams

Job Title Attorney

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Tallahassee
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Fla.
State

32312-1578
Zip

Email gene@penningtonlaw.com

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Florida Feed Association

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/16
Meeting Date

310
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Agriculture

Name Jim Spratt

Job Title

Address 310 W. College Ave
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TLH FL 32301
City *State* *Zip*

Phone 850-228-1296

Email jim@magnoliastatepolicy.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Nursery, Growers & Landscape Association

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/16
Meeting Date

1310
Bill Number (if applicable)

Topic AGRICULTURE

Amendment Barcode (if applicable)

Name LANCE PIERCE

Job Title ASST. DIRECTOR OF STATE LEGISLATIVE AFFAIRS

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Street

Phone 228-4088

TALLAHASSEE FL 32301
City *State* *Zip*

Email

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

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

Representing FLORIDA FARM BUREAU

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

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

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

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

S-001 (10/14/14)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL:	PCS/SB 1316 (802108)
INTRODUCER:	Appropriations Committee (Recommended by Appropriations Subcommittee on Health and Human Services) and Senator Grimsley
SUBJECT:	Nurse Licensure Compact
DATE:	February 29, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Lloyd	Stovall	HP	**Favorable**
2.	Brown	Pigott	AHS	**Recommend: Fav/CS**
3.	Brown	Kynoch	AP	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/SB 1316 authorizes Florida to enter the revised Nurse Licensure Compact (NLC), a multi-state agreement that establishes a mutual recognition system for the licensure of registered nurses and licensed practical or vocational nurses. The bill enacts the NLC into law, which is a prerequisite for joining the compact.

A nurse who is issued a multi-state license from a state that is a party to the NLC is permitted to practice in any state that is also a party to the compact. However, the nurse must comply with the practice laws of the state in which he or she is practicing or where the patient is located. A party state may continue to issue a single-state license, authorizing practice only in that state.

The bill has an indeterminate fiscal impact on the Department of Health (DOH).

The bill is effective on December 31, 2018, or upon enactment of the NLC into law by 26 states, whichever occurs first.

II. Present Situation:

The Nurse Practice Act, ch. 464, F.S., governs the licensure and regulation of nurses in Florida. The Department of Health (DOH) is the licensing agency and the Board of Nursing (board) is the

regulatory authority. The board comprises 13 members appointed by the Governor and confirmed by the Senate.[1]

To be licensed as a nurse by examination, an individual must:
- Submit an application with the appropriate fee;
- Satisfactorily complete a criminal background screening;
- Demonstrate English competency;
- Successfully complete an approved nursing educational program; and
- Pass a licensure exam.[2]

A nurse from out of state who wishes to work temporarily in the state of Florida may obtain licensure via examination or endorsement. Requirements for licensure by endorsement can be found in s. 464.009, F.S., and include:
- Holding a valid license to practice professional or practical nursing in another state or territory of the United States, provided that, when the applicant secured his or her original license, the requirements for licensure were substantially equivalent to or more stringent than those existing in Florida at that time;
- Meeting the qualifications for Florida licensure examination and having successfully completed a state, regional, or national examination which is substantially equivalent to or more stringent than the Florida examination; or
- Having actively practiced nursing in another state, jurisdiction, or territory of the United States for two of the preceding three years without a license being acted against by the licensing authority of any jurisdiction.

Any applicant for temporary licensure via endorsement must submit to an electronic fingerprint scanning procedure through the Florida Department of Law Enforcement (FDLE) for the purpose of a criminal history records check. An applicant who has ever been found guilty of, or pled guilty or no contest/nolo contendere to, any charge other than a minor traffic offense must list each offense on the application.[3]

Health care boards or the DOH are not permitted to issue a license, certificate, or registration to any candidate if the applicant:
- Has been convicted of, or entered a plea of nolo contendere to, regardless of adjudication, a felony, under ch. 409, F.S., (relating to social and economic assistance), ch. 817, F.S., (relating to fraudulent practices), ch. 893, F.S., (relating to drug abuse prevention and control), or similar felony offense(s) in another state or jurisdiction;
- Has been convicted of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, a felony under 21 U.S.C. ss 801-970 (relating to controlled substances) or 42 U.S.C. ss 1395-1396 (relating to public health, welfare, Medicare, and Medicaid issues);

[1] Section 464.004(1), F.S.
[2] Section 464.008, F.S., For its licensure examination, the department uses the National Council Licensure Examination (NCLEX), developed by the National Council of State Boards of Nursing.
[3] Florida Board of Nursing, *Licensed Practical Nurse & Registered Nurse by Endorsement* (page modified November 20, 2015) *available at* http://floridasnursing.gov/licensing/licensed-practical-nurse-registered-nurse-by-endorsement/ (last visited Feb. 2, 2016).

- Has been terminated for cause from the Medicaid program pursuant to s. 409.913, F.S., unless the candidate has been in good standing for the most recent five years;
- Has been terminated for cause, pursuant to the appeals procedures established by the state or federal government, from any other state Medicaid program, unless the candidate or applicant has been in good standing with a state Medicaid program for the most recent five years and the termination occurred at least 20 years before the date of application; or
- Is currently listed on the U.S. Department of Health and Human Services Office of Inspector General's List of Excluded Individuals and Entities.[4]

Licenses are renewed biennially.[5] Each renewal period, a registered nurse (RN) or licensed practical nurse (LPN) must document completion of one contact hour of continuing education for each calendar month of the licensure cycle.[6] As part of the total continuing education hours required, all licensees must complete a two-hour course on the prevention of medical errors and a two-hour course in Florida laws and rules.[7] Effective August 1, 2017, all licensees must also complete a two-hour course in recognizing impairment in the workplace.[8]

Interstate Compacts

An interstate compact is an agreement between two or more states to address common problems or issues, create an independent, multistate governing authority, or establish uniform guidelines, standards, or procedures for the compact's member states.[9] Article I, Section 10, Clause 3 (Compact Clause) of the U.S. Constitution authorizes states to enter into agreements with each other, without the consent of Congress. Interstate agreements that encroach on the federal government's power are subject to congressional approval, however.[10] Florida is a party to at least 25 interstate compacts, including the Interstate Compact on Educational Opportunity for Military Children, Compact on Adoption and Medical Assistance, and the Compact on the Placement of Children.[11]

The Nurse Licensure Compact

The National Council of State Boards of Nursing (council) administers the Nurse Licensure Compact (NLC). The council is a non-profit organization that coordinates the efforts of the member states. The council includes the boards of nursing in the 50 states, the District of Columbia, and four U.S. Territories.

[4] Id.
[5] Section 464.013, F.S.
[6] Rule 64B9-5.002, F.A.C. A course in HIV/AIDS is required in the first biennium only and a domestic violence course is required every third biennium.
[7] Rule 64b9-5.011, F.A.C.
[8] *Supra* note 5 and Rule 64B9-5.014, F.A.C.
[9] Council of State Governments, *Capitol Research: Interstate Compacts*, http://knowledgecenter.csg.org/kc/content/interstate-compacts-background-and-history (last visited Feb. 2, 2016).
[10] *See Virginia v. Tennessee*, 148 U.S. 503 (1893) and *New Hampshire v. Maine*, 426 U.S. 363 (1976).
[11] OPPAGA, *2015 Nurse Licensure Compact Revisions Address Some Barriers and Disadvantages in 2006 OPPAGA Report* (November 20, 2015) (on file in the Senate Committee on Health Policy).

The NLC allows RNs and LPNs the ability to practice in all member states by maintaining a single license in their primary state of residence.[12] A second compact covers Advanced Practice Registered Nurses, such as nurse anesthetists, nurse practitioners, nurse midwives, and clinical nurse specialists. Currently, 25 states have enacted the original NLC legislation,[13] and 1.4 million of the nation's nurses hold a multistate license.[14]

To join the NLC, a state must pass the NLC model legislation, the state board of nursing must implement the compact, and the state licensing agency must pay an annual fee of $6,000.[15] States that adopted the NLC prior to revisions made in 2015 must adopt the revised NLC to become members of the new compact.[16]

The council also manages NURSYS™, the national database for verification of nurse licensure, discipline, and practice privileges for RNs licensed by participating boards of nursing, including all states in the compact. Fifty-three states or territories participate in the NURSYS™ database, including Florida.

There are three publicly available components to the verification system:
- e-Notify which provides real-time licensure and publicly available discipline data to institutions about nurses employed by that institution and for nurses to manage their licenses statuses and renewals;
- Licensure QuickConfirm that allows employers and recruiters to receive licensure and discipline information in one location; and
- Nurse Licensure Verification service which enables nurses to verify their licenses from a participating board when applying for endorsement for $30 per license type, per each board.[17]

2015 Revised Nurse Licensure Compact

Under the NLC, an applicant for a license to practice as an RN or LPN has to apply in his or her home state for a multistate license.[18] The home state is the applicant's primary state of residence.[19] The NLC has 11 articles covering areas such as general jurisdiction, application process, governance, and rule-making.

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[12] The compact model rules defined "primary state of residence" to mean the state of a person's declared, fixed permanent and principal home for legal purposes.
[13] Id. The 25 states are: Arizona, Arkansas, Colorado, Delaware, Idaho, Iowa, Kentucky, Maine, Maryland, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Mexico, North Carolina, North Dakota, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, and Wisconsin.
[14] Florida Dep't of Health, *House Bill 1061 Analysis* (January 11, 2016) (on file with the Senate Committee on Health Policy).
[15] *Supra* note 16.
[16] *Supra* note 15.
[17] National Council of State Boards of Nursing, *License Verification (Nursys.com)* https://www.ncsbn.org/license-verification.htm (last visited Feb. 2, 2016).
[18] A multistate license is a license to practice as an RN or LPN/LVN issued by a home state licensing board that authorizes the license holder to practice in all party states under a multistate licensure privilege.
[19] Pursuant to the model rules developed under the prior NLC, a nurse's home state may be evidenced by a drivers' license with a home address, voter registration card with a home address, federal income tax return, military documentation of state of legal residence, or a W2 from the U.S. government or any bureau, division, or agency thereof. *See* Nurse Licensure Compact Administrators, *Nurse Licensure*

OPPAGA Review of the NLC

2006 OPPAGA Report

In 2006, the Office of Program Policy Analysis and Government Accountability (OPPAGA) released a report evaluating the possibility of Florida adopting the original NLC.[20] The OPPAGA concluded that adopting the NLC would allow the state to alleviate short-term nursing shortages but would not resolve the state's long-term nursing shortage. The report identified several benefits that would be realized by adopting the NLC.

Conversely, the report also identified several disadvantages to joining the compact at that time:

- Potentially, there could be an increase in disciplinary cases, both domestic and multistate, which could have a negative fiscal impact on the DOH;
- Florida's continuing education requirements would not apply to a nurse working in Florida but whose home state is not Florida;
- A nurse whose home state was not Florida may not be subject to a criminal background screening because some party states did not a require criminal background screening for licensure;
- Public access to licensure and disciplinary action may be impaired; and
- The DOH and board will incur some initial start-up costs in implementing the NLC.

Additionally, OPPAGA identified barriers to implementing the original NLC legislation:

- The provisions of the original NLC language may conflict with Florida's public records and open meetings laws;
- The original NLC provided general and broad authorization for the compact administrators to develop rules that were required to be adopted by party states, which raised concern about an unlawful delegation of legislative authority;
- The DOH and the board would need to educate nurses and employers on the NLC and its requirements for the NLC to operate as intended; and
- A compact nurse is not required to notify the board when he or she enters the state to practice nursing, making it difficult for the workforce data to be captured.

The report made several recommendations, including seeking approval to use alternative compact language to address the barriers identified in the report. Other recommendations including authorizing the board to require employers to report employment data, providing a later effective date to allow for education of the public regarding the NLC, and requiring the board to report information to the legislature on the effect of the NLC two years after its implementation.

Compact Model Rules and Regulations, (Rev. Nov. 13, 2012, Aug. 4, 2008, Sept. 16, 2004), *available at* https://www.ncsbn.org/NLC_Model_Rules.pdf (last visited Feb. 2, 2016).

[20] OPPAGA, *Nurse Licensure Compact Would Produce Some Benefits But Not Resolve the Nursing Shortage*, Report No. 06-02 (Jan. 2006) *available at* http://www.oppaga.state.fl.us/Summary.aspx?reportNum=06-02 (last visited Feb. 2, 2016).

2015 OPPAGA Memorandum

In 2015, the OPPAGA reviewed the revised NLC to determine if it adequately addresses concerns identified in the 2006 report.[21] The OPPAGA found that the revised NLC resolved some of the barriers and disadvantages listed above, and specifically it found:

- The revised NLC partially addresses the concerns regarding constitutional issues related to public meetings but did not address public records concerns:
  - Under the revised NLC, there are provisions requiring the commission to publicly notice meetings on its website, as well as the websites of party states. However, the commission is allowed to have closed door meetings to address certain issues. Such meetings may be deemed inconsistent with Florida's open meetings law.
  - A party state may still designate information it provides as confidential and restrict the sharing of such information. However, once the information is in the possession of the board, it may be considered a public record under Florida law, available through the board.
- The revised NLC addresses the issue of delegation of legislative authority, by limiting the scope of the rules the commission may adopt to only those rules that would facilitate and coordinate the implementation and administration of the NLC. The OPPAGA suggests that the Legislature include an expiration date, an automatic repeal provision, or a required review of the NLC to provide the legislature with an opportunity to review the rules adopted by the commission;
- The revised NLC does not become effective until it has been enacted by 26 states or December 31, 2018, whichever is earlier. This provides the state with the time needed to educate nurses and employers about the NLC.
- The revised NLC does not require employers of compact nurses who are practicing in a state under a multistate licensure privilege to report such employment to the state's board of nursing;
- Public access to nurse disciplinary information has improved due to the increased state participation in NURSYS®, the coordinated licensure information system;
- The revised NLC requires a criminal background screening for licensees. However, this requirement only applies to new multistate licensure applicants, and a nurse who currently holds a multistate license will not have to undergo a criminal background screening unless required by his or her home state; and
- The NLC does not address continuing education requirements. Although most states require some continuing education, not all states do. Florida authorities would be unable to enforce continuing education requirements for those practicing in the state under the multistate licensing privilege.

The OPPAGA advises that the revised NLC does not affect the benefits it identified in its 2006 report. In addition to those benefits, it noted that as a member of the NLC, the processing time and resources required to process a licensure by endorsement would be reduced or eliminated. Florida would also be able to access investigative information earlier and would be able to open its own investigation if the nurse is practicing in this state.

[21] OPPAGA, *2015 Nurse Licensure Compact Revisions Address Some Barriers and Disadvantages in 2006 OPPAGA Report,* A Presentation to the House Select Committee on Affordable Healthcare Access (December 1, 2015) *available at* http://www.oppaga.state.fl.us/Presentations.aspx (last visited Feb 2, 2016).

Florida Nursing Workforce

The Florida Center for Nursing was established by the Legislature in 2001, to address the issues of supply and demand for nursing, including the recruitment, retention, and utilization of nurse workforce resources.[22] The Florida Center for Nursing is authorized to request any information held by the board regarding nurses licensed in this state, holding a multistate license, or any information reported by employers of such nurses, other than personally identifiable information.

The Florida Center for Nursing prepares long-range forecasts of nurse supply and demand periodically to assist with the state's planning. The last published report was posted in October 2010 for the forecasting period of 2010-2025. The nursing supply shortage was projected to worsen beginning in 2014 with the combination of health care reform, an aging population requiring more health care services, and as older nurses retired from the workforce.[23]The 2010 model projected a shortage of 50,000 RNs by 2025.[24] The shortage of LPNs was projected to be 13,250 by 2025.[25]

The Long-Term Employment projections program of the Department of Economic Opportunity identifies Registered Nurses as an occupation where employment is expected to grow from 168,885 individuals to 196,503 or 16.4 percent in the next eight years.[26] Nurse Practitioners, while a smaller occupational group, have a higher expected growth rate of 30.9 percent over the 8 year span growing from 7,199 individuals to 9,421.[27] Nursing and residential care facilities rank fifth overall in the Florida's fastest growing industries, with a minimum of 10,000 jobs.

Nursing is the eighth fastest growing occupation, with a 30.9 percent growth rate and a median hourly wage in 2015 of $44.22 for nurse practitioners.[28] Registered nurses are expected to gain the fifth most jobs in the state over the next eight years, more than 52,000. These jobs have a median hourly rate in 2015 of $29.89 and require a minimum education level of an associate's degree.[29]

Sovereign Immunity

The term "sovereign immunity" originally referred to the English common law concept that the government may not be sued because "the King can do no wrong." Sovereign immunity bars

[22] Chapter 2001-277, L.O.F. and s. 464.0195, F.S.
[23] Florida Center for Nursing, *Technical Report: Forecasting Nurse Supply and Demand in Florida* (Oct. 2010) p. 16, *available at* https://www.flcenterfornursing.org/DesktopModules/Bring2mind/DMX/Download.aspx?Command=Core_Download&EntryId=14&PortalId=0&TabId=151 (last visited Feb. 2, 2016).
[24] Id at 17.
[25] Id at 18.
[26] Department of Economic Opportunity, *Florida Jobs by Occupation - 2015-2013 Projections Statewide,* http://www.floridajobs.org/labor-market-information/data-center/statistical-programs/employment-projections (last visited Feb. 2, 2016).
[27] Id.
[28] Id at *Fastest Growing Occupations* Tab.
[29] Id at *Occupations Gaining the Most New Jobs* Tab.

lawsuits against the state or its political subdivisions for the torts of officers, employees, or agents of such governments unless the immunity is expressly waived.

Article X, section 13 of the Florida Constitution recognizes the concept of sovereign immunity and gives the Legislature the power to waive immunity in part or in full by general law. Section 768.28, F.S., contains the limited waiver of sovereign immunity applicable to the state. Under this statute, officers, employees, and agents of the state may not be held personally liable in tort or named as a party defendant in any action for any injury or damage suffered as a result of any act, event, or omission of action in the scope of her or his employment or function. However, personal liability may result from actions committed in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

Instead, the state steps in as the party litigant and defends against the claim. The recovery by any one person is limited to $200,000 for one incident and the total for all recoveries related to one incident is limited to $300,000.[30] The sovereign immunity recovery limits do not prevent a plaintiff from obtaining a judgment in excess of the limitation, but the plaintiff cannot recover the excess damages without action by the Legislature.[31]

Whether sovereign immunity applies turns on the degree of control of the agent of the state retained by the state.[32] In *Stoll v. Noel*, the Florida Supreme Court explained that independent contractor physicians may be agents of the state for purposes of sovereign immunity:

> One who contracts on behalf of another and subject to the other's control except with respect to his physical conduct is an agent and also independent contractor.[33]

The court examined the employment contract between the physicians and the state to determine whether the state's right to control was sufficient to create an agency relationship and held that it did.[34] The court explained:

> Whether CMS [Children's Medical Services] physician consultants are agents of the state turns on the degree of control retained or exercised by CMS. This Court has held that the right to control depends upon the terms of the employment contract. . . . CMS requires each consultant, as a condition of participating in the CMS program, to agree to abide by the terms published in its HRS[35] Manual and CMS Consultant's Guide which contain CMS policies and rules governing its relationship with the consultants. The Consultant's Guide states that all services provided to CMS patients must be authorized in advance by the clinic medical director. The language of the HRS Manual ascribes to CMS responsibility

[30] Section 768.28(5), F.S.
[31] *Id.*
[32] *Stoll v. Noel*, 694 So. 2d 701, 703 (Fla. 1997).
[33] *Id.* at 703, quoting from the *Restatement (Second) of Agency* s. 14N (1957).
[34] *Id.* at 703.
[35] Florida Department of Health and Rehabilitative Services.

> to supervise and direct the medical care of all CMS patients and supervisory authority over all personnel. The manual also grants to the CMS medical director absolute authority over payment for treatments proposed by consultants. The HRS Manual and the Consultant's Guide demonstrate that CMS has final authority over all care and treatment provided to CMS patients, and it can refuse to allow a physician consultant's recommended course of treatment of any CMS patient for either medical or budgetary reasons.
>
> Our conclusion is buttressed by HRS's acknowledgement that the manual creates an agency relationship between CMS and its physician consultants, and despite its potential liability in this case, HRS has acknowledged full financial responsibility for the physicians' actions. HRS's interpretation of its manual is entitled to judicial deference and great weight.[36]

III. Effect of Proposed Changes:

The bill adopts the revised Nurse Licensure Compact (NLC) into state law.

Section 1 amends s. 456.073, F.S., relating to disciplinary proceedings for boards within the Department of Health (DOH's) jurisdiction. The DOH is required to report any significant investigation information relating to a nurse holding a multistate license to the coordinated licensure system pursuant to s. 464.0095, F.S. This reporting is a requirement of the NLC.

Section 2 amends s. 456.076, F.S., relating to treatment programs for impaired practitioners. The bill requires the consultant under the impaired practitioner program to disclose to the DOH, upon the DOH's request, whether an applicant for a multistate license under s. 464.0095, F.S., is participating in a treatment program and must report to the DOH when a nurse holding a multistate license under s. 464.0095, F.S., enters a treatment program. A nurse holding a multistate license under s. 464.0095, F.S., must report to the DOH within two business days after entering a treatment program pursuant to this section.

Section 3 amends s. 464.003, F.S., to modify definitions to recognize that a nurse may hold a multistate license.

Section 4 amends s. 464.004, F.S., to appoint the executive director of the Board of Nursing or his or her designee as the state administrator of the Nurse Licensure Compact, as required under the NLC.

Section 5 amends 464.008, F.S., relating to licensure by examination to incorporate the multistate licensure process. The bill authorizes an applicant who resides in this state, meets the licensure requirements, and meets the criteria for multistate licensure, to request the issuance of a multistate license from the DOH.

[36] *Stoll*, 694 So. 2d at 703 (Fla. 1997) (internal citations omitted).

A nurse who holds a single-state license in this state and applies to the DOH for a multistate license must meet the eligibility criteria for a multistate license under s. 464.0095, F.S., and must pay an application and licensure fee to change his or her licensure status. A person who holds an active multistate license in another state pursuant to the NLC is exempt from the licensure requirements in Florida.

The bill requires the DOH to conspicuously distinguish a multistate license from a single-state license.

Section 6 amends s. 464.009, F.S., relating to licensure by endorsement, to exempt a person who holds an active multistate license in another state from the requirements of licensure by endorsement in Florida.

Section 7 enacts the NLC under s. 464.0095, F.S., and enters Florida into the compact with all other jurisdictions legally joining the NLC. The compact includes 11 Articles and is substantially similar to the model compact language.

Article I provides the general findings and declaration of purpose for the compact. The general findings under Article I include:

- The health and safety of the public are affected by the degree of compliance with and the effectiveness of enforcement activities related to state nurse licensure laws;
- Violations of nurse licensure and other laws regulating the practice of nursing may result in injury or harm to the public;
- The expanded mobility of nurses and the use of advanced communication technologies as part of the nation's health care delivery system require greater coordination among states in the areas of nurse licensure and regulation;
- New practice modalities and technology make compliance with individual state nurse licensure laws difficult and complex; and
- Uniformity of nurse licensure requirements throughout the states promotes public safety and public health benefits.

The general purposes for the compact are to:

- Facilitate the states' responsibility to protect the public's health and safety;
- Ensure and encourage the cooperation of party states in the areas of nurse licensure and regulation;
- Facilitate the exchange of information among party states in the areas of nurse regulation, investigation, and adverse action;
- Promote compliance with the laws governing the practice of nursing in each jurisdiction;
- Invest all party states with the authority to hold a nurse accountable for meeting all state practice laws in the state in which the patient is located at the time care is rendered through the mutual recognition of party state licenses;
- Decrease redundancies in the consideration and issuance of nurse licenses; and
- Provide opportunities for interstate practice by nurses who meet uniform licensure requirements.

Article II creates the definitions applicable to the compact.

"Adverse action" means any administrative, civil, equitable, or criminal action permitted by a state's laws which is imposed by a licensing board or other authority against a nurse, including actions against an individual's license or multistate licensure privilege, such as revocation, suspension, probation, monitoring of the licensee, limitation on the licensee's practice, or any other encumbrance on licensure affecting a nurse's authorization to practice, including issuance of a cease and desist action.

"Alternative program" means a non-disciplinary monitoring program approved by a licensing program.

"Commission" means the Interstate Commission of Nurse Licensure Administrators established by this compact.

"Compact" means the Nurse Licensure Compact recognized, established, and entered into by the state under this compact.

"Coordinated licensure information system" means an integrated process for collecting, storing, and sharing information on nurse licensure and enforcement activities related to nurse licensure laws which is administered by a nonprofit organization composed of and controlled by licensing boards.

"Current significant investigate information" means:
(a) Investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the nurse to respond, if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or
(b) Investigative information that indicates that the nurse represents an immediate threat to public health and safety regardless of whether the nurse has been notified and had an opportunity to respond.

"Encumbrance" means a revocation or suspension of, or any limitation on, the full and unrestricted practice of nursing imposed by a licensing board.

"Home state" means the party state that is the nurse's primary state of residence.

"Licensing board" means a party state's regulatory body responsible for issuing nurse licenses.

"Multistate license" means a license to practice as a registered nurse (RN) or a licensed practical or vocational nurse (LPN/VN) issued by a home state licensing board which authorizes the licensed nurse to practice in all party states under a multistate licensure privilege.

"Multistate licensure privilege" means a legal authorization associated with a multistate licensure permitting the practice of nursing as either an RN or LPN/VN in a remote state.

"Nurse" means an RN or LPN/VN, as those terms are defined in each party state's practice laws.

"Party state" means any state that has adopted this compact.

"Remote state" means a party state other than the home state.

"Single-state license" means a nurse license issued by a party state which authorizes practice only within the issuing state and does not include a multi-state licensure privilege to practice in any other party state.

"State" means a state, territory, or possession of the United States, or the District of Columbia.

"State practice laws" means a party state's laws, rules, and regulations that govern the practice of nursing, define the scope of nursing practice, and create the methods and grounds for imposing disciple. The term does not include requirements necessary to obtain and retain a license, except for qualifications or requirements of the home state.

Article III provides for the compact's general provisions and jurisdiction as follows:

- Each party state will recognize a multistate license to practice registered or licensed practical or vocational nursing issued by a home state to a resident in that state as authorizing the RN or LPN/VN to practice in its state.
- The state must ensure that each applicant fulfills the following criteria to obtain or retain a multistate license in the home state:
  - Has met the home state's qualifications for licensure or renewal;
  - Has graduated or is eligible to graduate from a licensing board-approved RN or LPN/VN pre-licensure education program or other approved educational program with a comparable pre-licensure education program.
  - Demonstrates a proficiency in English, if the applicant is a graduate of a foreign pre-licensure program not taught in English;
  - Has successfully passed an NCLEX-RN or NCLEX-PN Examination or recognized predecessor, as applicable;
  - Is eligible for or holds an active, unencumbered license;
  - Has submitted, in connection with an application for initial licensure or licensure by endorsement, fingerprints or other biometric data for criminal history check with the FBI and the state's criminal records;
  - Has not been convicted or found guilty, or has entered into an agreed disposition other than a disposition that results in nolle prosequi, of a felony offense under applicable state or federal law;
  - Has not been convicted or found guilty, or entered into an agreed disposition other than a disposition that results in a nolle prosequi, of a misdemeanor offense related to the practice of nursing, as determined on a case by case basis;
  - Is not currently enrolled in an alternative program;
  - Is subject to self-disclosure requirements regarding current participation in an alternative program; and
  - Has a valid social security number.
- All party states are required, in accordance with existing state due process law, to take adverse action against a nurse's multistate license privilege, such as revocation, suspension, probation, or cease and desist actions. If a party state takes such action, the party state is required to notify the administrator of the coordinated licensure information system (CLIS).

The administrator of the CLIS must promptly notify the home state of any such actions by a remote state.

- A nurse practicing in a party state must comply with the state practice laws of the state in which the patient is located at the time the service is provided. The practice of nursing is not limited to patient care but includes all nursing practice as defined by the state practice laws of the party state in which the patient is located.
- The practice of nursing in a party state under a multistate license subjects a nurse to the jurisdiction of the licensing board, the courts, and the laws of the party state in which the patient is located at the time the service is provided.
- A person not residing in a party state shall continue to be able to apply for a party state's single-state license. The issuance of a single-state license in a party state does not grant a nurse the privilege to practice in any other party state. The compact does not affect the requirements established by a party state for the issuance of a single-state license.
- A nurse holding a home state multistate license, on the effective date of this compact, may retain and renew the multistate license issued by the nurse's then-current home state, provided that the nurse who changes his or her primary state of residence after the effective date meets all of the multistate licensure requirements to obtain a multistate license from a new home state. A nurse who fails to satisfy the multistate licensure requirements due to a disqualifying event occurring after the effective date is ineligible to retain or renew his or her multistate license, and the nurse's multistate license shall be revoked or deactivated in accordance with the compact's rules.

Article IV of the compact creates the application process for the multistate license. The application process requires the licensing board in the issuing state to determine, through the CLIS, whether the applicant has ever held, or is the holder of, a license issued by another state, whether there are any encumbrances on any license or multistate licensure privilege, whether any adverse action has been taken against the license or multistate licensure privilege, and whether the applicant is participating in an alternative program.

A nurse may hold a multistate license, issued by a home state, in only one party state at a time. If a nurse moves and changes his or her primary state, the nurse must apply for licensure in the new home state, and the multistate licensure issued by the prior home state must be deactivated. A new license may be applied for in advance of a primary change in residence. However, a new multistate license may not be issued until the nurse provides satisfactory evidence of change in his or her primary state of residence and has satisfied all applicable requirements to obtain a new multistate license in the new home state. If the nurse has moved to a non-party state, the multistate license issued by the prior home state must convert to a single-state license valid only in the prior home state.

Article V vests additional authority in the party state licensing board relating to the multistate licensure privilege. In addition to the powers already granted to the state's Board of Nursing (board), the board may also:

- Take adverse action against a nurse's multistate licensure privilege to practice within that party state.
    - Only the home state has the power to take adverse action against a nurse's license issued by the home state.

  - For purposes of adverse action, the home state licensing board or state agency shall give the same priority and effect to conduct reported by a remote state as it would if such conduct had occurred within the home state. In doing so, the home state shall apply its own state laws to determine appropriate action.
- Issue cease and desist orders or impose an encumbrance on a nurse's authority to practice within that party state.
- Complete any pending investigation of a nurse who changes his or her primary state of residence during the course of such investigation. Conclusion of such actions must be promptly reported to the administrator of the CLIS. The administrator of the CLIS shall promptly notify the new home state of any such action.
- Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses or the production of evidence. Enforcement of a subpoena to parties in another state will be enforced by courts in the latter state.
- Obtain and submit, for each nurse licensure applicant, fingerprint or other biometric-based information to the FBI for criminal background checks, receive FBI results, and use the results to make licensure decisions.
- If otherwise permitted by state law, recover from the affected nurse the costs of investigations and disposition of cases resulting from any adverse action taken against that nurse.
- Take adverse action based on the factual findings of the remote state, provided that the licensing board or state agency follows its own procedures for taking such adverse action.
- If adverse action is taken by the home state against a nurse's multistate license, the nurse's multistate licensure privilege to practice in all other party state shall be deactivated until all encumbrances are removed from the multistate license. All home state disciplinary orders shall impose adverse action against a nurse's multistate license and shall include a statement that the nurse's multistate licensure privilege is deactivated in all party states during the pendency of the order.
- The compact does not override a party state's decision to use an alternative program in lieu of adverse action and the home state licensing board shall deactivate the multistate licensing privilege for the duration of the nurse's participation in the alternative program.

Article VI creates the CLIS and the process for the exchange of information under the NLC. The system requires all party states to participate and to include information on the licensure and discipline history of each nurse, as submitted by the party states, to assist in the coordination of nurse licensure and enforcement efforts. Those coordination efforts include:

- Formulating necessary procedures by the commission, in consultation with the administrator of the system for the identification, collection and exchange of information under the NLC;
- Promptly reporting by all licensing boards any adverse action, any current significant investigative information, denials of applications, the reason for application denials, and nurse participation in alternative programs, regardless of whether such participation is nonpublic or confidential under state law;
- Transmitting through the system current significant investigative information and participation in nonpublic or confidential alternative programs available only to the party states;
- Notwithstanding any other provision of law, providing that all party state licensing boards contributing information to the system may designate information that may not be shared

with nonparty states or disclosed to other entities or individuals without the express permission of the contributing state;
- Providing that any personal identifying information obtained from the system by a party state licensing board may not be shared with nonparty states or disclosed to other entities or individuals except to the extent permitted by the laws of the party state contributing the information;
- Allowing any information contributed to the system which is subsequently required to be expunged by the laws of the party state contributing the information to also be expunged from the system;
- Requiring the compact administrator of each party state to furnish a uniform data set to each other party state that includes, at a minimum:
  - Identifying information;
  - Licensure data;
  - Information related to alternative program participation; and
  - Other information that may facilitate the administration of the compact; and
- Requiring the compact administrator of a party state to provide all investigative documents and information requested by another party state.

Article VII establishes the Interstate Commission of Nurse Licensure Compact Administrators (commission), its authorities, duties and responsibilities. The party states establish the joint public entity known as the Interstate Commission of Nurse Licensure Compact Administrators as an instrumentality of the party states. The following provisions are included in the structure of the commission:

Venue - Judicial proceeding by or against the commission shall be brought solely and exclusively, in a court of competent jurisdiction where the commission's principal office is located.[37] The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

Sovereign Immunity - The compact does not waive sovereign immunity except to the extent sovereign immunity is waived in the party states. The administrators, officers, executive director, employees, and representatives of the commission are immune from suit and liability either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability cause by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the scope of commission employment, duties, or responsibilities.

Sovereign immunity under these provisions does not protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional, willful, or wanton misconduct of that person.

The commission shall defend any administrator, officer, executive director, employee, or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the person against whom the claim is made had a

[37]The principal office of the commission is located in Chicago, Illinois.

reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from that person's intentional, willful, or wanton misconduct. An individual is not prohibited from retaining his or her own counsel.

The commission shall also indemnify and hold harmless any officer, administrator, executive director, employee or representative of the commission for the amount of any judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from that person's intentional, willful, or wanton misconduct.

Compact Administrator - Each party state is limited to one administrator. The executive director of the state licensing board or his or her designee serves as the administrator of the compact for each party state. Any administrator may be removed or suspended from office as provided by the laws of the administrator's home state. Any vacancy occurring on the commission shall be filled in accordance with the laws of the party state in which the vacancy occurred.

Voting - Each administrator is entitled to one vote with regard to the adoption of the rules and the creation of the bylaws. The administrator shall have the opportunity to participate in the business and affairs of the commission and shall vote in person or by other means as allowed in the bylaws. The bylaws may also provide for the administrator's participation in commission meetings by telephone or other means of communication.

Meetings - The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the commission's bylaws and rules. All meetings are open to the public, and public notice of the meetings must be given in the same manner as required under Article VIII. Closed meetings are permitted if the commission is discussing:

- Failure of a party state to comply with its obligations under the compact;
- Employment, compensation, discipline, or other personnel matters, practices, or procedures related to specific employees or other matters related to the commission's internal personnel practices;
- Current, threatened, or reasonably anticipated litigation;
- Negotiation of contracts for the purchase or sale of goods, services or real estate;
- Accusations against any person of a crime or formal censure of any person;
- Disclosure of trade secrets or commercial or financial information that is privileged or confidential;
- Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
- Disclosure of investigatory records compiled for law enforcement purposes;
- Disclosure of information related to any reports prepared by or on behalf of the commission for the purpose of investigating compliance with this compact; or
- Matters specifically exempted from disclosure by federal or state statute.

If a meeting is closed to the public under this section, the commission's legal counsel or designee shall certify that the meeting, or portion of the meeting is closed and reference each relevant exempting provision. The commission shall keep minutes that fully and clearly describe all matters discussed during the closed session and shall provide a full and accurate summary of the action taken and reasons for those actions, including a description of the views expressed. All documents considered during the session must also be identified in the minutes. All minutes and documents from the closed session must remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.

Commission Bylaws -The commission is also required, by a majority vote of the administrators, to prescribe bylaws or rules to govern its conduct, including but not limited to:

- Establishing the commission's fiscal year;
- Providing reasonable standards and procedures:
  - For the establishment and meetings of other committees.
  - Governing any general or specific delegation of any authority or function of the commission.
- Providing reasonable procedures for calling and conducting meetings, ensuring reasonable advance notice of all meetings, and providing an opportunity for attendance by interested parties, with exceptions to protect the public's interest, the privacy of individuals, and proprietary information. The commission may only meet in closed session after a majority of members vote to close the meeting in whole or in part. As soon as practicable, the commission must make public a copy of the vote to close the meeting revealing the vote of each administrator, with no proxy vote allowed.
- Establishing the titles, duties, authority, and reasonable procedures for electing commission officers;
- Providing reasonable standards and procedures for establishing the commission's personnel policies and programs;
- Providing a mechanism for winding up the commission's operations and the equitable distribution of any surplus funds that may exist after the compact's termination upon the payment of all obligations;
- Publishing the commission bylaws and rules, its amendments thereto, in a convenient form on the commission's website;
- Maintaining the commission's financial records in accordance with the bylaws; and
- Meeting and taking action consistent with the compact and bylaws.

Adoption of Rules by the Commission - The commission may also:

- Adopt uniform rules to facilitate and coordinate implementation and administration of the compact. The rules shall have the force and effect of binding law in all party states;
- Bring and prosecute legal proceedings and actions in the name of the commission, provided that the standing of any licensing board to sue or be sued under applicable law is not affected;
- Purchase and maintain insurance and bonds;
- Borrow, accept, or contract for services of personnel, including employees of a party state or nonprofit organizations;
- Cooperate with other organizations that administer state compacts related to the regulation of nursing, including sharing administrative staff expenses, office space, or other resources;

- Hire employees, elect or appoint officers, fix compensation, define duties, grant such authority to carry out the compact, and establish personnel policies and programs relating to conflict of interest, qualifications of personnel, and other related personnel matters;
- Accept appropriate donations, grants, and gifts of money, equipment, supplies, materials, and services and dispose of the same while avoiding the appearance of any impropriety or conflict of interest;
- Lease, purchase, accept appropriate gifts or donations of, or otherwise own, hold, or improve or use any property, whether real, personal, or mixed, provided that, at all times the commission avoids any appearance of impropriety;
- Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property whether real, personal, or mixed;
- Establish a budget and make expenditures;
- Borrow money;
- Appoint committees, including advisory committees comprised of administrators, state nursing regulators, state legislators or their representatives, consumer representatives, and other interested persons;
- Exchange information and cooperate with law enforcement agencies;
- Adopt and use an official seal; and
- Perform other functions as may be necessary to achieve the compact's purpose consistent with the state regulation of nurse licensure and practice.

Financing of the Commission - The commission:

- Shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities;
- May levy and collect an annual assessment from each party state to cover the cost of operations, activities, and staff in its annual budget, as approved. The annual assessment amount, if approved, shall be determined by the commission based on a formula determined by the commission and adopted by rule that is binding on all party states;
- May not incur obligations of any kind before securing the adequate funds to meet the obligation and the commission may not pledge the credit of any party states, except by and with the authority of such party state; and
- Shall keep accurate accounts all receipts and disbursements which shall be subject to audit and accounting procedures and audited yearly by a certified or licensed public accountant;

Article VIII establishes the commission's authority for rulemaking. The commission exercises its rulemaking authority under this article and any rules adopted thereunder. Rules and amendments become binding as of the date specified in the rule or the amendment and have the same force and effect as any provision of the compact.

Rulemaking - The commission may adopt rules or amendments to its rules at a regular or special meeting; however, before adoption of a final rule, the commission must file a notice of proposed rulemaking at least 60 days prior to the commission meeting where the rule will be considered and voted upon. Notice of the proposed rule shall be posted on the commission's website and on the website of each licensing board or the publication in which each state would otherwise publish proposed rules.

The proposed rule notice must include:

- The proposed time, date, and location of the meeting in which the rule will be considered and voted upon;
- The text of the proposed rule or amendment and the reason for the proposed rule;
- A request for comments on the proposed rule from any interested person; and
- The manner in which an interested party may submit notice to the commission of his or her intention to attend the public hearing and his or her written comments.

Before adoption of the proposed rule, the commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public. The commission shall also grant an opportunity for a public hearing before it adopts a rule or amendment and publish the place, time, and date of that hearing.

Hearings must allow each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing. All hearings must be recorded and a copy made available upon request. Rules may be grouped together for the convenience of the commission; a separate hearing is not required for each rule. If no interested person appears at the public hearing, the commission may proceed with the adoption of the proposed rule.

Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing is not held, the commission shall consider all comments received. Action on the proposed rule will be by majority vote of the commission and the commission shall determine the effective date, if any, based on the rulemaking record and the full text of the rule.

Emergency Rulemaking - If a determination is made that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures in this compact and article are applied retroactively to this rule as soon as reasonably possible within 90 days after the effective date of the emergency rule. An emergency rule is one that must be adopted immediately to:

- Meet an imminent threat to public health, safety, or welfare;
- Prevent a loss of commission or party state funds; or
- Meet a deadline for the adoption of an administrative rule that is required by federal law or rule.

The commission may direct revisions to previously adopted rules or amendments to correct typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of these revisions shall be posted on the commission's website. These revisions are subject to challenge for 30 days after posting. Challenges may only be based on the grounds that the revisions results in a material change in the rule. The challenge must be made in writing before the end of the notice period. If there is no challenge, the rule takes effect without the commission's approval.

Article IX establishes the oversight, dispute resolution, and enforcement provisions of the compact. Oversight of the compact will be established by:

- Each party state enforcing the compact and taking all actions necessary and appropriate to effectuate the compact's purposes and intent;

- The commission being entitled to receive service of process in any proceeding that may affect the powers, responsibility, or actions of the commission and having standing to intervene in such a proceeding for all purposes. Failure to provide service of process in such a proceeding to the commission renders a judgment or order void as to the commission, this compact, or its adopted rules;

When the commission determines that a party state has defaulted under the compact:

- The commission shall provide written notice to the defaulting state and other party states of the nature of the default, the proposed means of curing the default, or any other action to be taken by the commission or provide remedial training and specific technical assistance regarding the default.
- If a state in default fails to cure the default, the defaulting state's membership in this compact may be terminated upon an affirmative vote of a majority of administrators and all rights, privileges, and benefits conferred by this compact may be terminated on the effective date of the termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.
- Termination of compact membership shall be imposed only after all other means of securing compliance have been exhausted. The commission shall give notice of intent to suspend or terminate to the governor of the defaulting state, the executive officer of the state's licensing board, and to all party states.
- A state whose compact membership is terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.
- The commission shall not bear any costs related to a state that is found to be in default or whose membership is terminated unless agreed upon in writing between the commission and the defaulting state.
- The defaulting state may appeal the action of the commission by petitioning the United States District Court for the District of Columbia or the federal district in which the commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorney fees.

The commission is also permitted to use a dispute resolution process in the following manner:

- Upon request by a party state, the commission shall attempt to resolve disputes related to the compact that arise between party states and party and nonparty states;
- The commission shall adopt a rule providing for both mediation and binding dispute resolution for disputes, as appropriate; and
- In the event the commission cannot resolve disputes among party states arising under this compact:
    - The party states may submit issues in the dispute to an arbitration panel, which will be comprised of individuals appointed by the compact administrator in each of the affected party states and an individual mutually agreed upon by the compact administrators of all party states involved in the dispute.
    - The decision of a majority of the arbitrators is final and binding.

The commission is charged with, in the reasonable exercise of its discretion, enforcement of the compact and its rules. By majority vote, the commission may initiate legal action in the United

States District of Columbia or the federal court in which the commission has its principal office against a party state that is in default to enforce compliance with the compact and the adopted bylaws and rules. Relief sought may include both injunctive relief and damages. If judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney fees.

The remedies provided in this Article are not exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.

Article X establishes the effective date, withdrawal and amendment provisions for the compact as follows:

- The compact becomes effective and binding on the date of legislative enactment of this compact by no fewer than 26 states or on December 31, 2018, whichever occurs first;
- All party states which were also parties to the prior Nurse Licensure Compact ("prior compact,") are deemed to have withdrawn from the prior compact within 6 months after the effective date of this compact;
- Each party start to this compact shall continue to recognize a nurse's multistate licensure privilege to practice in that party state issued under the prior compact until such party state is withdrawn from the prior compact;
- Any party state may withdraw from this compact by enacting a statute repealing the compact; however, a party state's withdrawal does not take effect until 6 months after the enactment of the repealing statute;
- A party state's withdrawal or termination does not affect the continuing requirement of the withdrawing or terminating state's licensing board to report adverse actions and significant investigations occurring before the effective date of such withdrawal or termination;
- This compact does not invalidate or prevent any nurse licensure agreement or other cooperative agreement between a party state and a nonparty state that is made in accordance with the other provisions of this compact;
- This compact may be amended by the party states; however, an amendment does not become effective and binding upon the party states unless and until it is enacted into the laws of all party states; and
- Representatives of nonparty states to this compact shall be invited to participate in the activities of the commission on a nonvoting basis, before the adoption of the compact by all party states.

Article XI addresses the construction and severability of the compact. The compact may be liberally construed so as to effectuate its purposes. The provisions of the compact are severable, and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the United States, or if its applicability to any government, agency, person, or circumstance is held invalid, the validity of the remainder of the compact and the applicability to any government, agency, person, or circumstance is not affected.

If this compact is declared to be contrary to the constitution of any party state, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable provisions.

Section 8 amends s. 464.012, F.S., relating to certification of advanced registered nurse practitioners to recognize that an applicant may hold a multistate license.

Section 9 amends s. 464.015, F.S., relating to titles and abbreviations, to recognize the alternative multistate license available under s. 464.0095, F.S., and to make grammatical changes.

Section 10 amends s. 464.018, F.S., relating to disciplinary actions, to recognize the alternative multistate license available under s. 464.0095, F.S., to align the grounds for denial of a license or disciplinary action with the reasons provided under the compact. Grammatical changes throughout the section are also made to modify "licensee" to "nurse."

The compact modified existing statutes to provide that an individual who entered a plea of guilty to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of nursing or the ability to practice nursing becomes grounds for discipline. The bill expands the listed adjudications that constitute grounds for disciplinary action to add "convicted of" and "entering a plea of guilty or nolo contendere" to what had previously said "found guilty of the following offenses."

The grounds for denial of a license or disciplinary action are also made applicable to multistate license applicants or multistate licensees.

The bill authorizes the board to take adverse action against a nurse's multistate license privilege and impose any of the penalties under s. 456.072, F.S., when the nurse is found guilty of violating subsection (1) or s. 456.072(1), F.S.

Section 11 amends s. 464.0195, F.S., relating to the Florida Center for Nursing and its goals. The bill directs the Florida Nursing Center to analyze the current nursing supply and demand in the state and make future projections, including an assessment of the impact of the state's participation in the NLC. The Florida Nursing Center may request information from the board about nurses licensed in the state or holding multistate licenses and other information reported to the board by employers of such nurses, other than personal identifying information.

Section 12 amends s. 768.28, F.S., relating to waiver of sovereign immunity, to provide that the executive director of the Board of Nursing, when serving as the state administrator of the compact, and any administrator, officer, executive director, employee, or representative of the commission, when acting within the scope of their employment, duties, or responsibilities in this state, are considered agents of the state. The bill also provides that the commission will pay any claims or judgments pursuant to s. 768.28, F.S., and may maintain insurance coverage to pay any such claim or judgments. These provisions conform state law to the terms of the compact.

Section 13 provides an effective date of December 31, 2018, or upon enactment of the Nurse Licensure Compact into law by 26 states, whichever occurs first.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

The commission requires most of its meetings to be open to the public and that such meetings, including rulemaking hearings, be publicly noticed 60 days prior to each meeting. Proposed rules must be posted to the commission's website and to the party state's licensing board websites or the publication in which each party state would otherwise publish proposed rules. The public must also be provided a reasonable opportunity for public comment, orally or in writing, for proposed rules.

However, the compact permits the commission to meet in closed, nonpublic meetings if the commission must discuss any of the following circumstances:

- Failure of a party state to comply with its obligations under the compact;
- Employment, compensation, discipline, or other personnel matters, practices, or procedures related to specific employees or other matters related to the commission's internal personnel practices;
- Current, threatened, or reasonably anticipated litigation;
- Negotiation of contracts for the purchase or sale of goods, services or real estate;
- Accusations against any person of a crime or formal censure any person;
- Disclosure of trade secrets or commercial or financial information that is privileged or confidential;
- Disclosure of information or a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
- Disclosure of investigatory records compiled for law enforcement purposes;
- Disclosure of information related to any reports prepared by or on behalf of the commission for the purpose of investigation of compliance with this compact; or
- Matters specifically exempted from disclosure by federal or state statute.

Closure of a public meetings for some of these reasons may be inconsistent with Florida law.

The commission is required to keep minutes of these closed sessions that fully describe all matters discussed and provide an accurate summary of actions taken. All minutes and documents of a closed meeting shall remain under seal according to the compact's provisions, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The compact authorizes administrators to develop rules that party states must adopt, which is potentially an unlawful delegation of legislative authority. The revised compact limits the rulemaking by the commission to rules that facilitate and coordinate the implementation and administration of the Nurse Licensure Compact.

If enacted into law, the state will bind itself to rules not yet promulgated and adopted by the commission. The Florida Supreme Court has held that while it is within the province of the Legislature to adopt federal statutes enacted by Congress and rules promulgated by federal administrative bodies that are in existence at the time the Legislature acts, it is an unconstitutional delegation of legislative authority to prospectively adopt federal statutes not yet enacted by Congress and rules not yet promulgated by federal administrative bodies.[38,39] Under this holding, the constitutionality of the bill's adoption of prospective rules might be questioned, and there does not appear to be binding Florida case law that squarely addresses this issue in the context of interstate compacts.

The most recent case Florida courts have had to address this issue was in *Department of Children and Family Services v. L.G.*, involving the Interstate Compact for the Placement of Children (ICPC).[40] The First District Court of Appeal considered an argument that the regulations adopted by the Association of Administrators of the Interstate Compact were binding and that the lower court's order permitting a mother and child to relocate to another state was in violation of the ICPC. The court denied the appeal and held that the Association's regulations did not apply as they conflicted with the ICPC and the regulations did not apply to the facts of the case.

The court also references language in the ICPC that confers to its compact administrators the "power to promulgate rules and regulations to carry out more effectively the terms and provisions of this compact."[41] The court states that "the precise legal effect of the ICPC compact administrators' regulations in Florida is unclear," but noted that it did not need to address the question to decide the case.[42] However, in a footnote, the court provided:

> Any regulations promulgated before Florida adopted the ICPC did not, of course, reflect the vote of a Florida compact administrator, and no such regulations were ever themselves enacted into law in Florida. When the Legislature did adopt the ICPC, it did not (and could not) enact as the law of Florida or adopt prospectively regulations then yet to be promulgated by an entity not even

[38] *Freimuth v. State*, 272 So.2d 473, 476 (Fla. 1972) (quoting *Fla. Ind. Comm'n v. State ex rel Orange State Oil Co.,* 155 Fla. 772 (1945).
[39] This prohibition is based on the separation of powers doctrine, set forth in Article II, Section 3 of the Florida Constitution, which has been construed in Florida to require the Legislature, when delegating the administration of legislative programs, to establish the minimum standards and guidelines ascertainable by reference to the enactment creating the program. *See Avatar Development Corp. v. State*, 723 So.2d 199 (Fla. 1998).
[40] 801 So.2d 1047 (Fla. 1st DCA 2001).
[41] Id at 1052.
[42] Id.

> covered by the Florida Administrative Procedure Act. *See Freimuth v. State,* 272 So.2d 473, 476 (Fla.1972); *Fla. Indus. Comm'n v. State ex rel. Orange State Oil Co.,* 155 Fla. 772, 21 So.2d 599, 603 (1945) ("[I]t is within the province of the legislature to approve and adopt the provisions of federal statutes, and all of the administrative rules made by a federal administrative body, that are in existence and in effect at the time the legislature acts, but it would be an unconstitutional delegation of legislative power for the legislature to adopt in advance any federal act or the ruling of any federal administrative body that Congress or such administrative body might see fit to adopt in the future."); *Brazil v. Div. of Admin.,* 347 So.2d 755, 757–58 (Fla. 1st DCA 1977), *disapproved on other grounds by LaPointe Outdoor Adver. v. Fla. Dep't of Transp.,* 398 So.2d 1370, 1370 (Fla.1981). The ICPC compact administrators stand on the same footing as federal government administrators in this regard.[43]

In accordance with the discussion provided by the court in this above-cited footnote, it may be argued that the bill's delegation of rule-making authority to the commission is similar to the delegation to the ICPC compact administrators, and thus, could constitute an unlawful delegation of legislative authority. This case, however, does not appear to be binding as precedent as the court's footnote discussion is dicta.[44]

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Under PCS/SB 1316, a Florida nurse converting his or her single-state license would be subject to a fee to convert to a multistate license.

Health care employers, such as hospitals, nursing homes, assisted living facilities and others, may benefit from the availability of additional nurses in the workforce as nurses from other party states move to Florida for employment. According to one report, the number of vacant RN positions for 2015 in Florida was 12,493, and 9,947 new RN positions are expected to be created in Florida by the end of 2016.[45] Hospitals are facing

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[43] *Id.*

[44] Dicta are statements of a court that are not essential to the determination of the case before it and are not a part of the law of the case. Dicta has no biding legal effect and is without force as judicial precedent. 12A FLA JUR. 2D *Courts and Judges* s. 191 (2015).

[45] Kathleen McGrory, *Florida Facing a "Nursing Shortage Tsunami" Due to Increased Population, More Insured Patients*, TAMPA BAY TIMES, Feb. 1, 2016, *available at* http://www.tampabay.com/news/health/florida-facing-a-nursing-shortage-tsunami-due-to-increased-population-more/2263588.

an average turnover rate of 18.3 percent in 2015 for registered nurses in hospitals providing additional recruitment opportunities.[46]

C. Government Sector Impact:

The Department of Health's (DOH) office of Medical Quality Assurance (MQA) reports an expected increase in revenues associated with the multistate application initial and renewal fees. The increase of applications in Florida is unknown; therefore, the fiscal impact for this component is indeterminate at this time.[47] There are currently 1.4 million nurses with a multistate license.

The DOH anticipates an increase in workload and recurring expenses for:

- Additional regulations for new licensure;
- Investigation of complaints and investigations related to that new licensure; and
- Processing of initial and renewal applications and related fees.[48]

The DOH is unable to determine the cost of these expenses at this time, but most of these expenses can be absorbed within existing DOH resources.

The annual membership cost with the Nurse Licensure Compact is approximately $6,000 which the DOH indicates can be absorbed within current budget authority.[49]

The DOH also will incur non-recurring costs to update the Nursing application and the Licensing and Information Database System, both of which the DOH indicates can be absorbed within existing resources.[50]

VI. Technical Deficiencies:

None.

VII. Related Issues:

Florida's continuing education requirements for nurses (24 hours of continuing education over two years) would not apply to compact nurses. Florida's Board of Nursing could not require or enforce these continuing education requirements on nurses from other states that practiced in Florida under a multistate license privilege. Some compact states do not require continuing education.

Florida requires applicants to submit fingerprints for state and federal criminal records checks. The grandfather clause for nurses who are currently holding or renewing a multistate license

[46] Id.
[47] *Supra* note 16, at 6.
[48] Id at 6-7.
[49] Id.
[50] Id.

privilege would exempt nurses from the criminal background screening whose home state does not require criminal background screening.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 456.073, 456.076, 464.003, 464.004, 464.008, 464.009, 464.012, 464.015, 464.018, and 464.0195.

This bill creates section 464.0095 of the Florida Statutes.

IX. Additional Information:

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

Recommended CS by Appropriations Subcommittee on Health and Human Services on February 17, 2016:
The proposed CS amends Florida Statutes relating to sovereign immunity to conform to the terms of the compact by providing that certain individuals, when carrying out duties or responsibilities relating to the compact are deemed agents of the state and by providing that the commission will pay any claims or judgments pursuant to a waiver of sovereign immunity and may maintain insurance coverage to pay such claims or judgments.

B. Amendments:

None.

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Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Health and Human Services)

A bill to be entitled

An act relating to the Nurse Licensure Compact; amending s. 456.073, F.S.; requiring the Department of Health to report certain investigative information to the coordinated licensure information system; amending s. 456.076, F.S.; requiring an impaired practitioner consultant to disclose certain information to the department upon request; requiring a nurse holding a multistate license to report participation in a treatment program to the department; amending s. 464.003, F.S.; revising definitions to conform to changes made by the compact; amending s. 464.004, F.S.; requiring the executive director of the Board of Nursing or his or her designee to serve as state administrator of the Nurse Licensure Compact; amending s. 464.008, F.S.; providing eligibility criteria for a multistate license; requiring that multistate licenses be distinguished from single-state licenses; exempting certain persons from licensed practical nurse and registered nurse licensure requirements; amending s. 464.009, F.S.; exempting certain persons from requirements for licensure by endorsement; creating s. 464.0095, F.S.; creating the Nurse Licensure Compact; providing findings and purpose; providing definitions; providing for the recognition of nursing licenses in party states; requiring party states to perform criminal history checks of licensure applicants;

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providing requirements for obtaining and retaining a multistate license; authorizing party states to take adverse action against a nurse's multistate licensure privilege; requiring notification to the home licensing state of an adverse action against a licensee; requiring nurses practicing in party states to comply with state practice laws; providing limitations for licensees not residing in a party state; providing the effect of the act on a current licensee; providing application requirements for a multistate license; providing licensure requirements when a licensee moves between party states or to a nonparty state; providing certain authority to state licensing boards of party states; requiring deactivation of a nurse's multistate licensure privilege under certain circumstances; authorizing participation in an alternative program in lieu of adverse action against a license; requiring all party states to participate in a coordinated licensure information system; providing for the development of the system, reporting procedures, and the exchange of certain information between party states; establishing the Interstate Commission of Nurse Licensure Compact Administrators; providing for the jurisdiction and venue for court proceedings; providing membership and duties; authorizing the commission to adopt rules; providing rulemaking procedures; providing for state enforcement of the compact; providing for the termination of compact membership; providing

procedures for the resolution of certain disputes; providing an effective date of the compact; providing a procedure for membership termination; providing compact amendment procedures; authorizing nonparty states to participate in commission activities before adoption of the compact; providing construction and severability; amending s. 464.012, F.S.; authorizing a multistate licensee under the compact to be certified as an advanced registered nurse practitioner if certain eligibility criteria are met; amending s. 464.015, F.S.; authorizing registered nurses and licensed practical nurses holding a multistate license under the compact to use certain titles and abbreviations; amending s. 464.018, F.S.; revising the grounds for denial of a nursing license or disciplinary action against a nursing licensee; authorizing certain disciplinary action under the compact for certain prohibited acts; amending s. 464.0195, F.S.; revising the information required to be included in the database on nursing supply and demand; requiring the Florida Center for Nursing to analyze and make future projections of the supply and demand for nurses; authorizing the center to request, and requiring the Board of Nursing to provide, certain information about licensed nurses; amending s. 768.28, F.S.; designating the state administrator of the Nurse Licensure Compact and other members, employees, or representatives of the Interstate Commission of Nurse Licensure Compact Administrators as state agents for

the purpose of applying sovereign immunity and waivers of sovereign immunity; requiring the commission to pay certain claims or judgments; authorizing the commission to maintain insurance coverage to pay certain claims or judgments; providing a contingent effective date.

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

Section 1. Subsection (10) of section 456.073, Florida Statutes, is amended to read:

456.073 Disciplinary proceedings.—Disciplinary proceedings for each board shall be within the jurisdiction of the department.

(10) The complaint and all information obtained pursuant to the investigation by the department are confidential and exempt from s. 119.07(1) until 10 days after probable cause has been found to exist by the probable cause panel or by the department, or until the regulated professional or subject of the investigation waives his or her privilege of confidentiality, whichever occurs first. The department shall report any significant investigation information relating to a nurse holding a multistate license to the coordinated licensure information system pursuant to s. 464.0095. Upon completion of the investigation and a recommendation by the department to find probable cause, and pursuant to a written request by the subject or the subject's attorney, the department shall provide the subject an opportunity to inspect the investigative file or, at the subject's expense, forward to the subject a copy of the

investigative file. Notwithstanding s. 456.057, the subject may inspect or receive a copy of any expert witness report or patient record connected with the investigation if the subject agrees in writing to maintain the confidentiality of any information received under this subsection until 10 days after probable cause is found and to maintain the confidentiality of patient records pursuant to s. 456.057. The subject may file a written response to the information contained in the investigative file. Such response must be filed within 20 days of mailing by the department, unless an extension of time has been granted by the department. This subsection does not prohibit the department from providing such information to any law enforcement agency or to any other regulatory agency.

Section 2. Subsection (9) of section 456.076, Florida Statutes, is amended to read:

456.076 Treatment programs for impaired practitioners.—

(9) An impaired practitioner consultant is the official custodian of records relating to the referral of an impaired licensee or applicant to that consultant and any other interaction between the licensee or applicant and the consultant. The consultant may disclose to the impaired licensee or applicant or his or her designee any information that is disclosed to or obtained by the consultant or that is confidential under paragraph (6)(a), but only to the extent that it is necessary to do so to carry out the consultant's duties under this section. The department, and any other entity that enters into a contract with the consultant to receive the services of the consultant, has direct administrative control over the consultant to the extent necessary to receive

disclosures from the consultant as allowed by federal law. The consultant must disclose to the department, upon the department's request, whether an applicant for a multistate license under s. 464.0095 is participating in a treatment program and must report to the department when a nurse holding a multistate license under s. 464.0095 enters a treatment program. A nurse holding a multistate license pursuant to s. 464.0095 must report to the department within 2 business days after entering a treatment program pursuant to this section. If a disciplinary proceeding is pending, an impaired licensee may obtain such information from the department under s. 456.073.

Section 3. Subsections (16) and (22) of section 464.003, Florida Statutes, are amended to read:

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

(16) "Licensed practical nurse" means any person licensed in this state or holding an active multistate license under s. 464.0095 to practice practical nursing.

(22) "Registered nurse" means any person licensed in this state or holding an active multistate license under s. 464.0095 to practice professional nursing.

Section 4. Subsection (5) is added to section 464.004, Florida Statutes, to read:

464.004 Board of Nursing; membership; appointment; terms.—

(5) The executive director of the board appointed pursuant to s. 456.004(2) or his or her designee shall serve as the state administrator of the Nurse Licensure Compact as required under s. 464.0095.

Section 5. Subsection (2) of section 464.008, Florida Statutes, is amended, and subsection (5) is added to that

section, to read:

464.008 Licensure by examination.—

(2)(a) Each applicant who passes the examination and provides proof of meeting the educational requirements specified in subsection (1) shall, unless denied pursuant to s. 464.018, be entitled to licensure as a registered professional nurse or a licensed practical nurse, whichever is applicable.

(b) An applicant who resides in this state, meets the licensure requirements of this section, and meets the criteria for multistate licensure under s. 464.0095 may request the issuance of a multistate license from the department.

(c) A nurse who holds a single-state license in this state and applies to the department for a multistate license must meet the eligibility criteria for a multistate license under s. 464.0095 and must pay an application and licensure fee to change the licensure status.

(d) The department shall conspicuously distinguish a multistate license from a single-state license.

(5) A person holding an active multistate license in another state pursuant to s. 464.0095 is exempt from the licensure requirements of this section.

Section 6. Subsection (7) is added to section 464.009, Florida Statutes, to read:

464.009 Licensure by endorsement.—

(7) A person holding an active multistate license in another state pursuant to s. 464.0095 is exempt from the requirements for licensure by endorsement in this section.

Section 7. Section 464.0095, Florida Statutes, is created to read:

464.0095 Nurse Licensure Compact.—The Nurse Licensure Compact is hereby enacted into law and entered into by this state with all other jurisdictions legally joining therein in the form substantially as follows:

ARTICLE I

FINDINGS AND DECLARATION OF PURPOSE

(1) The party states find that:

(a) The health and safety of the public are affected by the degree of compliance with and the effectiveness of enforcement activities related to state nurse licensure laws.

(b) Violations of nurse licensure and other laws regulating the practice of nursing may result in injury or harm to the public.

(c) The expanded mobility of nurses and the use of advanced communication technologies as part of the nation’s health care delivery system require greater coordination and cooperation among states in the areas of nurse licensure and regulation.

(d) New practice modalities and technology make compliance with individual state nurse licensure laws difficult and complex.

(e) The current system of duplicative licensure for nurses practicing in multiple states is cumbersome and redundant for both nurses and states.

(f) Uniformity of nurse licensure requirements throughout the states promotes public safety and public health benefits.

(2) The general purposes of this compact are to:

(a) Facilitate the states’ responsibility to protect the public’s health and safety.

(b) Ensure and encourage the cooperation of party states in

the areas of nurse licensure and regulation.

(c) Facilitate the exchange of information among party states in the areas of nurse regulation, investigation, and adverse actions.

(d) Promote compliance with the laws governing the practice of nursing in each jurisdiction.

(e) Invest all party states with the authority to hold a nurse accountable for meeting all state practice laws in the state in which the patient is located at the time care is rendered through the mutual recognition of party state licenses.

(f) Decrease redundancies in the consideration and issuance of nurse licenses.

(g) Provide opportunities for interstate practice by nurses who meet uniform licensure requirements.

ARTICLE II

DEFINITIONS

As used in this compact, the term:

(1) "Adverse action" means any administrative, civil, equitable, or criminal action permitted by a state's laws which is imposed by a licensing board or other authority against a nurse, including actions against an individual's license or multistate licensure privilege, such as revocation, suspension, probation, monitoring of the licensee, limitation on the licensee's practice, or any other encumbrance on licensure affecting a nurse's authorization to practice, including issuance of a cease and desist action.

(2) "Alternative program" means a nondisciplinary monitoring program approved by a licensing board.

(3) "Commission" means the Interstate Commission of Nurse

Licensure Compact Administrators established by this compact.

(4) "Compact" means the Nurse Licensure Compact recognized, established, and entered into by the state under this compact.

(5) "Coordinated licensure information system" means an integrated process for collecting, storing, and sharing information on nurse licensure and enforcement activities related to nurse licensure laws which is administered by a nonprofit organization composed of and controlled by licensing boards.

(6) "Current significant investigative information" means:

(a) Investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the nurse to respond, if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or

(b) Investigative information that indicates that the nurse represents an immediate threat to public health and safety regardless of whether the nurse has been notified and had an opportunity to respond.

(7) "Encumbrance" means a revocation or suspension of, or any limitation on, the full and unrestricted practice of nursing imposed by a licensing board.

(8) "Home state" means the party state that is the nurse's primary state of residence.

(9) "Licensing board" means a party state's regulatory body responsible for issuing nurse licenses.

(10) "Multistate license" means a license to practice as a registered nurse (RN) or a licensed practical or vocational nurse (LPN/VN) issued by a home state licensing board which

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authorizes the licensed nurse to practice in all party states under a multistate licensure privilege.

(11) "Multistate licensure privilege" means a legal authorization associated with a multistate license permitting the practice of nursing as either an RN or an LPN/VN in a remote state.

(12) "Nurse" means an RN or LPN/VN, as those terms are defined by each party state's practice laws.

(13) "Party state" means any state that has adopted this compact.

(14) "Remote state" means a party state other than the home state.

(15) "Single-state license" means a nurse license issued by a party state which authorizes practice only within the issuing state and does not include a multistate licensure privilege to practice in any other party state.

(16) "State" means a state, territory, or possession of the United States, or the District of Columbia.

(17) "State practice laws" means a party state's laws, rules, and regulations that govern the practice of nursing, define the scope of nursing practice, and create the methods and grounds for imposing discipline. The term does not include requirements necessary to obtain and retain a license, except for qualifications or requirements of the home state.

ARTICLE III

GENERAL PROVISIONS AND JURISDICTION

(1) A multistate license to practice registered or licensed practical or vocational nursing issued by a home state to a resident in that state is recognized by each party state as

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authorizing a nurse to practice as an RN or as an LPN/VN under a multistate licensure privilege in each party state.

(2) Each party state must implement procedures for considering the criminal history records of applicants for initial multistate licensure or licensure by endorsement. Such procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that state's criminal records.

(3) In order for an applicant to obtain or retain a multistate license in the home state, each party state must require that the applicant fulfills the following criteria:

(a) Has met the home state's qualifications for licensure or renewal of licensure, as well as all other applicable state laws.

(b)1. Has graduated or is eligible to graduate from a licensing board-approved RN or LPN/VN prelicensure education program; or

2. Has graduated from a foreign RN or LPN/VN prelicensure education program that has been approved by the authorized accrediting body in the applicable country and has been verified by a licensing board-approved independent credentials review agency to be comparable to a licensing board-approved prelicensure education program.

(c) If the applicant is a graduate of a foreign prelicensure education program not taught in English, or if English is not the applicant's native language, has successfully passed a licensing board-approved English proficiency

examination that includes the components of reading, speaking, writing, and listening.

(d) Has successfully passed an NCLEX-RN or NCLEX-PN Examination or recognized predecessor, as applicable.

(e) Is eligible for or holds an active, unencumbered license.

(f) Has submitted, in connection with an application for initial licensure or licensure by endorsement, fingerprints or other biometric data for the purpose of obtaining criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that state's criminal records.

(g) Has not been convicted or found guilty, or has entered into an agreed disposition other than a disposition that results in nolle prosequi, of a felony offense under applicable state or federal criminal law.

(h) Has not been convicted or found guilty, or has entered into an agreed disposition other than a disposition that results in nolle prosequi, of a misdemeanor offense related to the practice of nursing as determined on a case-by-case basis.

(i) Is not currently enrolled in an alternative program.

(j) Is subject to self-disclosure requirements regarding current participation in an alternative program.

(k) Has a valid social security number.

(4) All party states may, in accordance with existing state due process law, take adverse action against a nurse's multistate licensure privilege, such as revocation, suspension, probation, or any other action that affects the nurse's authorization to practice under a multistate licensure

privilege, including cease and desist actions. If a party state takes such action, it shall promptly notify the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the home state of any such actions by remote states.

(5) A nurse practicing in a party state shall comply with the state practice laws of the state in which the patient is located at the time service is provided. The practice of nursing is not limited to patient care but includes all nursing practice as defined by the state practice laws of the party state in which the patient is located. The practice of nursing in a party state under a multistate licensure privilege subjects a nurse to the jurisdiction of the licensing board, the courts, and the laws of the party state in which the patient is located at the time service is provided.

(6) A person not residing in a party state shall continue to be able to apply for a party state's single-state license as provided under the laws of each party state. The single-state license granted to such a person does not grant the privilege to practice nursing in any other party state. This compact does not affect the requirements established by a party state for the issuance of a single-state license.

(7) A nurse holding a home state multistate license, on the effective date of this compact, may retain and renew the multistate license issued by the nurse's then-current home state, provided that the nurse who changes his or her primary state of residence after the effective date meets all applicable requirements under subsection (3) to obtain a multistate license from a new home state. A nurse who fails to satisfy the

multistate licensure requirements under subsection (3) due to a disqualifying event occurring after the effective date is ineligible to retain or renew a multistate license, and the nurse's multistate license shall be revoked or deactivated in accordance with applicable rules adopted by the commission.

ARTICLE IV

APPLICATIONS FOR LICENSURE IN A PARTY STATE

(1) Upon application for a multistate license, the licensing board in the issuing party state shall ascertain, through the coordinated licensure information system, whether the applicant has ever held, or is the holder of, a license issued by any other state, whether there are any encumbrances on any license or multistate licensure privilege held by the applicant, whether any adverse action has been taken against any license or multistate licensure privilege held by the applicant, and whether the applicant is currently participating in an alternative program.

(2) A nurse may hold a multistate license, issued by the home state, in only one party state at a time.

(3) If a nurse changes his or her primary state of residence by moving from one party state to another party state, the nurse must apply for licensure in the new home state, and the multistate license issued by the prior home state must be deactivated in accordance with applicable rules adopted by the commission.

(a) The nurse may apply for licensure in advance of a change in his or her primary state of residence.

(b) A multistate license may not be issued by the new home state until the nurse provides satisfactory evidence of a change

in his or her primary state of residence to the new home state and satisfies all applicable requirements to obtain a multistate license from the new home state.

(4) If a nurse changes his or her primary state of residence by moving from a party state to a nonparty state, the multistate license issued by the prior home state must convert to a single-state license valid only in the former home state.

ARTICLE V

ADDITIONAL AUTHORITY VESTED IN PARTY STATE LICENSING BOARDS

(1) In addition to the other powers conferred by state law, a licensing board or state agency may:

(a) Take adverse action against a nurse's multistate licensure privilege to practice within that party state.

1. Only the home state has the power to take adverse action against a nurse's license issued by the home state.

2. For purposes of taking adverse action, the home state licensing board or state agency shall give the same priority and effect to conduct reported by a remote state as it would if such conduct had occurred within the home state. In so doing, the home state shall apply its own state laws to determine appropriate action.

(b) Issue cease and desist orders or impose an encumbrance on a nurse's authority to practice within that party state.

(c) Complete any pending investigation of a nurse who changes his or her primary state of residence during the course of such investigation. The licensing board or state agency may also take appropriate action and shall promptly report the conclusions of such investigation to the administrator of the coordinated licensure information system. The administrator of

the coordinated licensure information system shall promptly notify the new home state of any such action.

(d) Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses or the production of evidence. Subpoenas issued by a licensing board or state agency in a party state for the attendance and testimony of witnesses or the production of evidence from another party state shall be enforced in the latter state by any court of competent jurisdiction according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, and mileage and other fees required by the service statutes of the state in which the witnesses or evidence is located.

(e) Obtain and submit, for each nurse licensure applicant, fingerprint or other biometric-based information to the Federal Bureau of Investigation for criminal background checks, receive the results of the Federal Bureau of Investigation record search on criminal background checks, and use the results in making licensure decisions.

(f) If otherwise permitted by state law, recover from the affected nurse the costs of investigations and disposition of cases resulting from any adverse action taken against that nurse.

(g) Take adverse action based on the factual findings of the remote state, provided that the licensing board or state agency follows its own procedures for taking such adverse action.

(2) If adverse action is taken by the home state against a

nurse's multistate license, the nurse's multistate licensure privilege to practice in all other party states shall be deactivated until all encumbrances are removed from the multistate license. All home state disciplinary orders that impose adverse action against a nurse's multistate license shall include a statement that the nurse's multistate licensure privilege is deactivated in all party states during the pendency of the order.

(3) This compact does not override a party state's decision that participation in an alternative program may be used in lieu of adverse action. The home state licensing board shall deactivate the multistate licensure privilege under the multistate license of any nurse for the duration of the nurse's participation in an alternative program.

ARTICLE VI

COORDINATED LICENSURE INFORMATION SYSTEM AND EXCHANGE INFORMATION

(1) All party states shall participate in a coordinated licensure information system relating to all licensed RNs and LPNs/VNs. This system shall include information on the licensure and disciplinary history of each nurse, as submitted by party states, to assist in the coordination of nurse licensure and enforcement efforts.

(2) The commission, in consultation with the administrator of the coordinated licensure information system, shall formulate necessary and proper procedures for the identification, collection, and exchange of information under this compact.

(3) All licensing boards shall promptly report to the coordinated licensure information system any adverse action, any

current significant investigative information, denials of applications, the reasons for application denials, and nurse participation in alternative programs known to the licensing board regardless of whether such participation is deemed nonpublic or confidential under state law.

(4) Current significant investigative information and participation in nonpublic or confidential alternative programs shall be transmitted through the coordinated licensure information system only to party state licensing boards.

(5) Notwithstanding any other provision of law, all party state licensing boards contributing information to the coordinated licensure information system may designate information that may not be shared with nonparty states or disclosed to other entities or individuals without the express permission of the contributing state.

(6) Any personal identifying information obtained from the coordinated licensure information system by a party state licensing board may not be shared with nonparty states or disclosed to other entities or individuals except to the extent permitted by the laws of the party state contributing the information.

(7) Any information contributed to the coordinated licensure information system which is subsequently required to be expunged by the laws of the party state contributing that information is also expunged from the coordinated licensure information system.

(8) The compact administrator of each party state shall furnish a uniform data set to the compact administrator of each other party state, which shall include, at a minimum:

(a) Identifying information.

(b) Licensure data.

(c) Information related to alternative program participation.

(d) Other information that may facilitate the administration of this compact, as determined by commission rules.

(9) The compact administrator of a party state shall provide all investigative documents and information requested by another party state.

ARTICLE VII

ESTABLISHMENT OF THE INTERSTATE COMMISSION OF NURSE LICENSURE COMPACT ADMINISTRATORS

(1) The party states hereby create and establish a joint public entity known as the Interstate Commission of Nurse Licensure Compact Administrators.

(a) The commission is an instrumentality of the party states.

(b) Venue is proper, and judicial proceedings by or against the commission shall be brought solely and exclusively, in a court of competent jurisdiction where the commission's principal office is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

(c) This compact does not waive sovereign immunity except to the extent sovereign immunity is waived in the party states.

(2)(a) Each party state shall have and be limited to one administrator. The executive director of the state licensing board or his or her designee shall be the administrator of this

compact for each party state. Any administrator may be removed or suspended from office as provided by the law of the state from which the administrator is appointed. Any vacancy occurring on the commission shall be filled in accordance with the laws of the party state in which the vacancy exists.

(b) Each administrator is entitled to one vote with regard to the adoption of rules and the creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the commission. An administrator shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for an administrator's participation in meetings by telephone or other means of communication.

(c) The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the commission's bylaws or rules.

(d) All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under Article VIII of this compact.

(e) The commission may convene in a closed, nonpublic meeting if the commission must discuss:

1. Failure of a party state to comply with its obligations under this compact;

2. The employment, compensation, discipline, or other personnel matters, practices, or procedures related to specific employees or other matters related to the commission's internal personnel practices and procedures;

3. Current, threatened, or reasonably anticipated litigation;

4. Negotiation of contracts for the purchase or sale of

goods, services, or real estate;

5. Accusing any person of a crime or formally censuring any person;

6. Disclosure of trade secrets or commercial or financial information that is privileged or confidential;

7. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

8. Disclosure of investigatory records compiled for law enforcement purposes;

9. Disclosure of information related to any reports prepared by or on behalf of the commission for the purpose of investigation of compliance with this compact; or

10. Matters specifically exempted from disclosure by federal or state statute.

(f) If a meeting, or portion of a meeting, is closed pursuant to this subsection, the commission's legal counsel or designee shall certify that the meeting, or portion of the meeting, is closed and shall reference each relevant exempting provision. The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefor, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.

(3) The commission shall, by a majority vote of the

administrators, prescribe bylaws or rules to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of this compact, including, but not limited to:

(a) Establishing the commission's fiscal year.

(b) Providing reasonable standards and procedures:

1. For the establishment and meetings of other committees.

2. Governing any general or specific delegation of any authority or function of the commission.

(c) Providing reasonable procedures for calling and conducting meetings of the commission, ensuring reasonable advance notice of all meetings, and providing an opportunity for attendance of such meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of individuals, and proprietary information, including trade secrets. The commission may meet in closed session only after a majority of the administrators vote to close a meeting in whole or in part. As soon as practicable, the commission must make public a copy of the vote to close the meeting revealing the vote of each administrator, with no proxy votes allowed.

(d) Establishing the titles, duties and authority, and reasonable procedures for the election of the commission's officers.

(e) Providing reasonable standards and procedures for the establishment of the commission's personnel policies and programs. Notwithstanding any civil service or other similar laws of any party state, the bylaws shall exclusively govern the commission's personnel policies and programs.

(f) Providing a mechanism for winding up the commission's operations and the equitable disposition of any surplus funds that may exist after the termination of this compact after the payment or reserving of all of its debts and obligations.

(4) The commission shall publish its bylaws and rules, and any amendments thereto, in a convenient form on the commission's website.

(5) The commission shall maintain its financial records in accordance with the bylaws.

(6) The commission shall meet and take such actions as are consistent with this compact and the bylaws.

(7) The commission may:

(a) Adopt uniform rules to facilitate and coordinate implementation and administration of this compact. The rules shall have the force and effect of law and are binding in all party states.

(b) Bring and prosecute legal proceedings or actions in the name of the commission, provided that the standing of any licensing board to sue or be sued under applicable law is not affected.

(c) Purchase and maintain insurance and bonds.

(d) Borrow, accept, or contract for services of personnel, including employees of a party state or nonprofit organizations.

(e) Cooperate with other organizations that administer state compacts related to the regulation of nursing, including sharing administrative or staff expenses, office space, or other resources.

(f) Hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate

authority to carry out the purposes of this compact, and establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters.

(g) Accept any and all appropriate donations, grants, and gifts of money, equipment, supplies, materials, and services and receive, use, and dispose of the same, provided that, at all times, the commission avoids any appearance of impropriety or conflict of interest.

(h) Lease, purchase, accept appropriate gifts or donations of, or otherwise own, hold, improve, or use any property, whether real, personal, or mixed, provided that, at all times, the commission avoids any appearance of impropriety.

(i) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, whether real, personal, or mixed.

(j) Establish a budget and make expenditures.

(k) Borrow money.

(l) Appoint committees, including advisory committees comprised of administrators, state nursing regulators, state legislators or their representatives, consumer representatives, and other interested persons.

(m) Provide information to, receive information from, and cooperate with law enforcement agencies.

(n) Adopt and use an official seal.

(o) Perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of nurse licensure and practice.

(8) Relating to the financing of the commission, the

commission:

(a) Shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

(b) May also levy and collect an annual assessment from each party state to cover the cost of its operations, activities, and staff in its annual budget as approved each year. The aggregate annual assessment amount, if any, shall be allocated based on a formula to be determined by the commission, which shall adopt a rule that is binding on all party states.

(c) May not incur obligations of any kind before securing the funds adequate to meet the same; and the commission may not pledge the credit of any of the party states, except by and with the authority of such party state.

(d) Shall keep accurate accounts of all receipts and disbursements. The commission's receipts and disbursements are subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in, and become part of, the commission's annual report.

(9) Relating to the sovereign immunity, defense, and indemnification of the commission:

(a) The administrators, officers, executive director, employees, and representatives of the commission are immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising

out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the scope of commission employment, duties, or responsibilities. This paragraph does not protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional, willful, or wanton misconduct of that person.

(b) The commission shall defend any administrator, officer, executive director, employee, or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from that person's intentional, willful, or wanton misconduct. This paragraph does not prohibit that person from retaining his or her own counsel.

(c) The commission shall indemnify and hold harmless any administrator, officer, executive director, employee, or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional,

willful, or wanton misconduct of that person.

ARTICLE VIII

RULEMAKING

(1) The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this article and the rules adopted thereunder. Rules and amendments become binding as of the date specified in each rule or amendment and have the same force and effect as provisions of this compact.

(2) Rules or amendments to the rules shall be adopted at a regular or special meeting of the commission.

(3) Before adoption of a final rule or final rules by the commission, and at least 60 days before the meeting at which the rule will be considered and voted upon, the commission shall file a notice of proposed rulemaking:

(a) On the commission's website.

(b) On the website of each licensing board or the publication in which each state would otherwise publish proposed rules.

(4) The notice of proposed rulemaking shall include:

(a) The proposed time, date, and location of the meeting in which the rule will be considered and voted upon.

(b) The text of the proposed rule or amendment and the reason for the proposed rule.

(c) A request for comments on the proposed rule from any interested person.

(d) The manner in which an interested person may submit notice to the commission of his or her intention to attend the public hearing and any written comments.

(5) Before adoption of a proposed rule, the commission

shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.

(6) The commission shall grant an opportunity for a public hearing before it adopts a rule or amendment.

(7) The commission shall publish the place, time, and date of the scheduled public hearing.

(a) Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing. All hearings will be recorded, and a copy will be made available upon request.

(b) This article does not require a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this article.

(8) If no interested person appears at the public hearing, the commission may proceed with adoption of the proposed rule.

(9) Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing is not held, the commission shall consider all written and oral comments received.

(10) The commission shall, by majority vote of all administrators, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

(11) Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in this compact and in this article are applied retroactively to the rule as soon as reasonably possible within 90 days after the effective date of

the rule. For the purposes of this subsection, an emergency rule is one that must be adopted immediately in order to:

(a) Meet an imminent threat to public health, safety, or welfare;

(b) Prevent a loss of commission or party state funds; or

(c) Meet a deadline for the adoption of an administrative rule that is required by federal law or rule.

(12) The commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the commission's website. The revision is subject to challenge by any person for 30 days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge must be made in writing and delivered to the commission before the end of the notice period. If no challenge is made, the revision shall take effect without further action. If the revision is challenged, the revision may not take effect without the commission's approval.

ARTICLE IX

OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

(1) Oversight of this compact shall be accomplished by:

(a) Each party state, which shall enforce this compact and take all actions necessary and appropriate to effectuate this compact's purposes and intent.

(b) The commission, which is entitled to receive service of process in any proceeding that may affect the powers, responsibilities, or actions of the commission and has standing to intervene in such a proceeding for all purposes. Failure to

provide service of process in such proceeding to the commission renders a judgment or order void as to the commission, this compact, or adopted rules.

(2) When the commission determines that a party state has defaulted in the performance of its obligations or responsibilities under this compact or the adopted rules, the commission shall:

(a) Provide written notice to the defaulting state and other party states of the nature of the default, the proposed means of curing the default, or any other action to be taken by the commission.

(b) Provide remedial training and specific technical assistance regarding the default.

(3) If a state in default fails to cure the default, the defaulting state's membership in this compact may be terminated upon an affirmative vote of a majority of the administrators, and all rights, privileges, and benefits conferred by this compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

(4) Termination of membership in this compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the commission to the governor of the defaulting state, to the executive officer of the defaulting state's licensing board, and each of the party states.

(5) A state whose membership in this compact is terminated is responsible for all assessments, obligations, and liabilities

incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

(6) The commission shall not bear any costs related to a state that is found to be in default or whose membership in this compact is terminated unless agreed upon in writing between the commission and the defaulting state.

(7) The defaulting state may appeal the action of the commission by petitioning the United States District Court for the District of Columbia or the federal district in which the commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorney fees.

(8) Dispute resolution may be used by the commission in the following manner:

(a) Upon request by a party state, the commission shall attempt to resolve disputes related to the compact that arise among party states and between party and nonparty states.

(b) The commission shall adopt a rule providing for both mediation and binding dispute resolution for disputes, as appropriate.

(c) In the event the commission cannot resolve disputes among party states arising under this compact:

1. The party states may submit the issues in dispute to an arbitration panel, which will be comprised of individuals appointed by the compact administrator in each of the affected party states and an individual mutually agreed upon by the compact administrators of all the party states involved in the dispute.

2. The decision of a majority of the arbitrators is final and binding.

(9)(a) The commission shall, in the reasonable exercise of its discretion, enforce the provisions and rules of this compact.

(b) By majority vote, the commission may initiate legal action in the United States District Court for the District of Columbia or the federal district in which the commission has its principal offices against a party state that is in default to enforce compliance with this compact and its adopted rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney fees.

(c) The remedies provided in this subsection are not the exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.

ARTICLE X

EFFECTIVE DATE, WITHDRAWAL, AND AMENDMENT

(1) This compact becomes effective and binding on the date of legislative enactment of this compact into law by no fewer than 26 states or on December 31, 2018, whichever occurs first. All party states to this compact which were also parties to the prior Nurse Licensure Compact ("prior compact"), superseded by this compact, are deemed to have withdrawn from the prior compact within 6 months after the effective date of this compact.

(2) Each party state to this compact shall continue to recognize a nurse's multistate licensure privilege to practice

in that party state issued under the prior compact until such party state is withdrawn from the prior compact.

(3) Any party state may withdraw from this compact by enacting a statute repealing the compact. A party state's withdrawal does not take effect until 6 months after enactment of the repealing statute.

(4) A party state's withdrawal or termination does not affect the continuing requirement of the withdrawing or terminated state's licensing board to report adverse actions and significant investigations occurring before the effective date of such withdrawal or termination.

(5) This compact does not invalidate or prevent any nurse licensure agreement or other cooperative arrangement between a party state and a nonparty state that is made in accordance with the other provisions of this compact.

(6) This compact may be amended by the party states. An amendment to this compact does not become effective and binding upon the party states unless and until it is enacted into the laws of all party states.

(7) Representatives of nonparty states to this compact shall be invited to participate in the activities of the commission, on a nonvoting basis, before the adoption of this compact by all party states.

ARTICLE XI

CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact are severable, and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution

of any party state or of the United States, or if the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance is not affected thereby. If this compact is declared to be contrary to the constitution of any party state, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters.

Section 8. Subsection (1) of section 464.012, Florida Statutes, is amended to read:

464.012 Certification of advanced registered nurse practitioners; fees.—

(1) Any nurse desiring to be certified as an advanced registered nurse practitioner shall apply to the department and submit proof that he or she holds a current license to practice professional nursing or holds an active multistate license to practice professional nursing pursuant to s. 464.0095 and that he or she meets one or more of the following requirements as determined by the board:

(a) Satisfactory completion of a formal postbasic educational program of at least one academic year, the primary purpose of which is to prepare nurses for advanced or specialized practice.

(b) Certification by an appropriate specialty board. Such certification shall be required for initial state certification and any recertification as a registered nurse anesthetist or nurse midwife. The board may by rule provide for provisional state certification of graduate nurse anesthetists and nurse

midwives for a period of time determined to be appropriate for preparing for and passing the national certification examination.

(c) Graduation from a program leading to a master's degree in a nursing clinical specialty area with preparation in specialized practitioner skills. For applicants graduating on or after October 1, 1998, graduation from a master's degree program shall be required for initial certification as a nurse practitioner under paragraph (4)(c). For applicants graduating on or after October 1, 2001, graduation from a master's degree program shall be required for initial certification as a registered nurse anesthetist under paragraph (4)(a).

Section 9. Subsections (1), (2), and (9) of section 464.015, Florida Statutes, are amended to read:

464.015 Titles and abbreviations; restrictions; penalty.—

(1) Only a person ~~persons~~ who holds a license in this state or a multistate license pursuant to s. 464.0095 ~~hold licenses~~ to practice professional nursing ~~in this state~~ or who performs ~~are performing~~ nursing services pursuant to the exception set forth in s. 464.022(8) may ~~shall have the right to~~ use the title "Registered Nurse" and the abbreviation "R.N."

(2) Only a person ~~persons~~ who holds a license in this state or a multistate license pursuant to s. 464.0095 ~~hold licenses~~ to practice as a licensed practical nurse ~~nurses in this state~~ or who performs ~~are performing~~ practical nursing services pursuant to the exception set forth in s. 464.022(8) may ~~shall have the right to~~ use the title "Licensed Practical Nurse" and the abbreviation "L.P.N."

(9) A person may not practice or advertise as, or assume

the title of, registered nurse, licensed practical nurse, clinical nurse specialist, certified registered nurse anesthetist, certified nurse midwife, or advanced registered nurse practitioner or use the abbreviation "R.N.," "L.P.N.," "C.N.S.," "C.R.N.A.," "C.N.M.," or "A.R.N.P." or take any other action that would lead the public to believe that person was authorized by law to practice ~~certified~~ as such or is performing nursing services pursuant to the exception set forth in s. 464.022(8)~~,~~ unless that person is licensed, ~~or~~ certified, or authorized pursuant to s. 464.0095 to practice as such.

Section 10. Subsections (1) and (2) of section 464.018, Florida Statutes, are amended to read:

464.018 Disciplinary actions.—

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in ss. ~~s.~~ 456.072(2) and 464.0095:

(a) Procuring, attempting to procure, or renewing a license to practice nursing or the authority to practice practical or professional nursing pursuant to s. 464.0095 by bribery, by knowing misrepresentations, or through an error of the department or the board.

(b) Having a license to practice nursing revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country.

(c) Being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of nursing or to the ability to practice nursing.

(d) Being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, ~~of~~ any of the following offenses:

1. A forcible felony as defined in chapter 776.

2. A violation of chapter 812, relating to theft, robbery, and related crimes.

3. A violation of chapter 817, relating to fraudulent practices.

4. A violation of chapter 800, relating to lewdness and indecent exposure.

5. A violation of chapter 784, relating to assault, battery, and culpable negligence.

6. A violation of chapter 827, relating to child abuse.

7. A violation of chapter 415, relating to protection from abuse, neglect, and exploitation.

8. A violation of chapter 39, relating to child abuse, abandonment, and neglect.

9. For an applicant for a multistate license or for a multistate licenseholder under s. 464.0095, a felony offense under Florida law or federal criminal law.

(e) Having been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense prohibited under s. 435.04 or similar statute of another jurisdiction; or having committed an act which constitutes domestic violence as defined in s. 741.28.

(f) Making or filing a false report or record, which the nurse ~~licensee~~ knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing or inducing

another person to do so. Such reports or records shall include only those which are signed in the nurse's capacity as a licensed nurse.

(g) False, misleading, or deceptive advertising.

(h) Unprofessional conduct, as defined by board rule.

(i) Engaging or attempting to engage in the possession, sale, or distribution of controlled substances as set forth in chapter 893, for any other than legitimate purposes authorized by this part.

(j) Being unable to practice nursing with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, or chemicals or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, the department shall have, upon a finding of the State Surgeon General or the State Surgeon General's designee that probable cause exists to believe that the nurse ~~licensee~~ is unable to practice nursing because of the reasons stated in this paragraph, the authority to issue an order to compel a nurse ~~licensee~~ to submit to a mental or physical examination by physicians designated by the department. If the nurse ~~licensee~~ refuses to comply with such order, the department's order directing such examination may be enforced by filing a petition for enforcement in the circuit court where the nurse ~~licensee~~ resides or does business. The nurse ~~licensee~~ against whom the petition is filed shall not be named or identified by initials in any public court records or documents, and the proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011. A nurse affected by ~~the provisions of~~ this paragraph shall at reasonable

intervals be afforded an opportunity to demonstrate that she or he can resume the competent practice of nursing with reasonable skill and safety to patients.

(k) Failing to report to the department any person who the nurse ~~licensee~~ knows is in violation of this part or of the rules of the department or the board; however, if the nurse ~~licensee~~ verifies that such person is actively participating in a board-approved program for the treatment of a physical or mental condition, the nurse ~~licensee~~ is required to report such person only to an impaired professionals consultant.

(l) Knowingly violating any provision of this part, a rule of the board or the department, or a lawful order of the board or department previously entered in a disciplinary proceeding or failing to comply with a lawfully issued subpoena of the department.

(m) Failing to report to the department any licensee under chapter 458 or under chapter 459 who the nurse knows has violated the grounds for disciplinary action set out in the law under which that person is licensed and who provides health care services in a facility licensed under chapter 395, or a health maintenance organization certificated under part I of chapter 641, in which the nurse also provides services.

(n) Failing to meet minimal standards of acceptable and prevailing nursing practice, including engaging in acts for which the nurse ~~licensee~~ is not qualified by training or experience.

(o) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2)(a) The board may enter an order denying licensure or

imposing any of the penalties in s. 456.072(2) against any applicant for licensure or nurse ~~licensee~~ who is found guilty of violating ~~any provision of~~ subsection (1) ~~of this section~~ or ~~who is found guilty of violating any provision of~~ s. 456.072(1).

(b) The board may take adverse action against a nurse's multistate licensure privilege and impose any of the penalties in s. 456.072(2) when the nurse is found guilty of violating subsection (1) or s. 456.072(1).

Section 11. Paragraph (a) of subsection (2) of section 464.0195, Florida Statutes, is amended, and subsection (4) is added to that section, to read:

464.0195 Florida Center for Nursing; goals.—

(2) The primary goals for the center shall be to:

(a) Develop a strategic statewide plan for nursing manpower in this state by:

1. Establishing and maintaining a database on nursing supply and demand in the state, to include current supply and demand~~, and future projections~~; ~~and~~

2. Analyzing the current nursing supply and demand in the state and making future projections of such, including assessing the impact of this state's participation in the Nurse Licensure Compact under s. 464.0095; and

3.~~2.~~ Selecting from the plan priorities to be addressed.

(4) The center may request from the board, and the board must provide to the center upon its request, any information held by the board regarding nurses licensed in this state or holding a multistate license pursuant to s. 464.0095 or information reported to the board by employers of such nurses, other than personal identifying information.

Section 12. Paragraph (g) is added to subsection (10) of section 768.28, Florida Statutes, to read:

768.28 Waiver of sovereign immunity in tort actions; recovery limits; limitation on attorney fees; statute of limitations; exclusions; indemnification; risk management programs.—

(10)

(g) For purposes of this section, the executive director of the Board of Nursing, when serving as the state administrator of the Nurse Licensure Compact pursuant to s. 464.0095, and any administrator, officer, executive director, employee, or representative of the Interstate Commission of Nurse Licensure Compact Administrators, when acting within the scope of their employment, duties, or responsibilities in this state, are considered agents of the state. The commission shall pay any claims or judgments pursuant to this section and may maintain insurance coverage to pay any such claims or judgments.

Section 13. This act shall take effect December 31, 2018, or upon enactment of the Nurse Licensure Compact into law by 26 states, whichever occurs first.

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 1316
INTRODUCER:	Appropriations Committee (Recommended by Appropriations Subcommittee on Health and Human Services) and Senator Grimsley
SUBJECT:	Nurse Licensure Compact
DATE:	March 2, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Lloyd	Stovall	HP	**Favorable**
2.	Brown	Pigott	AHS	**Recommend: Fav/CS**
3.	Brown	Kynoch	AP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1316 authorizes Florida to enter the revised Nurse Licensure Compact (NLC), a multi-state agreement that establishes a mutual recognition system for the licensure of registered nurses and licensed practical or vocational nurses. The bill enacts the NLC into law, which is a prerequisite for joining the compact.

A nurse who is issued a multi-state license from a state that is a party to the NLC is permitted to practice in any state that is also a party to the compact. However, the nurse must comply with the practice laws of the state in which he or she is practicing or where the patient is located. A party state may continue to issue a single-state license, authorizing practice only in that state.

The bill has an indeterminate fiscal impact on the Department of Health (DOH).

The bill is effective on December 31, 2018, or upon enactment of the NLC into law by 26 states, whichever occurs first.

II. Present Situation:

The Nurse Practice Act, ch. 464, F.S., governs the licensure and regulation of nurses in Florida. The Department of Health (DOH) is the licensing agency and the Board of Nursing (board) is the

regulatory authority. The board comprises 13 members appointed by the Governor and confirmed by the Senate.[1]

To be licensed as a nurse by examination, an individual must:
- Submit an application with the appropriate fee;
- Satisfactorily complete a criminal background screening;
- Demonstrate English competency;
- Successfully complete an approved nursing educational program; and
- Pass a licensure exam.[2]

A nurse from out of state who wishes to work temporarily in the state of Florida may obtain licensure via examination or endorsement. Requirements for licensure by endorsement can be found in s. 464.009, F.S., and include:
- Holding a valid license to practice professional or practical nursing in another state or territory of the United States, provided that, when the applicant secured his or her original license, the requirements for licensure were substantially equivalent to or more stringent than those existing in Florida at that time;
- Meeting the qualifications for Florida licensure examination and having successfully completed a state, regional, or national examination which is substantially equivalent to or more stringent than the Florida examination; or
- Having actively practiced nursing in another state, jurisdiction, or territory of the United States for two of the preceding three years without a license being acted against by the licensing authority of any jurisdiction.

Any applicant for temporary licensure via endorsement must submit to an electronic fingerprint scanning procedure through the Florida Department of Law Enforcement (FDLE) for the purpose of a criminal history records check. An applicant who has ever been found guilty of, or pled guilty or no contest/nolo contendere to, any charge other than a minor traffic offense must list each offense on the application.[3]

Health care boards or the DOH are not permitted to issue a license, certificate, or registration to any candidate if the applicant:
- Has been convicted of, or entered a plea of nolo contendere to, regardless of adjudication, a felony, under ch. 409, F.S., (relating to social and economic assistance), ch. 817, F.S., (relating to fraudulent practices), ch. 893, F.S., (relating to drug abuse prevention and control), or similar felony offense(s) in another state or jurisdiction;
- Has been convicted of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, a felony under 21 U.S.C. ss 801-970 (relating to controlled substances) or 42 U.S.C. ss 1395-1396 (relating to public health, welfare, Medicare, and Medicaid issues);

[1] Section 464.004(1), F.S.
[2] Section 464.008, F.S., For its licensure examination, the department uses the National Council Licensure Examination (NCLEX), developed by the National Council of State Boards of Nursing.
[3] Florida Board of Nursing, *Licensed Practical Nurse & Registered Nurse by Endorsement* (page modified November 20, 2015) *available at* http://floridasnursing.gov/licensing/licensed-practical-nurse-registered-nurse-by-endorsement/ (last visited Feb. 2, 2016).

- Has been terminated for cause from the Medicaid program pursuant to s. 409.913, F.S., unless the candidate has been in good standing for the most recent five years;
- Has been terminated for cause, pursuant to the appeals procedures established by the state or federal government, from any other state Medicaid program, unless the candidate or applicant has been in good standing with a state Medicaid program for the most recent five years and the termination occurred at least 20 years before the date of application; or
- Is currently listed on the U.S. Department of Health and Human Services Office of Inspector General's List of Excluded Individuals and Entities.[4]

Licenses are renewed biennially.[5] Each renewal period, a registered nurse (RN) or licensed practical nurse (LPN) must document completion of one contact hour of continuing education for each calendar month of the licensure cycle.[6] As part of the total continuing education hours required, all licensees must complete a two-hour course on the prevention of medical errors and a two-hour course in Florida laws and rules.[7] Effective August 1, 2017, all licensees must also complete a two-hour course in recognizing impairment in the workplace.[8]

Interstate Compacts

An interstate compact is an agreement between two or more states to address common problems or issues, create an independent, multistate governing authority, or establish uniform guidelines, standards, or procedures for the compact's member states.[9] Article I, Section 10, Clause 3 (Compact Clause) of the U.S. Constitution authorizes states to enter into agreements with each other, without the consent of Congress. Interstate agreements that encroach on the federal government's power are subject to congressional approval, however.[10] Florida is a party to at least 25 interstate compacts, including the Interstate Compact on Educational Opportunity for Military Children, Compact on Adoption and Medical Assistance, and the Compact on the Placement of Children.[11]

The Nurse Licensure Compact

The National Council of State Boards of Nursing (council) administers the Nurse Licensure Compact (NLC). The council is a non-profit organization that coordinates the efforts of the member states. The council includes the boards of nursing in the 50 states, the District of Columbia, and four U.S. Territories.

[4] Id.
[5] Section 464.013, F.S.
[6] Rule 64B9-5.002, F.A.C. A course in HIV/AIDS is required in the first biennium only and a domestic violence course is required every third biennium.
[7] Rule 64b9-5.011, F.A.C.
[8] *Supra* note 5 and Rule 64B9-5.014, F.A.C.
[9] Council of State Governments, *Capitol Research: Interstate Compacts*, http://knowledgecenter.csg.org/kc/content/interstate-compacts-background-and-history (last visited Feb. 2, 2016).
[10] *See Virginia v. Tennessee*, 148 U.S. 503 (1893) and *New Hampshire v. Maine*, 426 U.S. 363 (1976).
[11] OPPAGA, *2015 Nurse Licensure Compact Revisions Address Some Barriers and Disadvantages in 2006 OPPAGA Report* (November 20, 2015) (on file in the Senate Committee on Health Policy).

The NLC allows RNs and LPNs the ability to practice in all member states by maintaining a single license in their primary state of residence.[12] A second compact covers Advanced Practice Registered Nurses, such as nurse anesthetists, nurse practitioners, nurse midwives, and clinical nurse specialists. Currently, 25 states have enacted the original NLC legislation,[13] and 1.4 million of the nation's nurses hold a multistate license.[14]

To join the NLC, a state must pass the NLC model legislation, the state board of nursing must implement the compact, and the state licensing agency must pay an annual fee of $6,000.[15] States that adopted the NLC prior to revisions made in 2015 must adopt the revised NLC to become members of the new compact.[16]

The council also manages NURSYS™, the national database for verification of nurse licensure, discipline, and practice privileges for RNs licensed by participating boards of nursing, including all states in the compact. Fifty-three states or territories participate in the NURSYS™ database, including Florida.

There are three publicly available components to the verification system:
- e-Notify which provides real-time licensure and publicly available discipline data to institutions about nurses employed by that institution and for nurses to manage their licenses statuses and renewals;
- Licensure QuickConfirm that allows employers and recruiters to receive licensure and discipline information in one location; and
- Nurse Licensure Verification service which enables nurses to verify their licenses from a participating board when applying for endorsement for $30 per license type, per each board.[17]

2015 Revised Nurse Licensure Compact

Under the NLC, an applicant for a license to practice as an RN or LPN has to apply in his or her home state for a multistate license.[18] The home state is the applicant's primary state of residence.[19] The NLC has 11 articles covering areas such as general jurisdiction, application process, governance, and rule-making.

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[12] The compact model rules defined "primary state of residence" to mean the state of a person's declared, fixed permanent and principal home for legal purposes.
[13] Id. The 25 states are: Arizona, Arkansas, Colorado, Delaware, Idaho, Iowa, Kentucky, Maine, Maryland, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Mexico, North Carolina, North Dakota, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, and Wisconsin.
[14] Florida Dep't of Health, *House Bill 1061 Analysis* (January 11, 2016) (on file with the Senate Committee on Health Policy).
[15] *Supra* note 16.
[16] *Supra* note 15.
[17] National Council of State Boards of Nursing, *License Verification (Nursys.com)* https://www.ncsbn.org/license-verification.htm (last visited Feb. 2, 2016).
[18] A multistate license is a license to practice as an RN or LPN/LVN issued by a home state licensing board that authorizes the license holder to practice in all party states under a multistate licensure privilege.
[19] Pursuant to the model rules developed under the prior NLC, a nurse's home state may be evidenced by a drivers' license with a home address, voter registration card with a home address, federal income tax return, military documentation of state of legal residence, or a W2 from the U.S. government or any bureau, division, or agency thereof. *See* Nurse Licensure Compact Administrators, *Nurse Licensure*

OPPAGA Review of the NLC

2006 OPPAGA Report

In 2006, the Office of Program Policy Analysis and Government Accountability (OPPAGA) released a report evaluating the possibility of Florida adopting the original NLC.[20] The OPPAGA concluded that adopting the NLC would allow the state to alleviate short-term nursing shortages but would not resolve the state's long-term nursing shortage. The report identified several benefits that would be realized by adopting the NLC.

Conversely, the report also identified several disadvantages to joining the compact at that time:

- Potentially, there could be an increase in disciplinary cases, both domestic and multistate, which could have a negative fiscal impact on the DOH;
- Florida's continuing education requirements would not apply to a nurse working in Florida but whose home state is not Florida;
- A nurse whose home state was not Florida may not be subject to a criminal background screening because some party states did not a require criminal background screening for licensure;
- Public access to licensure and disciplinary action may be impaired; and
- The DOH and board will incur some initial start-up costs in implementing the NLC.

Additionally, OPPAGA identified barriers to implementing the original NLC legislation:

- The provisions of the original NLC language may conflict with Florida's public records and open meetings laws;
- The original NLC provided general and broad authorization for the compact administrators to develop rules that were required to be adopted by party states, which raised concern about an unlawful delegation of legislative authority;
- The DOH and the board would need to educate nurses and employers on the NLC and its requirements for the NLC to operate as intended; and
- A compact nurse is not required to notify the board when he or she enters the state to practice nursing, making it difficult for the workforce data to be captured.

The report made several recommendations, including seeking approval to use alternative compact language to address the barriers identified in the report. Other recommendations including authorizing the board to require employers to report employment data, providing a later effective date to allow for education of the public regarding the NLC, and requiring the board to report information to the legislature on the effect of the NLC two years after its implementation.

Compact Model Rules and Regulations, (Rev. Nov. 13, 2012, Aug. 4, 2008, Sept. 16, 2004), *available at* https://www.ncsbn.org/NLC_Model_Rules.pdf (last visited Feb. 2, 2016).

[20] OPPAGA, *Nurse Licensure Compact Would Produce Some Benefits But Not Resolve the Nursing Shortage*, Report No. 06-02 (Jan. 2006) *available at* http://www.oppaga.state.fl.us/Summary.aspx?reportNum=06-02 (last visited Feb. 2, 2016).

2015 OPPAGA Memorandum

In 2015, the OPPAGA reviewed the revised NLC to determine if it adequately addresses concerns identified in the 2006 report.[21] The OPPAGA found that the revised NLC resolved some of the barriers and disadvantages listed above, and specifically it found:

- The revised NLC partially addresses the concerns regarding constitutional issues related to public meetings but did not address public records concerns:
  - Under the revised NLC, there are provisions requiring the commission to publicly notice meetings on its website, as well as the websites of party states. However, the commission is allowed to have closed door meetings to address certain issues. Such meetings may be deemed inconsistent with Florida's open meetings law.
  - A party state may still designate information it provides as confidential and restrict the sharing of such information. However, once the information is in the possession of the board, it may be considered a public record under Florida law, available through the board.
- The revised NLC addresses the issue of delegation of legislative authority, by limiting the scope of the rules the commission may adopt to only those rules that would facilitate and coordinate the implementation and administration of the NLC. The OPPAGA suggests that the Legislature include an expiration date, an automatic repeal provision, or a required review of the NLC to provide the legislature with an opportunity to review the rules adopted by the commission;
- The revised NLC does not become effective until it has been enacted by 26 states or December 31, 2018, whichever is earlier. This provides the state with the time needed to educate nurses and employers about the NLC.
- The revised NLC does not require employers of compact nurses who are practicing in a state under a multistate licensure privilege to report such employment to the state's board of nursing;
- Public access to nurse disciplinary information has improved due to the increased state participation in NURSYS®, the coordinated licensure information system;
- The revised NLC requires a criminal background screening for licensees. However, this requirement only applies to new multistate licensure applicants, and a nurse who currently holds a multistate license will not have to undergo a criminal background screening unless required by his or her home state; and
- The NLC does not address continuing education requirements. Although most states require some continuing education, not all states do. Florida authorities would be unable to enforce continuing education requirements for those practicing in the state under the multistate licensing privilege.

The OPPAGA advises that the revised NLC does not affect the benefits it identified in its 2006 report. In addition to those benefits, it noted that as a member of the NLC, the processing time and resources required to process a licensure by endorsement would be reduced or eliminated. Florida would also be able to access investigative information earlier and would be able to open its own investigation if the nurse is practicing in this state.

[21] OPPAGA, *2015 Nurse Licensure Compact Revisions Address Some Barriers and Disadvantages in 2006 OPPAGA Report,* A Presentation to the House Select Committee on Affordable Healthcare Access (December 1, 2015) *available at* http://www.oppaga.state.fl.us/Presentations.aspx (last visited Feb 2, 2016).

Florida Nursing Workforce

The Florida Center for Nursing was established by the Legislature in 2001, to address the issues of supply and demand for nursing, including the recruitment, retention, and utilization of nurse workforce resources.[22] The Florida Center for Nursing is authorized to request any information held by the board regarding nurses licensed in this state, holding a multistate license, or any information reported by employers of such nurses, other than personally identifiable information.

The Florida Center for Nursing prepares long-range forecasts of nurse supply and demand periodically to assist with the state's planning. The last published report was posted in October 2010 for the forecasting period of 2010-2025. The nursing supply shortage was projected to worsen beginning in 2014 with the combination of health care reform, an aging population requiring more health care services, and as older nurses retired from the workforce.[23]The 2010 model projected a shortage of 50,000 RNs by 2025.[24] The shortage of LPNs was projected to be 13,250 by 2025.[25]

The Long-Term Employment projections program of the Department of Economic Opportunity identifies Registered Nurses as an occupation where employment is expected to grow from 168,885 individuals to 196,503 or 16.4 percent in the next eight years.[26] Nurse Practitioners, while a smaller occupational group, have a higher expected growth rate of 30.9 percent over the 8 year span growing from 7,199 individuals to 9,421.[27] Nursing and residential care facilities rank fifth overall in the Florida's fastest growing industries, with a minimum of 10,000 jobs.

Nursing is the eighth fastest growing occupation, with a 30.9 percent growth rate and a median hourly wage in 2015 of $44.22 for nurse practitioners.[28] Registered nurses are expected to gain the fifth most jobs in the state over the next eight years, more than 52,000. These jobs have a median hourly rate in 2015 of $29.89 and require a minimum education level of an associate's degree.[29]

Sovereign Immunity

The term "sovereign immunity" originally referred to the English common law concept that the government may not be sued because "the King can do no wrong." Sovereign immunity bars

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[22] Chapter 2001-277, L.O.F. and s. 464.0195, F.S.
[23] Florida Center for Nursing, *Technical Report: Forecasting Nurse Supply and Demand in Florida* (Oct. 2010) p. 16, *available at* https://www.flcenterfornursing.org/DesktopModules/Bring2mind/DMX/Download.aspx?Command=Core_Download&EntryId=14&PortalId=0&TabId=151 (last visited Feb. 2, 2016).
[24] Id at 17.
[25] Id at 18.
[26] Department of Economic Opportunity, *Florida Jobs by Occupation - 2015-2013 Projections Statewide,* http://www.floridajobs.org/labor-market-information/data-center/statistical-programs/employment-projections (last visited Feb. 2, 2016).
[27] Id.
[28] Id at *Fastest Growing Occupations* Tab.
[29] Id at *Occupations Gaining the Most New Jobs* Tab.

lawsuits against the state or its political subdivisions for the torts of officers, employees, or agents of such governments unless the immunity is expressly waived.

Article X, section 13 of the Florida Constitution recognizes the concept of sovereign immunity and gives the Legislature the power to waive immunity in part or in full by general law. Section 768.28, F.S., contains the limited waiver of sovereign immunity applicable to the state. Under this statute, officers, employees, and agents of the state may not be held personally liable in tort or named as a party defendant in any action for any injury or damage suffered as a result of any act, event, or omission of action in the scope of her or his employment or function. However, personal liability may result from actions committed in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

Instead, the state steps in as the party litigant and defends against the claim. The recovery by any one person is limited to $200,000 for one incident and the total for all recoveries related to one incident is limited to $300,000.[30] The sovereign immunity recovery limits do not prevent a plaintiff from obtaining a judgment in excess of the limitation, but the plaintiff cannot recover the excess damages without action by the Legislature.[31]

Whether sovereign immunity applies turns on the degree of control of the agent of the state retained by the state.[32] In *Stoll v. Noel*, the Florida Supreme Court explained that independent contractor physicians may be agents of the state for purposes of sovereign immunity:

> One who contracts on behalf of another and subject to the other's control except with respect to his physical conduct is an agent and also independent contractor.[33]

The court examined the employment contract between the physicians and the state to determine whether the state's right to control was sufficient to create an agency relationship and held that it did.[34] The court explained:

> Whether CMS [Children's Medical Services] physician consultants are agents of the state turns on the degree of control retained or exercised by CMS. This Court has held that the right to control depends upon the terms of the employment contract. . . . CMS requires each consultant, as a condition of participating in the CMS program, to agree to abide by the terms published in its HRS[35] Manual and CMS Consultant's Guide which contain CMS policies and rules governing its relationship with the consultants. The Consultant's Guide states that all services provided to CMS patients must be authorized in advance by the clinic medical director. The language of the HRS Manual ascribes to CMS responsibility

[30] Section 768.28(5), F.S.
[31] *Id.*
[32] *Stoll v. Noel*, 694 So. 2d 701, 703 (Fla. 1997).
[33] *Id.* at 703, quoting from the *Restatement (Second) of Agency* s. 14N (1957).
[34] *Id.* at 703.
[35] Florida Department of Health and Rehabilitative Services.

> to supervise and direct the medical care of all CMS patients and supervisory authority over all personnel. The manual also grants to the CMS medical director absolute authority over payment for treatments proposed by consultants. The HRS Manual and the Consultant's Guide demonstrate that CMS has final authority over all care and treatment provided to CMS patients, and it can refuse to allow a physician consultant's recommended course of treatment of any CMS patient for either medical or budgetary reasons.
>
> Our conclusion is buttressed by HRS's acknowledgement that the manual creates an agency relationship between CMS and its physician consultants, and despite its potential liability in this case, HRS has acknowledged full financial responsibility for the physicians' actions. HRS's interpretation of its manual is entitled to judicial deference and great weight.[36]

III. Effect of Proposed Changes:

The bill adopts the revised Nurse Licensure Compact (NLC) into state law.

Section 1 amends s. 456.073, F.S., relating to disciplinary proceedings for boards within the Department of Health (DOH's) jurisdiction. The DOH is required to report any significant investigation information relating to a nurse holding a multistate license to the coordinated licensure system pursuant to s. 464.0095, F.S. This reporting is a requirement of the NLC.

Section 2 amends s. 456.076, F.S., relating to treatment programs for impaired practitioners. The bill requires the consultant under the impaired practitioner program to disclose to the DOH, upon the DOH's request, whether an applicant for a multistate license under s. 464.0095, F.S., is participating in a treatment program and must report to the DOH when a nurse holding a multistate license under s. 464.0095, F.S., enters a treatment program. A nurse holding a multistate license under s. 464.0095, F.S., must report to the DOH within two business days after entering a treatment program pursuant to this section.

Section 3 amends s. 464.003, F.S., to modify definitions to recognize that a nurse may hold a multistate license.

Section 4 amends s. 464.004, F.S., to appoint the executive director of the Board of Nursing or his or her designee as the state administrator of the Nurse Licensure Compact, as required under the NLC.

Section 5 amends 464.008, F.S., relating to licensure by examination to incorporate the multistate licensure process. The bill authorizes an applicant who resides in this state, meets the licensure requirements, and meets the criteria for multistate licensure, to request the issuance of a multistate license from the DOH.

[36] *Stoll*, 694 So. 2d at 703 (Fla. 1997) (internal citations omitted).

A nurse who holds a single-state license in this state and applies to the DOH for a multistate license must meet the eligibility criteria for a multistate license under s. 464.0095, F.S., and must pay an application and licensure fee to change his or her licensure status. A person who holds an active multistate license in another state pursuant to the NLC is exempt from the licensure requirements in Florida.

The bill requires the DOH to conspicuously distinguish a multistate license from a single-state license.

Section 6 amends s. 464.009, F.S., relating to licensure by endorsement, to exempt a person who holds an active multistate license in another state from the requirements of licensure by endorsement in Florida.

Section 7 enacts the NLC under s. 464.0095, F.S., and enters Florida into the compact with all other jurisdictions legally joining the NLC. The compact includes 11 Articles and is substantially similar to the model compact language.

Article I provides the general findings and declaration of purpose for the compact. The general findings under Article I include:

- The health and safety of the public are affected by the degree of compliance with and the effectiveness of enforcement activities related to state nurse licensure laws;
- Violations of nurse licensure and other laws regulating the practice of nursing may result in injury or harm to the public;
- The expanded mobility of nurses and the use of advanced communication technologies as part of the nation's health care delivery system require greater coordination among states in the areas of nurse licensure and regulation;
- New practice modalities and technology make compliance with individual state nurse licensure laws difficult and complex; and
- Uniformity of nurse licensure requirements throughout the states promotes public safety and public health benefits.

The general purposes for the compact are to:

- Facilitate the states' responsibility to protect the public's health and safety;
- Ensure and encourage the cooperation of party states in the areas of nurse licensure and regulation;
- Facilitate the exchange of information among party states in the areas of nurse regulation, investigation, and adverse action;
- Promote compliance with the laws governing the practice of nursing in each jurisdiction;
- Invest all party states with the authority to hold a nurse accountable for meeting all state practice laws in the state in which the patient is located at the time care is rendered through the mutual recognition of party state licenses;
- Decrease redundancies in the consideration and issuance of nurse licenses; and
- Provide opportunities for interstate practice by nurses who meet uniform licensure requirements.

Article II creates the definitions applicable to the compact.

"Adverse action" means any administrative, civil, equitable, or criminal action permitted by a state's laws which is imposed by a licensing board or other authority against a nurse, including actions against an individual's license or multistate licensure privilege, such as revocation, suspension, probation, monitoring of the licensee, limitation on the licensee's practice, or any other encumbrance on licensure affecting a nurse's authorization to practice, including issuance of a cease and desist action.

"Alternative program" means a non-disciplinary monitoring program approved by a licensing program.

"Commission" means the Interstate Commission of Nurse Licensure Administrators established by this compact.

"Compact" means the Nurse Licensure Compact recognized, established, and entered into by the state under this compact.

"Coordinated licensure information system" means an integrated process for collecting, storing, and sharing information on nurse licensure and enforcement activities related to nurse licensure laws which is administered by a nonprofit organization composed of and controlled by licensing boards.

"Current significant investigate information" means:
(a) Investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the nurse to respond, if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or
(b) Investigative information that indicates that the nurse represents an immediate threat to public health and safety regardless of whether the nurse has been notified and had an opportunity to respond.

"Encumbrance" means a revocation or suspension of, or any limitation on, the full and unrestricted practice of nursing imposed by a licensing board.

"Home state" means the party state that is the nurse's primary state of residence.

"Licensing board" means a party state's regulatory body responsible for issuing nurse licenses.

"Multistate license" means a license to practice as a registered nurse (RN) or a licensed practical or vocational nurse (LPN/VN) issued by a home state licensing board which authorizes the licensed nurse to practice in all party states under a multistate licensure privilege.

"Multistate licensure privilege" means a legal authorization associated with a multistate licensure permitting the practice of nursing as either an RN or LPN/VN in a remote state.

"Nurse" means an RN or LPN/VN, as those terms are defined in each party state's practice laws.

"Party state" means any state that has adopted this compact.

"Remote state" means a party state other than the home state.

"Single-state license" means a nurse license issued by a party state which authorizes practice only within the issuing state and does not include a multi-state licensure privilege to practice in any other party state.

"State" means a state, territory, or possession of the United States, or the District of Columbia.

"State practice laws" means a party state's laws, rules, and regulations that govern the practice of nursing, define the scope of nursing practice, and create the methods and grounds for imposing disciple. The term does not include requirements necessary to obtain and retain a license, except for qualifications or requirements of the home state.

Article III provides for the compact's general provisions and jurisdiction as follows:

- Each party state will recognize a multistate license to practice registered or licensed practical or vocational nursing issued by a home state to a resident in that state as authorizing the RN or LPN/VN to practice in its state.
- The state must ensure that each applicant fulfills the following criteria to obtain or retain a multistate license in the home state:
  - Has met the home state's qualifications for licensure or renewal;
  - Has graduated or is eligible to graduate from a licensing board-approved RN or LPN/VN pre-licensure education program or other approved educational program with a comparable pre-licensure education program.
  - Demonstrates a proficiency in English, if the applicant is a graduate of a foreign pre-licensure program not taught in English;
  - Has successfully passed an NCLEX-RN or NCLEX-PN Examination or recognized predecessor, as applicable;
  - Is eligible for or holds an active, unencumbered license;
  - Has submitted, in connection with an application for initial licensure or licensure by endorsement, fingerprints or other biometric data for criminal history check with the FBI and the state's criminal records;
  - Has not been convicted or found guilty, or has entered into an agreed disposition other than a disposition that results in nolle prosequi, of a felony offense under applicable state or federal law;
  - Has not been convicted or found guilty, or entered into an agreed disposition other than a disposition that results in a nolle prosequi, of a misdemeanor offense related to the practice of nursing, as determined on a case by case basis;
  - Is not currently enrolled in an alternative program;
  - Is subject to self-disclosure requirements regarding current participation in an alternative program; and
  - Has a valid social security number.
- All party states are required, in accordance with existing state due process law, to take adverse action against a nurse's multistate license privilege, such as revocation, suspension, probation, or cease and desist actions. If a party state takes such action, the party state is required to notify the administrator of the coordinated licensure information system (CLIS).

The administrator of the CLIS must promptly notify the home state of any such actions by a remote state.

- A nurse practicing in a party state must comply with the state practice laws of the state in which the patient is located at the time the service is provided. The practice of nursing is not limited to patient care but includes all nursing practice as defined by the state practice laws of the party state in which the patient is located.
- The practice of nursing in a party state under a multistate license subjects a nurse to the jurisdiction of the licensing board, the courts, and the laws of the party state in which the patient is located at the time the service is provided.
- A person not residing in a party state shall continue to be able to apply for a party state's single-state license. The issuance of a single-state license in a party state does not grant a nurse the privilege to practice in any other party state. The compact does not affect the requirements established by a party state for the issuance of a single-state license.
- A nurse holding a home state multistate license, on the effective date of this compact, may retain and renew the multistate license issued by the nurse's then-current home state, provided that the nurse who changes his or her primary state of residence after the effective date meets all of the multistate licensure requirements to obtain a multistate license from a new home state. A nurse who fails to satisfy the multistate licensure requirements due to a disqualifying event occurring after the effective date is ineligible to retain or renew his or her multistate license, and the nurse's multistate license shall be revoked or deactivated in accordance with the compact's rules.

Article IV of the compact creates the application process for the multistate license. The application process requires the licensing board in the issuing state to determine, through the CLIS, whether the applicant has ever held, or is the holder of, a license issued by another state, whether there are any encumbrances on any license or multistate licensure privilege, whether any adverse action has been taken against the license or multistate licensure privilege, and whether the applicant is participating in an alternative program.

A nurse may hold a multistate license, issued by a home state, in only one party state at a time. If a nurse moves and changes his or her primary state, the nurse must apply for licensure in the new home state, and the multistate licensure issued by the prior home state must be deactivated. A new license may be applied for in advance of a primary change in residence. However, a new multistate license may not be issued until the nurse provides satisfactory evidence of change in his or her primary state of residence and has satisfied all applicable requirements to obtain a new multistate license in the new home state. If the nurse has moved to a non-party state, the multistate license issued by the prior home state must convert to a single-state license valid only in the prior home state.

Article V vests additional authority in the party state licensing board relating to the multistate licensure privilege. In addition to the powers already granted to the state's Board of Nursing (board), the board may also:

- Take adverse action against a nurse's multistate licensure privilege to practice within that party state.
    - Only the home state has the power to take adverse action against a nurse's license issued by the home state.

    - For purposes of adverse action, the home state licensing board or state agency shall give the same priority and effect to conduct reported by a remote state as it would if such conduct had occurred within the home state. In doing so, the home state shall apply its own state laws to determine appropriate action.
- Issue cease and desist orders or impose an encumbrance on a nurse's authority to practice within that party state.
- Complete any pending investigation of a nurse who changes his or her primary state of residence during the course of such investigation. Conclusion of such actions must be promptly reported to the administrator of the CLIS. The administrator of the CLIS shall promptly notify the new home state of any such action.
- Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses or the production of evidence. Enforcement of a subpoena to parties in another state will be enforced by courts in the latter state.
- Obtain and submit, for each nurse licensure applicant, fingerprint or other biometric-based information to the FBI for criminal background checks, receive FBI results, and use the results to make licensure decisions.
- If otherwise permitted by state law, recover from the affected nurse the costs of investigations and disposition of cases resulting from any adverse action taken against that nurse.
- Take adverse action based on the factual findings of the remote state, provided that the licensing board or state agency follows its own procedures for taking such adverse action.
- If adverse action is taken by the home state against a nurse's multistate license, the nurse's multistate licensure privilege to practice in all other party state shall be deactivated until all encumbrances are removed from the multistate license. All home state disciplinary orders shall impose adverse action against a nurse's multistate license and shall include a statement that the nurse's multistate licensure privilege is deactivated in all party states during the pendency of the order.
- The compact does not override a party state's decision to use an alternative program in lieu of adverse action and the home state licensing board shall deactivate the multistate licensing privilege for the duration of the nurse's participation in the alternative program.

Article VI creates the CLIS and the process for the exchange of information under the NLC. The system requires all party states to participate and to include information on the licensure and discipline history of each nurse, as submitted by the party states, to assist in the coordination of nurse licensure and enforcement efforts. Those coordination efforts include:

- Formulating necessary procedures by the commission, in consultation with the administrator of the system for the identification, collection and exchange of information under the NLC;
- Promptly reporting by all licensing boards any adverse action, any current significant investigative information, denials of applications, the reason for application denials, and nurse participation in alternative programs, regardless of whether such participation is nonpublic or confidential under state law;
- Transmitting through the system current significant investigative information and participation in nonpublic or confidential alternative programs available only to the party states;
- Notwithstanding any other provision of law, providing that all party state licensing boards contributing information to the system may designate information that may not be shared

with nonparty states or disclosed to other entities or individuals without the express permission of the contributing state;
- Providing that any personal identifying information obtained from the system by a party state licensing board may not be shared with nonparty states or disclosed to other entities or individuals except to the extent permitted by the laws of the party state contributing the information;
- Allowing any information contributed to the system which is subsequently required to be expunged by the laws of the party state contributing the information to also be expunged from the system;
- Requiring the compact administrator of each party state to furnish a uniform data set to each other party state that includes, at a minimum:
  - Identifying information;
  - Licensure data;
  - Information related to alternative program participation; and
  - Other information that may facilitate the administration of the compact; and
- Requiring the compact administrator of a party state to provide all investigative documents and information requested by another party state.

Article VII establishes the Interstate Commission of Nurse Licensure Compact Administrators (commission), its authorities, duties and responsibilities. The party states establish the joint public entity known as the Interstate Commission of Nurse Licensure Compact Administrators as an instrumentality of the party states. The following provisions are included in the structure of the commission:

Venue - Judicial proceeding by or against the commission shall be brought solely and exclusively, in a court of competent jurisdiction where the commission's principal office is located.[37] The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

Sovereign Immunity - The compact does not waive sovereign immunity except to the extent sovereign immunity is waived in the party states. The administrators, officers, executive director, employees, and representatives of the commission are immune from suit and liability either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability cause by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the scope of commission employment, duties, or responsibilities.

Sovereign immunity under these provisions does not protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional, willful, or wanton misconduct of that person.

The commission shall defend any administrator, officer, executive director, employee, or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the person against whom the claim is made had a

[37]The principal office of the commission is located in Chicago, Illinois.

reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from that person's intentional, willful, or wanton misconduct. An individual is not prohibited from retaining his or her own counsel.

The commission shall also indemnify and hold harmless any officer, administrator, executive director, employee or representative of the commission for the amount of any judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from that person's intentional, willful, or wanton misconduct.

Compact Administrator - Each party state is limited to one administrator. The executive director of the state licensing board or his or her designee serves as the administrator of the compact for each party state. Any administrator may be removed or suspended from office as provided by the laws of the administrator's home state. Any vacancy occurring on the commission shall be filled in accordance with the laws of the party state in which the vacancy occurred.

Voting - Each administrator is entitled to one vote with regard to the adoption of the rules and the creation of the bylaws. The administrator shall have the opportunity to participate in the business and affairs of the commission and shall vote in person or by other means as allowed in the bylaws. The bylaws may also provide for the administrator's participation in commission meetings by telephone or other means of communication.

Meetings - The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the commission's bylaws and rules. All meetings are open to the public, and public notice of the meetings must be given in the same manner as required under Article VIII. Closed meetings are permitted if the commission is discussing:

- Failure of a party state to comply with its obligations under the compact;
- Employment, compensation, discipline, or other personnel matters, practices, or procedures related to specific employees or other matters related to the commission's internal personnel practices;
- Current, threatened, or reasonably anticipated litigation;
- Negotiation of contracts for the purchase or sale of goods, services or real estate;
- Accusations against any person of a crime or formal censure of any person;
- Disclosure of trade secrets or commercial or financial information that is privileged or confidential;
- Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
- Disclosure of investigatory records compiled for law enforcement purposes;
- Disclosure of information related to any reports prepared by or on behalf of the commission for the purpose of investigating compliance with this compact; or
- Matters specifically exempted from disclosure by federal or state statute.

If a meeting is closed to the public under this section, the commission's legal counsel or designee shall certify that the meeting, or portion of the meeting is closed and reference each relevant exempting provision. The commission shall keep minutes that fully and clearly describe all matters discussed during the closed session and shall provide a full and accurate summary of the action taken and reasons for those actions, including a description of the views expressed. All documents considered during the session must also be identified in the minutes. All minutes and documents from the closed session must remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.

Commission Bylaws -The commission is also required, by a majority vote of the administrators, to prescribe bylaws or rules to govern its conduct, including but not limited to:

- Establishing the commission's fiscal year;
- Providing reasonable standards and procedures:
  - For the establishment and meetings of other committees.
  - Governing any general or specific delegation of any authority or function of the commission.
- Providing reasonable procedures for calling and conducting meetings, ensuring reasonable advance notice of all meetings, and providing an opportunity for attendance by interested parties, with exceptions to protect the public's interest, the privacy of individuals, and proprietary information. The commission may only meet in closed session after a majority of members vote to close the meeting in whole or in part. As soon as practicable, the commission must make public a copy of the vote to close the meeting revealing the vote of each administrator, with no proxy vote allowed.
- Establishing the titles, duties, authority, and reasonable procedures for electing commission officers;
- Providing reasonable standards and procedures for establishing the commission's personnel policies and programs;
- Providing a mechanism for winding up the commission's operations and the equitable distribution of any surplus funds that may exist after the compact's termination upon the payment of all obligations;
- Publishing the commission bylaws and rules, its amendments thereto, in a convenient form on the commission's website;
- Maintaining the commission's financial records in accordance with the bylaws; and
- Meeting and taking action consistent with the compact and bylaws.

Adoption of Rules by the Commission - The commission may also:

- Adopt uniform rules to facilitate and coordinate implementation and administration of the compact. The rules shall have the force and effect of binding law in all party states;
- Bring and prosecute legal proceedings and actions in the name of the commission, provided that the standing of any licensing board to sue or be sued under applicable law is not affected;
- Purchase and maintain insurance and bonds;
- Borrow, accept, or contract for services of personnel, including employees of a party state or nonprofit organizations;
- Cooperate with other organizations that administer state compacts related to the regulation of nursing, including sharing administrative staff expenses, office space, or other resources;

- Hire employees, elect or appoint officers, fix compensation, define duties, grant such authority to carry out the compact, and establish personnel policies and programs relating to conflict of interest, qualifications of personnel, and other related personnel matters;
- Accept appropriate donations, grants, and gifts of money, equipment, supplies, materials, and services and dispose of the same while avoiding the appearance of any impropriety or conflict of interest;
- Lease, purchase, accept appropriate gifts or donations of, or otherwise own, hold, or improve or use any property, whether real, personal, or mixed, provided that, at all times the commission avoids any appearance of impropriety;
- Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property whether real, personal, or mixed;
- Establish a budget and make expenditures;
- Borrow money;
- Appoint committees, including advisory committees comprised of administrators, state nursing regulators, state legislators or their representatives, consumer representatives, and other interested persons;
- Exchange information and cooperate with law enforcement agencies;
- Adopt and use an official seal; and
- Perform other functions as may be necessary to achieve the compact's purpose consistent with the state regulation of nurse licensure and practice.

Financing of the Commission - The commission:

- Shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities;
- May levy and collect an annual assessment from each party state to cover the cost of operations, activities, and staff in its annual budget, as approved. The annual assessment amount, if approved, shall be determined by the commission based on a formula determined by the commission and adopted by rule that is binding on all party states;
- May not incur obligations of any kind before securing the adequate funds to meet the obligation and the commission may not pledge the credit of any party states, except by and with the authority of such party state; and
- Shall keep accurate accounts all receipts and disbursements which shall be subject to audit and accounting procedures and audited yearly by a certified or licensed public accountant;

Article VIII establishes the commission's authority for rulemaking. The commission exercises its rulemaking authority under this article and any rules adopted thereunder. Rules and amendments become binding as of the date specified in the rule or the amendment and have the same force and effect as any provision of the compact.

Rulemaking - The commission may adopt rules or amendments to its rules at a regular or special meeting; however, before adoption of a final rule, the commission must file a notice of proposed rulemaking at least 60 days prior to the commission meeting where the rule will be considered and voted upon. Notice of the proposed rule shall be posted on the commission's website and on the website of each licensing board or the publication in which each state would otherwise publish proposed rules.

The proposed rule notice must include:

- The proposed time, date, and location of the meeting in which the rule will be considered and voted upon;
- The text of the proposed rule or amendment and the reason for the proposed rule;
- A request for comments on the proposed rule from any interested person; and
- The manner in which an interested party may submit notice to the commission of his or her intention to attend the public hearing and his or her written comments.

Before adoption of the proposed rule, the commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public. The commission shall also grant an opportunity for a public hearing before it adopts a rule or amendment and publish the place, time, and date of that hearing.

Hearings must allow each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing. All hearings must be recorded and a copy made available upon request. Rules may be grouped together for the convenience of the commission; a separate hearing is not required for each rule. If no interested person appears at the public hearing, the commission may proceed with the adoption of the proposed rule.

Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing is not held, the commission shall consider all comments received. Action on the proposed rule will be by majority vote of the commission and the commission shall determine the effective date, if any, based on the rulemaking record and the full text of the rule.

Emergency Rulemaking - If a determination is made that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures in this compact and article are applied retroactively to this rule as soon as reasonably possible within 90 days after the effective date of the emergency rule. An emergency rule is one that must be adopted immediately to:

- Meet an imminent threat to public health, safety, or welfare;
- Prevent a loss of commission or party state funds; or
- Meet a deadline for the adoption of an administrative rule that is required by federal law or rule.

The commission may direct revisions to previously adopted rules or amendments to correct typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of these revisions shall be posted on the commission's website. These revisions are subject to challenge for 30 days after posting. Challenges may only be based on the grounds that the revisions results in a material change in the rule. The challenge must be made in writing before the end of the notice period. If there is no challenge, the rule takes effect without the commission's approval.

Article IX establishes the oversight, dispute resolution, and enforcement provisions of the compact. Oversight of the compact will be established by:

- Each party state enforcing the compact and taking all actions necessary and appropriate to effectuate the compact's purposes and intent;

- The commission being entitled to receive service of process in any proceeding that may affect the powers, responsibility, or actions of the commission and having standing to intervene in such a proceeding for all purposes. Failure to provide service of process in such a proceeding to the commission renders a judgment or order void as to the commission, this compact, or its adopted rules;

When the commission determines that a party state has defaulted under the compact:

- The commission shall provide written notice to the defaulting state and other party states of the nature of the default, the proposed means of curing the default, or any other action to be taken by the commission or provide remedial training and specific technical assistance regarding the default.
- If a state in default fails to cure the default, the defaulting state's membership in this compact may be terminated upon an affirmative vote of a majority of administrators and all rights, privileges, and benefits conferred by this compact may be terminated on the effective date of the termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.
- Termination of compact membership shall be imposed only after all other means of securing compliance have been exhausted. The commission shall give notice of intent to suspend or terminate to the governor of the defaulting state, the executive officer of the state's licensing board, and to all party states.
- A state whose compact membership is terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.
- The commission shall not bear any costs related to a state that is found to be in default or whose membership is terminated unless agreed upon in writing between the commission and the defaulting state.
- The defaulting state may appeal the action of the commission by petitioning the United States District Court for the District of Columbia or the federal district in which the commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorney fees.

The commission is also permitted to use a dispute resolution process in the following manner:

- Upon request by a party state, the commission shall attempt to resolve disputes related to the compact that arise between party states and party and nonparty states;
- The commission shall adopt a rule providing for both mediation and binding dispute resolution for disputes, as appropriate; and
- In the event the commission cannot resolve disputes among party states arising under this compact:
    - The party states may submit issues in the dispute to an arbitration panel, which will be comprised of individuals appointed by the compact administrator in each of the affected party states and an individual mutually agreed upon by the compact administrators of all party states involved in the dispute.
    - The decision of a majority of the arbitrators is final and binding.

The commission is charged with, in the reasonable exercise of its discretion, enforcement of the compact and its rules. By majority vote, the commission may initiate legal action in the United

States District of Columbia or the federal court in which the commission has its principal office against a party state that is in default to enforce compliance with the compact and the adopted bylaws and rules. Relief sought may include both injunctive relief and damages. If judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney fees.

The remedies provided in this Article are not exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.

Article X establishes the effective date, withdrawal and amendment provisions for the compact as follows:

- The compact becomes effective and binding on the date of legislative enactment of this compact by no fewer than 26 states or on December 31, 2018, whichever occurs first;
- All party states which were also parties to the prior Nurse Licensure Compact ("prior compact,") are deemed to have withdrawn from the prior compact within 6 months after the effective date of this compact;
- Each party start to this compact shall continue to recognize a nurse's multistate licensure privilege to practice in that party state issued under the prior compact until such party state is withdrawn from the prior compact;
- Any party state may withdraw from this compact by enacting a statute repealing the compact; however, a party state's withdrawal does not take effect until 6 months after the enactment of the repealing statute;
- A party state's withdrawal or termination does not affect the continuing requirement of the withdrawing or terminating state's licensing board to report adverse actions and significant investigations occurring before the effective date of such withdrawal or termination;
- This compact does not invalidate or prevent any nurse licensure agreement or other cooperative agreement between a party state and a nonparty state that is made in accordance with the other provisions of this compact;
- This compact may be amended by the party states; however, an amendment does not become effective and binding upon the party states unless and until it is enacted into the laws of all party states; and
- Representatives of nonparty states to this compact shall be invited to participate in the activities of the commission on a nonvoting basis, before the adoption of the compact by all party states.

Article XI addresses the construction and severability of the compact. The compact may be liberally construed so as to effectuate its purposes. The provisions of the compact are severable, and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the United States, or if its applicability to any government, agency, person, or circumstance is held invalid, the validity of the remainder of the compact and the applicability to any government, agency, person, or circumstance is not affected.

If this compact is declared to be contrary to the constitution of any party state, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable provisions.

Section 8 amends s. 464.012, F.S., relating to certification of advanced registered nurse practitioners to recognize that an applicant may hold a multistate license.

Section 9 amends s. 464.015, F.S., relating to titles and abbreviations, to recognize the alternative multistate license available under s. 464.0095, F.S., and to make grammatical changes.

Section 10 amends s. 464.018, F.S., relating to disciplinary actions, to recognize the alternative multistate license available under s. 464.0095, F.S., to align the grounds for denial of a license or disciplinary action with the reasons provided under the compact. Grammatical changes throughout the section are also made to modify "licensee" to "nurse."

The compact modified existing statutes to provide that an individual who entered a plea of guilty to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of nursing or the ability to practice nursing becomes grounds for discipline. The bill expands the listed adjudications that constitute grounds for disciplinary action to add "convicted of" and "entering a plea of guilty or nolo contendere" to what had previously said "found guilty of the following offenses."

The grounds for denial of a license or disciplinary action are also made applicable to multistate license applicants or multistate licensees.

The bill authorizes the board to take adverse action against a nurse's multistate license privilege and impose any of the penalties under s. 456.072, F.S., when the nurse is found guilty of violating subsection (1) or s. 456.072(1), F.S.

Section 11 amends s. 464.0195, F.S., relating to the Florida Center for Nursing and its goals. The bill directs the Florida Nursing Center to analyze the current nursing supply and demand in the state and make future projections, including an assessment of the impact of the state's participation in the NLC. The Florida Nursing Center may request information from the board about nurses licensed in the state or holding multistate licenses and other information reported to the board by employers of such nurses, other than personal identifying information.

Section 12 amends s. 768.28, F.S., relating to waiver of sovereign immunity, to provide that the executive director of the Board of Nursing, when serving as the state administrator of the compact, and any administrator, officer, executive director, employee, or representative of the commission, when acting within the scope of their employment, duties, or responsibilities in this state, are considered agents of the state. The bill also provides that the commission will pay any claims or judgments pursuant to s. 768.28, F.S., and may maintain insurance coverage to pay any such claim or judgments. These provisions conform state law to the terms of the compact.

Section 13 provides an effective date of December 31, 2018, or upon enactment of the Nurse Licensure Compact into law by 26 states, whichever occurs first.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

The commission requires most of its meetings to be open to the public and that such meetings, including rulemaking hearings, be publicly noticed 60 days prior to each meeting. Proposed rules must be posted to the commission's website and to the party state's licensing board websites or the publication in which each party state would otherwise publish proposed rules. The public must also be provided a reasonable opportunity for public comment, orally or in writing, for proposed rules.

However, the compact permits the commission to meet in closed, nonpublic meetings if the commission must discuss any of the following circumstances:

- Failure of a party state to comply with its obligations under the compact;
- Employment, compensation, discipline, or other personnel matters, practices, or procedures related to specific employees or other matters related to the commission's internal personnel practices;
- Current, threatened, or reasonably anticipated litigation;
- Negotiation of contracts for the purchase or sale of goods, services or real estate;
- Accusations against any person of a crime or formal censure any person;
- Disclosure of trade secrets or commercial or financial information that is privileged or confidential;
- Disclosure of information or a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
- Disclosure of investigatory records compiled for law enforcement purposes;
- Disclosure of information related to any reports prepared by or on behalf of the commission for the purpose of investigation of compliance with this compact; or
- Matters specifically exempted from disclosure by federal or state statute.

Closure of a public meetings for some of these reasons may be inconsistent with Florida law.

The commission is required to keep minutes of these closed sessions that fully describe all matters discussed and provide an accurate summary of actions taken. All minutes and documents of a closed meeting shall remain under seal according to the compact's provisions, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The compact authorizes administrators to develop rules that party states must adopt, which is potentially an unlawful delegation of legislative authority. The revised compact limits the rulemaking by the commission to rules that facilitate and coordinate the implementation and administration of the Nurse Licensure Compact.

If enacted into law, the state will bind itself to rules not yet promulgated and adopted by the commission. The Florida Supreme Court has held that while it is within the province of the Legislature to adopt federal statutes enacted by Congress and rules promulgated by federal administrative bodies that are in existence at the time the Legislature acts, it is an unconstitutional delegation of legislative authority to prospectively adopt federal statutes not yet enacted by Congress and rules not yet promulgated by federal administrative bodies.[38,39] Under this holding, the constitutionality of the bill's adoption of prospective rules might be questioned, and there does not appear to be binding Florida case law that squarely addresses this issue in the context of interstate compacts.

The most recent case Florida courts have had to address this issue was in *Department of Children and Family Services v. L.G.*, involving the Interstate Compact for the Placement of Children (ICPC).[40] The First District Court of Appeal considered an argument that the regulations adopted by the Association of Administrators of the Interstate Compact were binding and that the lower court's order permitting a mother and child to relocate to another state was in violation of the ICPC. The court denied the appeal and held that the Association's regulations did not apply as they conflicted with the ICPC and the regulations did not apply to the facts of the case.

The court also references language in the ICPC that confers to its compact administrators the "power to promulgate rules and regulations to carry out more effectively the terms and provisions of this compact."[41] The court states that "the precise legal effect of the ICPC compact administrators' regulations in Florida is unclear," but noted that it did not need to address the question to decide the case.[42] However, in a footnote, the court provided:

> Any regulations promulgated before Florida adopted the ICPC did not, of course, reflect the vote of a Florida compact administrator, and no such regulations were ever themselves enacted into law in Florida. When the Legislature did adopt the ICPC, it did not (and could not) enact as the law of Florida or adopt prospectively regulations then yet to be promulgated by an entity not even

[38] *Freimuth v. State*, 272 So.2d 473, 476 (Fla. 1972) (quoting *Fla. Ind. Comm'n v. State ex rel Orange State Oil Co.,* 155 Fla. 772 (1945).
[39] This prohibition is based on the separation of powers doctrine, set forth in Article II, Section 3 of the Florida Constitution, which has been construed in Florida to require the Legislature, when delegating the administration of legislative programs, to establish the minimum standards and guidelines ascertainable by reference to the enactment creating the program. *See Avatar Development Corp. v. State*, 723 So.2d 199 (Fla. 1998).
[40] 801 So.2d 1047 (Fla. 1st DCA 2001).
[41] Id at 1052.
[42] Id.

> covered by the Florida Administrative Procedure Act. *See Freimuth v. State,* 272 So.2d 473, 476 (Fla.1972); *Fla. Indus. Comm'n v. State ex rel. Orange State Oil Co.,* 155 Fla. 772, 21 So.2d 599, 603 (1945) ("[I]t is within the province of the legislature to approve and adopt the provisions of federal statutes, and all of the administrative rules made by a federal administrative body, that are in existence and in effect at the time the legislature acts, but it would be an unconstitutional delegation of legislative power for the legislature to adopt in advance any federal act or the ruling of any federal administrative body that Congress or such administrative body might see fit to adopt in the future."); *Brazil v. Div. of Admin.,* 347 So.2d 755, 757–58 (Fla. 1st DCA 1977), *disapproved on other grounds by LaPointe Outdoor Adver. v. Fla. Dep't of Transp.,* 398 So.2d 1370, 1370 (Fla.1981). The ICPC compact administrators stand on the same footing as federal government administrators in this regard.[43]

In accordance with the discussion provided by the court in this above-cited footnote, it may be argued that the bill's delegation of rule-making authority to the commission is similar to the delegation to the ICPC compact administrators, and thus, could constitute an unlawful delegation of legislative authority. This case, however, does not appear to be binding as precedent as the court's footnote discussion is dicta.[44]

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Under CS/SB 1316, a Florida nurse converting his or her single-state license would be subject to a fee to convert to a multistate license.

Health care employers, such as hospitals, nursing homes, assisted living facilities and others, may benefit from the availability of additional nurses in the workforce as nurses from other party states move to Florida for employment. According to one report, the number of vacant RN positions for 2015 in Florida was 12,493, and 9,947 new RN positions are expected to be created in Florida by the end of 2016.[45] Hospitals are facing

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[43] *Id.*

[44] Dicta are statements of a court that are not essential to the determination of the case before it and are not a part of the law of the case. Dicta has no biding legal effect and is without force as judicial precedent. 12A FLA JUR. 2D *Courts and Judges* s. 191 (2015).

[45] Kathleen McGrory, *Florida Facing a "Nursing Shortage Tsunami" Due to Increased Population, More Insured Patients*, TAMPA BAY TIMES, Feb. 1, 2016, *available at* http://www.tampabay.com/news/health/florida-facing-a-nursing-shortage-tsunami-due-to-increased-population-more/2263588.

an average turnover rate of 18.3 percent in 2015 for registered nurses in hospitals providing additional recruitment opportunities.[46]

C. Government Sector Impact:

The Department of Health's (DOH) office of Medical Quality Assurance (MQA) reports an expected increase in revenues associated with the multistate application initial and renewal fees. The increase of applications in Florida is unknown; therefore, the fiscal impact for this component is indeterminate at this time.[47] There are currently 1.4 million nurses with a multistate license.

The DOH anticipates an increase in workload and recurring expenses for:

- Additional regulations for new licensure;
- Investigation of complaints and investigations related to that new licensure; and
- Processing of initial and renewal applications and related fees.[48]

The DOH is unable to determine the cost of these expenses at this time, but most of these expenses can be absorbed within existing DOH resources.

The annual membership cost with the Nurse Licensure Compact is approximately $6,000 which the DOH indicates can be absorbed within current budget authority.[49]

The DOH also will incur non-recurring costs to update the Nursing application and the Licensing and Information Database System, both of which the DOH indicates can be absorbed within existing resources.[50]

VI. Technical Deficiencies:

None.

VII. Related Issues:

Florida's continuing education requirements for nurses (24 hours of continuing education over two years) would not apply to compact nurses. Florida's Board of Nursing could not require or enforce these continuing education requirements on nurses from other states that practiced in Florida under a multistate license privilege. Some compact states do not require continuing education.

Florida requires applicants to submit fingerprints for state and federal criminal records checks. The grandfather clause for nurses who are currently holding or renewing a multistate license

[46] Id.
[47] *Supra* note 16, at 6.
[48] Id at 6-7.
[49] Id.
[50] Id.

privilege would exempt nurses from the criminal background screening whose home state does not require criminal background screening.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 456.073, 456.076, 464.003, 464.004, 464.008, 464.009, 464.012, 464.015, 464.018, and 464.0195.

This bill creates section 464.0095 of the Florida Statutes.

IX. Additional Information:

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

CS by Appropriations on March 1, 2016:
The committee substitute amends Florida Statutes relating to sovereign immunity to conform to the terms of the compact by providing that certain individuals, when carrying out duties or responsibilities relating to the compact are deemed agents of the state and by providing that the commission will pay any claims or judgments pursuant to a waiver of sovereign immunity and may maintain insurance coverage to pay such claims or judgments.

B. Amendments:

None.

By Senator Grimsley

21-00477-16 20161316__

A bill to be entitled

An act relating to the Nurse Licensure Compact; amending s. 456.073, F.S.; requiring the Department of Health to report certain investigative information to the coordinated licensure information system; amending s. 456.076, F.S.; requiring an impaired practitioner consultant to disclose certain information to the department upon request; requiring a nurse holding a multistate license to report participation in a treatment program to the department; amending s. 464.003, F.S.; revising definitions to conform to changes made by the compact; amending s. 464.004, F.S.; requiring the executive director of the Board of Nursing or his or her designee to serve as state administrator of the Nurse Licensure Compact; amending s. 464.008, F.S.; providing eligibility criteria for a multistate license; requiring that multistate licenses be distinguished from single-state licenses; exempting certain persons from licensed practical nurse and registered nurse licensure requirements; amending s. 464.009, F.S.; exempting certain persons from requirements for licensure by endorsement; creating s. 464.0095, F.S.; creating the Nurse Licensure Compact; providing findings and purpose; providing definitions; providing for the recognition of nursing licenses in party states; requiring party states to perform criminal history checks of licensure applicants; providing requirements for obtaining and retaining a multistate license; authorizing party states to take adverse action against a nurse’s multistate licensure privilege; requiring notification to the home licensing state of an adverse action against a

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licensee; requiring nurses practicing in party states to comply with state practice laws; providing limitations for licensees not residing in a party state; providing the effect of the act on a current licensee; providing application requirements for a multistate license; providing licensure requirements when a licensee moves between party states or to a nonparty state; providing certain authority to state licensing boards of party states; requiring deactivation of a nurse’s multistate licensure privilege under certain circumstances; authorizing participation in an alternative program in lieu of adverse action against a license; requiring all party states to participate in a coordinated licensure information system; providing for the development of the system, reporting procedures, and the exchange of certain information between party states; establishing the Interstate Commission of Nurse Licensure Compact Administrators; providing for the jurisdiction and venue for court proceedings; providing membership and duties; authorizing the commission to adopt rules; providing rulemaking procedures; providing for state enforcement of the compact; providing for the termination of compact membership; providing procedures for the resolution of certain disputes; providing an effective date of the compact; providing a procedure for membership termination; providing compact amendment procedures; authorizing nonparty states to participate in commission activities before

adoption of the compact; providing construction and severability; amending s. 464.012, F.S.; authorizing a multistate licensee under the compact to be certified as an advanced registered nurse practitioner if certain eligibility criteria are met; amending s. 464.015, F.S.; authorizing registered nurses and licensed practical nurses holding a multistate license under the compact to use certain titles and abbreviations; amending s. 464.018, F.S.; revising the grounds for denial of a nursing license or disciplinary action against a nursing licensee; authorizing certain disciplinary action under the compact for certain prohibited acts; amending s. 464.0195, F.S.; revising the information required to be included in the database on nursing supply and demand; requiring the Florida Center for Nursing to analyze and make future projections of the supply and demand for nurses; authorizing the center to request, and requiring the Board of Nursing to provide, certain information about licensed nurses; providing a contingent effective date.

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

Section 1. Subsection (10) of section 456.073, Florida Statutes, is amended to read:

456.073 Disciplinary proceedings.—Disciplinary proceedings for each board shall be within the jurisdiction of the department.

(10) The complaint and all information obtained pursuant to the investigation by the department are confidential and exempt from s. 119.07(1) until 10 days after probable cause has been found to exist by the probable cause panel or by the department, or until the regulated professional or subject of the investigation waives his or her privilege of confidentiality, whichever occurs first. The department shall report any significant investigation information relating to a nurse holding a multistate license to the coordinated licensure information system pursuant to s. 464.0095. Upon completion of the investigation and a recommendation by the department to find probable cause, and pursuant to a written request by the subject or the subject's attorney, the department shall provide the subject an opportunity to inspect the investigative file or, at the subject's expense, forward to the subject a copy of the investigative file. Notwithstanding s. 456.057, the subject may inspect or receive a copy of any expert witness report or patient record connected with the investigation if the subject agrees in writing to maintain the confidentiality of any information received under this subsection until 10 days after probable cause is found and to maintain the confidentiality of patient records pursuant to s. 456.057. The subject may file a written response to the information contained in the investigative file. Such response must be filed within 20 days of mailing by the department, unless an extension of time has been granted by the department. This subsection does not prohibit the department from providing such information to any law enforcement agency or to any other regulatory agency.

Section 2. Subsection (9) of section 456.076, Florida

Statutes, is amended to read:

456.076 Treatment programs for impaired practitioners.—

(9) An impaired practitioner consultant is the official custodian of records relating to the referral of an impaired licensee or applicant to that consultant and any other interaction between the licensee or applicant and the consultant. The consultant may disclose to the impaired licensee or applicant or his or her designee any information that is disclosed to or obtained by the consultant or that is confidential under paragraph (6)(a), but only to the extent that it is necessary to do so to carry out the consultant's duties under this section. The department, and any other entity that enters into a contract with the consultant to receive the services of the consultant, has direct administrative control over the consultant to the extent necessary to receive disclosures from the consultant as allowed by federal law. The consultant must disclose to the department, upon the department's request, whether an applicant for a multistate license under s. 464.0095 is participating in a treatment program and must report to the department when a nurse holding a multistate license under s. 464.0095 enters a treatment program. A nurse holding a multistate license pursuant to s. 464.0095 must report to the department within 2 business days after entering a treatment program pursuant to this section. If a disciplinary proceeding is pending, an impaired licensee may obtain such information from the department under s. 456.073.

Section 3. Subsections (16) and (22) of section 464.003, Florida Statutes, are amended to read:

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

(16) "Licensed practical nurse" means any person licensed in this state or holding an active multistate license under s. 464.0095 to practice practical nursing.

(22) "Registered nurse" means any person licensed in this state or holding an active multistate license under s. 464.0095 to practice professional nursing.

Section 4. Subsection (5) is added to section 464.004, Florida Statutes, to read:

464.004 Board of Nursing; membership; appointment; terms.—

(5) The executive director of the board appointed pursuant to s. 456.004(2) or his or her designee shall serve as the state administrator of the Nurse Licensure Compact as required under s. 464.0095.

Section 5. Subsection (2) of section 464.008, Florida Statutes, is amended, and subsection (5) is added to that section, to read:

464.008 Licensure by examination.—

(2)(a) Each applicant who passes the examination and provides proof of meeting the educational requirements specified in subsection (1) shall, unless denied pursuant to s. 464.018, be entitled to licensure as a registered professional nurse or a licensed practical nurse, whichever is applicable.

(b) An applicant who resides in this state, meets the licensure requirements of this section, and meets the criteria for multistate licensure under s. 464.0095 may request the issuance of a multistate license from the department.

(c) A nurse who holds a single-state license in this state and applies to the department for a multistate license must meet the eligibility criteria for a multistate license under s.

464.0095 and must pay an application and licensure fee to change the licensure status.

(d) The department shall conspicuously distinguish a multistate license from a single-state license.

(5) A person holding an active multistate license in another state pursuant to s. 464.0095 is exempt from the licensure requirements of this section.

Section 6. Subsection (7) is added to section 464.009, Florida Statutes, to read:

464.009 Licensure by endorsement.—

(7) A person holding an active multistate license in another state pursuant to s. 464.0095 is exempt from the requirements for licensure by endorsement in this section.

Section 7. Section 464.0095, Florida Statutes, is created to read:

464.0095 Nurse Licensure Compact.—The Nurse Licensure Compact is hereby enacted into law and entered into by this state with all other jurisdictions legally joining therein in the form substantially as follows:

ARTICLE I

FINDINGS AND DECLARATION OF PURPOSE

(1) The party states find that:

(a) The health and safety of the public are affected by the degree of compliance with and the effectiveness of enforcement activities related to state nurse licensure laws.

(b) Violations of nurse licensure and other laws regulating the practice of nursing may result in injury or harm to the public.

(c) The expanded mobility of nurses and the use of advanced

communication technologies as part of the nation's health care delivery system require greater coordination and cooperation among states in the areas of nurse licensure and regulation.

(d) New practice modalities and technology make compliance with individual state nurse licensure laws difficult and complex.

(e) The current system of duplicative licensure for nurses practicing in multiple states is cumbersome and redundant for both nurses and states.

(f) Uniformity of nurse licensure requirements throughout the states promotes public safety and public health benefits.

(2) The general purposes of this compact are to:

(a) Facilitate the states' responsibility to protect the public's health and safety.

(b) Ensure and encourage the cooperation of party states in the areas of nurse licensure and regulation.

(c) Facilitate the exchange of information among party states in the areas of nurse regulation, investigation, and adverse actions.

(d) Promote compliance with the laws governing the practice of nursing in each jurisdiction.

(e) Invest all party states with the authority to hold a nurse accountable for meeting all state practice laws in the state in which the patient is located at the time care is rendered through the mutual recognition of party state licenses.

(f) Decrease redundancies in the consideration and issuance of nurse licenses.

(g) Provide opportunities for interstate practice by nurses who meet uniform licensure requirements.

ARTICLE II

DEFINITIONS

As used in this compact, the term:

(1) "Adverse action" means any administrative, civil, equitable, or criminal action permitted by a state's laws which is imposed by a licensing board or other authority against a nurse, including actions against an individual's license or multistate licensure privilege, such as revocation, suspension, probation, monitoring of the licensee, limitation on the licensee's practice, or any other encumbrance on licensure affecting a nurse's authorization to practice, including issuance of a cease and desist action.

(2) "Alternative program" means a nondisciplinary monitoring program approved by a licensing board.

(3) "Commission" means the Interstate Commission of Nurse Licensure Compact Administrators established by this compact.

(4) "Compact" means the Nurse Licensure Compact recognized, established, and entered into by the state under this compact.

(5) "Coordinated licensure information system" means an integrated process for collecting, storing, and sharing information on nurse licensure and enforcement activities related to nurse licensure laws which is administered by a nonprofit organization composed of and controlled by licensing boards.

(6) "Current significant investigative information" means:

(a) Investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the nurse to respond, if required by state law, has reason to believe is not groundless and, if proved true,

would indicate more than a minor infraction; or

(b) Investigative information that indicates that the nurse represents an immediate threat to public health and safety regardless of whether the nurse has been notified and had an opportunity to respond.

(7) "Encumbrance" means a revocation or suspension of, or any limitation on, the full and unrestricted practice of nursing imposed by a licensing board.

(8) "Home state" means the party state that is the nurse's primary state of residence.

(9) "Licensing board" means a party state's regulatory body responsible for issuing nurse licenses.

(10) "Multistate license" means a license to practice as a registered nurse (RN) or a licensed practical or vocational nurse (LPN/VN) issued by a home state licensing board which authorizes the licensed nurse to practice in all party states under a multistate licensure privilege.

(11) "Multistate licensure privilege" means a legal authorization associated with a multistate license permitting the practice of nursing as either an RN or an LPN/VN in a remote state.

(12) "Nurse" means an RN or LPN/VN, as those terms are defined by each party state's practice laws.

(13) "Party state" means any state that has adopted this compact.

(14) "Remote state" means a party state other than the home state.

(15) "Single-state license" means a nurse license issued by a party state which authorizes practice only within the issuing

state and does not include a multistate licensure privilege to practice in any other party state.

(16) "State" means a state, territory, or possession of the United States, or the District of Columbia.

(17) "State practice laws" means a party state's laws, rules, and regulations that govern the practice of nursing, define the scope of nursing practice, and create the methods and grounds for imposing discipline. The term does not include requirements necessary to obtain and retain a license, except for qualifications or requirements of the home state.

ARTICLE III

GENERAL PROVISIONS AND JURISDICTION

(1) A multistate license to practice registered or licensed practical or vocational nursing issued by a home state to a resident in that state is recognized by each party state as authorizing a nurse to practice as an RN or as an LPN/VN under a multistate licensure privilege in each party state.

(2) Each party state must implement procedures for considering the criminal history records of applicants for initial multistate licensure or licensure by endorsement. Such procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that state's criminal records.

(3) In order for an applicant to obtain or retain a multistate license in the home state, each party state must require that the applicant fulfills the following criteria:

(a) Has met the home state's qualifications for licensure

or renewal of licensure, as well as all other applicable state laws.

(b)1. Has graduated or is eligible to graduate from a licensing board-approved RN or LPN/VN prelicensure education program; or

2. Has graduated from a foreign RN or LPN/VN prelicensure education program that has been approved by the authorized accrediting body in the applicable country and has been verified by a licensing board-approved independent credentials review agency to be comparable to a licensing board-approved prelicensure education program.

(c) If the applicant is a graduate of a foreign prelicensure education program not taught in English, or if English is not the applicant's native language, has successfully passed a licensing board-approved English proficiency examination that includes the components of reading, speaking, writing, and listening.

(d) Has successfully passed an NCLEX-RN or NCLEX-PN Examination or recognized predecessor, as applicable.

(e) Is eligible for or holds an active, unencumbered license.

(f) Has submitted, in connection with an application for initial licensure or licensure by endorsement, fingerprints or other biometric data for the purpose of obtaining criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that state's criminal records.

(g) Has not been convicted or found guilty, or has entered into an agreed disposition other than a disposition that results

in nolle prosequi, of a felony offense under applicable state or federal criminal law.

(h) Has not been convicted or found guilty, or has entered into an agreed disposition other than a disposition that results in nolle prosequi, of a misdemeanor offense related to the practice of nursing as determined on a case-by-case basis.

(i) Is not currently enrolled in an alternative program.

(j) Is subject to self-disclosure requirements regarding current participation in an alternative program.

(k) Has a valid social security number.

(4) All party states may, in accordance with existing state due process law, take adverse action against a nurse's multistate licensure privilege, such as revocation, suspension, probation, or any other action that affects the nurse's authorization to practice under a multistate licensure privilege, including cease and desist actions. If a party state takes such action, it shall promptly notify the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the home state of any such actions by remote states.

(5) A nurse practicing in a party state shall comply with the state practice laws of the state in which the patient is located at the time service is provided. The practice of nursing is not limited to patient care but includes all nursing practice as defined by the state practice laws of the party state in which the patient is located. The practice of nursing in a party state under a multistate licensure privilege subjects a nurse to the jurisdiction of the licensing board, the courts, and the laws of the party state in which the patient is located at the

time service is provided.

(6) A person not residing in a party state shall continue to be able to apply for a party state's single-state license as provided under the laws of each party state. The single-state license granted to such a person does not grant the privilege to practice nursing in any other party state. This compact does not affect the requirements established by a party state for the issuance of a single-state license.

(7) A nurse holding a home state multistate license, on the effective date of this compact, may retain and renew the multistate license issued by the nurse's then-current home state, provided that the nurse who changes his or her primary state of residence after the effective date meets all applicable requirements under subsection (3) to obtain a multistate license from a new home state. A nurse who fails to satisfy the multistate licensure requirements under subsection (3) due to a disqualifying event occurring after the effective date is ineligible to retain or renew a multistate license, and the nurse's multistate license shall be revoked or deactivated in accordance with applicable rules adopted by the commission.

ARTICLE IV

APPLICATIONS FOR LICENSURE IN A PARTY STATE

(1) Upon application for a multistate license, the licensing board in the issuing party state shall ascertain, through the coordinated licensure information system, whether the applicant has ever held, or is the holder of, a license issued by any other state, whether there are any encumbrances on any license or multistate licensure privilege held by the applicant, whether any adverse action has been taken against any

license or multistate licensure privilege held by the applicant, and whether the applicant is currently participating in an alternative program.

(2) A nurse may hold a multistate license, issued by the home state, in only one party state at a time.

(3) If a nurse changes his or her primary state of residence by moving from one party state to another party state, the nurse must apply for licensure in the new home state, and the multistate license issued by the prior home state must be deactivated in accordance with applicable rules adopted by the commission.

(a) The nurse may apply for licensure in advance of a change in his or her primary state of residence.

(b) A multistate license may not be issued by the new home state until the nurse provides satisfactory evidence of a change in his or her primary state of residence to the new home state and satisfies all applicable requirements to obtain a multistate license from the new home state.

(4) If a nurse changes his or her primary state of residence by moving from a party state to a nonparty state, the multistate license issued by the prior home state must convert to a single-state license valid only in the former home state.

ARTICLE V

ADDITIONAL AUTHORITY VESTED IN PARTY STATE LICENSING BOARDS

(1) In addition to the other powers conferred by state law, a licensing board or state agency may:

(a) Take adverse action against a nurse's multistate licensure privilege to practice within that party state.

1. Only the home state has the power to take adverse action

against a nurse's license issued by the home state.

2. For purposes of taking adverse action, the home state licensing board or state agency shall give the same priority and effect to conduct reported by a remote state as it would if such conduct had occurred within the home state. In so doing, the home state shall apply its own state laws to determine appropriate action.

(b) Issue cease and desist orders or impose an encumbrance on a nurse's authority to practice within that party state.

(c) Complete any pending investigation of a nurse who changes his or her primary state of residence during the course of such investigation. The licensing board or state agency may also take appropriate action and shall promptly report the conclusions of such investigation to the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any such action.

(d) Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses or the production of evidence. Subpoenas issued by a licensing board or state agency in a party state for the attendance and testimony of witnesses or the production of evidence from another party state shall be enforced in the latter state by any court of competent jurisdiction according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, and mileage and other fees required by the service statutes of the state in which the witnesses or evidence is located.

(e) Obtain and submit, for each nurse licensure applicant, fingerprint or other biometric-based information to the Federal Bureau of Investigation for criminal background checks, receive the results of the Federal Bureau of Investigation record search on criminal background checks, and use the results in making licensure decisions.

(f) If otherwise permitted by state law, recover from the affected nurse the costs of investigations and disposition of cases resulting from any adverse action taken against that nurse.

(g) Take adverse action based on the factual findings of the remote state, provided that the licensing board or state agency follows its own procedures for taking such adverse action.

(2) If adverse action is taken by the home state against a nurse's multistate license, the nurse's multistate licensure privilege to practice in all other party states shall be deactivated until all encumbrances are removed from the multistate license. All home state disciplinary orders that impose adverse action against a nurse's multistate license shall include a statement that the nurse's multistate licensure privilege is deactivated in all party states during the pendency of the order.

(3) This compact does not override a party state's decision that participation in an alternative program may be used in lieu of adverse action. The home state licensing board shall deactivate the multistate licensure privilege under the multistate license of any nurse for the duration of the nurse's participation in an alternative program.

ARTICLE VI

COORDINATED LICENSURE INFORMATION SYSTEM AND EXCHANGE INFORMATION

(1) All party states shall participate in a coordinated licensure information system relating to all licensed RNs and LPNs/VNs. This system shall include information on the licensure and disciplinary history of each nurse, as submitted by party states, to assist in the coordination of nurse licensure and enforcement efforts.

(2) The commission, in consultation with the administrator of the coordinated licensure information system, shall formulate necessary and proper procedures for the identification, collection, and exchange of information under this compact.

(3) All licensing boards shall promptly report to the coordinated licensure information system any adverse action, any current significant investigative information, denials of applications, the reasons for application denials, and nurse participation in alternative programs known to the licensing board regardless of whether such participation is deemed nonpublic or confidential under state law.

(4) Current significant investigative information and participation in nonpublic or confidential alternative programs shall be transmitted through the coordinated licensure information system only to party state licensing boards.

(5) Notwithstanding any other provision of law, all party state licensing boards contributing information to the coordinated licensure information system may designate information that may not be shared with nonparty states or disclosed to other entities or individuals without the express

permission of the contributing state.

(6) Any personal identifying information obtained from the coordinated licensure information system by a party state licensing board may not be shared with nonparty states or disclosed to other entities or individuals except to the extent permitted by the laws of the party state contributing the information.

(7) Any information contributed to the coordinated licensure information system which is subsequently required to be expunged by the laws of the party state contributing that information is also expunged from the coordinated licensure information system.

(8) The compact administrator of each party state shall furnish a uniform data set to the compact administrator of each other party state, which shall include, at a minimum:

(a) Identifying information.

(b) Licensure data.

(c) Information related to alternative program participation.

(d) Other information that may facilitate the administration of this compact, as determined by commission rules.

(9) The compact administrator of a party state shall provide all investigative documents and information requested by another party state.

ARTICLE VII

ESTABLISHMENT OF THE INTERSTATE COMMISSION OF NURSE LICENSURE COMPACT ADMINISTRATORS

(1) The party states hereby create and establish a joint

public entity known as the Interstate Commission of Nurse Licensure Compact Administrators.

(a) The commission is an instrumentality of the party states.

(b) Venue is proper, and judicial proceedings by or against the commission shall be brought solely and exclusively, in a court of competent jurisdiction where the commission's principal office is located. The commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

(c) This compact does not waive sovereign immunity.

(2)(a) Each party state shall have and be limited to one administrator. The executive director of the state licensing board or his or her designee shall be the administrator of this compact for each party state. Any administrator may be removed or suspended from office as provided by the law of the state from which the administrator is appointed. Any vacancy occurring on the commission shall be filled in accordance with the laws of the party state in which the vacancy exists.

(b) Each administrator is entitled to one vote with regard to the adoption of rules and the creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the commission. An administrator shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for an administrator's participation in meetings by telephone or other means of communication.

(c) The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the commission's bylaws or rules.

(d) All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under Article VIII of this compact.

(e) The commission may convene in a closed, nonpublic meeting if the commission must discuss:

1. Failure of a party state to comply with its obligations under this compact;

2. The employment, compensation, discipline, or other personnel matters, practices, or procedures related to specific employees or other matters related to the commission's internal personnel practices and procedures;

3. Current, threatened, or reasonably anticipated litigation;

4. Negotiation of contracts for the purchase or sale of goods, services, or real estate;

5. Accusing any person of a crime or formally censuring any person;

6. Disclosure of trade secrets or commercial or financial information that is privileged or confidential;

7. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

8. Disclosure of investigatory records compiled for law enforcement purposes;

9. Disclosure of information related to any reports prepared by or on behalf of the commission for the purpose of investigation of compliance with this compact; or

10. Matters specifically exempted from disclosure by federal or state statute.

(f) If a meeting, or portion of a meeting, is closed pursuant to this subsection, the commission's legal counsel or designee shall certify that the meeting, or portion of the meeting, is closed and shall reference each relevant exempting provision. The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefor, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.

(3) The commission shall, by a majority vote of the administrators, prescribe bylaws or rules to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of this compact, including, but not limited to:

(a) Establishing the commission's fiscal year.

(b) Providing reasonable standards and procedures:

1. For the establishment and meetings of other committees.

2. Governing any general or specific delegation of any authority or function of the commission.

(c) Providing reasonable procedures for calling and conducting meetings of the commission, ensuring reasonable advance notice of all meetings, and providing an opportunity for attendance of such meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of individuals, and proprietary information,

including trade secrets. The commission may meet in closed session only after a majority of the administrators vote to close a meeting in whole or in part. As soon as practicable, the commission must make public a copy of the vote to close the meeting revealing the vote of each administrator, with no proxy votes allowed.

(d) Establishing the titles, duties and authority, and reasonable procedures for the election of the commission's officers.

(e) Providing reasonable standards and procedures for the establishment of the commission's personnel policies and programs. Notwithstanding any civil service or other similar laws of any party state, the bylaws shall exclusively govern the commission's personnel policies and programs.

(f) Providing a mechanism for winding up the commission's operations and the equitable disposition of any surplus funds that may exist after the termination of this compact after the payment or reserving of all of its debts and obligations.

(4) The commission shall publish its bylaws and rules, and any amendments thereto, in a convenient form on the commission's website.

(5) The commission shall maintain its financial records in accordance with the bylaws.

(6) The commission shall meet and take such actions as are consistent with this compact and the bylaws.

(7) The commission may:

(a) Adopt uniform rules to facilitate and coordinate implementation and administration of this compact. The rules shall have the force and effect of law and are binding in all

party states.

(b) Bring and prosecute legal proceedings or actions in the name of the commission, provided that the standing of any licensing board to sue or be sued under applicable law is not affected.

(c) Purchase and maintain insurance and bonds.

(d) Borrow, accept, or contract for services of personnel, including employees of a party state or nonprofit organizations.

(e) Cooperate with other organizations that administer state compacts related to the regulation of nursing, including sharing administrative or staff expenses, office space, or other resources.

(f) Hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of this compact, and establish the commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters.

(g) Accept any and all appropriate donations, grants, and gifts of money, equipment, supplies, materials, and services and receive, use, and dispose of the same, provided that, at all times, the commission avoids any appearance of impropriety or conflict of interest.

(h) Lease, purchase, accept appropriate gifts or donations of, or otherwise own, hold, improve, or use any property, whether real, personal, or mixed, provided that, at all times, the commission avoids any appearance of impropriety.

(i) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, whether real,

personal, or mixed.

(j) Establish a budget and make expenditures.

(k) Borrow money.

(l) Appoint committees, including advisory committees comprised of administrators, state nursing regulators, state legislators or their representatives, consumer representatives, and other interested persons.

(m) Provide information to, receive information from, and cooperate with law enforcement agencies.

(n) Adopt and use an official seal.

(o) Perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of nurse licensure and practice.

(8) Relating to the financing of the commission, the commission:

(a) Shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

(b) May also levy and collect an annual assessment from each party state to cover the cost of its operations, activities, and staff in its annual budget as approved each year. The aggregate annual assessment amount, if any, shall be allocated based on a formula to be determined by the commission, which shall adopt a rule that is binding on all party states.

(c) May not incur obligations of any kind before securing the funds adequate to meet the same; and the commission may not pledge the credit of any of the party states, except by and with the authority of such party state.

(d) Shall keep accurate accounts of all receipts and

disbursements. The commission's receipts and disbursements are subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in, and become part of, the commission's annual report.

(9) Relating to the sovereign immunity, defense, and indemnification of the commission:

(a) The administrators, officers, executive director, employees, and representatives of the commission are immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the scope of commission employment, duties, or responsibilities. This paragraph does not protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional, willful, or wanton misconduct of that person.

(b) The commission shall defend any administrator, officer, executive director, employee, or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities,

provided that the actual or alleged act, error, or omission did not result from that person's intentional, willful, or wanton misconduct. This paragraph does not prohibit that person from retaining his or her own counsel.

(c) The commission shall indemnify and hold harmless any administrator, officer, executive director, employee, or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional, willful, or wanton misconduct of that person.

ARTICLE VIII

RULEMAKING

(1) The commission shall exercise its rulemaking powers pursuant to the criteria set forth in this article and the rules adopted thereunder. Rules and amendments become binding as of the date specified in each rule or amendment and have the same force and effect as provisions of this compact.

(2) Rules or amendments to the rules shall be adopted at a regular or special meeting of the commission.

(3) Before adoption of a final rule or final rules by the commission, and at least 60 days before the meeting at which the rule will be considered and voted upon, the commission shall file a notice of proposed rulemaking:

(a) On the commission's website.

(b) On the website of each licensing board or the publication in which each state would otherwise publish proposed rules.

(4) The notice of proposed rulemaking shall include:

(a) The proposed time, date, and location of the meeting in which the rule will be considered and voted upon.

(b) The text of the proposed rule or amendment and the reason for the proposed rule.

(c) A request for comments on the proposed rule from any interested person.

(d) The manner in which an interested person may submit notice to the commission of his or her intention to attend the public hearing and any written comments.

(5) Before adoption of a proposed rule, the commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.

(6) The commission shall grant an opportunity for a public hearing before it adopts a rule or amendment.

(7) The commission shall publish the place, time, and date of the scheduled public hearing.

(a) Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing. All hearings will be recorded, and a copy will be made available upon request.

(b) This article does not require a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this article.

(8) If no interested person appears at the public hearing, the commission may proceed with adoption of the proposed rule.

(9) Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing is not held, the commission shall consider all written and oral comments received.

(10) The commission shall, by majority vote of all administrators, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

(11) Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in this compact and in this article are applied retroactively to the rule as soon as reasonably possible within 90 days after the effective date of the rule. For the purposes of this subsection, an emergency rule is one that must be adopted immediately in order to:

(a) Meet an imminent threat to public health, safety, or welfare;

(b) Prevent a loss of commission or party state funds; or

(c) Meet a deadline for the adoption of an administrative rule that is required by federal law or rule.

(12) The commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the commission's website. The revision is subject to challenge by any person for 30 days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge must be made in writing

and delivered to the commission before the end of the notice period. If no challenge is made, the revision shall take effect without further action. If the revision is challenged, the revision may not take effect without the commission's approval.

ARTICLE IX

OVERSIGHT, DISPUTE RESOLUTION, AND ENFORCEMENT

(1) Oversight of this compact shall be accomplished by:

(a) Each party state, which shall enforce this compact and take all actions necessary and appropriate to effectuate this compact's purposes and intent.

(b) The commission, which is entitled to receive service of process in any proceeding that may affect the powers, responsibilities, or actions of the commission and has standing to intervene in such a proceeding for all purposes. Failure to provide service of process in such proceeding to the commission renders a judgment or order void as to the commission, this compact, or adopted rules.

(2) When the commission determines that a party state has defaulted in the performance of its obligations or responsibilities under this compact or the adopted rules, the commission shall:

(a) Provide written notice to the defaulting state and other party states of the nature of the default, the proposed means of curing the default, or any other action to be taken by the commission.

(b) Provide remedial training and specific technical assistance regarding the default.

(3) If a state in default fails to cure the default, the defaulting state's membership in this compact may be terminated

upon an affirmative vote of a majority of the administrators, and all rights, privileges, and benefits conferred by this compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

(4) Termination of membership in this compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the commission to the governor of the defaulting state, to the executive officer of the defaulting state's licensing board, and each of the party states.

(5) A state whose membership in this compact is terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

(6) The commission shall not bear any costs related to a state that is found to be in default or whose membership in this compact is terminated unless agreed upon in writing between the commission and the defaulting state.

(7) The defaulting state may appeal the action of the commission by petitioning the United States District Court for the District of Columbia or the federal district in which the commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorney fees.

(8) Dispute resolution may be used by the commission in the following manner:

(a) Upon request by a party state, the commission shall attempt to resolve disputes related to the compact that arise among party states and between party and nonparty states.

(b) The commission shall adopt a rule providing for both mediation and binding dispute resolution for disputes, as appropriate.

(c) In the event the commission cannot resolve disputes among party states arising under this compact:

1. The party states may submit the issues in dispute to an arbitration panel, which will be comprised of individuals appointed by the compact administrator in each of the affected party states and an individual mutually agreed upon by the compact administrators of all the party states involved in the dispute.

2. The decision of a majority of the arbitrators is final and binding.

(9)(a) The commission shall, in the reasonable exercise of its discretion, enforce the provisions and rules of this compact.

(b) By majority vote, the commission may initiate legal action in the United States District Court for the District of Columbia or the federal district in which the commission has its principal offices against a party state that is in default to enforce compliance with this compact and its adopted rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney fees.

(c) The remedies provided in this subsection are not the

exclusive remedies of the commission. The commission may pursue any other remedies available under federal or state law.

ARTICLE X

EFFECTIVE DATE, WITHDRAWAL, AND AMENDMENT

(1) This compact becomes effective and binding on the date of legislative enactment of this compact into law by no fewer than 26 states or on December 31, 2018, whichever occurs first. All party states to this compact which were also parties to the prior Nurse Licensure Compact ("prior compact"), superseded by this compact, are deemed to have withdrawn from the prior compact within 6 months after the effective date of this compact.

(2) Each party state to this compact shall continue to recognize a nurse's multistate licensure privilege to practice in that party state issued under the prior compact until such party state is withdrawn from the prior compact.

(3) Any party state may withdraw from this compact by enacting a statute repealing the compact. A party state's withdrawal does not take effect until 6 months after enactment of the repealing statute.

(4) A party state's withdrawal or termination does not affect the continuing requirement of the withdrawing or terminated state's licensing board to report adverse actions and significant investigations occurring before the effective date of such withdrawal or termination.

(5) This compact does not invalidate or prevent any nurse licensure agreement or other cooperative arrangement between a party state and a nonparty state that is made in accordance with the other provisions of this compact.

(6) This compact may be amended by the party states. An amendment to this compact does not become effective and binding upon the party states unless and until it is enacted into the laws of all party states.

(7) Representatives of nonparty states to this compact shall be invited to participate in the activities of the commission, on a nonvoting basis, before the adoption of this compact by all party states.

ARTICLE XI

CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact are severable, and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the United States, or if the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance is not affected thereby. If this compact is declared to be contrary to the constitution of any party state, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters.

Section 8. Subsection (1) of section 464.012, Florida Statutes, is amended to read:

464.012 Certification of advanced registered nurse practitioners; fees.—

(1) Any nurse desiring to be certified as an advanced registered nurse practitioner shall apply to the department and

submit proof that he or she holds a current license to practice professional nursing or holds an active multistate license to practice professional nursing pursuant to s. 464.0095 and that he or she meets one or more of the following requirements as determined by the board:

(a) Satisfactory completion of a formal postbasic educational program of at least one academic year, the primary purpose of which is to prepare nurses for advanced or specialized practice.

(b) Certification by an appropriate specialty board. Such certification shall be required for initial state certification and any recertification as a registered nurse anesthetist or nurse midwife. The board may by rule provide for provisional state certification of graduate nurse anesthetists and nurse midwives for a period of time determined to be appropriate for preparing for and passing the national certification examination.

(c) Graduation from a program leading to a master's degree in a nursing clinical specialty area with preparation in specialized practitioner skills. For applicants graduating on or after October 1, 1998, graduation from a master's degree program shall be required for initial certification as a nurse practitioner under paragraph (4)(c). For applicants graduating on or after October 1, 2001, graduation from a master's degree program shall be required for initial certification as a registered nurse anesthetist under paragraph (4)(a).

Section 9. Subsections (1), (2), and (9) of section 464.015, Florida Statutes, are amended to read:

464.015 Titles and abbreviations; restrictions; penalty.—

(1) Only a person ~~persons~~ who holds a license in this state or a multistate license pursuant to s. 464.0095 ~~hold licenses~~ to practice professional nursing ~~in this state~~ or who performs ~~are performing~~ nursing services pursuant to the exception set forth in s. 464.022(8) may ~~shall have the right to~~ use the title "Registered Nurse" and the abbreviation "R.N."

(2) Only a person ~~persons~~ who holds a license in this state or a multistate license pursuant to s. 464.0095 ~~hold licenses~~ to practice as a licensed practical nurse ~~nurses in this state~~ or who performs ~~are performing~~ practical nursing services pursuant to the exception set forth in s. 464.022(8) may ~~shall have the right to~~ use the title "Licensed Practical Nurse" and the abbreviation "L.P.N."

(9) A person may not practice or advertise as, or assume the title of, registered nurse, licensed practical nurse, clinical nurse specialist, certified registered nurse anesthetist, certified nurse midwife, or advanced registered nurse practitioner or use the abbreviation "R.N.," "L.P.N.," "C.N.S.," "C.R.N.A.," "C.N.M.," or "A.R.N.P." or take any other action that would lead the public to believe that person was authorized by law to practice ~~certified~~ as such or is performing nursing services pursuant to the exception set forth in s. 464.022(8)~~,~~ unless that person is licensed, ~~or~~ certified, or authorized pursuant to s. 464.0095 to practice as such.

Section 10. Subsections (1) and (2) of section 464.018, Florida Statutes, are amended to read:

464.018 Disciplinary actions.—

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in ss. ~~s.~~

456.072(2) and 464.0095:

(a) Procuring, attempting to procure, or renewing a license to practice nursing or the authority to practice practical or professional nursing pursuant to s. 464.0095 by bribery, by knowing misrepresentations, or through an error of the department or the board.

(b) Having a license to practice nursing revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country.

(c) Being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of nursing or to the ability to practice nursing.

(d) Being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, ~~of~~ any of the following offenses:

1. A forcible felony as defined in chapter 776.

2. A violation of chapter 812, relating to theft, robbery, and related crimes.

3. A violation of chapter 817, relating to fraudulent practices.

4. A violation of chapter 800, relating to lewdness and indecent exposure.

5. A violation of chapter 784, relating to assault, battery, and culpable negligence.

6. A violation of chapter 827, relating to child abuse.

7. A violation of chapter 415, relating to protection from abuse, neglect, and exploitation.

8. A violation of chapter 39, relating to child abuse, abandonment, and neglect.

9. For an applicant for a multistate license or for a multistate licenseholder under s. 464.0095, a felony offense under Florida law or federal criminal law.

(e) Having been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense prohibited under s. 435.04 or similar statute of another jurisdiction; or having committed an act which constitutes domestic violence as defined in s. 741.28.

(f) Making or filing a false report or record, which the nurse ~~licensee~~ knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, willfully impeding or obstructing such filing or inducing another person to do so. Such reports or records shall include only those which are signed in the nurse's capacity as a licensed nurse.

(g) False, misleading, or deceptive advertising.

(h) Unprofessional conduct, as defined by board rule.

(i) Engaging or attempting to engage in the possession, sale, or distribution of controlled substances as set forth in chapter 893, for any other than legitimate purposes authorized by this part.

(j) Being unable to practice nursing with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, or chemicals or any other type of material or as a result of any mental or physical condition. In enforcing this paragraph, the department shall have, upon a finding of the State Surgeon General or the State Surgeon General's designee

that probable cause exists to believe that the nurse ~~licensee~~ is unable to practice nursing because of the reasons stated in this paragraph, the authority to issue an order to compel a nurse ~~licensee~~ to submit to a mental or physical examination by physicians designated by the department. If the nurse ~~licensee~~ refuses to comply with such order, the department's order directing such examination may be enforced by filing a petition for enforcement in the circuit court where the nurse ~~licensee~~ resides or does business. The nurse ~~licensee~~ against whom the petition is filed shall not be named or identified by initials in any public court records or documents, and the proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011. A nurse affected by ~~the provisions of~~ this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent practice of nursing with reasonable skill and safety to patients.

(k) Failing to report to the department any person who the nurse ~~licensee~~ knows is in violation of this part or of the rules of the department or the board; however, if the nurse ~~licensee~~ verifies that such person is actively participating in a board-approved program for the treatment of a physical or mental condition, the nurse ~~licensee~~ is required to report such person only to an impaired professionals consultant.

(l) Knowingly violating any provision of this part, a rule of the board or the department, or a lawful order of the board or department previously entered in a disciplinary proceeding or failing to comply with a lawfully issued subpoena of the department.

(m) Failing to report to the department any licensee under chapter 458 or under chapter 459 who the nurse knows has violated the grounds for disciplinary action set out in the law under which that person is licensed and who provides health care services in a facility licensed under chapter 395, or a health maintenance organization certificated under part I of chapter 641, in which the nurse also provides services.

(n) Failing to meet minimal standards of acceptable and prevailing nursing practice, including engaging in acts for which the nurse ~~licensee~~ is not qualified by training or experience.

(o) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(2)(a) The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or nurse ~~licensee~~ who is found guilty of violating ~~any provision of~~ subsection (1) ~~of this section~~ or ~~who is found guilty of violating any provision of~~ s. 456.072(1).

(b) The board may take adverse action against a nurse's multistate licensure privilege and impose any of the penalties in s. 456.072(2) when the nurse is found guilty of violating subsection (1) or s. 456.072(1).

Section 11. Paragraph (a) of subsection (2) of section 464.0195, Florida Statutes, is amended, and subsection (4) is added to that section, to read:

464.0195 Florida Center for Nursing; goals.—

(2) The primary goals for the center shall be to:

(a) Develop a strategic statewide plan for nursing manpower in this state by:

1. Establishing and maintaining a database on nursing supply and demand in the state, to include current supply and demand~~, and future projections~~; ~~and~~

2. Analyzing the current nursing supply and demand in the state and making future projections of such, including assessing the impact of this state's participation in the Nurse Licensure Compact under s. 464.0095; and

3.~~2.~~ Selecting from the plan priorities to be addressed.

(4) The center may request from the board, and the board must provide to the center upon its request, any information held by the board regarding nurses licensed in this state or holding a multistate license pursuant to s. 464.0095 or information reported to the board by employers of such nurses, other than personal identifying information.

Section 12. This act shall take effect December 31, 2018, or upon enactment of the Nurse Licensure Compact into law by 26 states, whichever occurs first.

The Florida Senate

Committee Agenda Request

To: Senator Tom Lee, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: February 19, 2016

I respectfully request that **Senate Bill #152**, relating to Ordering of Medication**, Senate Bill #946**, relating to Authorized Practices of Advanced Registered Nurse Practitioners and Licensed Physician Assistants, and **Senate Bill #1316**, relating to Nurse Licensure Compact, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Senator Denise Grimsley
Florida Senate, District 21

File signed original with committee office

THE FLORIDA SENATE

APPEARANCE RECORD

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

3 / 1 / 2016
Meeting Date

Topic _____ Bill Number 1316 *(if applicable)*

Name BRIAN PITTS Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

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

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

Speaking: ☐ For ☐ Against ☑ Information

Representing JUSTICE-2-JESUS

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/16
Meeting Date

1316
Bill Number (if applicable)

Topic Nurse Licensure Compact

Amendment Barcode (if applicable)

Name Alisa LaPolt

Job Title Lobbyist

Address PO Box 1314
Street

Tallahassee FL
City *State* *Zip*

Phone 850-443-1319

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Nurses Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/16
Meeting Date

1316
Bill Number (if applicable)

Topic NLC

Amendment Barcode (if applicable)

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Speaking: ☐ For ☐ Against ☐ Information

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

Representing FL Health Care Assoc.

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-1-16
Meeting Date

1316
Bill Number (if applicable)

Topic Nurse licensure Compact

Amendment Barcode (if applicable)

Name Martha DeCastro

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

Representing Florida Hospital Association

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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 1360
INTRODUCER:	Education Pre-K - 12 Committee and Senator Gaetz and others
SUBJECT:	Student Assessments
DATE:	February 29, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Graf	Klebacha	ED	**Fav/CS**
2.	Sikes	Elwell	AED	**Recommend: Favorable**
3.	Sikes	Kynoch	AP	**Favorable**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1360 establishes performance-based alternative means for students to demonstrate subject area and grade level competency and college and career readiness. However, the bill maintains the statewide, standardized assessments as the default common battery of assessments for all students attending public schools, and provides parents the option to select, for their child, statewide, standardized assessments in lieu of district-selected rigorous alternative assessments. Specifically, the bill:

- Establishes a process for a district school board to choose to voluntarily implement districtwide, ACT Aspire for grades 3 through 8; ACT Aspire and ACT for high school; Preliminary SAT (PSAT) or National Merit Scholarship Qualifying Test (NMSQT), and SAT for high school; or a combination of options, as specified.
- Identifies several rigorous alternative assessments and industry certifications as options for students to meet high school subject area, course, credit, and assessment requirements.
- Establishes performance-based alternative means to satisfy online course requirement for high school graduation.
- Creates a process for establishing proxy values for linking student performance on rigorous alternative assessments to assess teachers, schools, and school districts.
- Provides for the immediate renegotiation of existing student assessment contracts and negotiation of new contracts to implement the rigorous alternative assessment options.
- Establishes timelines for the implementation of district-selected rigorous alternative assessment options, and specifies notification and reporting requirements.

- Removes the annual cap on teacher bonuses for the teachers providing Advanced Placement (AP), International Baccalaureate (IB), Advanced International Certificate of Education (AICE), or industry certification instruction which results in their students earning college credit or attaining industry certifications.
- Provides an exemption for the performance of students with excessive absences from counting against a classroom teacher's performance evaluation.
- Authorizes district school board members to visit schools to promote education and school improvements.

The bill provides that for 2016-2017 the "funding for the rigorous alternative assessments may not cause an increase in the assessment and evaluation appropriation in the General Appropriations Act." The bill requires the Department of Education to immediately renegotiate the Florida Standards Assessment contract with American Institutes for Research and that "the renegotiated contract should not result in an increase in price per assessment or any other price increases." The terms of that renegotiated contract, along with any other renegotiated assessment contracts or grants to school districts for test development, are to be used to provide funding for implementation of the district-selected rigorous alternative assessments authorized in the bill. SB 2500, the Senate's proposed 2016-2017 General Appropriations Bill, does not increase the assessment and evaluation appropriation to the State Board of Education, as compared to the appropriation for Fiscal Year 2015-2016.

The bill takes effect upon becoming law.

II. Present Situation:

Florida's assessment program consists primarily of statewide, standardized assessments that are selected and administered by the state, and local assessments that are selected and administered by the school districts to measure students' attainment of education expectations.[1]

Statewide, Standardized Assessment Program

Purpose

The purpose of Florida's student assessment program is to improve instruction; provide student academic achievement and learning gains data to students, parents, teachers, school administrators, and school district staff; and assess the cost benefit of the expenditure of taxpayer dollars.[2]

The Commissioner of Education (commissioner) is required to design and implement a statewide, standardized assessment program that is aligned to the curricular content established in the Next Generation Sunshine State Standards and the Florida Standards.[3]

Statewide, Standardized Assessment Requirements

The statewide, standardized assessment program consists of:

[1] Section 1008.22, F.S.
[2] Section 1008.22(1), F.S.
[3] Section 1008.22(3), F.S.

- Statewide, standardized comprehensive assessments:[4]
  - English Language Arts (ELA) (grades 3 through 10);
  - Mathematics (grades 3-8); and
  - Science (once at the elementary grade level and once at the middle grade level).[5]
- End-of-Course (EOC) assessments:[6]
  - Civics (at the middle grade level);
  - U.S. History EOC;
  - Algebra I EOC;
  - Algebra II EOC;[7]
  - Geometry EOC; and
  - Biology I EOC.

Students must pass the grade 3 ELA assessment to be promoted to grade 4.[8] Florida law authorizes seven good cause exemptions from mandatory retention in grade 3.[9] Additionally, to graduate high school with a standard high school diploma, students must pass the grade 10 ELA and Algebra I EOC assessment,[10] or attain concordant or comparative scores on specified alternative assessments.[11] Student performance on the EOC assessments constitute 30 percent of the student's final course grade.[12]

Additionally, the statewide, standardized assessment program also includes the Florida Alternate Assessment (FAA) to assess students with disabilities in the content knowledge and skills necessary for successful grade-to-grade progression and high school graduation.[13]

Contracts for Assessments

The commissioner must provide for the assessments to be developed or obtained, as appropriate, through contracts and project agreements with private vendors, public vendors, public agencies, postsecondary educational institutions, or school districts.[14] The commissioner may enter into contracts for the continued administration of assessments that are authorized and funded by the

[4] Section 1008.22(3)(a), F.S. Federal law requires students to be tested in reading or language arts and mathematics in each of grades 3 through 8 and not less than once in grades 10 through12. With respect to science, students must be tested once during grades 3 through 5, grades 6 through 9, and grades 10 through 12. 20 U.S.C. s. 6311(b)(3). The Florida Department of Education posts the Statewide Assessment Schedule on its website. Florida Department of Education, *Florida Statewide Assessment Program 2016-2017 Schedule*, *available at* http://info.fldoe.org/docushare/dsweb/Get/Document-7514/dps-2015-175a.pdf.
[5] Rule 6A-1.09422(3)(b), F.A.C., requires all eligible students in grades five and eight to take the FCAT 2.0 Science.
[6] Section 1008.22(3)(b), F.S.
[7] Students are not required to take the Algebra II EOC assessment. However, a student who selects Algebra II must take the Algebra II EOC assessment. Section 1003.4282(3)(b), F.S.
[8] To be promoted to grade 4, a student must score a level 2 or higher on the grade 3 ELA assessment. A student must be retained in grade 3 if the student's reading deficiency is not remedied by the end of grade 3, as demonstrated by scoring Level 2 or higher on the grade 3 ELA assessment. Section 1008.25(5)(b), F.S.
[9] Section 1008.25(6)(b), F.S.
[10] Section 1003.4282(3), F.S.
[11] Section 1008.22(8)-(9), F.S.
[12] Sections 1003.4282 and 1008.22, F.S.
[13] Section 1008.22(3)(c)1., F.S. A child with medical complexity may be exempt from participating in statewide, standardized assessments, including the Florida Alternate Assessment. Section 1008.22(10), F.S.
[14] Section 1008.22(3)(g)1., F.S.

Legislature.[15] Contracts may be initiated in one fiscal year and continue into the next fiscal year and may be paid from the appropriations of either or both fiscal years.[16] The law authorizes the commissioner to negotiate for the sale or lease of tests, scoring protocols, test scoring services, and related materials developed in accordance with law.[17]

For new contracts and renewal of existing contracts for statewide, standardized assessments, a student's performance on such assessments must be provided to the student's teachers and parents by the end of the school year, unless the commissioner determines that extenuating circumstances exist and reports the extenuating circumstances to the State Board of Education (SBE or state board).[18]

Use of Assessments

The Florida Legislature has established accountability mechanisms to assess the effectiveness of the of the state's K-20 education delivery system.[19] The law specifies annual educator performance evaluations[20] and the evaluation criteria for instructional personnel, which must include student performance, instructional practice, and professional and job responsibilities.[21] In addition, the Legislature has also established mechanisms to measure school performance by assigning school grades,[22] school improvement ratings,[23] and district grades[24] based on student performance on statewide, standardized assessments.

Student performance data are analyzed and reported to parents, the community, and the state.[25]

Authorized Alternatives to Statewide, Standardized Assessments

The Legislature has also authorized several alternative means for students to demonstrate competency and satisfy statewide, standardized assessment and credit requirements.

Concordant and Comparative Scores

To fulfill statewide, standardized assessment requirements, the state board has adopted:[26]

[15] *Id*.
[16] *Id*.
[17] *Id*.
[18] Section 1008.22(3)(g)2., F.S.
[19] Section 1008.31, F.S.
[20] Section 1012.34, F.S.
[21] Section 1012.34(3)(a)1., 2., and 4., F.S. School administrator evaluation criteria include instructional leadership. Section 1012.34(3)(a)3., F.S.
[22] Section 1008.34, F.S.
[23] Section 1008.341, F.S.
[24] Section 1008.34(5), F.S.
[25] Section 1008.22(4), F.S.
[26] Section 1008.22(9)-(10), F.S.; *see also* Rule 6A-1.094223, F.A.C.

- Concordant scores on SAT[27] and ACT,[28] which if attained by a student satisfies the grade 10 statewide, standardized Reading[29] assessment, and
- Comparative scores on the Postsecondary Education Readiness Test (PERT), which if attained by a student satisfies the Algebra I EOC assessment requirement.

The SAT and ACT, and PERT substitutions are authorized for the two assessments in high school[30] that students must pass to graduate with a standard high school diploma.[31] The law authorizes the commissioner to also identify concordant scores on assessments other than the SAT and ACT, and one or more comparative scores for the Algebra I EOC assessment.[32]

Nationally Developed Comprehensive Assessments for Use as EOC Assessments

Additionally, the commissioner also has the authority to select one or more nationally developed comprehensive examinations, which may include examinations for a College Board Advanced Placement (AP) course, International Baccalaureate (IB) course, or Advanced International Certificate of Education (AICE) course, or industry-approved examinations to earn national industry certifications identified in the Career and Professional Education (CAPE) Industry Certification Funding List,[33] for use as EOC assessments if the commissioner determines that the content knowledge and skills assessed by the examinations meet or exceed the grade level expectations for the curricular content established for the course in the Next Generation Sunshine State Standards.[34] The state board must adopt in rule the use of such examinations as EOC assessments.[35]

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[27] The concordant passing scale score for the SAT must be equal to or greater than 430 on the 200 to 800 scale. Rule 6A-1.094223(1), F.A.C.
[28] The concordant passing scale score for the ACT must be equal to or greater than 19 on the 1 to 36 scale. Rule 6A-1.094223(1), F.A.C.
[29] The English Language Arts (ELA) Florida Standards assessment, which replaced the FCAT Reading assessment, was administered for the first time during the 2014-2015 school year. Florida Department of Education, *Florida Statewide Assessment Program 2014-2015 Schedule*, *available at* http://info.fldoe.org/docushare/dsweb/Get/Document-7047/dps-2014-81a.pdf. Pursuant to law, the concordant scores on SAT and ACT will need to be adjusted to correspond to ELA assessment. Section 1008.22(8), F.S. Until such time that the new concordant scores on SAT and ACT are adopted in rule by the state board, students are allowed to use the existing concordant scores to satisfy the requirements for a standard high school diploma. Letter, Florida Department of Education (Sep. 18, 2015), on file with the Committee Education Pre-K -12, at 1.
[30] To fulfill the requirements for a standard high school diploma, students must pass the grade 10 ELA and Algebra I EOC assessments. Section 1003.4282(3)(a)-(b), F.S.
[31] Section 1003.4282(3), F.S.
[32] Section 1008.22(9)-(10), F.S.
[33] The State Board of Education (SBE or state board) adopts by rule, the list of industry certifications that are eligible for funding through the Florida Education Finance Program (FEFP). The list is updated annually. Sections 1008.44, F.S. Industry certifications on the "Gold Standard Career Pathways" list are incorporated by reference in the SBE rule, and articulated to Associate in Applied Science and Associate in Science degree programs. Rule 6A-10.0401, F.A.C.; *see also* Florida Department of Education, *Process for Establishing Gold Standard Career Pathways Industry Certification to AAS/AS Degree Statewide Articulation Agreements*, *available at* http://www.fldoe.org/workforce/dwdframe/pdf/GSCPICprocess.pdf.
[34] Section 1008.22(3)(b)3., F.S.
[35] *Id*.

The commissioner has identified passing scores on AP, IB, and AICE assessments for students to apply to meet the EOC assessment requirements.[36] Such assessments and corresponding passing scores are considered exceeding the grade level expectations for the curricular content.[37] Students who take rigorous courses such as AP or IB courses, take the corresponding AP or IB examination in lieu of the statewide, standardized assessment for that subject. For instance, a student who takes the AP Biology course, takes the corresponding AP Biology examination instead of the Biology I EOC assessment.[38] Additionally, the commissioner has recommended that "a passing score on the examination for the Agricultural Biotechnology Certification can substitute for the Biology I EOC assessment."[39]

The Course Code Directory (CCD),[40] which is adopted in rule by the state board, identifies courses including, but not limited to, the courses that meet subject-area graduation requirements, and specifies the course levels for such courses.[41] The CCD includes AP, IB, AICE, and other courses, which students may take and complete to earn credit toward standard high school diploma requirements.[42] However, the CCD does not identify the assessments (e.g., AP, IB, AICE, and industry certification examinations) that students may take to meet the statewide, standardized assessment requirements.

Award of Credit

Definition of Credit

For the purposes of satisfying high school graduation requirements, one full credit means a minimum of 135 hours of bona fide instruction in a designated course of study that contains student performance standards, except as authorized under the Credit Acceleration Program.[43]

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[36] As an example, the Commissioner of Education (commissioner) has proposed that a student may satisfy the Algebra I EOC assessment requirement by attaining a score of 3, 4, or 5 on the AP Calculus AB examination, AP Calculus BC examination, or AP Statistics examination. Letter, Florida Department of Education (Sep. 18, 2015), on file with the Committee Education Pre-K -12, at 2.

[37] *Id*.

[38] Letter, Florida Department of Education (Feb. 2, 2015), on file with the Committee Education Pre-K -12, at 4.

[39] Letter, Florida Department of Education (Sep. 18, 2015), on file with the Committee Education Pre-K -12, at 2.

[40] The Course Code Directory (CCD) is the listing of all public preK-12 courses available for use by school districts. Programs and courses which are funded through the Florida Education Finance Program and courses or programs for which students may earn credit toward high school graduation must be listed in the CCD. The CCD maintains course listings for administration and service assignments, K-12 education, exceptional student education, career and technical education, and adult education, with details regarding appropriate teacher certification levels. The CCD provides for course information to schools, districts, and the state. Rule 6A-1.09441, F.A.C.

[41] Florida Department of Education, *2015-2016 Course Directory: Section 1-Narrative Section*, http://www.fldoe.org/policy/articulation/ccd/2015-2016-course-directory.stml (last visited Jan. 21, 2016). Level 1 courses are basic courses for which students may not earn credit towards a standard diploma unless specified otherwise; level 2 courses are regular, mainstreamed courses; and level 3 courses include honors, AP, IB, AICE, advanced college-preparatory courses, and other courses containing rigorous academic curriculum and performance standards. Numerous career and technical education courses are designated as level 3. *Id.*

[42] *Id*. Dual enrollment courses and credit specifications for such courses are listed in the dual enrollment course equivalency list. Florida Department of Education, *2015-2016 Dual Enrollment Course-High School Subject Area Equivalency List*, *available at* http://www.fldoe.org/core/fileparse.php/5421/urlt/0078394-delist.pdf.

[43] Section 1003.436(1)(a), F.S. A "full-time equivalent student" is a student who receives instruction in a standard school, comprising not less than 900 net hours for a student in or at the grade level of 4 through 12, or not less than 720 net hours for a student in or at the grade level of kindergarten through grade 3 or in an authorized prekindergarten exceptional program. The definition of a "full-time equivalent student" also includes students who receive instruction in a double-session school or

With regards to a school district that is authorized to implement block scheduling by the district school board, one full credit means a minimum of 120 hours of bona fide instruction in a designated course of study that contains student performance standards for fulfilling high school graduation requirements.[44] The state board must determine the number of postsecondary credit hours earned through dual enrollment and that equal one full credit of the equivalent high school course.[45]

To award credit for high school graduation, each district school board must maintain a one-half credit earned system that includes courses provided on a full-year basis.[46] A student enrolled in a full-year course must receive one-half credit if the student successfully completes either the first half or the second half of a full-year course but fails to complete the other half of the course.[47]

Credit Requirements to Earn a Standard High School Diploma

In addition to fulfilling the assessment requirements, students in high school must also satisfy certain credit requirements. To graduate from high school with a standard high school diploma, a student must successfully complete 24 credits in the following subject areas:[48]

- Four credits in ELA I, II, III, and IV.
- Four credits in mathematics including one credit each in Algebra I and Geometry. Industry certifications earned by students may substitute for up to two mathematics credits, except for Algebra I and Geometry.
- Three credits in science including one credit in Biology I and two credits in equally rigorous courses.[49] Industry certifications earned by students may substitute for one science credit, except for Biology I.
- Three credits in social studies including one credit each in United States History and World History; one-half credit in economics, which must include financial literacy; and one-half credit in United States Government.
- One credit in fine or performing arts, speech and debate, or practical arts.
- One credit in physical education.
- Eight credits in electives.

Online Course Requirement

At least one of the 24 credits required for earning a standard high school diploma must be completed through online learning.[50] An online course taken in grades 6, 7, or 8 fulfills the online course requirement and the online course may be a course that is offered by the Florida Virtual School, a virtual education provider approved by the state board, high school, or online

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a school utilizing an experimental school calendar approved by the Department of Education, comprising not less than the equivalent of 810 net hours in grades 4 through 12 or not less than 630 net hours in kindergarten through grade 3. Section 1011.61(1)(a)1.-2., F.S.

[44] Section 1003.436(1)(a), F.S.

[45] *Id*.

[46] Section 1003.436(2), F.S.

[47] *Id*.

[48] Section 1003.4282(1)(a) and (3), F.S.

[49] Two of the three science credits must have a laboratory component. Section 1003.4282(3)(c), F.S.

[50] Section 1003.4282(4), F.S.

dual enrollment.[51] A student enrolled in a full-time or part-time approved virtual instruction program[52] also meets the online course requirement.[53]

A school district must not require a student to take the online course outside of the school day or in addition to the courses taken by the student in a given semester.[54]

Authorized Alternatives to Earn High School Credit

The Florida Legislature has enacted alternatives to the specified high school graduation credit requirements, allowing students to earn fewer than 24 credits and generate high school credits through a credit-by-examination mechanism.

Academically Challenging Curriculum to Enhance Learning (ACCEL)

Students may also earn a standard high school diploma after completing 18 credits under the Academically Challenging Curriculum to Enhance Learning (ACCEL) program.[55] Under the ACCEL program, students need to earn fewer elective credits (i.e., 3 instead of required 8 elective credits under the 24-credit standard high school diploma pathway).[56] Additionally, students in the ACCEL program are not required to earn one credit in physical education.[57]

The current mechanism for earning high school credit is contingent on students enrolling in and completing specified courses,[58] unless otherwise authorized in law.[59]

Credit Acceleration Program (CAP)

In 2010, the Florida Legislature established the Credit Acceleration Program (CAP) to allow a student to earn high school credit in Algebra I, Algebra II, geometry, United States history, or Biology if the student attains a passing score on the corresponding statewide, standardized assessment without enrolling in or completing the course.[60]

Acceleration Mechanisms to Earn College Credit

Current law identifies certain acceleration mechanism examinations that students may take before graduating from high school to generate college credits.[61] Pursuant to the law, the Department of Education (department) must annually identify and publish the minimum scores, maximum credit, and course or courses for which college credit must be awarded for each:[62]

- College Level Examination Program (CLEP) subject examination,

[51] *Id*.
[52] Section 1002.45, F.S.
[53] Section 1003.4282(4), F.S.
[54] *Id*.
[55] Section 1002.3105(5), F.S.
[56] *Id*.
[57] *Id*.
[58] Section 1003.436, F.S.
[59] Section 1003.4295(3), F.S.
[60] Section 5, ch. 2010-22, L.O.F., *codified at* s. 1003.4295(3), F.S.
[61] Section 1007.27(2), F.S.
[62] *Id*.

- College Board AP Program examination,
- AICE examination, and the
- IB examination.

The department must use student performance data in subsequent postsecondary courses to determine the appropriate examination scores and courses for which credit must be granted.[63] Minimum scores may vary by subject area based on available performance data.[64] The department must identify such courses in the general education core curriculum of each state university and Florida College System (FCS) institution.[65]

Credit-by-Examination Equivalency List

The Articulation Coordinating Committee (ACC)[66] has established passing scores and course and credit equivalents for the tests that are currently specified in law as well as for tests that are not specified in law (i.e., Defense Activity Non-Traditional Education Support (DANTES), Excelsior College, and UEXCEL examination).[67] The credit-by-exam equivalencies have been adopted in rule by the state board.[68] If a student attains a passing score on the AP, AICE, IB, or CLEP exam, state universities and FCS institutions must award the minimum credit for the course or courses specified on the credit-by-exam equivalencies list, even if such institutions do not offer the course or courses.[69]

Although a student generates college credits, often at least three credit hours, by attaining a passing score on the assessments specified in the credit-by-examination equivalency list, the student does not concurrently earn high school credit for passing such examinations unless the student completes the specified courses corresponding to such assessments. For instance, if a student attains the maximum score of 5 on AP Biology examination, the student earns a minimum of 8 college credit hours toward the college biology course, BSC X010C or BSC X010/X010L and BSC X011C or BSC X011/X011L, as specified in the credit-by-examination list,[70] but none toward high school Biology I or other science course, unless the student completes the corresponding AP Biology course.

Similarly, if a student passes CLEP College Algebra examination with a scale score of 50, the student earns a minimum of 3 college credit hours toward the college mathematics course, MAC X105, as specified in the credit-by-examination list,[71] but none toward high school Algebra I or other mathematics course.

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[63] Section 1007.27(2), F.S.
[64] *Id*.
[65] *Id*.
[66] The Articulation Coordinating Committee (ACC) is established by the commissioner in consultation with the Chancellor of the State University System, to make recommendations related to statewide articulation policies regarding access, quality, and data reporting. The ACC serves as an advisory body to the Higher Education Coordinating Council, the State Board of Education, and the Board of Governors. Section 1007.01(3), F.S.
[67] Florida Department of Education, *Articulation Coordinating Committee Credit-By-Exam Equivalencies* (Initially adopted Nov. 14, 2001), *available at* http://www.fldoe.org/core/fileparse.php/5421/urlt/0078391-acc-cbe.pdf.
[68] Rule 6A-10.024, F.A.C.
[69] Florida Department of Education, *Articulation Coordinating Committee Credit-By-Exam Equivalencies* (Initially adopted Nov. 14, 2001), *available at* http://www.fldoe.org/core/fileparse.php/5421/urlt/0078391-acc-cbe.pdf, at 1.
[70] *Id*, at 3.
[71] *Id* at 11.

Dual Enrollment to Earn High School and College Credit

Dual enrollment is an acceleration mechanism that allows a student, who is enrolled in grades 6 through 12 in a Florida public school or in a Florida private school or who is a home education student, to enroll in a postsecondary course that is creditable toward high school completion as well as a career certificate, an associate degree, or a baccalaureate degree.[72]

Dual enrollment is different from other acceleration mechanisms such as AP, IB, and AICE in that, students who take a dual enrollment course, which is considered a college-level course, must meet specified eligibility requirements[73] to enroll in dual enrollment courses. Additionally, instead of taking a standardized examination corresponding to such courses, dually enrolled students must only complete the dual enrollment course.[74]

Dual Enrollment Equivalency List

The dual enrollment course-to-high school subject area equivalency list (list) specifies postsecondary courses that students may take and complete to earn both high school and college credit.[75] The list also indicates high school credit (i.e., 0.5 or 1.0) that must be awarded to a student who completes a specified dual enrollment course.[76] In addition, the list identifies dual enrollment courses in biology that students may take to prepare for the Biology I EOC assessment.[77] Similarly, dual enrollment courses in United States History that students may take to prepare for the United States History EOC assessment are also identified.[78]

Teacher Bonuses for Students Who Earn College Credit

Florida law provides bonus funding to classroom teachers responsible for providing AP, IB, AICE, or industry certification instruction which results in their students scoring at specified levels on examinations (in the case of AP, IB, and AICE) or attaining industry certifications corresponding to such instruction.[79] For instance, a classroom teacher who provided AP instruction is eligible to receive:[80]

- A bonus in the amount of $50 for each student taught by him or her who received a score of 3 or higher on the AP examination.
- An additional $500 if he or she teaches in a school that received a grade of "D" or "F" and at least one of his or her student scored 3 or higher on the AP examination.

[72] Section 1007.271(1)-(2), F.S.
[73] Section 1007.271(3), F.S.; *see also* Rule 6A-14.064, F.A.C.
[74] Rule 6A-14.064, F.A.C.
[75] Florida Department of Education, *2015-2016 Dual Enrollment Course-High School Subject Area Equivalency List*, *available at* http://www.fldoe.org/core/fileparse.php/5421/urlt/0078394-delist.pdf.
[76] *Id*.
[77] *Id* at 32.
[78] *Id* at 42.
[79] Section 1011.62(1)(l)-(o), F.S.
[80] Section 1011.62(1)(n), F.S.

The bonuses are capped at $2,000 in any given school year.[81] However, if at least 50 percent of students enrolled in a teacher's course earn a score of 3 or higher in a school with a grade of "A," "B," or "C" or if at least 25 percent students enrolled in a teacher's course earn a score of 3 or higher in a school with a grade of "D" or "F," the maximum bonus is capped at $3,000 annually.[82] These bonuses must be in addition to any regular wage or other bonus that the teacher received or is scheduled to receive.[83]

The teacher bonuses for AICE and industry certifications are capped at $2,000.[84]

District School Board Powers and Duties

The law specifies the powers and duties of the district school boards including, but not limited to the establishment, organization, and operation of schools, and enforcement of laws and rules.[85]

III. Effect of Proposed Changes:

The bill establishes performance-based alternative means for students to demonstrate subject area and grade level competency and college and career readiness. However, the bill maintains the statewide, standardized assessments as the default common battery of assessments for all students attending public schools, and provides parents the option to select, for their child, statewide, standardized assessments in lieu of the district-selected rigorous alternative assessments.

Assessment Requirements

The bill expands current alternatives by creating new rigorous alternative assessment options for school districts and students to choose in lieu of the statewide, standardized assessments to meet student progression, graduation, and education accountability requirements. The intent of the Legislature, as specified in the bill, is to preserve the statewide, standardized assessments as the default common battery of assessments for all students attending public schools. The rigorous alternative assessments are intended to supplement the statewide assessment program with valid, reliable, and respected assessment options for students to demonstrate subject area and grade level competency and college and career readiness. The rigorous alternative assessment options are organized under:

- District options for students and
- Options for students in high school.

District Options for Students

The bill establishes a process for a district school board to choose to voluntarily implement districtwide, one or more of the specified rigorous alternative assessment options in lieu of the statewide, standardized assessments to assess the subject area and grade level competency of students, beginning in the 2016-2017 school year. However, the bill also affords parents the

[81] *Id*.
[82] *Id*.
[83] Section 1011.62(1)(n), F.S.
[84] Section 1011.62(1)(m) and (o), F.S.
[85] Section 1001.42, F.S.

option to select, for their child, statewide, standardized assessments in lieu of the district-selected specified rigorous alternative assessments. In effect, notwithstanding a district school board's decision to implement rigorous alternative assessments, parents will be able to choose, annually, for their child to take the set of required and applicable statewide, standardized assessments instead of the set of rigorous alternative assessments selected by the district school board.

The bill identifies three rigorous alternative assessment options for the districts but specifies that a district school board may choose to implement the alternative assessment option for grades 3-8 only or one of two alternative assessment options for high school only, or a combination of the alternative assessments for grades 3-8 and one of the two alternative assessment options for high school.

The rigorous alternative assessment options include the following:

- ACT Aspire[86] for grades 3 through 8. The bill authorizes ACT Aspire English and Reading assessments, ACT Aspire Mathematics assessment, and ACT Aspire Science assessment as alternatives to the statewide, standardized assessment requirements for English Language Arts (ELA), mathematics, and science, respectively.

- ACT Aspire and ACT for high school.[87] Contingent on students scoring at specified levels, the bill provides for the following substitutions:
  - ACT Aspire English and Reading assessments or the ACT English and Reading assessments as substitutes for either the grade 9 ELA assessment or the grade 10 ELA assessment, or both.
  - ACT Aspire Mathematics assessment or the ACT Mathematics assessment as a substitute for the Algebra I EOC assessment.

In addition, the bill creates a mechanism for students to be exempted from individual state-required high school tests or all statewide, standardized testing requirements for high school based on students scoring at specified levels on the English and Reading, Mathematics, and

[86] ACT Aspire was launched on April 1, 2014. Since then, more than 3 million tests have been administered. ACT Aspire includes summative 3-8 and 9th/10th grade assessments in English, Reading, Math, Science, and Writing. States that are currently using ACT Aspire assessments statewide include Alabama, South Carolina, and Arkansas. In Spring 2015, ACT Aspire was administered in 1,244 districts in 47 states and 4 territories. The time commitment for ACT Aspire is 60 minutes for the Reading assessment component, ranges between 30-40 minutes for the English and writing assessment components, and ranges between 55-65 minutes for the mathematics and science assessment components. Student performance on the ACT Aspire reports provide information on student performance toward ACT College Readiness Standards. An ACT Readiness Benchmark is provided for each assessment. Students who score at or above these benchmarks are considered on target to meet ACT's College and Career Readiness Benchmarks when they leave high school. ACT Readiness Range shows where a student who has met the ACT Readiness Benchmark on an assessment would typically perform. The predicted path for each assessment is a projection of where scores will fall based on expected growth rates. ACT, Inc., *ACT & College and Career Readiness*, on file with the Committee on Education Pre-K – 12, at 9-11.

[87] The ACT Test is available in paper and pencil as well as in computer-based format. In 2014-2015, 130,798 (79%) of Florida high school graduates took the ACT. Fifty-four percent of Florida students met the English College Readiness Benchmark. Nationwide, more than 1.9 million students took the ACT in 2015, amounting to nearly 59 percent of all high school graduates. In 2015, the following states administered the ACT statewide: Arkansas (district choice), Alabama, Alaska (district choice), Colorado, Hawaii, Illinois (district choice), Kentucky, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nevada, North Carolina, North Dakota (student choice), Oklahoma (district choice), South Carolina, Tennessee (district choice), Utah, Wisconsin, and Wyoming. ACT, Inc., *ACT & College and Career Readiness*, on file with the Committee on Education Pre-K – 12, at 7-8.

Science components of ACT Aspire or the ACT. For instance, for a student who scores 432 on the ACT Aspire Mathematics assessment or 20 on the ACT Mathematics assessment, the bill requires the student to be exempted from the geometry end-of-course (EOC) assessment requirement.

For exemption from all statewide, standardized testing requirements for high school, the bill requires students to attain the score of:

- 428 on the ACT Aspire English and Reading assessments or 18 on the ACT English and Reading assessments,
- 435 on the ACT Aspire Mathematics assessment or 22 on the ACT Mathematics assessment, and
- 430 on the ACT Aspire Science assessment or 20 on the ACT Science assessment.

- Preliminary SAT (PSAT) or National Merit Scholarship Qualifying Test (NMSQT),[88] and SAT[89] for high school. Contingent on students scoring at specified levels, the bill provides for the following substitutions:
  - PSAT Critical Reading and Writing assessments, NMSQT Critical Reading and Writing assessments, or the SAT Critical Reading and Writing assessments as substitutes for either the grade 9 ELA assessment or the grade 10 ELA assessment, or both.
  - PSAT Mathematics assessment, NMSQT Mathematics assessment, or the SAT Mathematics assessment as a substitute for the Algebra I EOC assessment.

In addition, the bill creates a mechanism for students to be exempted from individual or all high school statewide, standardized testing requirements based on students scoring at specified levels on the Critical Reading and Writing and Mathematics components of the PSAT, NMSQT, or the SAT. For instance, for a student who attains the score of 45 on the PSAT or NMSQT, or 450 on the SAT, the bill requires the student to be exempted from the geometry end-of-course (EOC) assessment requirement.

For exemption from all statewide, standardized testing requirements for high school, the bill requires students to attain the score of 120 on the PSAT or NMSQT, or 1200 on the SAT (including the Critical Reading, Writing, and Mathematics components).

The bill requires a student who does not attain the specified score for exemption from the geometry EOC, Algebra II EOC, Biology I EOC, or United States History EOC assessment to take the applicable EOC assessment after completing the relevant course during that school year

[88] The Preliminary SAT (PSAT) 8/9 tests the same skills and knowledge as the SAT, PSAT/NMSQT, and PSAT 10 and helps students and teachers assess the "what the [students] need to work on most" to be ready for college when the students graduate from high school. College Board, *PSAT 8/9*, https://professionals.collegeboard.com/testing/sat (last visited Jan. 23, 2016). Similar to the PSAT 8/9, the PSAT/National Merit Scholarship Qualifying Test (NMSQT) and PSAT 10 also measure what students learn in school and what the students need to succeed in college. College Board, *PSAT/NMSQT and PSAT 10: Inside the Test*, https://professionals.collegeboard.com/testing/sat (last visited Jan. 23, 2016). College Board International, *PSAT/NMSQT*, http://international.collegeboard.org/programs/psat-nmsqt-psss (last visited Jan. 23, 2016).

[89] "Each year, more than 80 million students take the SAT. Nearly every college in America uses the test as a common and objective scale for evaluating student's college readiness." College Board, *The SAT*, https://professionals.collegeboard.com/testing/sat (last visited Jan. 23, 2016). Seventy percent of Florida's public school graduates took the SAT in 2015. College Board, *Florida Public Schools 2014-2015*, on file with the Committee Education Pre-K -12.

to fulfill the statewide, standardized assessment requirements and the conditions for graduating with a standard high school diploma. Consistent with current law, the student's performance on the EOC assessment must constitute 30 percent of the student's final course grade,[90] and the student must pass the required EOCs to earn the scholar designation on the standard high school diploma.[91]

The bill allows for modifications to the specified rigorous alternative assessment scores (for demonstrating subject area and grade level competency) by requiring the State Board of Education (SBE or state board) to adopt in rule necessary adjustments to the specified scores based on recommendations from the Commissioner of Education (commissioner); ACT, Inc.; and the College Board.

Options for Students in High School

The bill identifies several rigorous alternative assessments (e.g. SAT Subject Tests, College-Level Examination Program, and Advanced Placement) as options for students to take, in lieu of the statewide, standardized assessments, to satisfy high school subject area, course, credit, and assessment requirements, beginning in the 2016-2017 school year. In effect, the bill expands the authority in current law,[92] with regards to using ACT and SAT scores to fulfill grade 10 ELA assessment requirement, to also apply to additional assessments to meet other subject area, course, and assessment requirements.

The bill allows students to take the rigorous alternative assessments without enrolling in the corresponding courses. However, the bill specifies that students must attain a passing score on the rigorous alternative assessment to meet the subject area, course, credit, and assessment requirements specified in law.[93] This competency-based mechanism provides students with acceleration opportunities in high school, which may help students graduate early from high school or instead, take advanced coursework through dual enrollment[94] or the Collegiate High School program.[95]

The bill creates several student performance-based worksheets for rigorous alternative assessments that form the basis for granting students exemption from course enrollment and completion obligations, and corresponding EOC assessment requirements. The bill provides a worksheet each for specific SAT Subject Tests, College-Level Examination Program (CLEP), DANTES Subject Standardized Test (DSST),[96] and Advanced Placement (AP). With regards to dual enrollment courses in biology and United States History, the performance-based worksheet

[90] Section 1003.4282, F.S.
[91] Section 1003.4285(1)(a), F.S.
[92] Section 1008.22(8)-(9), F.S.; *see also* Rule 6A-1.094223, F.A.C.
[93] Sections 1002.3105, 1003.4282, 1003.4285, 1003.4295(3), and 1008.22, F.S.
[94] Section 1007.271, F.S.
[95] Section 1007.273, F.S.
[96] Defense Activity for Non-Traditional Education Support (DANTES) is a division of the Department of Defense that provides educational support to military members. In 2004, the exams were acquired and are now owned and administered by Prometric. Prometric owns and administers DSST exams. DSST, *What is DSST?* http://getcollegecredit.com/what_is_dsst/ (last visited Jan. 20, 2016); *see also* DANTES, *DANTES*, http://www.dantes.doded.mil/#sthash.nYKTxyfV.dpbs (last visited Jan. 20, 2016). DSST offers a suite of more than 30 exams in college subject areas such as social sciences, math, applied technology, business, physical sciences, and humanities. DSST, *About DSST*, http://getcollegecredit.com/about (last visited Jan. 20, 2016).

specifies the EOC or the CLEP assessments that students must take to meet the statewide, standardized assessment requirements for Biology I and United States History.

Additionally, the worksheet for industry certifications lists the exemptions from various EOC assessment requirements for students who earn one or more of the specified national industry certifications. In this case, the bill provides for an alternative mechanism for a student to demonstrate subject area competency by earning an industry certification, which involves completing the required coursework and passing one or more industry-approved examinations.

Criteria for the Award and Application of Credit

The bill expands the competency-based mechanism for earning high school credit, as authorized under the Credit Acceleration Program (CAP),[97] by identifying in the student performance-based worksheets for CLEP, DSST, and AP, passing scores that, if attained by students, must result in such students receiving high school credit toward specified subject areas. The passing scores on CLEP, DSST, and AP are identified in the credit-by-examination equivalency list, which has been adopted as a rule by the state board. [98] In effect, this provision will allow a student earn both, high school and college credits concurrently, if the student passes one or more of the specified assessments.

With regards to dual enrollment courses in biology and United States History, the bill allows a student to earn high school credit in such subject areas by taking either the corresponding EOC assessment or the specified CLEP examination. However, if a student takes the Biology I EOC or the United States History EOC assessment corresponding to a dual enrollment course, which is considered a college-level course, the bill specifies that student performance on such EOC assessments must not constitute 30 percent of the student's final course grade.

Additionally, the bill:

- Exempts credits earned by students passing one or more of the specified rigorous alternative assessments from minimum instructional hour requirements in law[99] and
- Requires a passing score on such assessments to be applied first to meet the assessment and credit requirements for ELA, mathematics, science or social studies before applying the score to meet the required electives credit requirements.

Online Course Requirement

The bill establishes performance-based alternative means for student in public schools, including charter schools, to satisfy the online course requirement for high school graduation by:

- Either completing a course in which a student earns a nationally recognized industry certification, identified on the Career and Professional Education (CAPE) Industry Certification Funding List, in information technology, or passing the information technology certification examination without enrolling in, or completing, the course or courses corresponding to such certification.

[97] Section 1003.4295(3), F.S.; *see also* Rule 6A-10.024, F.A.C.
[98] Florida Department of Education, *Articulation Coordinating Committee Credit-By-Exam Equivalencies* (Initially adopted Nov. 14, 2001), *available at* http://www.fldoe.org/core/fileparse.php/5421/urlt/0078391-acc-cbe.pdf.
[99] Section 1003.436, F.S.

- Passing an online content assessment, without enrolling in or completing the course or courses corresponding to that assessment, demonstrating his or her skills and competency in locating information and applying technology for instructional purposes.

Contracts for Assessments

The bill provides for the immediate renegotiation of existing student assessment contracts and negotiation of new contracts to implement the rigorous alternative assessment options.

Specifically, the bill states that the Department of Education (department):

- Must immediately renegotiate the Florida Standards Assessment contract (Contract Number 14-652) with American Institutes for Research (AIR) to implement the rigorous alternative assessment options, and specifies the following requirements:
  - The department must ensure that the renegotiated contract fully implements the student assessment program for public schools, in accordance with the law,[100] and the rigorous alternative assessment options. The department must minimize student disruption.
  - The renegotiated contract must be executed by May 27, 2016.
  - The renegotiated contract should not result in an increase in price per assessment or any other price increase.
  - The department may not use any funds to restore the loss of funds pursuant to the rigorous alternative assessment options to Contract Number 14-652.
- May renegotiate other existing assessment contracts (e.g., the Florida Comprehensive Assessment Test retake contract and the statewide end-of-course assessment contracts) to allow for the availability of funds to implement the rigorous alternative assessments.
- Must negotiate and contract with entities such as ACT, Inc., and the College Board to implement the rigorous alternative assessment options. Additionally, the department must ensure that it obtains the lowest possible total contract price and price per assessment, and that the contracts are executed in sufficient time to fully implement the rigorous alternative assessment options in the 2016-2017 school year.

Additionally, the bill prohibits the funding for rigorous alternative assessments from increasing the budget for assessment and evaluation in the General Appropriations Act. Funds made available as a result of renegotiated statewide, standardized assessment and other assessment contracts must be used to provide funding for the specified rigorous alternative assessment contracts.

Implementation Schedule

The bill establishes the following timelines for the implementation of district-selected rigorous alternative assessment options (e.g., ACT Aspire for grades 3 through 8; ACT Aspire and ACT for high school; PSAT or NMSQT, and SAT for high school; or a combination of options as specified):

- A district school board must, by April 1, 2016:
  - File a nonbinding notice of interest to administer a rigorous alternative assessment option with the department and

[100] Section 1008.22, F.S.

  - Identify the assessment option that the district intends to administer.
- The department must:
  - Execute the contracts, as specified in the bill, by May 27, 2016.
  - Notify the school districts of the rigorous alternative assessment option by June 1, 2016.
- The district school board that chooses to administer a rigorous alternative assessment option must:
  - Decide by July 1, 2016, and
  - Notify the commissioner and the students' parents of the board's decision by July 8, 2016.
- The parent of a student in a school district that chooses to administer a rigorous alternative assessment option must notify the district, in writing, by August 10, 2016, of the parent's decision for his or her child to take the statewide, standardized assessments for the relevant subject area and grade level which are administered during that school year.

Use of Assessments and Reporting Requirements

The bill requires student performance on rigorous alternative assessments to be made available to the district school superintendents by August 1 of each year and requires the commissioner to:
- Collaborate with ACT, Inc., and the College Board to establish proxy values for linking student performance on the specified rigorous alternative assessments to educator performance evaluation, school grade, school improvement rating, and school district grade calculations, before the beginning of the 2016-2017 school year. For applicability statewide, such proxy values must be approved by the state board, and subsequently approved by the Legislature during the 2017 regular session.
- Submit to the Legislature, by December 31, 2016, statutory recommendations for improving the implementation of rigorous alternative assessment options and related provisions.

The commissioner must also indicate the assessment schedule for the specified rigorous alternative assessments within the statewide assessment schedule established in accordance with the law.[101] The department posts the Statewide Assessment Schedule on its website,[102] which provides information about the required assessments, the testing window for such assessments, and whether the test are computer-based or paper-based. [103] Inclusion of similar information for the rigorous alternative assessments may be helpful to the students and parents.

ESEA waiver

The bill requires the commissioner to amend Florida's request for renewal of flexibility under the Elementary and Secondary Education Act of 1965 (ESEA), as necessary to implement the rigorous alternative assessment options, and submit additional documents to the United States Department of Education (U.S. DOE), as necessary, to maintain compliance with the ESEA waiver flexibility[104] approved by the U.S. DOE.

[101] Section 1008.22, F.S.
[102] Florida Department of Education, *Assessment Schedules*, http://www.fldoe.org/accountability/assessments/k-12-student-assessment/assessment-schedules.stml (last visited February 5 2016).
[103] *Id.*
[104] Currently, the United States Department of Education (U.S. DOE) is allowing each SEA an opportunity to seek a 1-year extension of its ESEA flexibility request through the end of the 2015-2016 school year. Florida's *ESEA Flexibility Request*,

In addition, the bill requires the commissioner to faithfully and timely implement the rigorous alternative assessment options in accordance with the provisions specified in the bill, and submit by August 1, 2016, a report on the status of such implementation and compliance with the ESEA, to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

Teacher Bonuses for Students Who Earn College Credit

The bill removes the annual cap on teacher bonuses for the teachers providing AP, International Baccalaureate (IB), Advanced International Certificate of Education (AICE), or industry certification instruction which results in their students scoring at specified levels on examinations (in the case of AP, IB, and AICE) or attaining industry certifications corresponding to such instruction. As a result, the bill rewards teachers who prepare students with college and career readiness skills.

Teacher Evaluation

The bill provides that a classroom teacher's performance evaluation must be based on the performance of students who are assigned to their classroom and who have fewer than 25 absences within a school year.
Similarly, for schools with block scheduling, a classroom teacher's performance evaluation must be based on the performance of students who are assigned to their classroom and who have fewer than 10 absences within a school year.

District School Board Powers and Duties

The law adds to the existing powers and duties of the district school boards by allowing district school board members to visit schools to promote education and school improvements.

The bill takes effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

recently revised July 22, 2015, *available at* https://www2.ed.gov/policy/elsec/guid/esea-flexibility/flex-renewal/flrenewalreq2015.pdf. The USDOE has renewed approval of Florida's request through the end of the 2015-2016 school year, subject to certain conditions as identified in USDOE's letter to FLDOE Commissioner Pam Stewart, dated August 21, 2015, *available at* https://www2.ed.gov/policy/eseaflex/secretary-letters/flrenewalltr2015.pdf.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

CS/SB 1360 contains provisions that allow a student to earn college credit and high school credit simultaneously, which may reduce the student's cost of a postsecondary education. In addition, the use of the ACT or SAT exams as alternate assessments to measure student performance may reduce the parents' out-of-pocket cost for these college entrance exams. Also, the use of the ACT Aspire or Preliminary SAT, which are age appropriate versions of these exams for earlier grades, may help students prepare for the college entrance exams and result in higher scores and additional merit scholarship awards.

The removal of the cap on bonus funding for teachers of Advanced Placement (AP), International Baccalaureate (IB), Advanced International Certificate of Education (AICE), and industry certification courses may provide additional income to teachers of students in these courses.

C. Government Sector Impact:

The bill provides that for 2016-2017 the "funding for the rigorous alternative assessments may not cause an increase in the assessment and evaluation appropriation in the General Appropriations Act." The bill requires the Department of Education to immediately renegotiate the Florida Standards Assessment contract with American Institutes for Research and that "the renegotiated contract should not result in an increase in price per assessment or any other price increases." The terms of that renegotiated contract, along with any other renegotiated assessment contracts or grants to school districts for test development, are to be used to provide funding for implementation of the district-selected rigorous alternative assessments authorized in the bill. SB 2500, the Senate's proposed 2016-2017 General Appropriations Bill, does not increase the assessment and evaluation appropriation to the State Board of Education, as compared to the appropriation for Fiscal Year 2015-2016.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 1001.42, 1002.3105, 1002.33, 1003.4282, 1003.4285, 1003.4295, 1003.436, 1006.28, 1007.27, 1007.271, 1011.61, 1011.62, and 1012.34.

This bill creates the section 1008.223 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 Education Pre-K - 12 on January 27, 2016:
The committee substitute includes additional provisions that:

- Establish alternative means to satisfy online course requirement for high school graduation.
- Authorize district school board members to visit schools to promote education and school improvements.

B. Amendments:

None.

By the Committee on Education Pre-K - 12; and Senators Gaetz, Bradley, Detert, Ring, Negron, Montford, and Sobel

581-02674-16 20161360c1

A bill to be entitled

An act relating to student assessments; creating s. 1008.223, F.S.; providing purposes; authorizing a district school board to choose to implement certain rigorous alternative assessment options by a certain school year; providing requirements for the rigorous alternative assessment options; specifying the types of exams that may be taken and the corresponding substitutions or exemptions that may be earned by certain students; requiring the Commissioner of Education to collaborate with ACT, Inc.; requiring the State Board of Education to adopt such scores in rule by a specified school year; requiring a district school board that chooses to implement rigorous alternative assessment options to notify the commissioner, students, and parents of the decision by a specified date; requiring a parent to annually notify the school district in writing by a certain date if his or her child will take the statewide, standardized assessments; requiring the state board to adopt in rule adjustments to certain scores based on certain recommendations; requiring rigorous alternative assessment options to be available for students in high school beginning in the 2016-2017 school year; specifying the types of industry certifications and assessments that may be taken and the corresponding exemptions and high school credit that may be earned by a student in high school; requiring the commissioner to adopt the schedule for the administration of the rigorous alternative assessment options; requiring student performance

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results to be made available to district school superintendents annually by a specified date; providing requirements for high school credits; providing proxy values to link student performance on rigorous alternative assessments to certain evaluations and grades; requiring the commissioner to seek legislative approval for any adjustments to the proxy values by a specified time; requiring the commissioner to submit certain recommendations to the Legislature by a specified date; requiring the rigorous alternative assessment options and proxies to be included in each district school board-approved student progression plan and each district school board-approved educator performance evaluation system by a specified time; requiring the commissioner to coordinate with school districts for the administration of the rigorous alternative assessments; requiring the Department of Education to renegotiate the Florida Standards Assessment contract; specifying that certain requirements do not apply to the renegotiation; requiring the renegotiated contract to be executed by a specified date; authorizing the department to renegotiate other assessment contracts; requiring the department to negotiate and contract with certain entities in order to implement the rigorous alternative assessments; prohibiting the funding for the assessments from causing an increase in a certain appropriation in the General Appropriations Act; requiring each district school

board to publish notification of the rigorous alternative assessment and student choice options on its school district website; providing applicability; providing for rulemaking; providing an implementation schedule for the 2016-2017 school year; amending s. 1002.3105, F.S.; specifying that a student who attains a passing score on a rigorous alternative assessment may meet certain requirements; amending s. 1002.33, F.S.; revising compliance requirements for charter schools; amending s. 1003.4282, F.S.; requiring each school district to annually notify students and parents of standard high school diploma requirements by a specified date; revising the online course requirement; authorizing a district school board or a charter school governing board to offer certain additional options to meet the requirement; conforming provisions to changes made by the act; amending ss. 1003.4285, 1003.4295, and 1003.436, F.S.; conforming provisions to changes made by the act; amending s. 1006.28, F.S.; requiring instructional materials to be consistent with the rigorous alternative assessment option; requiring a district school board to make certain certifications at a public meeting; amending s. 1007.27, F.S.; requiring the department to identify the minimum scores, maximum credit, and courses for which credit is awarded for certain examinations; amending ss. 1007.271 and 1011.61, F.S.; conforming provisions to changes made by the act; amending s. 1011.62, F.S.; deleting certain bonus limits that may

be earned for instructing students who receive specified grades on certain examinations; amending s. 1012.34, F.S.; requiring a classroom teacher's performance evaluation to be based on the performance of certain students; amending s. 1001.42, F.S.; revising the duties of a district school board; requiring the commissioner to make certain requests and submit certain documentation regarding the federal Elementary and Secondary Education Act by a specified date; requiring the commissioner to submit a report to the Governor and the Legislature by a specified date; providing an effective date.

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

Section 1. Section 1008.223, Florida Statutes, is created to read:

1008.223 Rigorous alternative assessment options.—

(1) PURPOSE.—The purpose of this section is to enable students to choose to take rigorous alternative assessments, in lieu of the statewide, standardized assessments established pursuant to s. 1008.22 to meet subject area, course, credit, and assessment requirements for student progression and graduation. It is the intent of the Legislature to preserve the statewide, standardized assessments as the default common battery of assessments for all students attending public schools. The rigorous alternative assessments are intended to supplement the statewide assessment program with valid, reliable, and respected assessment options for students to demonstrate subject area and

grade level competency and college and career readiness. Additionally, the purpose of this section is to:

(a) Expand the availability of rigorous alternative assessment options that students take to meet requirements for admission to postsecondary educational institutions or to generate college credits, often at least three credit hours, so that such credits also substitute for statewide, standardized assessments.

(b) Maximize a performance-based approach that allows students to generate credit based on attaining a concordant, comparative, or passing score on a rigorous alternative assessment without enrolling in the corresponding course to demonstrate satisfactory performance in meeting the requirements to earn a standard high school diploma.

(c) Link student performance on rigorous alternative assessments to educator evaluation, school grade, school improvement rating, and school district grade calculations.

(d) Leverage the Course Code Directory and the statewide course numbering system to link assessments and courses to award credit and assist the state and school districts with planning and administering rigorous alternative assessments.

Nothing stated in this section shall be construed to require students to take rigorous alternative assessments in addition to the statewide, standardized assessments or as substitutes for the Florida Alternate Assessment for students with disabilities pursuant to s. 1008.22.

(2) DISTRICT OPTIONS FOR STUDENTS.—

(a) Beginning in the 2016-2017 school year, a district

school board may choose to implement one of the following rigorous alternative assessment options or a combination of such assessments as specified in this paragraph, in lieu of the statewide, standardized assessments:

1. ACT Aspire for grades 3 through 8. If a district school board chooses to administer the ACT Aspire assessments for grades 3 through 8 districtwide, a student enrolled in a public school within that school district must take the ACT Aspire assessments to satisfy the statewide, standardized assessment requirements and demonstrate subject area and grade level competency in English Language Arts (ELA), mathematics, and science, unless the student's parent selects the statewide, standardized assessments pursuant to s. 1008.22 for the student. The commissioner must collaborate with ACT, Inc., to establish ACT Aspire scores that demonstrate grade level and subject area competency in ELA, mathematics, and science for grades 3 through 8. Before the beginning of the 2016-2017 school year, the state board must adopt the scores in rule.

2. ACT Aspire and ACT for high school. If a district school board chooses to administer the ACT Aspire assessments for grades 9 and 10 and ACT districtwide, a student enrolled in a public school in that school district must take the ACT Aspire and ACT assessments to satisfy the statewide, standardized assessment requirements and demonstrate subject area competency and college and career readiness, unless the student's parent selects the statewide, standardized assessments pursuant to s. 1008.22 for the student. A student may take the ACT after taking the ACT Aspire assessments for grades 9 and 10 or after demonstrating his or her readiness to take the ACT, as

determined by the district school superintendent, through coursework or scores on the ACT Aspire assessments.

a. The ACT Aspire and ACT Performance-Based Student Outcome Worksheet under this sub-subparagraph shall be used to authorize ACT Aspire assessment and ACT substitutions for the grade 9 and grade 10 ELA assessments and the Algebra I EOC assessment. The scores specified in the worksheet demonstrate grade level and subject area competency in ELA and mathematics.

ACT Aspire and ACT Performance-Based Student Outcome Worksheet
Student Performance

Test	Score		Substitution
ACT Aspire or ACT English and Reading components	426 on ACT Aspire or 17 on ACT (English and Reading Average)	=	Grade 9 ELA assessment
ACT Aspire or ACT English and Reading components	428 on ACT Aspire or 18 on ACT (English and Reading Average)	=	Grade 9 ELA and Grade 10 ELA assessments
ACT Aspire or	428 on ACT	=	Algebra I EOC assessment

ACT Mathematics	Aspire or 18 on ACT		

b. The ACT Aspire and ACT Performance-Based Student Outcome Worksheet under this sub-subparagraph shall be used to authorize ACT Aspire and ACT as rigorous alternative assessment options for granting exemptions from taking the Geometry EOC, Algebra II EOC, and Biology I EOC assessments. Additionally, the worksheet shall be used to authorize ACT Aspire and ACT as rigorous alternative assessment options for granting exemptions from all assessment requirements in order to earn a standard high school diploma. The scores specified in the worksheet shall serve as the basis for granting the exemptions from taking the statewide, standardized assessments.

ACT Aspire and ACT Performance-Based Student Outcome Worksheet
Student Performance

Test	Score		Exemption
ACT Aspire or ACT Mathematics	432 on ACT Aspire or 20 on ACT	=	Geometry EOC assessment
ACT Aspire or ACT Mathematics	435 on ACT Aspire or 22 on ACT	=	Geometry EOC and Algebra II EOC assessments
ACT Aspire or	430 on ACT	=	Biology I EOC assessment

ACT Science	Aspire or 20 on ACT		
ACT Aspire or ACT	428 on ACT Aspire or 18 on ACT (English and Reading Average); 435 on ACT Aspire or 22 on ACT Mathematics; and 430 on ACT Aspire or 20 on ACT Science	=	Grade 9 ELA and Grade 10 ELA, Algebra I EOC, Geometry EOC, Algebra II EOC, Biology I EOC, and United States History EOC assessments

3. PSAT or NMSQT, and SAT for high school. If a district school board chooses to administer the PSAT or NMSQT, and SAT assessments districtwide, a student enrolled in a public school in that school district must take the PSAT or NMSQT, as applicable, and SAT assessments to satisfy the statewide, standardized assessment requirements and demonstrate subject area competency and college and career readiness, unless the student's parent selects the statewide, standardized assessments pursuant to s. 1008.22 for the student. A student may take the SAT after taking the PSAT or NMSQT assessments or after demonstrating his or her readiness to take the SAT, as determined by the district school superintendent, through coursework or scores on the PSAT or NMSQT assessments.

a. The PSAT, NMSQT, and SAT Performance-Based Student Outcome Worksheet under this sub-subparagraph shall be used to authorize PSAT, NMSQT, and SAT substitutions for the grade 9 and grade 10 ELA assessments and the Algebra I EOC assessment. The scores specified in the worksheet demonstrate grade level and subject area competency in ELA and mathematics.

PSAT, NMSQT, and SAT Performance-Based Student Outcome Worksheet
Student Performance

Test	Score		Substitution
PSAT, NMSQT, or SAT Critical Reading and Writing	64 on PSAT or NMSQT, or 640 on SAT (Critical Reading and Writing Sum)	=	Grade 9 ELA assessment
PSAT, NMSQT, or SAT Critical Reading and Writing	67 on PSAT or NMSQT, or 670 on SAT (Critical Reading and Writing Sum)	=	Grade 9 ELA and Grade 10 ELA assessments
PSAT, NMSQT, or SAT	42 on PSAT or NMSQT, or 420	=	Algebra I EOC assessment

Mathematics	on SAT		

b. The PSAT, NMSQT, and SAT Performance-Based Student Outcome Worksheet under this sub-subparagraph shall be used to authorize PSAT, NMSQT, and SAT as rigorous alternative assessment options for granting exemptions from taking the Geometry EOC and Algebra II EOC assessments. Additionally, the worksheet shall be used to authorize PSAT, NMSQT, and SAT for exemption from all assessment requirements in order to earn a standard high school diploma. The scores specified in the worksheet shall serve as the basis for granting exemptions from taking the statewide, standardized assessments.

PSAT, NMSQT, and SAT Performance-Based Student Outcome Worksheet
Student Performance

Test	Score		Exemption
PSAT, NMSQT, or SAT Mathematics	45 on PSAT or NMSQT, or 450 on SAT	=	Geometry EOC assessment
PSAT, NMSQT, or SAT Mathematics	50 on PSAT or NMSQT, or 500 on SAT	=	Geometry EOC and Algebra II EOC assessments
PSAT, NMSQT, or SAT	120 on PSAT or NMSQT, or 1200 on SAT (Critical Reading, Writing, and Mathematics Sum)	=	Grade 9 ELA and Grade 10 ELA, Algebra I EOC, Geometry EOC, Algebra II EOC, Biology I EOC, and United States History EOC assessments

A district school board may, pursuant to this paragraph, choose any one of the rigorous alternative assessment options specified under subparagraphs 1., 2., and 3. or a combination of assessment options specified under subparagraphs 1. and 2. or subparagraphs 1. and 3.

(b) A student who does not attain the score specified under this subsection for exemption from taking the Geometry EOC, Algebra II EOC, Biology I EOC, or United States History EOC assessments must take the applicable EOC assessment after completing the relevant course during that school year to meet the requirements of ss. 1003.4282 and 1008.22. A student's performance on the statewide, standardized EOC assessment constitutes 30 percent of the student's final course grade pursuant to s. 1003.4282, and the student must pass the Geometry EOC, Algebra II EOC, Biology I EOC, and United States History EOC assessments to earn the Scholar designation on the standard high school diploma pursuant to s. 1003.4285.

(c) By July 8, 2016, for the 2016-2017 school year pursuant to subsection (12) and by August 1 of each school year thereafter, a district school board that selects rigorous alternative assessments must identify and approve such assessments for districtwide use. Accordingly, the district

school superintendent shall notify the commissioner, inform the students and parents of the rigorous alternative assessment options, and coordinate with the commissioner to arrange for the administration and facilitation of such assessments.

(d) Annually, by August 10 of each school year, a parent must notify the applicable school district, in writing, if the parent selects the statewide, standardized assessments for his or her child. The parent's selection shall apply to the required statewide, standardized assessments pursuant to s. 1008.22 for the relevant grade level and subject area which are administered during that school year. A student may not be required to take an assessment if the student has satisfied the subject area, course, credit, or assessment requirements, as applicable, through rigorous alternative assessment options for student progression and graduation.

(e) The state board shall adopt in rule adjustments, as necessary, to the scores specified under this subsection before the beginning of the 2016-2017 school year based on recommendations from the commissioner; ACT, Inc.; and the College Board.

(3) OPTIONS FOR STUDENTS IN HIGH SCHOOL.—Beginning in the 2016-2017 school year, rigorous alternative assessment options, adopted pursuant to this subsection, must be available to students statewide. A student may choose to take rigorous alternative assessments without enrolling in the corresponding courses. However, the student must attain a passing score on the rigorous alternative assessments to meet the subject area, course, credit, and assessment requirements under ss. 1002.3105, 1003.4282, 1003.4285, 1003.4295(3), and 1008.22. At a minimum,

the rigorous alternative assessment options that a student may choose to take must include:

(a) Passing scores on nationally recognized industry certifications. A student who attains national industry certifications by passing industry-approved examinations for such certifications is exempt from the relevant statewide, standardized assessment requirements to earn a standard high school diploma, as specified under this section. The Industry Certifications Performance-Based Student Outcome Worksheet under this paragraph shall be used to exempt a student from the relevant statewide, standardized assessment based on student performance on the industry-approved examinations to earn national industry certifications. Annually, the state board shall adopt by rule additional industry certifications that, if attained by a student, shall exempt the student from the relevant statewide, standardized assessment requirements.

Industry Certifications Performance-Based Student Outcome Worksheet
Student Performance

Industry Certification	=	Exemption
Associate Level Certified Electronic Technician	=	Algebra I EOC and Geometry EOC assessments
Autodesk Certified Professional - AutoCAD, AutoCAD Civil 3D,	=	Geometry EOC assessment

Inventor, Revit Architecture		
Biotechnician Assistant	=	Biology I EOC assessment
Certified Apprentice Drafter - Architectural	=	Geometry EOC assessment
Chief Architect Certified Apprentice	=	Geometry EOC assessment
Certified Dental Assistant	=	Biology I EOC assessment
Cisco Certified Network Professional	=	Algebra I EOC and Geometry EOC assessments
ComTIA A+	=	Algebra I EOC and Geometry EOC assessments
Emergency Medical Technician	=	Biology I EOC assessment
FAA Aviation Mechanic Technician - Airframe	=	Algebra I EOC, Geometry EOC, and Algebra II EOC assessments

FAA Aviation Maintenance Technician - Powerplant	=	Algebra I EOC, Geometry EOC, and Algebra II EOC assessments
FAA Ground School	=	Algebra I EOC, Geometry EOC, and Algebra II EOC assessments
Global Logistics Associate	=	Algebra I EOC, Geometry EOC, and Algebra II EOC assessments
MSSC Certified Production Technician	=	Algebra I EOC, Geometry EOC, and Algebra II EOC assessments
Oracle Certified Associate: Database	=	Algebra I EOC, Geometry EOC, and Algebra II EOC assessments

(b) Passing scores on assessments such as:

1. The SAT Subject Test. The SAT Subject Test Performance-Based Student Outcome Worksheet under this subparagraph shall be used to satisfy high school subject area, course, credit, and assessment requirements, based on student performance on the SAT Subject Test, as adopted in rule by the state board.

SAT Subject Test Performance-Based Student Outcome Worksheet

Student Performance

Test	Score		Exemption
SAT Biology-Ecological, Biology-Molecular, U.S. History, World History, Chemistry, or Physics Subject Tests	Passing score on the respective SAT Subject Test	=	Enrolling in and completing the corresponding course and taking the corresponding EOC assessment, if applicable, to earn high school credit

2. College-Level Examination Program (CLEP), DSST examination, or another rigorous alternative assessment. The CLEP and DSST Performance-Based Student Outcome Worksheet under this subparagraph shall be used to satisfy high school subject area, course, credit, and assessment requirements, based on student performance on the CLEP or DSST, as specified.

CLEP and DSST Performance-Based Student Outcome Worksheet
Student Performance

Examination	Score		Exemption	High School Credit Award
CLEP College Algebra or DSST Fundamentals of College Algebra	Passing score on CLEP or DSST	=	Enrolling in and completing the corresponding course and taking the Algebra I EOC assessment	1 Algebra I credit for any examination
CLEP College Algebra-Trigonometry	Passing score	=	Enrolling in and completing the corresponding course and taking the Algebra II EOC assessment	1 Algebra II credit

3. Advanced Placement (AP) Examination. The AP Exam Performance-Based Student Outcome Worksheet under this subparagraph shall be used to satisfy high school subject area, course, credit, and assessment requirements, based on student performance on the AP examinations, as specified. A student who attains a passing score on the specified examinations must be awarded one high school credit each toward the corresponding courses if the student takes the examinations without enrolling in the corresponding courses.

AP Exam Performance-Based Student Outcome Worksheet
Student Performance

Examination	Score		Exemption	High School Credit Award
AP Calculus	3	=	Enrolling in and	1 Mathematics

AB, Calculus BC, or Statistics			completing the corresponding course	credit for each examination
AP Biology	3	=	Enrolling in and completing the corresponding course and taking the Biology I EOC assessment	1 Biology I credit
AP Physics 1 or 2, or Chemistry	3	=	Enrolling in and completing the corresponding course	1 Science credit for each examination
AP United States History	3	=	Enrolling in and completing the corresponding course and taking the United States History EOC assessment	1 United States History credit
AP World History	3	=	Enrolling in and completing the corresponding	1 World History credit

			course	
AP United States Government and Politics	3	=	Enrolling in and completing the corresponding course	0.5 United States Government credit
AP Macro Economics or AP Micro Economics	3	=	Enrolling in and completing the corresponding course	0.5 Economics credit

4. Dual enrollment course and corresponding assessment. The Dual Enrollment Performance-Based Student Outcome Worksheet under this subparagraph shall be used to satisfy high school subject area, course, credit, and assessment requirements, based on student performance on the statewide, standardized EOC assessment or CLEP examination corresponding to the dual enrollment course, as specified.

Dual Enrollment Performance-Based Student Outcome Worksheet
Student Performance

Course	Test		Exemption	High School Credit Award
Sequence of college-credit dual enrollment	Take Biology I EOC assessment	=	EOC assessment performance	1 Biology I credit

courses in Life Sciences and Biological Sciences or college-credit courses in General Biology	or CLEP General Biology		does not constitute 30 percent of the final course grade	
Sequence of college-credit dual enrollment courses in Introductory Survey to 1877 and Introductory Survey Since 1877	Take United States History EOC or CLEP History of the United States I and CLEP History of the United States II	=	EOC assessment performance does not constitute 30 percent of the final course grade	1 United States History credit

If a student attains a passing score on a rigorous alternative assessment under this subsection, the score must be applied toward the credit requirements for electives unless the passing score is applied first to meet the assessment and credit requirements for ELA, mathematics, science, or social studies pursuant to this paragraph.

(4) ASSESSMENT SCHEDULE AND REPORTING OF RESULTS.—The commissioner must adopt within the assessment schedule pursuant to s. 1008.22 the assessment schedule for the administration of

rigorous alternative assessment options. To the extent possible, the commissioner shall consider the semester calendars of public colleges and universities in the state to accommodate and maximize the availability of assessment options for dual enrollment students. Student performance on rigorous alternative assessments must be made available to the district school superintendents by August 1 of each year.

(5) CREDIT REQUIREMENTS.—The following authorizations apply to credit earned through rigorous alternative assessment options pursuant to this section:

(a) The credit earned by a student passing a rigorous alternative assessment is exempt from the minimum instructional hour requirements under s. 1003.436.

(b) A school district must award one credit, or as otherwise authorized under this section, for each rigorous alternative assessment or statewide, standardized assessment that a student passes, without requiring the student to enroll in or complete the corresponding coursework, as authorized under the Credit Acceleration Program pursuant to s. 1003.4295(3).

(6) PROXIES.—Before the beginning of the 2016-2017 school year, the commissioner shall collaborate with ACT, Inc., and the College Board to establish proxy values for linking student performance on rigorous alternative assessments to educator performance evaluation, school grade, school improvement rating, and school district grade calculations. Such proxy values for applicability statewide must be approved by the state board. The commissioner must seek the Legislature's approval for the state board-approved proxy values under this subsection during the 2017 regular session. Additionally, by December 31, 2016, the

commissioner shall submit to the President of the Senate and the Speaker of the House of Representatives statutory recommendations for improving the implementation of this section.

(7) AVAILABILITY.—

(a) Rigorous alternative assessment options specifically outlined under this section and other options must be adopted by the state board in rule. Beginning no later than the 2016-2017 school year, a school district must clearly identify the available rigorous alternative assessment options pursuant to this section in each district school board-approved student progression plan, and the proxies established pursuant to subsection (6) must be included in each district school board-approved educator performance evaluation system.

(b) Pursuant to s. 1008.22, the commissioner shall coordinate with the school districts to provide for the administration of rigorous alternative assessments by school districts or through contracts with private vendors, public vendors, public agencies, or postsecondary educational institutions.

(8) STATEWIDE ASSESSMENT CONTRACTS.—

(a) The Department of Education shall immediately renegotiate the Florida Standards Assessment contract with American Institutes for Research, Contract Number 14-652, to implement this section, including, but not limited to, reducing the contract amount to fund the contracts executed pursuant to paragraph (c). The competitive procurement requirements in s. 287.057 do not apply to contract renegotiations pursuant to this paragraph.

1. The department shall ensure the renegotiated contract fully implements s. 1008.22 and this section. The department's priority, for any reductions to the scope of work which are demanded by American Institutes for Research to implement this section, is to minimize student disruption.

2. The renegotiated contract shall be executed by May 27, 2016.

3. The renegotiated contract should not result in an increase in price per assessment or any other price increases.

4. The department may not use any funds to restore the loss of funds pursuant to this subsection to Contract Number 14-652.

(b) The department may also renegotiate other existing assessment contracts, such as the Florida Comprehensive Assessment Test retake contract; the Florida Assessments for Instruction in Reading assessment contract; the statewide end-of-course assessment contracts; and grants to school districts for test development, so that funds shall be available for the administration of the rigorous alternative assessments.

(c) The department shall negotiate and contract with entities such as ACT, Inc., and the College Board to implement this section. The competitive procurement requirements in s. 287.057 do not apply to contracts executed pursuant to this paragraph. The department shall ensure that:

1. The contracts are executed in sufficient time for this section to be fully implemented in the 2016-2017 school year.

2. All contracts pursuant to this paragraph fully implement this section.

3. It obtains the lowest possible total contract price and price per assessment. In obtaining the lowest possible price,

the department shall use the lowest pricing offered by the vendor in this state and in other states that reasonably matches the contract's scope of work.

(d) For 2016-2017, funding for the rigorous alternative assessments may not cause an increase in the Assessment and Evaluation appropriation in the General Appropriations Act. Funds made available as a result of renegotiated statewide, standardized assessment and other assessment contracts in paragraphs (a) and (b) shall be used to provide funding for the alternative assessment contracts in paragraph (c).

(9) NOTIFICATION.—By September 1 of each year, as a component of notification requirements pursuant to s. 1003.4282, each district school board must notify students and parents, in writing, after a properly noticed public meeting, of the rigorous assessment options that students may select to meet the subject area, course, credit, and assessment requirements, as applicable, for student progression and graduation. Each district school board must publish the notification regarding rigorous alternative assessment and student choice options prominently on the home page of the school district's website.

(10) APPLICABILITY.—The duties assigned to a district school board pursuant to subsection (2) apply to a charter school governing board, and the duties assigned to the school district, superintendent, or district employee apply to a charter school principal.

(11) RULES.—The State Board of Education shall expeditiously adopt rules to implement this section. The rules adopted by the board must clearly identify all options for awarding credit corresponding to the subject area, course, and

assessment, as applicable. The options must be clearly reflected in the Course Code Directory, statewide course numbering system, credit-by-examination equivalency list adopted by the state board in rule, and the list of equivalency of dual enrollment courses to high school subject areas which is approved by the department.

(12) IMPLEMENTATION SCHEDULE FOR THE 2016-2017 SCHOOL YEAR.—Notwithstanding the provisions of this section, the following actions related to districtwide use of rigorous alternative assessment options must occur by the following specified dates:

(a) A district school board must file with the department a nonbinding notice of interest to indicate if the school district intends to administer a rigorous alternative assessment option specified in subsection (2) and identify the chosen assessment option by April 1, 2016.

(b) The department shall execute the contracts required pursuant to subsection (8) by May 27, 2016.

(c) The department shall notify the school districts of the rigorous alternative assessment option pursuant to subsection (2) by June 1, 2016.

(d) Each district school board that chooses to administer a rigorous alternative assessment option pursuant to subsection (2) must make the decision by July 1, 2016, and must notify the commissioner and the student's parents of the board's decision by July 8, 2016.

(e) The parent of a student in a school district that chooses to administer a rigorous alternative assessment option pursuant to subsection (2) must notify the district by August

10, 2016, in writing, if he or she selects for his or her child to take the statewide, standardized assessments pursuant to s. 1008.22 for the relevant grade level and subject area which are administered during that school year.

Section 2. Subsection (5) of section 1002.3105, Florida Statutes, is amended to read:

1002.3105 Academically Challenging Curriculum to Enhance Learning (ACCEL) options.—

(5) AWARD OF A STANDARD HIGH SCHOOL DIPLOMA.—A student who meets the applicable grade 9 cohort graduation requirements of s. 1003.4282(3)(a)-(e) or s. 1003.4282(10)(a)1.-5., (b)1.-5., (c)1.-5., or (d)1.-5., earns three credits in electives, and earns a cumulative grade point average (GPA) of 2.0 on a 4.0 scale shall be awarded a standard high school diploma in a form prescribed by the State Board of Education. A student may meet the requirements specified under this subsection by attaining a passing score on a rigorous alternative assessment pursuant to s. 1008.223.

Section 3. Paragraph (a) of subsection (16) of section 1002.33, Florida Statutes, is amended to read:

1002.33 Charter schools.—

(16) EXEMPTION FROM STATUTES.—

(a) A charter school shall operate in accordance with its charter and shall be exempt from all statutes in chapters 1000-1013. However, a charter school shall be in compliance with the following statutes in chapters 1000-1013:

1. Those statutes specifically applying to charter schools, including this section.

2. Those statutes pertaining to the student assessment

program and school grading system, including, but not limited to, the ability to choose a rigorous alternative assessment option pursuant to s. 1008.223(2) regardless of its sponsor's decision.

3. Those statutes pertaining to the provision of services to students with disabilities.

4. Those statutes pertaining to civil rights, including s. 1000.05, relating to discrimination.

5. Those statutes pertaining to student health, safety, and welfare.

Section 4. Subsections (2), (3), and (4) of section 1003.4282, Florida Statutes, are amended to read:

1003.4282 Requirements for a standard high school diploma.—

(2) NOTIFICATION REQUIREMENTS.—By July 8, 2016, for the 2016-2017 school year and by August 1 of each school year thereafter, the school district must notify students and parents, in writing, of the requirements for a standard high school diploma, rigorous alternative assessments pursuant to s. 1008.223 which may be taken in lieu of the statewide, standardized assessments, available designations, and the eligibility requirements for state scholarship programs and postsecondary admissions. The Department of Education shall directly and through the school districts notify registered private schools of public high school course credit and assessment requirements. Each private school must make this information available to students and their parents so they are aware of public high school graduation requirements.

(3) STANDARD HIGH SCHOOL DIPLOMA; COURSE AND ASSESSMENT REQUIREMENTS.—Unless otherwise specified under s. 1002.3105, s.

1003.4295(3), or s. 1008.223, a student must meet the following requirements to earn a standard high school diploma:

(a) *Four credits in English Language Arts (ELA).*—The four credits must be in ELA I, II, III, and IV. A student must pass the statewide, standardized grade 10 Reading assessment or, when implemented, the grade 10 ELA assessment, or earn a concordant score, in order to earn a standard high school diploma.

(b) *Four credits in mathematics.*—A student must earn one credit in Algebra I and one credit in Geometry. A student's performance on the statewide, standardized Algebra I end-of-course (EOC) assessment constitutes 30 percent of the student's final course grade. A student must pass the statewide, standardized Algebra I EOC assessment, or earn a comparative score, in order to earn a standard high school diploma. A student's performance on the statewide, standardized Geometry EOC assessment constitutes 30 percent of the student's final course grade. If the state administers a statewide, standardized Algebra II assessment, a student selecting Algebra II must take the assessment, and the student's performance on the assessment constitutes 30 percent of the student's final course grade. An ~~A student who earns an~~ industry certification attained by a student for which there is a statewide college credit articulation agreement approved by the State Board of Education shall ~~may~~ substitute the certification for one mathematics credit. ~~Substitution may occur for up to two mathematics credits, except for Algebra I and Geometry.~~

(c) *Three credits in science.*—Two of the three required credits must have a laboratory component. A student must earn one credit in Biology I and two credits in equally rigorous

courses. The statewide, standardized Biology I EOC assessment constitutes 30 percent of the student's final course grade. An ~~A student who earns an~~ industry certification attained by a student for which there is a statewide college credit articulation agreement approved by the State Board of Education shall ~~may~~ substitute the certification for one science credit~~, except for Biology I~~.

(d) *Three credits in social studies.*—A student must earn one credit in United States History; one credit in World History; one-half credit in economics, which must include financial literacy; and one-half credit in United States Government. The United States History EOC assessment constitutes 30 percent of the student's final course grade.

(e) *One credit in fine or performing arts, speech and debate, or practical arts.*—The practical arts course must incorporate artistic content and techniques of creativity, interpretation, and imagination. Eligible practical arts courses are identified in the Course Code Directory.

(f) *One credit in physical education.*—Physical education must include the integration of health. Participation in an interscholastic sport at the junior varsity or varsity level for two full seasons shall satisfy the one-credit requirement in physical education if the student passes a competency test on personal fitness with a score of "C" or better. The competency test on personal fitness developed by the Department of Education must be used. A district school board may not require that the one credit in physical education be taken during the 9th grade year. Completion of one semester with a grade of "C" or better in a marching band class, in a physical activity class

that requires participation in marching band activities as an extracurricular activity, or in a dance class shall satisfy one-half credit in physical education or one-half credit in performing arts. This credit may not be used to satisfy the personal fitness requirement or the requirement for adaptive physical education under an individual education plan (IEP) or 504 plan. Completion of 2 years in a Reserve Officer Training Corps (R.O.T.C.) class, a significant component of which is drills, shall satisfy the one-credit requirement in physical education and the one-credit requirement in performing arts. This credit may not be used to satisfy the personal fitness requirement or the requirement for adaptive physical education under an IEP or 504 plan.

(g) *Eight credits in electives.*—School districts must develop and offer coordinated electives so that a student may develop knowledge and skills in his or her area of interest, such as electives with a STEM or liberal arts focus. Such electives must include opportunities for students to earn college credit, including industry-certified career education programs or series of career-themed courses that result in industry certification or articulate into the award of college credit, or career education courses for which there is a statewide or local articulation agreement and which lead to college credit.

Unless otherwise authorized under s. 1008.223, a student must take the statewide, standardized assessments and pass the grade 10 ELA and Algebra I EOC assessments as specified under this subsection to earn a standard high school diploma.

(4) ONLINE COURSE REQUIREMENT.—At least one course within the 24 credits required under this section must be completed through online learning. ~~A school district may not require a student to take the online course outside the school day or in addition to a student's courses for a given semester.~~

(a) An online course taken in grade 6, grade 7, or grade 8 fulfills the ~~this~~ requirement in this subsection. The ~~This~~ requirement is met through an online course offered by the Florida Virtual School, a virtual education provider approved by the State Board of Education, a high school, or an online dual enrollment course. A student who is enrolled in a full-time or part-time virtual instruction program under s. 1002.45 meets the ~~this~~ requirement.

(b) A district school board or a charter school governing board, as applicable, may offer students the following options to satisfy the online course requirement in this subsection:

1. Completion of a course in which a student earns a nationally recognized industry certification in information technology that is identified on the CAPE Industry Certification Funding List pursuant to s. 1008.44 or passage of the information technology certification examination without enrollment in or completion of the corresponding course or courses, as applicable.

2. Passage of an online content assessment, without enrollment in or completion of the corresponding course or courses, as applicable, by which the student demonstrates skills and competency in locating information and applying technology for instructional purposes.

For purposes of this subsection, a school district may not require a student to take the online course outside the school day or in addition to a student's courses for a given semester. This subsection ~~requirement~~ does not apply to a student who has an individual education plan under s. 1003.57 which indicates that an online course would be inappropriate or to an out-of-state transfer student who is enrolled in a Florida high school and has 1 academic year or less remaining in high school.

Section 5. Subsection (1) of section 1003.4285, Florida Statutes, is amended to read:

1003.4285 Standard high school diploma designations.—

(1) Each standard high school diploma shall include, as applicable, the following designations if the student meets the criteria set forth for the designation:

(a) *Scholar designation.*—In addition to the requirements of s. 1003.4282, in order to earn the Scholar designation, a student must satisfy the following requirements through statewide, standardized assessments or rigorous alternative assessments as authorized under s. 1008.223:

1. Mathematics.—Earn one credit in Algebra II and one credit in statistics or an equally rigorous course. Beginning with students entering grade 9 in the 2014-2015 school year, pass the Algebra II and Geometry statewide, standardized assessments.

2. Science.—Pass the statewide, standardized Biology I EOC assessment and earn one credit in chemistry or physics and one credit in a course equally rigorous to chemistry or physics. However, a student enrolled in an Advanced Placement (AP), International Baccalaureate (IB), or Advanced International

Certificate of Education (AICE) Biology course who takes the respective AP, IB, or AICE Biology assessment and earns the minimum score necessary to earn college credit as identified pursuant to s. 1007.27(2) meets the requirement of this subparagraph without having to take the statewide, standardized Biology I EOC assessment.

3. Social studies.—Pass the statewide, standardized United States History EOC assessment. However, a student enrolled in an AP, IB, or AICE course that includes United States History topics who takes the respective AP, IB, or AICE assessment and earns the minimum score necessary to earn college credit as identified pursuant to s. 1007.27(2) meets the requirement of this subparagraph without having to take the statewide, standardized United States History EOC assessment.

4. Foreign language.—Earn two credits in the same foreign language.

5. Electives.—Earn at least one credit in an Advanced Placement, an International Baccalaureate, an Advanced International Certificate of Education, or a dual enrollment course.

(b) *Merit designation.*—In addition to the requirements of s. 1003.4282, in order to earn the Merit designation, a student must attain one or more industry certifications from the list established under s. 1003.492.

Section 6. Subsection (3) of section 1003.4295, Florida Statutes, is amended to read:

1003.4295 Acceleration options.—

(3) The Credit Acceleration Program (CAP) is created for the purpose of allowing a student to earn high school credit in

Algebra I, Algebra II, geometry, United States history, or biology if the student passes the statewide, standardized assessment administered under s. 1008.22. Notwithstanding s. 1003.436, a school district shall award course credit to a student who is not enrolled in the course, or who has not completed the course, if the student attains a passing score on the corresponding statewide, standardized assessment, an examination identified under s. 1007.27(2), or a rigorous alternative assessment under s. 1008.223. The school district shall permit a student who is not enrolled in the course, or who has not completed the course, to take the assessment during the regular administration of the assessment.

Section 7. Paragraph (a) of subsection (1) of section 1003.436, Florida Statutes, is amended to read:

1003.436 Definition of "credit."—

(1)(a) For the purposes of requirements for high school graduation, one full credit means a minimum of 135 hours of bona fide instruction in a designated course of study that contains student performance standards, except as otherwise provided through the Credit Acceleration Program (CAP) under s. 1003.4295(3). One full credit means a minimum of 120 hours of bona fide instruction in a designated course of study that contains student performance standards for purposes of meeting high school graduation requirements in a district school that has been authorized to implement block scheduling by the district school board. The State Board of Education shall determine the number of postsecondary credit hours earned through dual enrollment pursuant to s. 1007.271 that satisfy the requirements of a dual enrollment articulation agreement

according to s. 1007.271(21) and that equal one full credit of the equivalent high school course identified pursuant to s. 1007.271(9). Notwithstanding this paragraph, if a student attains a passing score on an examination or assessment identified under s 1007.27(2) or s. 1008.223, the score must be considered equal to one full credit of an equivalent or equally rigorous high school course, or as authorized under s. 1008.223, and shall apply toward the subject area, course, credit, and assessment requirements for student progression and graduation.

Section 8. Paragraph (b) of subsection (1) of section 1006.28, Florida Statutes, is amended to read:

1006.28 Duties of district school board, district school superintendent; and school principal regarding K-12 instructional materials.—

(1) DISTRICT SCHOOL BOARD.—The district school board has the constitutional duty and responsibility to select and provide adequate instructional materials for all students in accordance with the requirements of this part. The term "adequate instructional materials" means a sufficient number of student or site licenses or sets of materials that are available in bound, unbound, kit, or package form and may consist of hardbacked or softbacked textbooks, electronic content, consumables, learning laboratories, manipulatives, electronic media, and computer courseware or software that serve as the basis for instruction for each student in the core subject areas of mathematics, language arts, social studies, science, reading, and literature. The district school board has the following specific duties and responsibilities:

(b) *Instructional materials.*—Provide for proper

requisitioning, distribution, accounting, storage, care, and use of all instructional materials and furnish such other instructional materials as may be needed. Instructional materials used must be consistent with the district goals and objectives and the course descriptions established in rule of the State Board of Education, as well as with the applicable Next Generation Sunshine State Standards provided for in s. 1003.41 or a rigorous alternative assessment option pursuant to s. 1008.223(2) for students to demonstrate college and career readiness. A district school board that uses a rigorous alternative assessment option pursuant to s. 1008.223(2) may continue to use any of the processes in ss. 1006.28-1006.42 to obtain instructional materials; however, the district school board must certify at a public meeting that such instructional materials are appropriate for students who take the rigorous alternative assessments in the relevant grades and subject areas.

Section 9. Subsections (2), (3), and (6) of section 1007.27, Florida Statutes, are amended to read:

1007.27 Articulated acceleration mechanisms.—

(2) The Department of Education shall annually identify and publish the minimum scores, maximum credit, and course or courses for which credit is to be awarded for each College Level Examination Program (CLEP) subject examination, College Board Advanced Placement Program examination, Advanced International Certificate of Education examination, ~~and~~ International Baccalaureate examination, DSST examination, Excelsior College Examinations, and UExcel examination. The department shall use student performance data in subsequent postsecondary courses to

determine the appropriate examination scores and courses for which credit is to be granted. Minimum scores may vary by subject area based on available performance data. In addition, the department shall identify such courses in the general education core curriculum of each state university and Florida College System institution.

(3) Each district school board, Florida College System institution, and state university must award credit for specific courses for which competency has been demonstrated by successful passage of one of the examinations in subsection (2) unless the award of credit duplicates credit already awarded. District school boards, Florida College System institutions, and state universities may not exempt students from courses without the award of credit if competencies have been so demonstrated.

(6) Credit by examination shall be the program through which secondary and postsecondary students generate high school and postsecondary credit based on the receipt of a specified minimum score on nationally standardized general or subject-area examinations. For the purpose of statewide application, such examinations and the corresponding minimum scores required for an award of high school and postsecondary credit shall be delineated by the State Board of Education or ~~and~~ the Board of Governors, as applicable, in the statewide articulation agreement required by s. 1007.23(1) and the credit-by-examination equivalency list adopted by the state board in rule pursuant to s. 1007.27. The maximum credit generated by a student pursuant to this subsection shall be mitigated by any related postsecondary credit earned by the student before ~~prior to~~ the administration of the examination. This subsection does

~~shall~~ not preclude Florida College System institutions and universities from awarding postsecondary credit by examination based on student performance on examinations developed within and recognized by the individual postsecondary institutions.

Section 10. Paragraph (a) of subsection (6) and subsection (18) of section 1007.271, Florida Statutes, are amended to read:

1007.271 Dual enrollment programs.—

(6) The following curriculum standards apply to college credit dual enrollment:

(a) Dual enrollment courses taught on the high school campus must meet the same competencies required for courses taught on the postsecondary institution campus. To ensure equivalent rigor with courses taught on the postsecondary institution campus, the secondary school or the postsecondary institution that provides the dual enrollment course instruction ~~offering the course~~ is responsible for providing in a timely manner a comprehensive, cumulative end-of-course assessment, a rigorous alternative assessment pursuant to s. 1008.223, or a series of assessments of all expected learning outcomes to the faculty member teaching the course. Completed, scored assessments must be returned to the postsecondary institution and held for 1 year.

(18) School districts and Florida College System institutions must weigh dual enrollment courses the same as advanced placement, International Baccalaureate, and Advanced International Certificate of Education courses when grade point averages are calculated. Unless otherwise specified in s. 1008.223, alternative grade calculation systems, alternative grade weighting systems, and information regarding student

education options that discriminate against dual enrollment courses are prohibited.

Section 11. Paragraph (c) of subsection (1) of section 1011.61, Florida Statutes, is amended to read:

1011.61 Definitions.—Notwithstanding the provisions of s. 1000.21, the following terms are defined as follows for the purposes of the Florida Education Finance Program:

(1) A "full-time equivalent student" in each program of the district is defined in terms of full-time students and part-time students as follows:

(c)1. A "full-time equivalent student" is:

a. A full-time student in any one of the programs listed in s. 1011.62(1)(c); or

b. A combination of full-time or part-time students in any one of the programs listed in s. 1011.62(1)(c) which is the equivalent of one full-time student based on the following calculations:

(I) A full-time student in a combination of programs listed in s. 1011.62(1)(c) shall be a fraction of a full-time equivalent membership in each special program equal to the number of net hours per school year for which he or she is a member, divided by the appropriate number of hours set forth in subparagraph (a)1. or subparagraph (a)2. The difference between that fraction or sum of fractions and the maximum value as set forth in subsection (4) for each full-time student is presumed to be the balance of the student's time not spent in a special program and shall be recorded as time in the appropriate basic program.

(II) A prekindergarten student with a disability shall meet

the requirements specified for kindergarten students.

(III) A full-time equivalent student for students in kindergarten through grade 12 in a full-time virtual instruction program under s. 1002.45 or a virtual charter school under s. 1002.33 shall consist of six full-credit completions or the prescribed level of content that counts toward promotion to the next grade in programs listed in s. 1011.62(1)(c). Credit completions may be a combination of full-credit courses or half-credit courses. Beginning in the 2016-2017 fiscal year, the reported full-time equivalent students and associated funding of students enrolled in courses requiring passage of an end-of-course assessment under s. 1003.4282 to earn a standard high school diploma shall be adjusted if the student does not pass the end-of-course assessment. However, no adjustment shall be made for a student who enrolls in a segmented remedial course delivered online.

(IV) A full-time equivalent student for students in kindergarten through grade 12 in a part-time virtual instruction program under s. 1002.45 shall consist of six full-credit completions in programs listed in s. 1011.62(1)(c)1. and 3. Credit completions may be a combination of full-credit courses or half-credit courses. Beginning in the 2016-2017 fiscal year, the reported full-time equivalent students and associated funding of students enrolled in courses requiring passage of an end-of-course assessment under s. 1003.4282 to earn a standard high school diploma shall be adjusted if the student does not pass the end-of-course assessment. However, no adjustment shall be made for a student who enrolls in a segmented remedial course delivered online.

(V) A Florida Virtual School full-time equivalent student shall consist of six full-credit completions or the prescribed level of content that counts toward promotion to the next grade in the programs listed in s. 1011.62(1)(c)1. and 3. for students participating in kindergarten through grade 12 part-time virtual instruction and the programs listed in s. 1011.62(1)(c) for students participating in kindergarten through grade 12 full-time virtual instruction. Credit completions may be a combination of full-credit courses or half-credit courses. Beginning in the 2016-2017 fiscal year, the reported full-time equivalent students and associated funding of students enrolled in courses requiring passage of an end-of-course assessment under s. 1003.4282 to earn a standard high school diploma shall be adjusted if the student does not pass the end-of-course assessment. However, no adjustment shall be made for a student who enrolls in a segmented remedial course delivered online.

(VI) Each successfully completed full-credit course earned through an online course delivered by a district other than the one in which the student resides shall be calculated as 1/6 FTE.

(VII) A full-time equivalent student for courses requiring passage of a statewide, standardized end-of-course assessment under s. 1003.4282 to earn a standard high school diploma shall be defined and reported based on the number of instructional hours as provided in this subsection until the 2016-2017 fiscal year. Beginning in the 2016-2017 fiscal year, the FTE for the course shall be assessment-based and shall be equal to 1/6 FTE. The reported FTE shall be adjusted if the student does not pass the end-of-course assessment. However, no adjustment shall be made for a student who enrolls in a segmented remedial course

delivered online.

(VIII) For students enrolled in a school district as a full-time student, the district may report 1/6 FTE for each student who passes a statewide, standardized end-of-course assessment or a rigorous alternative assessment pursuant to s. 1008.223 without being enrolled in the corresponding course.

2. A student in membership in a program scheduled for more or less than 180 school days or the equivalent on an hourly basis as specified by rules of the State Board of Education is a fraction of a full-time equivalent membership equal to the number of instructional hours in membership divided by the appropriate number of hours set forth in subparagraph (a)1.; however, for the purposes of this subparagraph, membership in programs scheduled for more than 180 days is limited to students enrolled in:

a. Juvenile justice education programs.

b. The Florida Virtual School.

c. Virtual instruction programs and virtual charter schools for the purpose of course completion and credit recovery pursuant to ss. 1002.45 and 1003.498. Course completion applies only to a student who is reported during the second or third membership surveys and who does not complete a virtual education course by the end of the regular school year. The course must be completed no later than the deadline for amending the final student enrollment survey for that year. Credit recovery applies only to a student who has unsuccessfully completed a traditional or virtual education course during the regular school year and must re-take the course in order to be eligible to graduate with the student's class.

The full-time equivalent student enrollment calculated under this subsection is subject to the requirements in subsection (4).

The department shall determine and implement an equitable method of equivalent funding for experimental schools and for schools operating under emergency conditions, which schools have been approved by the department to operate for less than the minimum school day.

Section 12. Paragraphs (l) through (o) of subsection (1) of section 1011.62, Florida Statutes, are amended to read:

1011.62 Funds for operation of schools.—If the annual allocation from the Florida Education Finance Program to each district for operation of schools is not determined in the annual appropriations act or the substantive bill implementing the annual appropriations act, it shall be determined as follows:

(1) COMPUTATION OF THE BASIC AMOUNT TO BE INCLUDED FOR OPERATION.—The following procedure shall be followed in determining the annual allocation to each district for operation:

(l) *Calculation of additional full-time equivalent membership based on International Baccalaureate examination scores of students.*—A value of 0.16 full-time equivalent student membership shall be calculated for each student enrolled in an International Baccalaureate course who receives a score of 4 or higher on a subject examination. A value of 0.3 full-time equivalent student membership shall be calculated for each

student who receives an International Baccalaureate diploma. Such value shall be added to the total full-time equivalent student membership in basic programs for grades 9 through 12 in the subsequent fiscal year. Each school district shall allocate 80 percent of the funds received from International Baccalaureate bonus FTE funding to the school program whose students generate the funds and to school programs that prepare prospective students to enroll in International Baccalaureate courses. Funds shall be expended solely for the payment of allowable costs associated with the International Baccalaureate program. Allowable costs include International Baccalaureate annual school fees; International Baccalaureate examination fees; salary, benefits, and bonuses for teachers and program coordinators for the International Baccalaureate program and teachers and coordinators who prepare prospective students for the International Baccalaureate program; supplemental books; instructional supplies; instructional equipment or instructional materials for International Baccalaureate courses; other activities that identify prospective International Baccalaureate students or prepare prospective students to enroll in International Baccalaureate courses; and training or professional development for International Baccalaureate teachers. School districts shall allocate the remaining 20 percent of the funds received from International Baccalaureate bonus FTE funding for programs that assist academically disadvantaged students to prepare for more rigorous courses. The school district shall distribute to each classroom teacher who provided International Baccalaureate instruction:

1. A bonus in the amount of $50 for each student taught by

the International Baccalaureate teacher in each International Baccalaureate course who receives a score of 4 or higher on the International Baccalaureate examination.

2. An additional bonus of $500 to each International Baccalaureate teacher in a school designated with a grade of "D" or "F" who has at least one student scoring 4 or higher on the International Baccalaureate examination, regardless of the number of classes taught or of the number of students scoring a 4 or higher on the International Baccalaureate examination.

~~Bonuses awarded to a teacher according to this paragraph may not exceed $2,000 in any given school year. However, the maximum bonus shall be $3,000 if at least 50 percent of the students enrolled in a teacher's course earn a score of 4 or higher on the examination in a school designated with a grade of "A," "B," or "C"; or if at least 25 percent of the students enrolled in a teacher's course earn a score of 4 or higher on the examination in a school designated with a grade of "D" or "F."~~ Bonuses awarded under this paragraph shall be in addition to any regular wage or other bonus the teacher received or is scheduled to receive. For such courses, the teacher shall earn an additional bonus of $50 for each student who has a qualifying score ~~up to the maximum of $3,000~~ in any given school year.

(m) *Calculation of additional full-time equivalent membership based on Advanced International Certificate of Education examination scores of students.*—A value of 0.16 full-time equivalent student membership shall be calculated for each student enrolled in a full-credit Advanced International Certificate of Education course who receives a score of E or

higher on a subject examination. A value of 0.08 full-time equivalent student membership shall be calculated for each student enrolled in a half-credit Advanced International Certificate of Education course who receives a score of E or higher on a subject examination. A value of 0.3 full-time equivalent student membership shall be calculated for each student who receives an Advanced International Certificate of Education diploma. Such value shall be added to the total full-time equivalent student membership in basic programs for grades 9 through 12 in the subsequent fiscal year. The school district shall distribute to each classroom teacher who provided Advanced International Certificate of Education instruction:

1. A bonus in the amount of $50 for each student taught by the Advanced International Certificate of Education teacher in each full-credit Advanced International Certificate of Education course who receives a score of E or higher on the Advanced International Certificate of Education examination. A bonus in the amount of $25 for each student taught by the Advanced International Certificate of Education teacher in each half-credit Advanced International Certificate of Education course who receives a score of E or higher on the Advanced International Certificate of Education examination.

2. An additional bonus of $500 to each Advanced International Certificate of Education teacher in a school designated with a grade of "D" or "F" who has at least one student scoring E or higher on the full-credit Advanced International Certificate of Education examination, regardless of the number of classes taught or of the number of students scoring an E or higher on the full-credit Advanced International

Certificate of Education examination.

3. Additional bonuses of $250 each to teachers of half-credit Advanced International Certificate of Education classes in a school designated with a grade of "D" or "F" which has at least one student scoring an E or higher on the half-credit Advanced International Certificate of Education examination in that class. The maximum additional bonus for a teacher awarded in accordance with this subparagraph may ~~shall~~ not exceed $500 in any given school year. Teachers receiving an award under subparagraph 2. are not eligible for a bonus under this subparagraph.

Bonuses awarded to a teacher according to this paragraph ~~shall not exceed $2,000 in any given school year and~~ shall be in addition to any regular wage or other bonus the teacher received or is scheduled to receive.

(n) *Calculation of additional full-time equivalent membership based on college board advanced placement scores of students.*—A value of 0.16 full-time equivalent student membership shall be calculated for each student in each advanced placement course who receives a score of 3 or higher on the College Board Advanced Placement Examination for the prior year and added to the total full-time equivalent student membership in basic programs for grades 9 through 12 in the subsequent fiscal year. Each district must allocate at least 80 percent of the funds provided to the district for advanced placement instruction, in accordance with this paragraph, to the high school that generates the funds. The school district shall distribute to each classroom teacher who provided advanced

placement instruction:

1. A bonus in the amount of $50 for each student taught by the Advanced Placement teacher in each advanced placement course who receives a score of 3 or higher on the College Board Advanced Placement Examination.

2. An additional bonus of $500 to each Advanced Placement teacher in a school designated with a grade of "D" or "F" who has at least one student scoring 3 or higher on the College Board Advanced Placement Examination, regardless of the number of classes taught or of the number of students scoring a 3 or higher on the College Board Advanced Placement Examination.

~~Bonuses awarded to a teacher according to this paragraph shall not exceed $2,000 in any given school year. However, the maximum bonus shall be $3,000 if at least 50 percent of the students enrolled in a teacher's course earn a score of 3 or higher on the examination in a school with a grade of "A," "B," or "C" or if at least 25 percent of the students enrolled in a teacher's course earn a score of 3 or higher on the examination in a school with a grade of "D" or "F."~~ Bonuses awarded under this paragraph shall be in addition to any regular wage or other bonus the teacher received or is scheduled to receive. ~~For such courses, the teacher shall earn an additional bonus of $50 for each student who has a qualifying score up to the maximum of $3,000 in any given school year.~~

(o) *Calculation of additional full-time equivalent membership based on successful completion of a career-themed course pursuant to ss. 1003.491, 1003.492, and 1003.493, or courses with embedded CAPE industry certifications or CAPE Digital Tool certificates, and issuance of industry certification identified on the CAPE Industry Certification Funding List pursuant to rules adopted by the State Board of Education or CAPE Digital Tool certificates pursuant to s. 1003.4203.*—

1.a. A value of 0.025 full-time equivalent student membership shall be calculated for CAPE Digital Tool certificates earned by students in elementary and middle school grades.

b. A value of 0.1 or 0.2 full-time equivalent student membership shall be calculated for each student who completes a course as defined in s. 1003.493(1)(b) or courses with embedded CAPE industry certifications and who is issued an industry certification identified annually on the CAPE Industry Certification Funding List approved under rules adopted by the State Board of Education. A value of 0.2 full-time equivalent membership shall be calculated for each student who is issued a CAPE industry certification that has a statewide articulation agreement for college credit approved by the State Board of Education. For CAPE industry certifications that do not articulate for college credit, the Department of Education shall assign a full-time equivalent value of 0.1 for each certification. Middle grades students who earn additional FTE membership for a CAPE Digital Tool certificate pursuant to sub-subparagraph a. may not use the previously funded examination to satisfy the requirements for earning an industry certification under this sub-subparagraph. Additional FTE membership for an elementary or middle grades student <u>may</u> ~~shall~~ not exceed 0.1 for certificates or certifications earned within the same fiscal

year. The State Board of Education shall include the assigned values on the CAPE Industry Certification Funding List under rules adopted by the state board. Such value shall be added to the total full-time equivalent student membership for grades 6 through 12 in the subsequent year for courses that were not provided through dual enrollment. CAPE industry certifications earned through dual enrollment must be reported and funded pursuant to s. 1011.80.

c. A value of 0.3 full-time equivalent student membership shall be calculated for student completion of the courses and the embedded certifications identified on the CAPE Industry Certification Funding List and approved by the commissioner pursuant to ss. 1003.4203(5)(a) and 1008.44.

d. A value of 0.5 full-time equivalent student membership shall be calculated for CAPE Acceleration Industry Certifications that articulate for 15 to 29 college credit hours, and 1.0 full-time equivalent student membership shall be calculated for CAPE Acceleration Industry Certifications that articulate for 30 or more college credit hours pursuant to CAPE Acceleration Industry Certifications approved by the commissioner pursuant to ss. 1003.4203(5)(b) and 1008.44.

2. Each district must allocate at least 80 percent of the funds provided for CAPE industry certification, in accordance with this paragraph, to the program that generated the funds. This allocation may not be used to supplant funds provided for basic operation of the program.

3. For CAPE industry certifications earned in the 2013-2014 school year and in subsequent years, the school district shall distribute to each classroom teacher who provided direct

instruction toward the attainment of a CAPE industry certification that qualified for additional full-time equivalent membership under subparagraph 1.:

a. A bonus in the amount of $25 for each student taught by a teacher who provided instruction in a course that led to the attainment of a CAPE industry certification on the CAPE Industry Certification Funding List with a weight of 0.1.

b. A bonus in the amount of $50 for each student taught by a teacher who provided instruction in a course that led to the attainment of a CAPE industry certification on the CAPE Industry Certification Funding List with a weight of 0.2, 0.3, 0.5, and 1.0.

Bonuses awarded pursuant to this paragraph shall be provided to teachers who are employed by the district in the year in which the additional FTE membership calculation is included in the calculation. Bonuses shall be calculated based upon the associated weight of a CAPE industry certification on the CAPE Industry Certification Funding List for the year in which the certification is earned by the student. Any bonus awarded to a teacher under this paragraph ~~may not exceed $2,000 in any given school year and~~ is in addition to any regular wage or other bonus the teacher received or is scheduled to receive.

Section 13. Paragraph (e) is added to subsection (3) of section 1012.34, Florida Statutes, to read:

1012.34 Personnel evaluation procedures and criteria.—

(3) EVALUATION PROCEDURES AND CRITERIA.—Instructional personnel and school administrator performance evaluations must be based upon the performance of students assigned to their

classrooms or schools, as provided in this section. Pursuant to this section, a school district's performance evaluation system is not limited to basing unsatisfactory performance of instructional personnel and school administrators solely upon student performance, but may include other criteria to evaluate instructional personnel and school administrators' performance, or any combination of student performance and other criteria. Evaluation procedures and criteria must comply with, but are not limited to, the following:

(e) A classroom teacher's performance evaluation must be based on the performance of students with fewer than 25 absences within the school year, or for schools with block scheduling, fewer than 10 absences within the school year, assigned to their classrooms, as provided in this section.

Section 14. Present subsection (27) of section 1001.42, Florida Statutes, is redesignated as subsection (28), and a new subsection (27) is added to that section, to read:

1001.42 Powers and duties of district school board.—The district school board, acting as a board, shall exercise all powers and perform all duties listed below:

(27) VISITATION OF SCHOOLS.—Visit the schools, observe the management and instruction, give suggestions for improvement, and advise citizens with the view of promoting interest in education and improving the school.

Section 15. By July 1, 2016, the Commissioner of Education shall amend Florida's request for renewal of flexibility under the Elementary and Secondary Education Act of 1965 (ESEA), 20 U.S.C. ss. 6301 et seq., as necessary to implement s. 1008.223, Florida Statutes, and submit any additional documentation to the

United States Department of Education which may be required to maintain compliance with Florida's ESEA flexibility waiver approved by the United States Secretary of Education. The commissioner shall faithfully and timely execute all other duties required of him or her under s. 1008.223, Florida Statutes, and the federal ESEA. By August 1, 2016, the commissioner shall submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives a report on the status of implementation of s. 1008.223, Florida Statutes, and compliance with the ESEA.

Section 16. This act shall take effect upon becoming a law.

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/16
Meeting Date

1360
Bill Number (if applicable)

Topic Education Testing Alternatives

Amendment Barcode (if applicable)

Name Beth Overholt

Job Title Parent

Address 4130 Faulkner Lane
Street

Phone 728-0587

Tallahassee 32311
City *State* *Zip*

Email

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Opt Out Leon County

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

Duplicate

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-1-16
Meeting Date

1360
Bill Number (if applicable)

Topic Student Assessments

Amendment Barcode (if applicable)

Name Catherine Baer

Job Title Chair

Address 1421 Woodgate Way
Street

Phone

Tallahassee — Fl — 32308
City — *State* — *Zip*

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing The Tea Party 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

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 Appropriations Committee	
BILL:	PCS/CS/SB 1392 (380674)
INTRODUCER:	Appropriations Committee (Recommended by Appropriations Subcommittee on Transportation, Tourism, and Economic Development); Transportation Committee; and Senator Brandes
SUBJECT:	Transportation
DATE:	February 29, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Eichin	TR	**Fav/CS**
2.	Sneed	Miller	ATD	**Recommend: Fav/CS**
3.	Sneed	Kynoch	AP	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 1392 includes a number of transportation-related provisions. Specifically, the bill:

- Authorizes the transfer of the Florida Department of Transportation's (FDOT) Pinellas Bayway System to become part of the turnpike system and, in such event, also requires the transfer of certain funds to be used to help fund the costs of repair and replacement of the transferred facilities.
- Clarifies the FDOT's authority with respect to noncompliant traffic and pedestrian control devices.
- Extends the authorized term of certain airport-related leases.
- Requires signage at toll facilities notifying drivers if cash payment is not an option.
- Increases from three years to ten years the period after which a dormant prepaid toll account is presumed unclaimed.
- Increases the population ceiling in the definition of "small county" for purposes of the Small County Outreach Program.
- Expands the list of project types that the Tampa-Hillsborough County Expressway Authority is approved to finance with certain revenue bonds.
- Repeals obsolete bond language relating to the already-repealed Broward County Expressway Authority.

- Makes several statutory changes specific to the operation and regulation of autonomous vehicles, including:
  - Clarifies that the authorization for a person holding a valid driver license to operate an autonomous vehicle applies on the public roads of this state.
  - Revises provisions regarding the operation of autonomous vehicles on roads for testing purposes.
  - Revises equipment requirements for autonomous vehicles, requiring a system to alert an operator of a technology failure and to take control, or to stop the vehicle under certain conditions.
  - Provides an exemption from required minimum following distance, and from a prohibition on certain television-type equipment visible from a driver's seat, to users of driver-assistive truck platooning technology, as defined in the bill.
  - Requires metropolitan planning organizations to accommodate advances in vehicle technology when developing long-range transportation plans.
  - Requires the FDOT to accommodate advances in vehicle technology when updating the Strategic Intermodal System (SIS) Plan.
  - Authorizes television-type receiving equipment visible from the driver's seat if the vehicle is equipped with the autonomous technology and operated in autonomous mode.
  - Defines the term "Driver-Assistive Truck Platooning";
  - Requires the Florida Department of Transportation (DOT) to study, in consultation with the DHSMV, the use and safe operation of driver assistive truck platooning technology, and authorizes a pilot project to test vehicles equipped with such technology;
  - Requires manufacturers to provide certain insurance or security acceptable to the DHSMV before the start of the pilot project.
  - Provides an exemption from required minimum following distance, and from a prohibition on certain television-type equipment visible from a driver's seat, for purposes of the driver-assistive truck platooning technology pilot program.

This bill has potential fiscal impacts to the private sector. While the impacts of operating autonomous vehicles and the use of driver-assistive truck platooning technology are unknown at this time, positive economic benefits are expected in terms of improved safety and mobility, and cost and travel-time savings. With the addition of toll facility signage that provides information about alternative "no cash payment" routes, motorists may be able to avoid certain rental car company administrative charges. And while the transfer of the Pinellas Bayway System to the Florida Turnpike Enterprise may not have an immediate impact on the private sector, the construction of the replacement bridge is expected to result in more efficient travel for motorists.

The bill has an indeterminate, yet potentially significant, fiscal impact on state government. According to the FDOT analysis submitted on February 15, 2016, the toll facility signage requirements are projected to cost the department between *$7.8 million* and *$26.4 million*, depending on the number of retrofitted and new signs required. Any signage costs for toll facilities that are part of the Turnpike System would be paid from the Turnpike General Reserve Trust Fund; and any signage costs for FDOT-owned toll facilities that are not part of the Turnpike System would be paid from the State Transportation Trust Fund. See Section V.

The bill takes effect on July 1, 2016.

II. Present Situation:

Due to the disparate issues in the bill, the present situation for each section is discussed below in conjunction with the Effect of Proposed Changes.

III. Effect of Proposed Changes:

Pinellas Bayway System (Sections 10 and 11)

Present Situation

The Pinellas Bayway System, currently owned by the Florida Department of Transportation (FDOT), is a tolled system of bridges and causeways that provides an east-west link between St. Petersburg and St. Petersburg Beach via State Road 682. Tolls on the Pinellas Bayway System are collected by the Florida Turnpike Enterprise.[1] The system also serves Tierra Verde and Fort De Soto Park to the south via State Road 679. One of the bridges on State Road 679 over Boca Ciega Bay was classified as structurally deficient in 2013. "Structurally deficient," according to the FDOT, "means that a bridge has to be repaired or replaced within six years." The term does not mean that a bridge is unsafe.[2]

FDOT's policy is to replace a structurally deficient bridge within six years of the deficient classification.[3, 4] The scope of the work for the bridge over Boca Ciega Bay is to replace the existing movable bridge with a high-level fixed bridge through a design-build contract, at a proposed cost of $52.1 million.[5] However, no funds for replacement of the bridge are currently included in the FDOT's District 7 work program. The FDOT advises that the balance of an existing reserve construction account for Pinellas Bayway improvements as of December 31, 2015, was $7,326,346.13.[6]

Bayway System Construction and Tolls

In 1968, the predecessor of the FDOT entered into a settlement agreement in *Leonard Lee Ratner, Esther Ratner, and LEECO Gas and Oil Co., vs. State Road Department of the State of Florida*.[7] In the settlement agreement, the State Road Department agreed that owners and residents of real property in the Bayway Isles Development would have the right to purchase an

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[1] *See* the Florida Transportation Commission's *Transportation Authority Monitoring and Oversight Fiscal year 2014 Report*, at p. 95: http://www.ftc.state.fl.us/reports/TAMO.shtm. Last visited January 21, 2016.
[2] *See* the Bay News 9 article,"*6 Bay area bridges "structurally deficient:*" http://www.baynews9.com/content/news/baynews9/news/article.html/content/news/articles/bn9/2016/1/13/tampa_bay_deficient_.html. Last visited January 21, 2016. *See also* the FDOT's e-mailed response to committee staff questions re Pinellas Bayway dated January 5, 2016. (On file in the Senate Transportation Committee.)
[3] *Id.*
[4] Note that replacement of the old drawbridge on State Road 682 connecting St. Petersburg and St. Petersburg Beach was completed in 2014 at a cost of approximately $41 million. *See* the 10 News article, "*New Pinellas Bayway grand opening Friday*:" http://www.wtsp.com/story/news/traffic/road-warrior/2014/10/16/bayway/17352735/. Last visited January 21, 2016.
[5] *See* the FDOT's e-mailed response to committee staff questions re Pinellas Bayway System dated January 5, 2016. (On file in the Senate Transportation Committee.)
[6] *See* the FDOT email to committee staff dated January 21, 2016. (On file in the Senate Transportation Committee.)
[7] Copy on file in the Senate Transportation Committee.

annual pass through the toll gate at the easterly terminus of the Bayway system in St. Petersburg for $15 per vehicle. That agreement remains in place.

Chapter 85-364, L.O.F., required a toll of $.50, following completion of widening to four lanes from the eastern toll booth to State Road 679, at the eastern and western toll plazas on State Road 682. The FDOT was required, after payment of annual operating costs and discharge of bond indebtedness, to establish a reserve construction account to be used for widening to four lanes State Road 682 from State Road 679 west to Gulf Boulevard. Continued collection of tolls was required upon completion of the widening to reimburse the FDOT for all accrued maintenance costs for the Pinellas Bayway. In addition, ch. 85-364, L.O.F., required the FDOT to allow any person to purchase an annual pass for each motor vehicle they own at a cost of $50 per year which exempts the motor vehicle from any Pinellas Bayway System tolls during its term. Currently the $50 pass remains available.

Chapter 95-382, L.O.F., required tolls collected to first be placed in the construction reserve account, after payment of operating costs and bond indebtedness, to be used for construction of Blind Pass Road, State Road 699 improvements in Pinellas County, *and then* for Phase II of the Pinellas Bayway widening to four lanes of State Road 682 from State Road 679 west to Gulf Boulevard. Tolls continue to be collected to reimburse the FDOT for all accrued maintenance costs.

Section 48 of ch. 2014-223, L.O.F., repealed reference to the Blind Pass Road/State Road 699 improvements and provided that funds in the reserve construction account be used for the widening of State Road 682 from State Road 679 west to Gulf Boulevard. These improvements have been completed. As noted, however, the bridge on State Road 679 over Boca Ciega Bay has been declared structurally deficient.

Currently, for a two-axle vehicle, the toll, other than for those that hold the $15 or the $50 annual pass, is:

- $.53 for SunPass customers and $.75 for cash customers, both westbound at the East Plaza and eastbound at the West Plaza, plus $.53 and $.75, respectively, for each additional axle.
- $.26 for SunPass customers and $.50 for cash customers southbound at the south plaza, plus an additional $.26 and $.50, respectively, for each additional axle.[8]

Effect of Proposed Changes

Section 10 creates s. 338.165(11), F.S., authorizing the FDOT to transfer the Pinellas Bayway System to become part of the turnpike system. The bill also preserves the provisions of the settlement agreement and final judgment by retaining the ability to purchase a $15 annual pass. Additionally, the bill transfers the construction reserve account to the FDOT Turnpike Enterprise when ownership of the system is transferred to the Florida Turnpike Enterprise.

The FDOT advises that the transfer of the system would allow replacement of the structurally deficient bridge over Boca Ciega Bay on SR 679 to be moved up from 2020 to 2017 in the

[8] *See* the Florida Turnpike Toll Calculator, click on "Tampa Area," roll over hot buttons to select the Pinellas Toll Plazas: http://www.floridasturnpike.com/TollCalcV3/index.htm. Last visited January 21, 2016.

FDOT work program, and funded through a combination of the accrued reserve account revenues and other financing available to the Florida Turnpike.

Section 11 repeals ch. 85-634, L.O.F., as amended by ch. 95-382 and section 48 of ch. 2014-223, L.O.F. The ability of the specified owners and residents to purchase the $15 annual passage through the easterly terminus of the Bayway System will remain in place, pursuant to the 1968 settlement agreement. As a result of the repeal of ch. 85-364, L.O.F., the $50 annual pass authorized in that law would no longer be available for purchase. Current holders of those passes would be required to pay tolls at all of the Bayway toll collection points.

Toll Facilities No Longer Owned by the FDOT (Section 10)

Present Situation

The Beeline-East Expressway (renamed the Beachline East Expressway) became part of the Turnpike Enterprise on July 1, 2012, pursuant to ch. 2012-128, L.O.F.[9] The Navarre Bridge is now county-owned and no longer a state toll facility. The references to each facility in s. 338.165(4), F.S., are now obsolete.

Effect of Proposed Changes

Section 10 amends subsection (4) of s. 338.165, F.S., to remove obsolete references to the Beeline-East Expressway and the Navarre Bridge within the FDOT's authority to request issuance of bonds secured by toll revenues from certain toll facilities, as the expressway and bridge are no longer owned by the FDOT. The reference to the Pinellas Bayway is also removed.

Uniform Traffic Control Devices/School Zones (Section 3)

Present Situation

Section 316.0745, F.S., requires the FDOT to adopt a uniform system of traffic control devices for use on the streets and highways of this state. The FDOT has adopted the Federal Highway Administration's Manual on Uniform Traffic Control Devices (MUTCD) by rule.[10] All official traffic control signals and devices purchased and installed in this state must conform to the MUTCD. [11] An "official traffic control device" includes all signs, signals, markings, and devices, not inconsistent with ch. 316, F.S., placed or erected by authority of a public body or official having traffic control jurisdiction for the purpose of regulating, warning, or guiding traffic. An "official traffic control signal" includes any device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.[12]

Similarly, s. 316.1895, F.S., requires the FDOT, pursuant to its authority in s. 316.0745, F.S., to adopt a uniform system of traffic control and pedestrian control devices for use on the streets and highways in the state surrounding all schools, public and private. Each county and municipality in the state is required to install and maintain traffic and pedestrian control devices that conform

[9] *See* s. 338.165(10), F.S.
[10] *See* Rule 14-15.010, F.A.C.
[11] Section 316.0745(3), F.S.
[12] Sections 316.003(23) and (24), F.S.

to the MUTCD.[13] The FDOT is required to maintain school zones located on state-maintained primary or secondary roads. Counties are required to maintain school zones located outside of any municipality and on a county road, and municipalities are required to maintain school zones located within their municipal boundaries.[14]

The FDOT is currently authorized, after a hearing with 14 days' notice, to direct the removal of any purported traffic control device, wherever located, that fails to meet the MUTCD requirements. In such case, the public agency that erected or installed the device must remove it immediately and is prohibited from installing any device paid for with state revenues, for five years unless prior written approval is received from the FDOT. Any additional violation by a public body or official is cause for withholding of state funds for traffic control purposes until the public body or official demonstrates compliance.[15]

According to media reports, disputes have arisen over the FDOT's authority to require compliant school signage that is erected or installed in a municipal school zone.[16]

Effect of Proposed Changes

Section 3 amends s. 316.0745(7), F.S., to clarify the FDOT's authority with respect to uniform signals and devices. The FDOT is authorized, *upon receipt and investigation of reported noncompliance*, and after a hearing with 14 days' notice, to direct the removal of any traffic control device that fails to meet the requirements of that section, wherever the device is located *and without regard to assigned responsibility under s. 316.1895, F.S.* The FDOT may allow the erecting or installing public agency to *immediately bring the device into compliance* or remove the device or signal at the FDOT's direction. The five-year prohibition against installing traffic control devices without the FDOT's written approval, and the penalty for any additional violation, remain unchanged. If the FDOT receives a report of noncompliance, it is authorized to investigate the noncompliance, provide the notice and hearing, and order that a device or signal be made compliant or order the removal of the device or signal, regardless of existing assignment of maintenance responsibility under s. 316.1895, F.S.

Airport and Airport-Related Lease Terms (Section 8)

Present Situation

In addition to certain other powers,[17] a municipality that has or may establish an airport or other air navigation facilities, or that has acquired, set apart, or may acquire or set apart real property for such purposes, is authorized to:

[13] Section 316.1895(1), F.S.
[14] Section 316.0895(3), F.S. "Maintained" is defined to mean the care and maintenance of all school zone signs, markers, and traffic and pedestrian control devices.
[15] Section 316.0745(7), F.S.
[16] *See* the 10 News article, *Is city staff downplaying school zone speed traps?*, available at: http://www.wtsp.com/story/news/investigations/2015/09/29/st-pete-council-not-getting-all-facts-on-school-zone-speed-traps/73049462/. Last visited January 25, 2016.
[17] *See* ss. 332.01-332.12, F.S.

- Lease for a term not exceeding 30 years such airports or other air navigation facilities, or real property, to private parties, any municipal or state government or the national government, or any department of either, for operation.
- Lease or assign for a term not exceeding 30 years, to the same parties, space, area, improvements, or equipment on such airports. [18]

Lease terms reportedly vary, depending on when a lease is negotiated, the size of the tenant's investment, and the useful life of improvements made by a tenant. While there are no set rules, and different airports have differing guidelines based upon applicable state and local statutes, it is important to consider that leases that are too long in term may prevent land from being developed in the most advantageous manner. Conversely, a lease term that is too short may prevent the potential tenant from being able to fully amortize their initial investment for the necessary improvements, thus dissuading interested tenants from entering into airport development projects.[19]

The Federal Aviation Administration (FAA) has opined that *most* tenant ground leases of 30 to 35 years are sufficient to retire a tenant's initial financing and provide a reasonable return for the tenant's development of major facilities.[20] However, leases of up to 50 years are allowed.[21] Concern has been raised that the current 30-year limitation is adversely impacting the ability of municipal airports to attract tenants due to the potential inability to fully amortize initial investments.

Effect of Proposed Changes

Section 8 amends s. 332.08(1)(c), F.S., to extend the allowable term of the specified leases from 30 years to 50 years. This revision may facilitate airport development and continued economic health by providing tenant confidence in a reasonable rate of return, thereby increasing the likelihood of tenants who are willing to make investments in municipal airports.

Toll Facility Signage (Section 9)

Present Situation

As the use of electronic toll collection becomes more commonplace, some toll roads have reduced the availability of cash toll collection, and in the future cash toll collections could be eliminated entirely. As more and more toll roads eliminate a cash-payment option, frequent toll road users are likely to use SunPass or receive toll invoices by mail.

Drivers using rental cars are in a different category since the vehicle is not registered to the driver. Currently, rental car companies regularly charge their customers a daily fee for the

[18] Section 332.08(1)(c), F.S. A municipality may also confer the privileges of concessions of supplying upon its airports goods, commodities, things, services, and facilities.
[19] *See* the Airport Cooperative Research Program Report 47, *Guidebook for Developing and Leasing Airport Property*, at p. 17. (On file in the Senate Transportation Committee.)
[20] *See* the FAA Airport Compliance Manual, Order 5190.6B, Chapter 12, 12.3.b.(3), available at: http://www.faa.gov/airports/resources/publications/orders/compliance_5190_6/. Last visited January 27, 2016.
[21] *Id.*

"convenience" of using the rental car's SunPass transponder. Fees are also charged if the rental car is assessed a toll-by-plate charge. Renters can sometimes avoid such charges and fees by using the cash payment lanes at toll booths. However, as many toll roads move towards all-electronic toll collection and cash payment options dwindle, renters may find that they have no option other than to pay the rental car companies' additional charges and fees, or choose non-tolled roads.

Effect of Proposed Changes

Section 9 amends s. 338.155, F.S., to require toll road operators such as the FDOT and expressway and bridge authorities to clearly and plainly alert drivers that no cash payment option is available. This signage posted at on-ramps will allow drivers to choose a non-tolled alternative route and avoid administrative charges associated with toll-by-plate. Drivers of rental cars could also choose an alternative non-tolled route, rather than be forced to pay the rental car companies' additional charges and fees.

Turnpike Dormant Toll Accounts (Section 12)

Present Situation

SunPass is the Florida Turnpike's electronic prepaid tolls program. SunPass is accepted on all Florida toll roads and nearly all toll bridges. The system uses electronic devices, called transponders, which are attached to the inside of a vehicle's windshield. The transponder sends a signal when the vehicle goes through a tolling location, and the toll is deducted from the customer's pre-paid account. The pre-paid accounts may be set up and replenished with a credit card or with cash.[22]

Under current law, any prepaid toll account of any kind which has been inactive for three years is presumed unclaimed. The Department of Financial Services (DFS) is required to process any such inactive account in accordance with applicable provisions of ch. 717, F.S., relating to the disposition of unclaimed property, and the FDOT is directed to close such accounts.[23]

Effect of Proposed Changes

Section 12 amends s. 338.231(3)(c), F.S., to increase the period after which a dormant prepaid toll account is presumed unclaimed from three years to ten years, thereby delaying disposition by the DFS and closing of the account by the FDOT. The FDOT advises:

> [T]he deletion is desired because, with multi-state toll interoperability already implemented, and national toll interoperability mandated by federal law,[24] prepaid customers may live outside Florida and use their

[22] *See* the SunPass website, *Frequently Asked Questions:* https://www.sunpass.com/faq. Last visited January 25, 2016.
[23] Section 338.231(3)(c), F.S.
[24] The Moving Ahead for Progress in the 21st Century Act (MAP-21) requires implementation of technologies or business practices that provide for the interoperability of electronic toll collection on all Federal-aid highway toll facilities by October 1, 2016. See the FHWA website, *Investment* heading, *Tolling [1512]* subheading: http://www.fhwa.dot.gov/map21/summaryinfo.cfm. Last visited January 25, 2016.

Florida prepaid toll account only when vacationing or otherwise visiting the state.

We believe that the affected citizens and businesses would react positively to the proposal as funds on a prepaid toll account continue to be managed by the Department. This provides the customers that have had no activity on a prepaid toll account for the 10 year time with continued direct access to the same agency with whom they established the account.[25]

Small County Outreach Program (Section 14)

Present Situation

The Small County Outreach Program (SCOP) is authorized in s. 339.2818, F.S. The purpose of the program is to assist small county governments in repairing or rehabilitating county bridges, paving unpaved roads, addressing road-related drainage improvements, resurfacing or reconstruction of county roads, or construction capacity or safety improvements to county roads. A small county is defined as any county that has a population of 150,000 or less as determined by the most recent official population estimate as determined by the Office of Economic and Demographic Research (EDR).[26] However, for the 2015-2016 fiscal year, a small county is defined as any county with a population of 165,000 or less.[27]

Small counties are eligible to compete for funds designated for projects on county roads. The FDOT provides 75 percent of the cost of the projects funded under this program. Funds paid into the State Transportation Trust Fund pursuant to s. 201.15, F.S., for the purposes of the SCOP are annually appropriated for expenditure to support the program.[28]

Effect of Proposed Changes

Section 14 amends s. 339.2818, F.S., increasing the population ceiling in the definition of "small county" from 150,000 to 170,000. The increase allows Charlotte, Martin, and Santa Rosa Counties that currently exceed the current population limit of 150,000, to be eligible for the SCOP. Those counties would still have to compete for funding and priority using the program criteria. The bill also repeals the alternative 2015-2016 fiscal year definition of "small county," which is set to expire on July 1, 2016.

[25] *See* the FDOT 2015 Legislative Proposal, *Dormant Accounts/Tolls/SunPass.* On file in the Senate Transportation Committee.
[26] Section 186.901, F.S., requires the EDR to provide annually on April 1 population estimates of local government units, using accepted statistical practice and employing the same general guidelines used by the U.S. Bureau of the Census. *See* the EDR website for population and demographic data as of April 1, 2015, available at: http://www.edr.state.fl.us/Content/population-demographics/data/index.cfm. Last visited January 26, 2016.
[27] This provision allowed Charlotte and Santa Rosa counties to participate in the SCOP program and is set to expire on July 1, 2016. Section 339.2818(2)(b), F.S.
[28] Additional SCOP funding is provided under ss. 215.211, 320.072, and 339.0801, F.S.

Tampa-Hillsborough County Expressway Authority Bonding (Section 17)

Present Situation

The Tampa-Hillsborough County Expressway Authority (THEA) is an agency of the state, created in s. 348.52, F.S., for the purpose of constructing, reconstructing, improving, extending, repairing, maintaining, and operating the expressway system in the Tampa metropolitan area or within Hillsborough County.[29] With the consent of the county within whose jurisdiction the activities occur, THEA may also construct, operate, and maintain roads, bridges, avenues of access, thoroughfares, and boulevards and managed lanes and other transit supporting facilities within the jurisdictional boundaries of contiguous counties.[30]

Bonds may be issued on behalf of THEA pursuant to the State Bond Act, or THEA may issue revenue bonds for construction, reconstruction, improvement, extension, repair, maintenance, and operation of the expressway system.[31] In addition, THEA may issue revenue bonds to finance or refinance the following projects:

- Brandon area feeder roads.
- Capital improvements to the expressway system, including safety and operational improvements and toll collection equipment.
- Lee Roy Selmon Crosstown Expressway System widening.
- The connector highway linking the Lee Roy Selmon Crosstown Expressway to Interstate 4.[32]

THEA may also issue revenue bonds to refund any bonds outstanding, regardless of whether the bonds being refunded were issued by THEA or on behalf of THEA.[33] THEA is further authorized to issue bonds for the combined purpose of:

- Paying the cost of constructing, reconstructing, improving, extending, repairing, maintaining, and operating the expressway system.
- Refunding outstanding bonds.

THEA owns and operates the Lee Roy Selmon Crosstown Expressway (Selmon Expressway),[34] which is a 15-mile, four-lane limited access toll road crossing the City of Tampa from Gandy Boulevard and MacDill Air Force Base in the south, through downtown Tampa and east to Brandon. The Selmon Expressway connects St. Petersburg with Tampa and Brandon via the Gandy Bridge and a short segment of Gandy Boulevard. THEA also owns and operates the

[29] "Expressway system" or "system" means a modern highway system of roads, bridges, causeways, and tunnels in the metropolitan area of the City of Tampa, or within any area of Hillsborough County, with access limited or unlimited as the authority may determine, and such buildings and structures and appurtenances and facilities related thereto, including all approaches, streets, roads, bridges, and avenues of access for such system. Section 348.51(7), F.S.
[30] Section 348.54(15), F.S.
[31] Section 348.56, F.S.
[32] Section 348.565, F.S.
[33] Section 348.57, F.S.
[34] The Research and Innovative Technology Administration and the USDOT have designated THEA as a test bed for autonomous vehicle technology. The Reverse Express Lanes (REL) is reportedly the only test bed in the U.S. that has the ability to do real-time traffic tests and have a closed course environment in the same location. *See* the Florida Transportation Commission's *Transportation Authority Monitoring and Oversight Fiscal year 2014 Report*, at p. 80: http://www.ftc.state.fl.us/reports/TAMO.shtm. Last visited January 21, 2016.

Brandon Parkway, a 3.1-mile set of non-tolled feeder roads, and Reverse Express Lanes (REL) within the median of the Selmon Expressway.[35]

Effect of Proposed Changes

Section 17 amends s. 348.565, F.S., to revise the list of specified THEA projects for which revenue bonds may be issued for financing or refinancing purposes. The bill adds *extensions* of the Selmon Expressway as eligible projects. It also adds capital projects that THEA is authorized to acquire, construct, reconstruct, equip, operate, and maintain pursuant to part II of ch. 348, F.S., governing THEA, including, without limitation, projects identified in s. 348.54(15), F.S.; *i.e.*, projects within the jurisdictional boundaries of a consenting, contiguous county, provided that any financing does not pledge the full faith and credit of the state.

Broward County Expressway Authority/Obsolete Bond Language (Section 12)

Present Situation

The Broward County Expressway Authority built the Sawgrass Expressway, a 23-mile facility that extends from its junction with Interstate 75 in Weston to its interchange with Florida's Turnpike and Southwest 10th Street in Deerfield Beach. In 1990, the FDOT acquired the expressway, and it became a part of Florida's Turnpike System.[36] The Expressway Authority was abolished in 2011.[37] Section 338.221(5), F.S., authorizes the FDOT to pledge revenues from the turnpike system to the payment of Broward County Expressway Authority bond series 1984 and series 1986-A bonds. The bonds are no longer outstanding,[38] and the language is obsolete.

Effect of Proposed Changes

Section 12 repeals the obsolete language in s. 338.231(5), F.S., relating to bonds of the abolished Broward County Expressway Authority.

Transportation Corridors (Section 16)

Present Situation

Section 341.0532, F.S., enacted in 2003, defines "statewide transportation corridor" as a system of transportation infrastructure that collectively provides for the efficient movement of significant volumes of intrastate, interstate, and international commerce by seamlessly linking multiple modes of transport. That section also lists eight corridors deemed "Florida's statewide transportation corridors."

In the same year, the Legislature enacted the Strategic Intermodal System (SIS) which collectively serves 56 percent of State Highway System traffic, 70 percent of State Highway System truck traffic, 89 percent of interregional bus and rail passengers, 99 percent of commercial air passengers and cargo, and 100 percent of rail and waterborne freight tonnage and

[35] *Id.* at p. 79.
[36] *See* the Florida Turnpike website: http://www.floridasturnpike.com/about_system.cfm#7. Last visited January 25, 2016.
[37] *See* s. 18, ch. 2011-64, Laws of Florida.
[38] *See* the FDOT email to committee staff dated February 26, 2015. On file in the Senate Transportation Committee.

cruise ship passengers.[39, 40] The corridors currently listed in s. 341.0532, F.S., with limited exception,[41] are also part of the SIS. Section 341.0532, F.S., is not referenced elsewhere in the Florida Statutes, and the FDOT advises that section is not used in performing any of its duties and responsibilities.[42] The statute appears to be obsolete.

Effect of Proposed Changes

Section 16 repeals s. 341.0532, F.S., which created Florida's statewide transportation corridors. The corridors continue to be managed through their inclusion in the SIS.

Autonomous Vehicles (Sections 4-7, 13, and 15)

Present Situation

Autonomous or "self-driving" vehicles are those operated "without direct driver input to control the steering, acceleration, and braking and … designed so that the driver is not expected to constantly monitor the roadway while operating in self-driving mode."[43] According to the National Highway Traffic Safety Administration (NHTSA), autonomous vehicles have the potential to improve highway safety, increase environmental benefits, expand mobility, and create new economic opportunities for jobs and investment.[44]

A review of material obtained via a simple Internet search reveals that common availability and use of such vehicles was not previously anticipated for at least a couple of decades. However, some expect increased availability and use in the relative near future, perhaps within the next five years.[45]

Levels of Vehicle Automation and Evolving Federal Policy

Self-driving cars are just one form of vehicle automation. The NHTSA in 2013[46] defined a range of vehicle automation, from vehicles with no automated control systems to fully automated vehicles.

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[39] The Strategic Intermodal System (SIS) is the statewide network of high priority transportation facilities, including the state's largest and most significant airports, spaceports, deepwater seaports, freight rail terminals, interregional rail and bus terminals, rail corridors, urban fixed guideway transit corridors, waterways, and highways. The SIS is the state's highest statewide priority for transportation capacity improvements. See the FDOT SIS brochure, available at: http://www.dot.state.fl.us/planning/sis/Strategicplan/. Last visited January 25, 2016.

[40] See the 2014 FDOT *Strategic Intermodal System Briefing*. (On file in the Senate Transportation Committee.)

[41] See the FDOT email, March 2, 2015. (On file in the Senate Transportation Committee.)

[42] *Id.*

[43] See the National Highway Traffic Safety Administration's Press Release: *U.S. Department of Transportation Releases Policy on Automated Vehicle Development*, (May 30, 2013) *available at:* http://www.nhtsa.gov/About+NHTSA/Press+Releases/U.S.+Department+of+Transportation+Releases+Policy+on+Automated+Vehicle+Development (last visited Jan. 25, 2016).

[44] See NHTSA, *Preliminary Statement of Policy Concerning Automated Vehicles*, http://www.nhtsa.gov/staticfiles/rulemaking/pdf/Automated_Vehicles_Policy.pdf (last visited Jan. 25, 2016).

[45] *See* TechCrunch, *Autonomous Cars are Closer Thank You Think* (Jan. 18, 2015), http://techcrunch.com/2015/01/18/autonomous-cars-are-closer-than-you-think/ (last visited Jan. 25, 2016).

[46] *See* NHTSA's *2013 Preliminary Statement of Policy Concerning Automated Vehicles*, at p. 4. (On file in the Senate Transportation Committee.)

The NHTSA also made several recommendations in its 2013 Policy Statement, including those for:

- Licensing Drivers to Operate Self-Driving Vehicles for Testing.
- State Regulations Governing Testing of Self-Driving Vehicles.
- Basic Principles for Testing of Self-Driving Vehicles.
- Regulations Governing the Operation of Self-Driving Vehicles.[47]

The increase in the general availability of autonomous vehicles has been the subject of much discussion. The NHTSA, however, recently updated its policy, acknowledging rapid development of emerging automation technologies and recognizing the feasibility of widespread deployment of partially and fully automated vehicles.[48] The NHTSA's administrator announced the NHTSA's use of available tools to accelerate deployment of technologies that can eliminate 94 percent of crashes involving human error. The NHTSA committed to working with state partners on a consistent national policy to provide options, now and in the future, for manufacturers to seek deployment of autonomous vehicles.

In an announcement on January 14, 2016, the U.S. Department of Transportation (USDOT) outlined the following 2016 milestones:

- The NHTSA will work with industry and other stakeholders within six months of the announcement to develop guidance on the safe deployment and operation of autonomous vehicles, providing a common understanding of the performance characteristics necessary for fully autonomous vehicles and the testing and analysis methods needed to assess them.
- In the same six months, the NHTSA will work with state partners, the American Association of Motor Vehicle Administrators, and other stakeholders to develop a model state policy on automated vehicles that offers a path to consistent national policy.
- Manufacturers are encouraged to submit rule interpretation requests where appropriate to help enable technology innovation.[49]
- When interpretation authority is not sufficient, manufacturers are encouraged to submit requests for use of the agency's exemption authority to allow the deployment of fully autonomous vehicles.[50] Exemption authority allows the NHTSA to enable the deployment of up to 2,500 vehicles for up to two years if the agency determines that an exemption would ease development of new safety features.[51]

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[47] NHTSA at that time recommended against states authorizing the operation of self-driving vehicles for purposes other than testing and suggested: "Should a state nevertheless decide to permit such non-testing operation of self-driving vehicles, at a minimum the state should require that a properly licensed driver (i.e., one licensed to drive self-driving vehicles) be seated in the driver's seat and be available at all times in order to operate the vehicle in situations in which the automated technology is not able to safely control the vehicle." *Id.*, at pp. 11-14.

[48] *See* NHTSA, *2016 Update to Preliminary Statement of Policy Concerning Automated Vehicles*, at p. 1: http://www.nhtsa.gov/staticfiles/rulemaking/pdf/Autonomous-Vehicles-Policy-Update-2016.pdf (last visited Feb. 10, 2016).

[49] As an example, the announcement links to a NHTSA response to a BMW request for an interpretation confirming that BMW's remote self-parking system meets the Federal Motor Vehicle Safety Standards. The response notes that NHTSA does not provide approvals of vehicles or vehicle equipment or make determinations as to whether a product conforms to the Federal Motor Vehicle Safety Standards (FMVSSs) outside of an agency compliance test. Instead, federal law requires manufacturers to self-certify that a product conforms to all applicable FMVSSs in effect on the date of product manufacture. *See* the NHTSA response: file:///C:/Users/One/Downloads/BMW-response-01042016.pdf. Last visited January 23, 2016.

[50] *See* 49 C.F.R. Part 555.

[51] *See* 49 C.F.R., Subpart A, s. 555.6.

- The USDOT and the NHTSA will develop the new tools necessary for this new era of vehicle safety and mobility, and will consider seeking new authorities when they are necessary to ensure that fully autonomous vehicles, including those designed without a human driver in mind, are deployable in large numbers when they are demonstrated to provide an equivalent or higher level of safety than is now available.

The USDOT also announced that the President's budget proposal for fiscal year 2017 will include nearly $4 billion to test connected vehicle systems in designated corridors throughout the county. The budget proposal will also allow funding to be used for working with industry leaders on a common multistate structure for connected and autonomous vehicles.[52]

State Regulation of Autonomous Vehicles

Nevada, in 2011, was the first state to authorize operation of autonomous vehicles.[53] Various legislation has also been enacted by the District of Columbia and five states, including Florida.[54] The Florida Legislature first enacted legislation relating to autonomous vehicles in 2012[55] that:

- Provided legislative intent,
- Defined relevant terms,
- Provided vehicle requirements and guidelines for testing,
- Added liability provisions, and
- Required the Florida Department of Highway Safety & Motor Vehicles (DHSMV) to submit a report on recommendations for the safe testing and operation of motor vehicles equipped with autonomous technology.[56]

Sixteen states introduced legislation related to autonomous vehicles in 2015, an increase from 12 states in 2014, nine states and the District of Columbia introduced such legislation in 2013, and six states did so in 2012.[57] The most recent development at the state level occurred in California in December of 2015. The California Department of Motor Vehicles released draft autonomous vehicle deployment regulations for public comment, in preparation for "the next step toward allowing the public to operate self-driving cars on California roadways in the future."[58]

Current Florida Law

Definitions: Section 316.003(90), F.S., defines "autonomous vehicle" as any vehicle equipped with autonomous technology. That subsection also includes a definition of "autonomous technology," which means technology installed on a motor vehicle that has the capability to

[52] *Supra* note 49.
[53] *See* the National Conference of State Legislatures website for additional detail on legislation already enacted by specified states: http://www.ncsl.org/research/transportation/autonomous-vehicles-legislation.aspx#Enacted Autonomous Vehicles Legislation. Last visited January 23, 2016.
[54] The other four states are California, Michigan, North Dakota, and Tennessee. *Id.*
[55] Chapter 2012-174, L.O.F. *See* also ch. 2014-216, L.O.F.
[56] *See* the report at: http://www.flhsmv.gov/html/HSMVAutonomousVehicleReport2014.pdf. Last visited January 24, 2016.
[57] *Supra* note 50.
[58] This followed California's legislation directing the adoption of safety standards and performance requirements to ensure the safe operation and testing of autonomous vehicles. *See* the California Department of Motor Vehicles Press Release: https://www.dmv.ca.gov/portal/dmv/detail/pubs/newsrel/newsrel15/2015_63. Last visited January 23, 2016.

drive the vehicle on which the technology is installed without the active control or monitoring by a human operator.[59]

Operation: Operation of autonomous vehicles is authorized in s. 316.85, F.S. A person who possesses a valid driver license may operate an autonomous vehicle in autonomous mode.[60] When a person causes the vehicle's autonomous technology to engage, regardless of whether the person is physically present in the vehicle while the vehicle is operating in autonomous mode, that person is deemed the operator of the vehicle.

Testing: Testing of vehicles equipped with autonomous technology is authorized in s. 316.86, F.S. Employees, contractors, or other persons designated by manufacturers of autonomous technology, or by research organizations associated with accredited educational institutions, are authorized to operate such vehicles on roads in this state to test autonomous technology. A human operator must be present in the vehicle being tested, with the ability to monitor the vehicle's performance and intervene, if necessary, unless the vehicle is being tested or demonstrated on a closed course.[61] Before testing, the entity performing the testing must submit an instrument of insurance, surety bond, or proof of self-insurance acceptable to the DHSMV in the amount of $5 million.[62]

Vehicle Requirements: Section 319.145, F.S., requires an autonomous vehicle registered in this state[63] to meet federal standards and regulations for a motor vehicle. This section of law is expressly superseded when in conflict with NHTSA federal regulations. In addition, an autonomous vehicle must:

- Have a means to engage and disengage the autonomous technology which is easily accessible to the operator.
- Have a means, inside the vehicle, to visually indicate when the vehicle is operating in autonomous mode.
- Have a means to alert the operator of the vehicle if a technology failure affecting the ability of the vehicle to safely operate autonomously is detected while the vehicle is operating autonomously in order to indicate to the operator to take control of the vehicle.

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[59] The latter definition does not include a motor vehicle enabled with active safety systems or driver assistance systems, including, without limitation, a system to provide electronic blind spot assistance, crash avoidance, emergency braking, parking assistance, adaptive cruise control, lane keep assistance, lane departure warning, or traffic jam and queuing assistant, unless any such system alone or in combination with other systems enables the vehicle on which the technology is installed to drive without the active control or monitoring by a human operator.

[60] The DHSMV will authorize a person who possesses a valid driver license to operate an autonomous vehicle in autonomous mode on a Florida roadway, but only if manufacturers of the technology designate the person as a driver for testing purposes. *See* the DHSMV publication, *Excellence in Service, Education, and Enforcement*, Summer 2012, heading "2012 Legislative Update," at p. 1: http://www.flhsmv.gov/html/CJSummer2012.pdf. Last visited January 24, 2016.

[61] The DHSMV will authorize operation of an autonomous vehicle in autonomous mode without a human physically present in the vehicle only on a closed course. *See* the DHSMV email to committee staff dated January 25, 2016. On filed in the Senate Transportation Committee.

[62] This section of the law also provides immunity from certain liability for the original manufacturer of a vehicle converted by a third party into an autonomous vehicle under specified conditions. Section 316.86(2), F.S.

[63] Chapter 320, F.S., reflects no vehicle registration provision specific to autonomous vehicles.

- Be capable of being operated in compliance with the applicable traffic and motor vehicle laws of this state.

Television-Type Equipment in Motor Vehicles

Section 316.303(1) and (3), F.S., currently prohibits operation of a motor vehicle if it is equipped with television-type receiving equipment that is visible from the driver's seat. However, an electronic display used in conjunction with a vehicle navigation system is not prohibited.

Local Regulation of Autonomous Vehicles

Current Florida law contains no provision addressing local regulation of autonomous vehicles.

Transportation Planning and Autonomous Vehicles

Section 339.175(7), F.S., requires metropolitan planning organizations (MPOs) to develop a long-range transportation plan addressing at least a 20-year planning horizon. The plans must be consistent, to the maximum extent feasible, with local government comprehensive plans of the local governments located within the jurisdiction of the MPO.

Section 339.64, F.S., requires the FDOT to develop and update every five years, in cooperation with MPOs, regional planning councils, local governments, and other transportation providers, a Strategic Intermodal System (SIS) Plan. The plan must be consistent with the Florida Transportation Plan.[64]

Effect of Proposed Changes:

Section 4 amends s. 316.303(1) and (3), F.S., to authorize active display of moving television broadcast or pre-recorded video entertainment content visible from the driver's seat while the vehicle is in motion if the vehicle is equipped with autonomous technology and operated in autonomous mode.

Section 5 amends s. 316.85, F.S., to expressly authorize a person holding a valid driver license to operate an autonomous vehicle in autonomous mode on roads in this state if the vehicle is equipped with autonomous technology, as defined in s. 316.003, F.S. Operation of an autonomous vehicle on roads in this state would no longer be limited to licensed drivers designated for testing purposes.

Section 6 amends s. 316.86, F.S., to remove provisions regarding the operation of vehicles equipped with autonomous technology on roads for testing purposes, including the provisions:

- Authorizing employees, contractors, or other persons designated by manufacturers of autonomous technology, or by research organizations associated with accredited educational institutions, to operate such vehicles on roads in this state to test autonomous technology.

[64] The Florida Transportation Plan is a statewide transportation plan that considers the needs of the entire state transportation system and examines the use of all modes of transportation to meet such needs. The purpose of the plan is to establish and define the state's long-range transportation goals and objectives over a period of at least 20 years. See s. 339.155, F.S.

- Requiring a human operator to be present in the vehicle being tested, with the ability to monitor the vehicle's performance and intervene, if necessary, unless the vehicle is being tested or demonstrated on a closed course.
- Requiring the specified proof of insurance or surety bond before testing.

The original manufacture liability protections are not amended.

Section 7 amends s. 319.145, F.S., to clarify that registered autonomous vehicles must meet *applicable* federal standards and regulations for such vehicles. This section also requires an autonomous vehicle to have a system to safely alert the operator if an autonomous technology failure is detected while the autonomous technology is engaged. When an alert is given, the system must:

- Require the operator to take control of the autonomous vehicle, or
- If the operator does not or is unable to take control, be capable of bringing the vehicle to a complete stop.

The latter revision replaces the currently required easily accessible means by which the operator engages and disengages the technology, and the required means to alert the operator of a described technology failure to indicate to the operator to take control of the vehicle.

Taken together, these sections of the bill authorize operation of autonomous vehicles equipped with the defined autonomous technology on the public roads of this state by any person holding a valid driver license, without the need to be designated by an autonomous vehicle manufacturer for testing purposes, and without any testing. The physical presence of an operator is no longer required. Autonomous vehicles registered in this state must continue to meet federal standards and regulations that apply to such vehicles. To the extent that any new provision in the bill regarding vehicle equipment is or becomes in conflict with federal law, the bill's provision would be superseded.

Section 13 amends s. 339.175(3)(c)2., F.S., to include in an MPO's capital investment assessment the goal of improving safety while making the most efficient use of existing transportation facilities. In addition, MPOs are required to consider in developing long-range transportation plans infrastructure and technological improvements necessary to accommodate advances in vehicle technology, such as autonomous vehicle technology and other developments.

Section 15 amends s. 339.64, F.S., to require the FDOT when updating the SIS Plan to coordinate with federal, regional, and local partners, as well as industry representatives, to consider infrastructure and technological improvements to the SIS necessary to accommodate advances in vehicle technology.

Driver-Assistive Truck Platooning (Sections 1, 2, and 4)

Present Situation

In August of 2014, the NHTSA issued an advance notice of proposed rulemaking, following the NHTSA's earlier announcement that the agency will begin working on a regulatory proposal to

require vehicle-to-vehicle (V2V) devices in passenger cars and light trucks in a future year. V2V is a crash avoidance technology, relying on communication of information between nearby vehicles to warn drivers about dangerous situations that could lead to a crash.[65] The NHTSA advises that, "Using V2V technology, vehicles ranging from cars to trucks and buses to trains could one day be able to communicate important safety and mobility information to one another that can help save lives, prevent injuries, ease traffic congestion, and improve the environment."[66]

One form of V2V technology is known as driver-assistive truck platooning (DATP), which allows trucks to communicate with each other and to travel as close as thirty feet apart with automatic acceleration and braking. A draft is created, reducing wind resistance and cutting down on fuel consumption.[67]

> The DATP concept is based on a system that controls inter-vehicle spacing based on information from forward-looking radars and direct vehicle-to-vehicle communications. Braking and other operational data is constantly exchanged between the trucks, enabling the control system to automatically adjust engine and brakes in real-time. This allows equipped trucks to travel closer together than manual operations would safely allow. Platooning technology is increasingly a subject of interest in the truck community, with multiple companies developing prototypes.[68]

One such system uses integrated sensors, controls, and wireless communications for "connected" trucks. The system is cloud-based, determining in real time whether traffic conditions are appropriate to allow specific trucks to engage in platooning operations. Using V2V communications, the system synchronizes acceleration and braking between tractor-trailers, leaving steering to the drivers, but eliminating braking distance otherwise caused by lags in the front or rear driver's response time. The following vehicle is provided video showing the lead truck's line of sight while the lead vehicle is provided video showing the area behind the following truck. If another vehicle enters between platooning trucks, the system will automatically increase following distance or delink the trucks and then relink once the cut-in risk has passed. If data transfer between platooning trucks ceases, the driver is immediately notified that manual acceleration and braking control is about to resume.[69]

Currently, s. 316.0895, F.S., prohibits a driver of a motor vehicle to follow another vehicle more closely than is reasonable and prudent. It is unlawful, when traveling upon a roadway outside a business or residence district, for a motor truck, motor truck drawing another vehicle, or vehicle towing another vehicle or trailer to follow within 300 feet of another vehicle.

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[65] *See* the USDOT Fact Sheet on Vehicle-To-Vehicle Communication Technology, *available at:* http://www.its.dot.gov/safety_pilot/pdf/safetypilot_nhtsa_factsheet.pdf. On file in the Senate Transportation Committee.
[66] *See* the NHTSA *Vehicle-to-Vehicle Communications*, http://www.safercar.gov/v2v/index.html. Last visited January 25, 2016.
[67] *See* the GBT Global News website: http://www.gobytrucknews.com/driver-survey-platooning/123. Last visited January 25, 2016.
[68] *See* the American Transportation Research Institute, *ATRI Seeks Input on Driver Assistive Truck Platooning* (Nov. 17, 2014), http://atri-online.org/2014/11/17/atri-seeks-input-on-driver-assistive-truck-platooning/. Last visited January 25, 2016.
[69] *See* Peloton, *FAQ*, http://www.peloton-tech.com/faq/ (last visited Jan. 25, 2016).

Additionally, s. 316.303, F.S., prohibits the operation of a motor vehicle with television-type receiving equipment that is visible from the driver's seat. This prohibition does not apply to an electronic display used in conjunction with a vehicle navigation system.[70]

Effect of Proposed Changes

Section 1 amends s. 316.003, F.S., to define the term "driver-assistive truck platooning technology."

Section 2 requires the FDOT to study, in consultation with the DHSMV, the use and safe operation of driver assistive truck platooning technology for the purpose of developing a pilot project to test vehicles equipped with such technology.

The bill authorizes the FDOT, upon conclusion of the study and in consultation with the DHSMV, to conduct a pilot project that tests the operation of vehicles equipped with driver-assistive truck platooning technology.[71] The pilot project may be conducted notwithstanding the traffic control provisions related to following too closely and television-type equipment in motor vehicles.[72] Prior to the start of the pilot project, manufacturers of driver-assistive truck platooning technology being tested in the pilot project must submit to the DHSMV an instrument of insurance, surety bond, or proof of self-insurance in the amount of $5 million.

The DOT, in consultation with the DHSMV, shall submit the results of the study and any findings or recommendations from the pilot project to the Governor, Senate President, and Speaker of the House upon conclusion of the pilot project.

Section 4 amends s. 316.303(3), F.S., to allow vehicles equipped and operating with driver-assistive truck platooning technology to be equipped with electronic displays visible from the driver's seat, and to authorize the operator of a vehicle equipped and operating with truck platooning technology to use an electronic display.

The bill takes effect July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

[70] Section 316.303, F.S.
[71] The pilot project may be conducted in such a manner and at such locations as determined by the DOT.
[72] Sections 316.0895 and 316.303, F.S.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Sections 4 through 7, 13, and 15: The impact of the provisions in PCS/CS/SB 1392 relating to the operation of autonomous vehicles is unknown. The private sector may realize positive economic benefits in terms of improved safety and mobility, and cost and travel-time savings. The companies that sell vehicles with autonomous technology may experience more sales to the extent that the bill promotes wider use of such vehicles.

Sections 1, 2, and 4: Depending on the outcome of the pilot project, the bill may have an indeterminate positive fiscal impact on companies that sell or use driver-assistive truck platooning technology.

Section 9: The required toll facility signage may assist motorists in avoiding unwanted administrative expenses associated with toll-by-plate billing and rental car company charges for use of a company's electronic transponder, by notifying motorists that no cash payment option is available.

Section 10: Transfer of ownership of the Pinellas Bayway System from the FDOT to the Florida Turnpike Enterprise does not appear to have an immediate impact on the private sector but a positive fiscal impact may be realized upon construction of the replacement bridge in terms of more efficient travel.

C. Government Sector Impact:

Section 9: The additional required toll facility signage presents an indeterminate fiscal impact to the FDOT and expressway and bridge authorities. However, an analysis of the bill submitted by FDOT on February 15, 2016 states the following department concerns:[73]

> The addition of requirements for signage notifying drivers if cash payment of a toll is not an available option at a facility results in an estimated fiscal impact between *$7.8 million* and *$26.4 million* (see following table) depending on the number of signs retrofitted versus placement of new signs. Increases in operation and

[73] *See* the FDOT 2016 analysis of Senate Bill 1392. On file in the Senate Subcommittee on Transportation, Tourism, and Economic Development.

maintenance costs on the Turnpike system will reduce the amount invested in construction projects by the amount needed to comply with the new law.

Cost estimates in the following table are not reflective of costs for non-department toll facilities within the state (e.g. authority or local toll facilities).

Location of Signage	**Qty**	**Low End**[74]	**Comments**	**Qty**	**High End**[75]	**Comments**
All Electronic Tolling facilities	90	$140,400	place test on existing signs	90	$993,600	new multi-post signs
Roadways connecting to All Electronic Tolling facilities	163	$804,000	new multi-post signs	163	$18,452,400	new overhead cantilever sign structures
Ingress to Express Lane facilities	88	$6,916,800	new overhead cantilever sign structures	88	$6,916,800	new overhead cantilever sign structures
Totals		**$7,861,200**			**$26,362,800**	

According to the FDOT, it is unknown at this time whether the department could pursue the Low End (existing signs) alternative or if the High End (new signs) alternative would be required. The department would have to assess this on a location by location basis considering visibility to the customer, traffic operations, design/engineering issues, and right-of-way concerns (existing land sufficient or require acquisition). These figures do not account for future All Electronic Tolling (AET) or Express Lane projects that are in the planning phase. Including such projects would increase the estimates above.

Any signage costs for toll facilities that are part of the Turnpike System would be paid from the Turnpike General Reserve Trust Fund; and any signage costs for FDOT-owned toll facilities that are not part of the Turnpike System would be paid from the State Transportation Trust Fund.

[74] According to FDOT, the Low End and High End figures represent calculated totals, i.e. unit prices multiplied by quantities. Supra note 73.
[75] *Ibid.*

Section 10: The transfer of ownership of the Pinellas Bayway System does not appear to have any immediate fiscal impact, as the transfer occurs without the expenditure of any funds. Aside from the project cost information on replacing the structurally deficient bridge over Boca Ciega Bay on SR 679 provided by the Florida Department of Transportation, the method by which replacement will be funded or financed is unknown.

Section 14: Increasing the population ceiling in the Small County Outreach Program definition of "small county" from 150,000 to 170,000 will allow Charlotte, Martin, and Santa Rosa Counties to be eligible to participate in the program. Those counties would still have to compete for funding and priority using the program criteria.

Section 17: The Tampa-Hillsborough County Expressway Authority bonding provisions pose no immediate fiscal impact. The fiscal impact of any potential bonding is unknown.

VI. Technical Deficiencies:

The revision of the definition of "driver-assistive truck platooning" refers to compliance with NHTSA rules regarding vehicle-to-vehicle "*platooning*." The definition should refer to rules for vehicle-to-vehicle "*communications*."

VII. Related Issues:

Under current law, the "operator" of an autonomous vehicle is the person who engages the technology. The identity of the "operator" of an unoccupied vehicle is unclear.

According to the FDOT, "Autonomous vehicle technology development and testing is being evaluated in a test track setting. Coordination with federal and local partners will be completed within existing resources. It may be several years before the department can estimate the infrastructure investment needed to support autonomous vehicle operations on state roads."[76]

Further, the FDOT has indicated that the department and the Metropolitan Planning Organizations (MPOs) are directed to consider infrastructure and technological improvements during the development of the Five-Year Work Program and Long Range Transportation Plan, respectively. Intelligent Transportation System (ITS) technological solutions are considered during this process. Consideration of autonomous vehicle technology introduces a new demand on funding. It is difficult to estimate the amount of future investments in technological solutions versus infrastructure solutions.[77]

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 316.003, 316.0745, 316.303, 316.85, 316.86, 319.145, 332.08, 338.155, 338.165, 338.231, 339.175, 339.2818, 339.64, and 348.565.

[76] *Supra* note 73.
[77] *Ibid.*

This bill repeals section 341.0532 of the Florida Statutes.

This bill repeals ch. 85-364, as amended by ch. 95-382 and section 48 of ch. 2014-223, Laws of Florida.

IX. Additional Information:

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

Recommended CS/CS by Appropriations Subcommittee on Transportation, Tourism, and Economic Development on February 17, 2016:
The committee substitute:

- Revises the definition for driver-assistive truck platooning (DATP) technology and requires compliance with the National Highway Traffic Safety Administration (NHTSA) rules regarding vehicle-to-vehicle communications.
- Requires FDOT, in consultation with the DHSMV, to study the use and safe operation of DATP technology; authorizes a pilot project upon conclusion of the study to test vehicles equipped with the technology; requires insurance coverage by the manufacturers that participate in the pilot; and requires the findings to be submitted to the Governor and Legislature.
- Revises the provisions in the bill relating to television-type receiving equipment visible from the driver's seat in vehicles equipped with DAPT technology.

CS by Transportation on January 27, 2016:
The CS modifies the bill by:

- Removing from the bill preemption of regulation and operation of autonomous vehicles to the state.
- Revising equipment requirements for autonomous vehicles by requiring a system to alert an operator of a technology failure and to take control, or to stop the vehicle under certain conditions.
- Extending the authorized term of certain airport-related leases.
- Requiring signage at toll facilities notifying drivers if cash payment is not an option.
- Transferring certain funds to be used to help fund the costs of repair and replacement of the Pinellas Bayway System.
- Increasing the population ceiling in the definition of "small county" for purposes of the Small County Outreach Program.
- Expanding the list of THEA project types approved to be financed by certain revenue bonds.

B. Amendments:

None.

169826

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/01/2016	.	
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The Committee on Appropriations (Gaetz) recommended the following:

Senate Amendment (with title amendment)

Delete lines 88 - 104
and insert:
Section 1. Subsections (5) and (6) are added to section 311.12, Florida Statutes, to read:
311.12 Seaport security.—
(5) ADVISORY COMMITTEE.—
(a) There is created the Seaport Security Advisory Committee, which shall be under the direction of the Florida

Seaport Transportation and Economic Development Council.

(b) The committee shall consist of the following members:

1. Five or more port security directors appointed by the council chair shall serve as voting members. The council chair shall designate one member of the committee to serve as committee chair.

2. A designee from the United States Coast Guard shall serve ex officio as a nonvoting member.

3. A designee from United States Customs and Border Protection shall serve ex officio as a nonvoting member.

4. Two representatives from local law enforcement agencies providing security services at a Florida seaport shall serve ex officio as nonvoting members.

(c) The committee shall meet at the call of the chair but at least annually. A majority of the voting members constitutes a quorum for the purpose of transacting business of the committee, and a vote of the majority of the voting members present is required for official action by the committee.

(d) The committee shall provide a forum for discussion of seaport security issues, including, but not limited to, matters such as national and state security strategy and policy, actions required to meet current and future security threats, statewide cooperation on security issues, and security concerns of the state’s maritime industry.

(6) GRANT PROGRAM.—

(a) The Florida Seaport Transportation and Economic Development Council shall establish a Seaport Security Grant Program for the purpose of assisting in the implementation of security plans and security measures at the seaports listed in

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s. 311.09(1). Funds may be used for the purchase of equipment, infrastructure needs, cybersecurity programs, and other security measures identified in a seaport's approved federal security plan. Such grants may not exceed 75 percent of the total cost of the request and are subject to legislative appropriation.

(b) The Seaport Security Advisory Committee shall review applications for the grant program and make recommendations to the council for grant approvals. The council shall adopt by rule criteria to implement this subsection.

Section 2. Present subsections (91), (92), and (93) of section 316.003, Florida Statutes, are redesignated as subsections (92), (93), and (94), respectively, and a new subsection (91) is added to that section to read:

(91) DRIVER-ASSISTIVE TRUCK PLATOONING TECHNOLOGY.—Vehicle automation and safety technology that integrates sensor array, wireless vehicle-to-vehicle communications, active safety systems, and specialized software to link safety systems and synchronize acceleration and braking between two vehicles while leaving each vehicle's steering control and systems command in the control of the vehicle's driver in compliance with the National Highway Traffic Safety Administration rules regarding vehicle-to-vehicle communications.

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

And the title is amended as follows:

Delete line 2

and insert:

311.12, F.S.; establishing the Seaport Security Advisory Committee directed by the Florida Seaport

169826

Transportation and Economic Development Council; providing for membership and duties; directing the council to establish a Seaport Security Grant Program to assist in implementation of security at specified airports; directing the council to adopt rules; amending s.

392996

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/01/2016	.	
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The Committee on Appropriations (Gaetz) recommended the following:

Senate Amendment to Amendment (169826)

In title, delete lines 65 - 66
and insert:
Between lines 2 and 3
insert:

262182

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/01/2016	.	
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The Committee on Appropriations (Gaetz) recommended the following:

Senate Amendment (with title amendment)

Delete lines 155 - 173
and insert:
Section 4. Subsection (5) of section 316.235, Florida Statutes, is amended to read:
316.235 Additional lighting equipment.—
(5) A bus~~, as defined in s. 316.003(3),~~ may be equipped with a deceleration lighting system that ~~which~~ cautions following vehicles that the bus is slowing, is preparing to

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stop, or is stopped. Such lighting system shall consist of red or amber lights mounted in horizontal alignment on the rear of the vehicle at ~~or near~~ the vertical centerline of the vehicle, no greater than 12 inches apart, not higher than the lower edge of the rear window or, if the vehicle has no rear window, not higher than 100 ~~72~~ inches from the ground. Such lights shall be visible from a distance of not less than 300 feet to the rear in normal sunlight. Lights are permitted to light and flash during deceleration, braking, or standing and idling of the bus. Vehicular hazard warning flashers may be used in conjunction with or in lieu of a rear-mounted deceleration lighting system.

Section 5. Subsections (1) and (3) of section 316.303, Florida Statutes, are amended to read:

316.303 Television receivers.—

(1) No motor vehicle may be operated on the highways of this state if the vehicle is actively displaying moving television broadcast or pre-recorded video entertainment content that is ~~shall be equipped with television-type receiving equipment so located that the viewer or screen is~~ visible from the driver's seat while the vehicle is in motion, unless the vehicle is equipped with autonomous technology, as defined in s. 316.003(90), and is being operated in autonomous mode, as provided in s. 316.85(2).

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

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defined in s. 316.003.

Section 6. Paragraph (c) of subsection (3) of section 316.640, Florida Statutes, is amended to read:

316.640 Enforcement.—The enforcement of the traffic laws of this state is vested as follows:

(3) MUNICIPALITIES.—

(c)1. A chartered municipality or its authorized agency or instrumentality may employ as a parking enforcement specialist any individual who successfully completes a training program established and approved by the Criminal Justice Standards and Training Commission for parking enforcement specialists, but who does not otherwise meet the uniform minimum standards established by the commission for law enforcement officers or auxiliary or part-time officers under s. 943.12.

2. A parking enforcement specialist employed by a chartered municipality or its authorized agency or instrumentality is authorized to enforce all state, county, and municipal laws and ordinances governing parking within the boundaries of the municipality employing the specialist, or, pursuant to a memorandum of understanding between the county and the municipality, within the boundaries of the county in which the chartered municipality or its authorized agency or instrumentality is located, by appropriate state, county, or municipal traffic citation.

3. A parking enforcement specialist employed pursuant to this subsection may not carry firearms or other weapons or have arrest authority.

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

262182

And the title is amended as follows:

Delete lines 16 - 22

and insert:

department; amending s. 316.235, F.S., revising specifications for bus deceleration lighting systems; amending s. 316.303, F.S.; revising the prohibition from operating, under certain circumstances, a motor vehicle that is equipped with television-type receiving equipment; providing exceptions to the prohibition against displaying moving television broadcast or pre-recorded video entertainment content in vehicles; amending s. 316.640, F.S.; expanding the authority of a chartered municipal parking enforcement specialist to enforce state, county, and municipal parking laws and ordinances within the boundaries of certain counties pursuant to a memorandum of understanding; amending s. 316.85,

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/01/2016	.	
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The Committee on Appropriations (Gaetz) recommended the following:

Senate Amendment (with title amendment)

Between lines 232 and 233
insert:

Section 8. Subsection (1) of section 320.525, Florida Statutes, is amended to read:

320.525 Port vehicles and equipment; definition; exemption.—

(1) As used in this section, the term “port vehicles and equipment” means trucks, tractors, trailers, truck cranes, top

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loaders, fork lifts, hostling tractors, chassis, or other vehicles or equipment used for transporting cargo, containers, or other equipment. The term includes motor vehicles being relocated within a port facility or via designated port district roads.

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

And the title is amended as follows:

Delete line 35

and insert:

operation of autonomous vehicles; amending s. 320.525, F.S.; revising the definition of the term "port vehicles and equipment"; amending s. 332.08

153378

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/01/2016	.	
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The Committee on Appropriations (Altman) recommended the following:

Senate Amendment (with title amendment)

Between lines 232 and 233
insert:

Section 8. Section 330.402, Florida Statutes, is created to read:

330.402 Helicopter operations; private property.—Helicopter operations, including takeoff and landing, are authorized on private property that measures two or more contiguous acres if the operations are conducted in accordance with the federal

153378

aviation regulations and with the property owner's permission.

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

And the title is amended as follows:

Delete line 35

and insert:

operation of autonomous vehicles; creating s. 330.402, F.S.; authorizing helicopter operations on private property that measures two or more contiguous acres if the operations are conducted in accordance with the federal aviation regulations and with the property owner's permission; amending s. 332.08,

635294

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/01/2016	.	
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The Committee on Appropriations (Smith) recommended the following:

Senate Amendment (with title amendment)

Between lines 259 and 260
insert:

Section 9. Section 335.085, Florida Statutes, is created to read:

335.085 Installation of roadside barriers along certain water bodies contiguous with state roads.—

(1) This section shall be cited as "Chloe's Law."

(2) By June 30, 2018, the department shall install roadside

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barriers to shield water bodies contiguous with state roads at locations where a death due to drowning resulted from a motor vehicle accident in which a vehicle departed the adjacent state road during the period between July 1, 2006, and July 1, 2016. This requirement does not apply to any location at which the department's chief engineer determines, based on engineering principles, that installation of a barrier would increase the risk of injury to motorists traveling on the adjacent state road.

Section 10. The Department of Transportation shall review all motor vehicle accidents that resulted in death due to drowning in a water body contiguous with a state road and that occurred during the period between July 1, 2006, and July 1, 2016. The department shall use the reconciled crash data received from the Department of Highway Safety and Motor Vehicles and shall submit a report to the President of the Senate and the Speaker of the House of Representatives by January 3, 2017, providing recommendations regarding any necessary changes to state laws and department rules to enhance traffic safety.

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

And the title is amended as follows:

Delete line 37

and insert:

airport-related leases; creating s. 335.085, F.S.; providing a short title; requiring the department to install roadside barriers to shield water bodies contiguous with state roads at certain locations by a

635294

specified date under certain circumstances; providing applicability; requiring the department to conduct a study related to certain motor vehicle accidents on state roads contiguous with water bodies which occurred during a specified timeframe, subject to certain requirements; requiring the department to submit a report to the Legislature by a specified date, subject to certain requirements; amending s. 338.155, F.S.;

404110

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/01/2016	.	
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The Committee on Appropriations (Gaetz) recommended the following:

Senate Amendment (with title amendment)

Delete lines 260 - 336
and insert:
Section 22. Paragraph (a) of subsection (1) of section 337.18, Florida Statutes, is amended to read:
337.18 Surety bonds for construction or maintenance contracts; requirement with respect to contract award; bond requirements; defaults; damage assessments.—
(1)(a) A surety bond shall be required of the successful

404110

bidder in an amount equal to the awarded contract price. However, the department may choose, in its discretion and applicable only to multiyear maintenance contracts, to allow for incremental annual contract bonds that cumulatively total the full, awarded, multiyear contract price.

1. The department may waive the requirement for all or a portion of a surety bond if:

a. ~~For a project for which~~ The contract price is $250,000 or less and~~,~~ the department ~~may waive the requirement for all or a portion of a surety bond if it~~ determines that the project is of a noncritical nature and nonperformance will not endanger public health, safety, or property;

b. The prime contractor is a qualified nonprofit agency for the blind or for the other severely handicapped under s. 413.036(2); or

c. The prime contractor is using a subcontractor that is a qualified nonprofit agency for the blind or for the other severely handicapped under s. 413.036(2). However, the department may not waive more than the amount of the subcontract.

2. If the Secretary of Transportation or the secretary's designee determines that it is in the best interests of the department to reduce the bonding requirement for a project and that to do so will not endanger public health, safety, or property, the department may waive the requirement of a surety bond in an amount equal to the awarded contract price for a project having a contract price of $250 million or more and, in its place, may set a surety bond amount that is a portion of the total contract price and provide an alternate means of security

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for the balance of the contract amount that is not covered by the surety bond or provide for incremental surety bonding and provide an alternate means of security for the balance of the contract amount that is not covered by the surety bond. Such alternative means of security may include letters of credit, United States bonds and notes, parent company guarantees, and cash collateral. The department may require alternate means of security if a surety bond is waived. The surety on such bond shall be a surety company authorized to do business in the state. All bonds shall be payable to the department and conditioned for the prompt, faithful, and efficient performance of the contract according to plans and specifications and within the time period specified, and for the prompt payment of all persons defined in s. 713.01 furnishing labor, material, equipment, and supplies for work provided in the contract; however, whenever an improvement, demolition, or removal contract price is $25,000 or less, the security may, in the discretion of the bidder, be in the form of a cashier’s check, bank money order of any state or national bank, certified check, or postal money order. The department shall adopt rules to implement this subsection. Such rules shall include provisions under which the department shall refuse to accept bonds on contracts when a surety wrongfully fails or refuses to settle or provide a defense for claims or actions arising under a contract for which the surety previously furnished a bond.

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

And the title is amended as follows:

Delete lines 37 - 40

404110

and insert:

airport-related leases; amending s. 337.18, F.S., relating to contracts for construction or maintenance; revising conditions for waiver of a required surety bond; amending s. 338.165, F.S.; deleting an

136342

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
03/01/2016	.	
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The Committee on Appropriations (Latvala) recommended the following:

Senate Amendment (with title amendment)

Delete lines 260 - 474
and insert:
Section 1. Subsection (3) of section 337.0261, Florida Statutes, is amended to read:
337.0261 Construction aggregate materials.—
(3) LOCAL GOVERNMENT DECISIONMAKING.—A ~~No~~ local government may not ~~shall~~ approve or deny a proposed land use zoning change, comprehensive plan amendment, land use permit, ordinance, or

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order regarding construction aggregate materials without considering any information provided by the Department of Transportation regarding the effect such change, amendment, permit decision, ordinance, or order would have on the availability, transportation, cost, and potential extraction of construction aggregate materials on the local area, the region, and the state. The failure of the Department of Transportation to provide this information shall not be a basis for delay or invalidation of the local government action. A ~~No~~ local government may not impose a moratorium, or combination of moratoria, of more than 12 months' duration on the mining or extraction of construction aggregate materials, commencing on the date the vote was taken to impose the moratorium. January 1, 2007, shall serve as the commencement of the 12-month period for moratoria already in place as of July 1, 2007.

Section 2. Section 338.155, Florida Statutes, is amended to read:

338.155 Payment of toll on toll facilities required; exemptions; signage required.—

(1) A person may not use any toll facility without payment of tolls, except employees of the agency operating the toll project when using the toll facility on official state business, state military personnel while on official military business, handicapped persons as provided in this section, persons exempt from toll payment by the authorizing resolution for bonds issued to finance the facility, and persons exempt on a temporary basis where use of such toll facility is required as a detour route. Any law enforcement officer operating a marked official vehicle is exempt from toll payment when on official law enforcement

business. Any person operating a fire vehicle when on official business or a rescue vehicle when on official business is exempt from toll payment. Any person participating in the funeral procession of a law enforcement officer or firefighter killed in the line of duty is exempt from toll payment. The secretary or the secretary's designee may suspend the payment of tolls on a toll facility when necessary to assist in emergency evacuation. The failure to pay a prescribed toll constitutes a noncriminal traffic infraction, punishable as a moving violation as provided in s. 318.18. The department may adopt rules relating to the payment, collection, and enforcement of tolls, as authorized in this chapter and chapters 316, 318, 320, and 322, including, but not limited to, rules for the implementation of video or other image billing and variable pricing. With respect to toll facilities managed by the department, the revenues of which are not pledged to repayment of bonds, the department may by rule allow the use of such facilities by public transit vehicles or by vehicles participating in a funeral procession for an active-duty military service member without the payment of tolls.

(2) Any person driving an automobile or other vehicle belonging to the Department of Military Affairs used for transporting military personnel, stores, and property, when properly identified, shall, together with any such conveyance and military personnel and property of the state in his or her charge, be allowed to pass free through all tollgates and over all toll bridges and ferries in this state.

(3) Any handicapped person who has a valid driver license, who operates a vehicle specially equipped for use by the handicapped, and who is certified by a physician licensed under

chapter 458 or chapter 459 or by comparable licensing in another state or by the Adjudication Office of the United States Department of Veterans Affairs or its predecessor as being severely physically disabled and having permanent upper limb mobility or dexterity impairments which substantially impair the person’s ability to deposit coins in toll baskets, shall be allowed to pass free through all tollgates and over all toll bridges and ferries in this state. A person who meets the requirements of this subsection shall, upon application, be issued a vehicle window sticker by the Department of Transportation.

(4) A copy of this section shall be posted at each toll bridge and on each ferry.

(5) The Department of Transportation shall provide envelopes for voluntary payments of tolls by those persons exempted from the payment of tolls pursuant to this section. The department shall accept any voluntary payments made by exempt persons.

(6) Personal identifying information held by the Department of Transportation, a county, a municipality, or an expressway authority for the purpose of paying, prepaying, or collecting tolls and associated administrative charges due for the use of toll facilities is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the Department of Transportation, a county, a municipality, or an expressway authority before, on, or after the effective date of the exemption. This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2019, unless

reviewed and saved from repeal through reenactment by the Legislature.

(7) A toll facility must ensure the presence of signage notifying drivers if cash payment of the applicable toll at such facility is not an available option.

Section 3. Subsection (4) of section 338.165, Florida Statutes, is amended, and subsection (11) is added to that section, to read:

338.165 Continuation of tolls.—

(4) Notwithstanding any other law to the contrary, pursuant to s. 11, Art. VII of the State Constitution, and subject to the requirements of subsection (2), the Department of Transportation may request the Division of Bond Finance to issue bonds secured by toll revenues collected on the Alligator Alley and~~,~~ the Sunshine Skyway Bridge~~, the Beeline-East Expressway, the Navarre Bridge, and the Pinellas Bayway~~ to fund transportation projects located within the county or counties in which the project is located and contained in the adopted work program of the department.

(11) The department's Pinellas Bayway System may be transferred by the department and become part of the turnpike system under the Florida Turnpike Enterprise Law. The transfer does not affect the rights of the parties, or their successors in interest, under the settlement agreement and final judgment in *Leonard Lee Ratner, Esther Ratner, and Leeco Gas and Oil Co. v. State Road Department of the State of Florida*, No. 67-1081 (Fla. 2nd Cir. Ct. 1968). Upon transfer of the Pinellas Bayway System to the turnpike system, the department shall also transfer to the Florida Turnpike Enterprise the funds deposited

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in the reserve account established by chapter 85-364, Laws of Florida, as amended by chapters 95-382 and 2014-223, Laws of Florida, which funds shall be used by the Florida Turnpike Enterprise solely to help fund the costs of repair or replacement of the transferred facilities.

Section 4. Chapter 85-364, Laws of Florida, as amended by chapter 95-382 and section 48 of chapter 2014-223, Laws of Florida, is repealed.

Section 5. Paragraph (c) of subsection (3) and subsections (5) and (6) of section 338.231, Florida Statutes, are amended to read:

338.231 Turnpike tolls, fixing; pledge of tolls and other revenues.—The department shall at all times fix, adjust, charge, and collect such tolls and amounts for the use of the turnpike system as are required in order to provide a fund sufficient with other revenues of the turnpike system to pay the cost of maintaining, improving, repairing, and operating such turnpike system; to pay the principal of and interest on all bonds issued to finance or refinance any portion of the turnpike system as the same become due and payable; and to create reserves for all such purposes.

(3)

(c) Notwithstanding any other ~~provision of~~ law to the contrary, any prepaid toll account of any kind which has remained inactive for 10 ~~3~~ years shall be presumed unclaimed and its disposition shall be handled by the Department of Financial Services in accordance with all applicable provisions of chapter 717 relating to the disposition of unclaimed property, and the prepaid toll account shall be closed by the department.

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~~(5) In each fiscal year while any of the bonds of the Broward County Expressway Authority series 1984 and series 1986-A remain outstanding, the department is authorized to pledge revenues from the turnpike system to the payment of principal and interest of such series of bonds and the operation and maintenance expenses of the Sawgrass Expressway, to the extent gross toll revenues of the Sawgrass Expressway are insufficient to make such payments. The terms of an agreement relative to the pledge of turnpike system revenue will be negotiated with the parties of the 1984 and 1986 Broward County Expressway Authority lease-purchase agreements, and subject to the covenants of those agreements. The agreement must establish that the Sawgrass Expressway is subject to the planning, management, and operating control of the department limited only by the terms of the lease-purchase agreements. The department shall provide for the payment of operation and maintenance expenses of the Sawgrass Expressway until such agreement is in effect. This pledge of turnpike system revenues is subordinate to the debt service requirements of any future issue of turnpike bonds, the payment of turnpike system operation and maintenance expenses, and subject to any subsequent resolution or trust indenture relating to the issuance of such turnpike bonds.~~

(5) ~~(6)~~ The use and disposition of revenues pledged to bonds are subject to ss. 338.22-338.241 and such regulations as the resolution authorizing the issuance of the bonds or such trust agreement may provide.

Section 6. Paragraph (c) of subsection (7) of section 339.175, Florida Statutes, is amended to read:

339.175 Metropolitan planning organization.—

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(7) LONG-RANGE TRANSPORTATION PLAN.—Each M.P.O. must develop a long-range transportation plan that addresses at least a 20-year planning horizon. The plan must include both long-range and short-range strategies and must comply with all other state and federal requirements. The prevailing principles to be considered in the long-range transportation plan are: preserving the existing transportation infrastructure; enhancing Florida's economic competitiveness; and improving travel choices to ensure mobility. The long-range transportation plan must be consistent, to the maximum extent feasible, with future land use elements and the goals, objectives, and policies of the approved local government comprehensive plans of the units of local government located within the jurisdiction of the M.P.O. Each M.P.O. is encouraged to consider strategies that integrate transportation and land use planning to provide for sustainable development and reduce greenhouse gas emissions. The approved long-range transportation plan must be considered by local governments in the development of the transportation elements in local government comprehensive plans and any amendments thereto. The long-range transportation plan must, at a minimum:

(c) Assess capital investment and other measures necessary to:

1. Ensure the preservation of the existing metropolitan transportation system including requirements for the operation, resurfacing, restoration, and rehabilitation of major roadways and requirements for the operation, maintenance, modernization, and rehabilitation of public transportation facilities; and

2. Make the most efficient use of existing transportation facilities to relieve vehicular congestion, improve safety, and

maximize the mobility of people and goods. Such efforts must include, but are not limited to, consideration of infrastructure and technological improvements necessary to accommodate advances in vehicle technology, such as autonomous technology and other developments.

In the development of its long-range transportation plan, each M.P.O. must provide the public, affected public agencies, representatives of transportation agency employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transit, and other interested parties with a reasonable opportunity to comment on the long-range transportation plan. The long-range transportation plan must be approved by the M.P.O.

Section 7. Paragraph (b) of subsection (4) of section 339.2816, Florida Statutes, is amended to read:

339.2816 Small County Road Assistance Program.—

(4)

(b) In determining a county's eligibility for assistance under this program, the department may consider:

1. Whether the county has attempted to keep county roads in satisfactory condition, including the amount of local option fuel tax imposed by the county.

2. ~~The department may also consider~~ The extent to which the county has offered to provide a match of local funds with state funds provided under the program.

At a minimum, small counties shall be eligible only if the

136342

county has enacted the maximum rate of the local option fuel tax authorized by s. 336.025(1)(a). A county that adopts or enforces any local government comprehensive plan, land use map, zoning district, land development regulation, ordinance, or order that has the effect of prohibiting or unduly regulating or restricting the extraction of construction aggregate materials, as defined in s. 337.0261, or any associated activities is ineligible for assistance under this program.

Section 8. Subsection (2) and paragraph (b) of subsection (4) of section 339.2818, Florida Statutes, are amended to read:

339.2818 Small County Outreach Program.—

(2) ~~(a)~~ For ~~the~~ purposes of this section, the term "small county" means any county that has a population of 170,000 ~~150,000~~ or less as determined by the most recent official estimate pursuant to s. 186.901.

~~(b) Notwithstanding paragraph (a), for the 2015-2016 fiscal year, for purposes of this section, the term "small county" means any county that has a population of 165,000 or less as determined by the most recent official estimate pursuant to s. 186.901. This paragraph expires July 1, 2016.~~

(4)

(b) In determining a county's eligibility for assistance under this program, the department may consider whether the county has attempted to keep county roads in satisfactory condition, which may be evidenced through an established pavement management plan. A county that adopts or enforces any local government comprehensive plan, land use map, zoning district, land development regulation, ordinance, or order that has the effect of prohibiting or unduly regulating or

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restricting the extraction of construction aggregate materials, as defined in s. 337.0261, or any associated activities is ineligible for assistance under the program.

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

And the title is amended as follows:

Delete lines 37 - 70

and insert:

airport-related leases; amending s. 337.0261, F.S.; requiring local governments to consider information provided by the Department of Transportation regarding the effect that approving or denying certain regulations may have on the cost of construction aggregate materials in the local area, the region, and the state; amending s. 338.155, F.S.; requiring a toll facility to ensure the presence of signage notifying drivers if cash payment is not an option; amending s. 338.165, F.S.; deleting an authorization to issue certain bonds secured by toll revenues collected on the Beeline-East Expressway, the Navarre Bridge, and the Pinellas Bayway; authorizing the department's Pinellas Bayway System to be transferred by the department and become part of the turnpike system under the Florida Turnpike Enterprise Law; providing applicability; requiring the department to transfer certain funds to the Florida Turnpike Enterprise for certain purposes; repealing ch. 85-364, Laws of Florida, as amended, relating to the Pinellas Bayway; amending s. 338.231, F.S.; increasing the number of years before an inactive prepaid toll account is

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presumed to be unclaimed; deleting provisions relating to the use of revenues from the turnpike system to pay the principal and interest of a specified series of bonds and certain expenses of the Sawgrass Expressway; amending s. 339.175, F.S.; requiring certain long-range transportation plans to include assessment of capital investment and other measures necessary to make the most efficient use of existing transportation facilities to improve safety; requiring the assessments to include consideration of infrastructure and technological improvements necessary to accommodate advances in vehicle technology; amending s. 339.2816, F.S.; providing certain restrictions for the eligibility of counties to receive assistance under the Small County Road Assistance Program; amending s. 339.2818, F.S.; increasing the population ceiling in the definition of the term “small county” for purposes of the program; deleting an alternative definition of the term “small county” for a specified fiscal year; providing that a county that adopts or enforces certain restrictions on the extraction of construction aggregate materials is ineligible for assistance under the program; amending s. 339.64, F.S.; requiring the

248640

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/01/2016	.	
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The Committee on Appropriations (Latvala) recommended the following:

Senate Substitute for Amendment (136342) (with title amendment)

Between lines 259 and 260
insert:

Section 9. Subsection (3) of section 337.0261, Florida Statutes, is amended to read:

337.0261 Construction aggregate materials.—

(3) LOCAL GOVERNMENT DECISIONMAKING.—A ~~No~~ local government may not ~~shall~~ approve or deny a proposed land use zoning change,

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comprehensive plan amendment, land use permit, ordinance, or order regarding construction aggregate materials without considering any information provided by the Department of Transportation regarding the effect such change, amendment, permit decision, ordinance, or order would have on the availability, transportation, cost, and potential extraction of construction aggregate materials on the local area, the region, and the state. The failure of the Department of Transportation to provide this information shall not be a basis for delay or invalidation of the local government action. A ~~No~~ local government may not impose a moratorium, or combination of moratoria, of more than 12 months' duration on the mining or extraction of construction aggregate materials, commencing on the date the vote was taken to impose the moratorium. January 1, 2007, shall serve as the commencement of the 12-month period for moratoria already in place as of July 1, 2007.

Delete lines 463 - 474

and insert:

Section 14. Paragraph (b) of subsection (4) of section 339.2816, Florida Statutes, is amended to read:

339.2816 Small County Road Assistance Program.—

(4)

(b) In determining a county's eligibility for assistance under this program, the department may consider:

1. Whether the county has attempted to keep county roads in satisfactory condition, including the amount of local option fuel tax imposed by the county.

2. ~~The department may also consider~~ The extent to which the

county has offered to provide a match of local funds with state funds provided under the program.

At a minimum, small counties shall be eligible only if the county has enacted the maximum rate of the local option fuel tax authorized by s. 336.025(1)(a). A county that adopts or enforces any local government comprehensive plan, land use map, zoning district, land development regulation, ordinance, or order that has the effect of prohibiting or unduly regulating or restricting the extraction of construction aggregate materials, as defined in s. 337.0261, or any associated activities is ineligible for assistance under this program.

Section 15. Subsection (2) and paragraph (b) of subsection (4) of section 339.2818, Florida Statutes, are amended to read:

339.2818 Small County Outreach Program.—

(2) ~~(a)~~ For ~~the~~ purposes of this section, the term "small county" means any county that has a population of 170,000 ~~150,000~~ or less as determined by the most recent official estimate pursuant to s. 186.901.

~~(b) Notwithstanding paragraph (a), for the 2015-2016 fiscal year, for purposes of this section, the term "small county" means any county that has a population of 165,000 or less as determined by the most recent official estimate pursuant to s. 186.901. This paragraph expires July 1, 2016.~~

(4)

(b) In determining a county's eligibility for assistance under this program, the department may consider whether the county has attempted to keep county roads in satisfactory condition, which may be evidenced through an established

248640

pavement management plan. A county that adopts or enforces any local government comprehensive plan, land use map, zoning district, land development regulation, ordinance, or order that has the effect of prohibiting or unduly regulating or restricting the extraction of construction aggregate materials, as defined in s. 337.0261, or any associated activities is ineligible for assistance under the program.

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

And the title is amended as follows:

Delete line 37

and insert:

airport-related leases; amending s. 337.0261, F.S.; requiring local governments to consider information provided by the Department of Transportation regarding the effect that approving or denying certain regulations may have on the cost of construction aggregate materials in the local area, the region, and the state; amending s. 338.155, F.S.;

Delete lines 65 - 70

and insert:

technology; amending s. 339.2816, F.S.; providing certain restrictions for the eligibility of counties to receive assistance under the Small County Road Assistance Program; amending s. 339.2818, F.S.; increasing the population ceiling in the definition of the term "small county" for purposes of the program; deleting an alternative definition of the term "small county" for a specified fiscal year; providing that a

248640

county that adopts or enforces certain restrictions on the extraction of construction aggregate materials is ineligible for assistance under the program; amending s. 339.64, F.S.; requiring the

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/01/2016	.	
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The Committee on Appropriations (Latvala) recommended the following:

Senate Amendment to Amendment (248640) (with title amendment)

Delete lines 28 - 75.

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

And the title is amended as follows:

Delete lines 88 - 101.

915410

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/01/2016	.	
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The Committee on Appropriations (Galvano) recommended the following:

Senate Amendment (with title amendment)

Delete lines 416 - 418
and insert:
Section 13. Paragraph (i) of subsection (6) and paragraph (c) of subsection (7) of section 339.175, Florida Statutes, are amended to read:
339.175 Metropolitan planning organization.—
(6) POWERS, DUTIES, AND RESPONSIBILITIES.—The powers, privileges, and authority of an M.P.O. are those specified in

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this section or incorporated in an interlocal agreement authorized under s. 163.01. Each M.P.O. shall perform all acts required by federal or state laws or rules, now and subsequently applicable, which are necessary to qualify for federal aid. It is the intent of this section that each M.P.O. shall be involved in the planning and programming of transportation facilities, including, but not limited to, airports, intercity and high-speed rail lines, seaports, and intermodal facilities, to the extent permitted by state or federal law.

(i) The Tampa Bay Area Regional Transportation Authority (TBARTA) Metropolitan Planning Organization Chairs Coordinating Committee ~~A chair's coordinating committee~~ is created within the Tampa Bay Area Regional Transportation Authority, composed of the M.P.O.s ~~M.P.O.'s~~ serving Citrus, Hernando, Hillsborough, Manatee, Pasco, Pinellas, Polk, and Sarasota Counties. The authority shall provide administrative support and direction to the committee, and the department and member M.P.O.s shall provide necessary funding to the authority for this purpose. The committee must, at a minimum:

1. Coordinate transportation projects deemed to be regionally significant by the committee.

2. Review the impact of regionally significant land use decisions on the region.

3. Review all proposed regionally significant transportation projects in the respective transportation improvement programs which affect more than one of the M.P.O.s ~~M.P.O.'s~~ represented on the committee.

4. Institute a conflict resolution process to address any conflict that may arise in the planning and programming of such

915410

regionally significant projects.

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

And the title is amended as follows:

Between lines 57 and 58

insert:

creating the Tampa Bay Area Regional Transportation Authority (TBARTA) Metropolitan Planning Organization Chairs Coordinating Committee within the Tampa Bay Area Regional Transportation Authority; providing membership; requiring the authority to provide administrative support and direction to the committee; requiring the department and members to provide certain funding;

657406

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/01/2016	.	
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The Committee on Appropriations (Gaetz) recommended the following:

Senate Amendment (with title amendment)

Between lines 474 and 475
insert:

Section 15. Subsections (1) and (2) of section 339.55, Florida Statutes, are amended to read:

339.55 State-funded infrastructure bank.—

(1) There is created within the Department of Transportation a state-funded infrastructure bank for the purpose of providing loans and credit enhancements to government

units and private entities for use in constructing and improving transportation facilities or ancillary facilities that produce or distribute natural gas or fuel.

(2) The bank may lend capital costs or provide credit enhancements for:

(a) A transportation facility project that is on the State Highway System or that provides for increased mobility on the state's transportation system or provides intermodal connectivity with airports, seaports, rail facilities, and other transportation terminals, pursuant to s. 341.053, for the movement of people and goods.

(b) Projects of the Transportation Regional Incentive Program which are identified pursuant to s. 339.2819(4).

(c)1. Emergency loans for damages incurred to public-use commercial deepwater seaports, public-use airports, and other public-use transit and intermodal facilities that are within an area that is part of an official state declaration of emergency pursuant to chapter 252 and all other applicable laws. Such loans:

a. May not exceed 24 months in duration except in extreme circumstances, for which the Secretary of Transportation may grant up to 36 months upon making written findings specifying the conditions requiring a 36-month term.

b. Require application from the recipient to the department that includes documentation of damage claims filed with the Federal Emergency Management Agency or an applicable insurance carrier and documentation of the recipient's overall financial condition.

c. Are subject to approval by the Secretary of

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Transportation and the Legislative Budget Commission.

2. Loans provided under this paragraph must be repaid upon receipt by the recipient of eligible program funding for damages in accordance with the claims filed with the Federal Emergency Management Agency or an applicable insurance carrier, but no later than the duration of the loan.

(d) Beginning July 1, 2017, applications for the development and construction of natural gas fuel production or distribution facilities used primarily to support the transportation activities at seaports or intermodal facilities may be considered for the loan program by the department. Loans under this paragraph may be used to refinance outstanding debt.

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

And the title is amended as follows:

Delete line 70

and insert:

year; amending s. 339.55, F.S.; revising the purpose of the state-funded infrastructure bank within the department to include constructing and improving ancillary facilities that produce or distribute natural gas or fuel; authorizing the department to consider applications for loans from the bank for development and construction of natural gas fuel production or distribution facilities used primarily to support transportation activities at seaports or intermodal facilities beginning July 1, 2017; authorizing use of such loans to refinance outstanding debt; amending s. 339.64, F.S.; requiring the

194482

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/01/2016	.	
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The Committee on Appropriations (Galvano) recommended the following:

Senate Amendment (with title amendment)

Between lines 494 and 495
insert:

Section 17. Paragraphs (a) and (b) of subsection (2) of section 343.92, Florida Statutes, are amended to read:

343.92 Tampa Bay Area Regional Transportation Authority.—

(2) The governing board of the authority shall consist of 15 voting ~~16~~ members.

(a) ~~There shall be one nonvoting, ex officio member of the~~

194482

~~board who shall be appointed by~~ The secretary of the department shall appoint two advisors to the board ~~but~~ who must be the district secretary for each ~~one~~ of the department districts within the seven-county area of the authority~~, at the discretion of the secretary of the department~~.

(b) The ~~There shall be~~ 15 voting members of the board shall be as follows:

1. The county commissions of Citrus, Hernando, Hillsborough, Pasco, Pinellas, Manatee, and Sarasota Counties shall each appoint one elected official to the board. Members appointed under this subparagraph shall serve 2-year terms with not more than three consecutive terms being served by any person. If a member under this subparagraph leaves elected office, a vacancy exists on the board to be filled as provided in this subparagraph.

2. The West Central Florida M.P.O. Chairs Coordinating Committee shall appoint one member to the board who must be a chair of one of the six metropolitan planning organizations in the region. The member appointed under this subparagraph shall serve a 2-year term with not more than three consecutive terms being served by any person.

3.a. Two members of the board shall be the mayor, or the mayor’s designee, of the largest municipality within the service area of each of the following independent transit agencies or their legislatively created successor agencies: Pinellas Suncoast Transit Authority and Hillsborough Area Regional Transit Authority. The largest municipality is that municipality with the largest population as determined by the most recent United States Decennial Census.

b. Should a mayor choose not to serve, his or her designee must be an elected official selected by the mayor from that largest municipality's city council or city commission. A mayor or his or her designee shall serve a 2-year term with not more than three consecutive terms being served by any person.

c. A designee's term ends if the mayor leaves office for any reason. If a designee leaves elected office on the city council or commission, a vacancy exists on the board to be filled by the mayor of that municipality as provided in sub-subparagraph a.

d. A mayor who has served three consecutive terms on the board must designate an elected official from that largest municipality's city council or city commission to serve on the board for at least one term.

4.a. One membership on the board shall rotate every 2 years between the mayor, or his or her designee, of the largest municipality within Manatee County and the mayor, or his or her designee, of the largest municipality within Sarasota County. The mayor, or his or her designee, from the largest municipality within Manatee County shall serve the first 2-year term. The largest municipality is that municipality with the largest population as determined by the most recent United States Decennial Census.

b. Should a mayor choose not to serve, his or her designee must be an elected official selected by the mayor from that municipality's city council or city commission.

5. The Governor shall appoint to the board four business representatives, each of whom must reside in one of the seven counties governed by the authority, none of whom may be elected

194482

officials, and at least one but not more than two of whom shall represent counties within the federally designated Tampa Bay Transportation Management Area. Members appointed by the Governor shall serve 3-year terms with not more than two consecutive terms being served by any person.

Section 18. Paragraphs (e) and (f) of subsection (3) of section 343.922, Florida Statutes, are amended, and paragraph (g) is added to that subsection, to read:

343.922 Powers and duties.—

(3)

(e) The authority shall present the original master plan and updates to the governing bodies of the counties within the seven-county region, to the Tampa Bay Area Regional Transportation Authority (TBARTA) Metropolitan Planning Organization ~~West Central Florida M.P.O.~~ Chairs Coordinating Committee, and to the legislative delegation members representing those counties within 90 days after adoption.

(f) The authority shall coordinate plans and projects with the TBARTA Metropolitan Planning Organization ~~West Central Florida M.P.O.~~ Chairs Coordinating Committee, to the extent practicable, and participate in the regional M.P.O. planning process to ensure regional comprehension of the authority's mission, goals, and objectives.

(g) The authority shall provide administrative support and direction to the TBARTA Metropolitan Planning Organization Chairs Coordinating Committee as provided in s. 339.175(6)(i).

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

And the title is amended as follows:

194482

Between lines 79 and 80
insert:
amending s. 343.92, F.S.; increasing the members on the governing board of the Tampa Bay Area Regional Transportation Authority; requiring the secretary of the department to appoint two advisors to the board subject to certain requirements, rather than appointing one nonvoting, ex officio member of the board; amending s. 343.922, F.S.; requiring the authority to present a certain master plan and updates to, and coordinate projects and plans with, the Tampa Bay Area Regional Transportation Authority (TBARTA) Metropolitan Planning Organization Chairs Coordinating Committee, rather than the West Central Florida M.P.O. Chairs Coordinating Committee; requiring the authority to provide certain administrative support and direction to the TBARTA Metropolitan Planning Organization Chairs Coordinating Committee;

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/01/2016	.	
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The Committee on Appropriations (Galvano) recommended the following:

Senate Amendment to Amendment (194482)

Delete line 94
and insert:
Chairs Coordinating Committee.

385476

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/01/2016	.	
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The Committee on Appropriations (Richter) recommended the following:

Senate Amendment (with title amendment)

Between lines 515 and 516
insert:

Section 18. Subsection (20) is added to section 479.16, Florida Statutes, to read:

479.16 Signs for which permits are not required.—The following signs are exempt from the requirement that a permit for a sign be obtained under this chapter but are required to comply with s. 479.11(4)-(8), and ~~the provisions of~~ subsections

385476

(15)-(20) ~~(15)-(19)~~ may not be implemented or continued if the Federal Government notifies the department that implementation or continuation will adversely affect the allocation of federal funds to the department:

(20) Signs that are located within the controlled area of a federal-aid primary highway but which are on a parcel adjacent to an off-ramp to the termination point of a turnpike system, if there is no directional decision to be made by a driver, the signs are primarily facing the off-ramp, and the signs have been in existence since at least 1995.

If the exemptions in subsections (15)-(20) ~~(15)-(19)~~ are not implemented or continued due to notification from the Federal Government that the allocation of federal funds to the department will be adversely impacted, the department shall provide notice to the sign owner that the sign must be removed within 30 days after receipt of the notice. If the sign is not removed within 30 days after receipt of the notice by the sign owner, the department may remove the sign, and the costs incurred in connection with the sign removal shall be assessed against and collected from the sign owner.

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

And the title is amended as follows:

Between lines 83 and 84

insert:

amending s. 479.16, F.S.; exempting certain signs from a specified permit, subject to certain requirements and restrictions;

110946

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/01/2016	.	
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The Committee on Appropriations (Hays) recommended the following:

Senate Amendment (with title amendment)

Between lines 154 and 155
insert:

Section 4. Paragraph (a) of subsection (2) of section 316.0776, Florida Statutes, is amended to read:

316.0776 Traffic infraction detectors; placement and installation.—

(2)(a) If the department, county, or municipality installs a traffic infraction detector at an intersection, the

110946

department, county, or municipality shall notify the public that a traffic infraction device may be in use at that intersection and must specifically include notification of camera enforcement of violations concerning right turns. A citation may not be issued to a motorist unless the signage notifying the public of the presence of the traffic infraction detector meets ~~Such signage used to notify the public must meet~~ the following specifications: ~~for uniform signals and devices adopted by the Department of Transportation pursuant to s. 316.0745.~~

1. Is 3 feet wide and 2 feet tall and displays visible, prominent letters stating "Photo Enforced"; and

2. Is installed at an intersection with a traffic infraction detector on or before November 30, 2016. The signage must be prominently displayed over the intersection and be clearly visible to drivers in both directions. The traffic infraction detector company is responsible for any costs associated with the manufacture and installation of such signage.

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

And the title is amended as follows:

Delete line 16

and insert:

department; amending s. 316.0776, F.S.; prohibiting citations from being issued to motorists unless traffic infraction detector notification signage meets certain requirements and is installed at an intersection with a traffic infraction detector by a certain date; requiring that the traffic infraction

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detector company be responsible for certain costs of the signage; amending s. 316.303, F.S.; revising the


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576-03712-16

Proposed Committee Substitute by the Committee on Appropriations (Appropriations Subcommittee on Transportation, Tourism, and Economic Development)

A bill to be entitled

An act relating to transportation; amending s. 316.003, F.S.; defining the term "driver-assistive truck platooning technology; directing the Department of Transportation to study the operation of driver-assistive truck platooning technology; authorizing the department to conduct a pilot project to test such operation; providing security requirements; requiring a report to the Governor and Legislature; amending s. 316.0745, F.S.; revising the circumstances under which the Department of Transportation is authorized to direct the removal of certain traffic control devices; requiring the public agency erecting or installing such a device to bring it into compliance with certain requirements or remove it upon the direction of the department; amending s. 316.303, F.S.; revising the prohibition from operating, under certain circumstances, a motor vehicle that is equipped with television-type receiving equipment; providing exceptions to the prohibition against displaying moving television broadcast or pre-recorded video entertainment content in vehicles; amending s. 316.85, F.S.; revising the circumstances under which a licensed driver is authorized to operate an autonomous vehicle in autonomous mode; amending s. 316.86, F.S.; deleting a provision authorizing the operation of


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vehicles equipped with autonomous technology on roads in this state for testing purposes by certain persons or research organizations; deleting a requirement that a human operator be present in an autonomous vehicle for testing purposes; deleting certain financial responsibility requirements for entities performing such testing; amending s. 319.145, F.S.; revising provisions relating to required equipment and operation of autonomous vehicles; amending s. 332.08, F.S.; extending the authorized term of certain airport-related leases; amending s. 338.155, F.S.; requiring a toll facility to ensure the presence of signage notifying drivers if cash payment is not an option; amending s. 338.165, F.S.; deleting an authorization to issue certain bonds secured by toll revenues collected on the Beeline-East Expressway, the Navarre Bridge, and the Pinellas Bayway; authorizing the department's Pinellas Bayway System to be transferred by the department and become part of the turnpike system under the Florida Turnpike Enterprise Law; providing applicability; requiring the department to transfer certain funds to the Florida Turnpike Enterprise for certain purposes; repealing ch. 85-364, Laws of Florida, as amended, relating to the Pinellas Bayway; amending s. 338.231, F.S.; increasing the number of years before an inactive prepaid toll account shall be presumed unclaimed; deleting provisions relating to the use of revenues from the turnpike system to pay the principal and interest of a

specified series of bonds and certain expenses of the Sawgrass Expressway; amending s. 339.175, F.S.; requiring certain long-range transportation plans to include assessment of capital investment and other measures necessary to make the most efficient use of existing transportation facilities to improve safety; requiring the assessments to include consideration of infrastructure and technological improvements necessary to accommodate advances in vehicle technology; amending s. 339.2818, F.S.; increasing the population ceiling in the definition of the term "small county" for purposes of the Small County Outreach Program; deleting an alternative definition of the term "small county" for a specified fiscal year; amending s. 339.64, F.S.; requiring the department to coordinate with certain partners and industry representatives to consider infrastructure and technological improvements necessary to accommodate advances in vehicle technology in Strategic Intermodal System facilities; requiring the Strategic Intermodal System Plan to include a needs assessment regarding such infrastructure and technological improvements; repealing s. 341.0532, F.S., relating to statewide transportation corridors; amending s. 348.565, F.S.; expanding the list of projects of the Tampa-Hillsborough County Expressway Authority which are approved to be financed or refinanced by the issuance of certain revenue bonds; providing an effective date.

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

Section 1. Present subsections (91), (92), and (93) of section 316.003, Florida Statutes, are redesignated as subsections (92), (93), and (94), respectively, and a new subsection (91) is added to that section to read:

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

(91) DRIVER-ASSISTIVE TRUCK PLATOONING TECHNOLOGY.—Vehicle automation and safety technology that integrates sensor array, wireless vehicle-to-vehicle communications, active safety systems, and specialized software to link safety systems and synchronize acceleration and braking between two vehicles while leaving each vehicle's steering control and systems command in the control of the vehicle's driver in compliance with the National Highway Traffic Safety Administration rules regarding vehicle-to-vehicle platooning.

Section 2. The Department of Transportation, in consultation with the Department of Highway Safety and Motor Vehicles, shall study the use and safe operation of driver-assistive truck platooning technology, as defined in s. 316.003, Florida Statutes, for the purpose of developing a pilot project to test vehicles that are equipped to operate using driver-assistive truck platooning technology.

(1) Upon conclusion of the study, the Department of Transportation, in consultation with the Department of Highway

Safety and Motor Vehicles, may conduct a pilot project to test the use and safe operation of vehicles equipped with driver-assistive truck platooning technology.

(2) Notwithstanding ss. 316.0895 and 316.303, Florida Statutes, the Department of Transportation may conduct the pilot project in such a manner and at such locations as determined by the Department of Transportation based on the study.

(3) Before the start of the pilot project, manufacturers of driver-assistive truck platooning technology being tested in the pilot project must submit to the Department of Highway Safety and Motor Vehicles an instrument of insurance, surety bond, or proof of self-insurance acceptable to the department in the amount of $5 million.

(4) Upon conclusion of the pilot project, the Department of Transportation, in consultation with the Department of Highway Safety and Motor Vehicles, shall submit the results of the study and any findings or recommendations from the pilot project to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

Section 3. Subsection (7) of section 316.0745, Florida Statutes, is amended to read:

316.0745 Uniform signals and devices.—

(7) The Department of Transportation may, upon receipt and investigation of reported noncompliance and ~~is authorized,~~ after hearing pursuant to 14 days' notice, ~~to~~ direct the removal of any purported traffic control device that fails to meet the requirements of this section, wherever the device is located and without regard to assigned responsibility under s. 316.1895 ~~which fails to meet the requirements of this section~~. The public

agency erecting or installing the same shall immediately bring it into compliance with the requirements of this section or remove said device or signal upon the direction of the Department of Transportation and may not, for a period of 5 years, install any replacement or new traffic control devices paid for in part or in full with revenues raised by the state unless written prior approval is received from the Department of Transportation. Any additional violation by a public body or official shall be cause for the withholding of state funds for traffic control purposes until such public body or official demonstrates to the Department of Transportation that it is complying with this section.

Section 4. Subsections (1) and (3) of section 316.303, Florida Statutes, are amended to read:

316.303 Television receivers.—

(1) No motor vehicle may be operated on the highways of this state if the vehicle is actively displaying moving television broadcast or pre-recorded video entertainment content that is ~~shall be equipped with television-type receiving equipment so located that the viewer or screen is~~ visible from the driver's seat while the vehicle is in motion, unless the vehicle is equipped with autonomous technology, as defined in s. 316.003(90), and is being operated in autonomous mode, as provided in s. 316.85(2).

(3) This section does not prohibit the use of an electronic display used in conjunction with a vehicle navigation system; an electronic display used by an operator of a vehicle equipped with autonomous technology, as defined in s. 316.003; or an electronic display used by an operator of a vehicle equipped and

operating with driver-assistive truck platooning technology, as defined in s. 316.003.

Section 5. Subsection (1) of section 316.85, Florida Statutes, is amended to read:

316.85 Autonomous vehicles; operation.—

(1) A person who possesses a valid driver license may operate an autonomous vehicle in autonomous mode on roads in this state if the vehicle is equipped with autonomous technology, as defined in s. 316.003.

Section 6. Section 316.86, Florida Statutes, is amended to read:

316.86 ~~Operation of vehicles equipped with autonomous technology on roads for testing purposes; financial responsibility;~~ Exemption from liability for manufacturer when third party converts vehicle.—

~~(1) Vehicles equipped with autonomous technology may be operated on roads in this state by employees, contractors, or other persons designated by manufacturers of autonomous technology, or by research organizations associated with accredited educational institutions, for the purpose of testing the technology. For testing purposes, a human operator shall be present in the autonomous vehicle such that he or she has the ability to monitor the vehicle's performance and intervene, if necessary, unless the vehicle is being tested or demonstrated on a closed course. Before the start of testing in this state, the entity performing the testing must submit to the department an instrument of insurance, surety bond, or proof of self-insurance acceptable to the department in the amount of $5 million.~~

~~(2)~~ The original manufacturer of a vehicle converted by a

third party into an autonomous vehicle is ~~shall~~ not ~~be~~ liable in, and shall have a defense to and be dismissed from, any legal action brought against the original manufacturer by any person injured due to an alleged vehicle defect caused by the conversion of the vehicle, or by equipment installed by the converter, unless the alleged defect was present in the vehicle as originally manufactured.

Section 7. Subsection (1) of section 319.145, Florida Statutes, is amended to read:

319.145 Autonomous vehicles.—

(1) An autonomous vehicle registered in this state must continue to meet applicable federal standards and regulations for such ~~a~~ motor vehicle. The vehicle must ~~shall~~:

(a) Have a system to safely alert the operator if an autonomous technology failure is detected while the autonomous technology is engaged. When an alert is given, the system must:

1. Require the operator to take control of the autonomous vehicle; or

2. If the operator does not, or is not able to, take control of the autonomous vehicle, be capable of bringing the vehicle to a complete stop ~~Have a means to engage and disengage the autonomous technology which is easily accessible to the operator~~.

(b) Have a means, inside the vehicle, to visually indicate when the vehicle is operating in autonomous mode.

~~(c) Have a means to alert the operator of the vehicle if a technology failure affecting the ability of the vehicle to safely operate autonomously is detected while the vehicle is operating autonomously in order to indicate to the operator to~~

576-03712-16

~~take control of the vehicle.~~

(c)~~(d)~~ Be capable of being operated in compliance with the applicable traffic and motor vehicle laws of this state.

Section 8. Paragraph (c) of subsection (1) of section 332.08, Florida Statutes, is amended to read:

332.08 Additional powers.—

(1) In addition to the general powers in ss. 332.01-332.12 conferred and without limitation thereof, a municipality that has established or may hereafter establish airports, restricted landing areas, or other air navigation facilities, or that has acquired or set apart or may hereafter acquire or set apart real property for such purposes, is authorized:

(c) To lease for a term not exceeding 50 ~~30~~ years such airports or other air navigation facilities, or real property acquired or set apart for airport purposes, to private parties, any municipal or state government or the national government, or any department of either thereof, for operation; to lease or assign for a term not exceeding 50 ~~30~~ years to private parties, any municipal or state government or the national government, or any department of either thereof, for operation or use consistent with the purposes of ss. 332.01-332.12, space, area, improvements, or equipment on such airports; to sell any part of such airports, other air navigation facilities, or real property to any municipal or state government, or the United States or any department or instrumentality thereof, for aeronautical purposes or purposes incidental thereto, and to confer the privileges of concessions of supplying upon its airports goods, commodities, things, services, and facilities; provided, that in each case in so doing the public is not deprived of its rightful

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equal and uniform use thereof.

Section 9. Section 338.155, Florida Statutes, is amended to read:

338.155 Payment of toll on toll facilities required; exemptions; signage required.—

(1) A person may not use any toll facility without payment of tolls, except employees of the agency operating the toll project when using the toll facility on official state business, state military personnel while on official military business, handicapped persons as provided in this section, persons exempt from toll payment by the authorizing resolution for bonds issued to finance the facility, and persons exempt on a temporary basis where use of such toll facility is required as a detour route. Any law enforcement officer operating a marked official vehicle is exempt from toll payment when on official law enforcement business. Any person operating a fire vehicle when on official business or a rescue vehicle when on official business is exempt from toll payment. Any person participating in the funeral procession of a law enforcement officer or firefighter killed in the line of duty is exempt from toll payment. The secretary or the secretary's designee may suspend the payment of tolls on a toll facility when necessary to assist in emergency evacuation. The failure to pay a prescribed toll constitutes a noncriminal traffic infraction, punishable as a moving violation as provided in s. 318.18. The department may adopt rules relating to the payment, collection, and enforcement of tolls, as authorized in this chapter and chapters 316, 318, 320, and 322, including, but not limited to, rules for the implementation of video or other image billing and variable pricing. With respect to toll

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facilities managed by the department, the revenues of which are not pledged to repayment of bonds, the department may by rule allow the use of such facilities by public transit vehicles or by vehicles participating in a funeral procession for an active-duty military service member without the payment of tolls.

(2) Any person driving an automobile or other vehicle belonging to the Department of Military Affairs used for transporting military personnel, stores, and property, when properly identified, shall, together with any such conveyance and military personnel and property of the state in his or her charge, be allowed to pass free through all tollgates and over all toll bridges and ferries in this state.

(3) Any handicapped person who has a valid driver license, who operates a vehicle specially equipped for use by the handicapped, and who is certified by a physician licensed under chapter 458 or chapter 459 or by comparable licensing in another state or by the Adjudication Office of the United States Department of Veterans Affairs or its predecessor as being severely physically disabled and having permanent upper limb mobility or dexterity impairments which substantially impair the person's ability to deposit coins in toll baskets, shall be allowed to pass free through all tollgates and over all toll bridges and ferries in this state. A person who meets the requirements of this subsection shall, upon application, be issued a vehicle window sticker by the Department of Transportation.

(4) A copy of this section shall be posted at each toll bridge and on each ferry.

(5) The Department of Transportation shall provide

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envelopes for voluntary payments of tolls by those persons exempted from the payment of tolls pursuant to this section. The department shall accept any voluntary payments made by exempt persons.

(6) Personal identifying information held by the Department of Transportation, a county, a municipality, or an expressway authority for the purpose of paying, prepaying, or collecting tolls and associated administrative charges due for the use of toll facilities is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the Department of Transportation, a county, a municipality, or an expressway authority before, on, or after the effective date of the exemption. This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2019, unless reviewed and saved from repeal through reenactment by the Legislature.

(7) A toll facility must ensure the presence of signage notifying drivers if cash payment of the applicable toll at such facility is not an available option.

Section 10. Subsection (4) of section 338.165, Florida Statutes, is amended, and subsection (11) is added to that section, to read:

338.165 Continuation of tolls.—

(4) Notwithstanding any other law to the contrary, pursuant to s. 11, Art. VII of the State Constitution, and subject to the requirements of subsection (2), the Department of Transportation may request the Division of Bond Finance to issue bonds secured by toll revenues collected on the Alligator Alley and~~,~~ the

Sunshine Skyway Bridge~~, the Beeline-East Expressway, the Navarre Bridge, and the Pinellas Bayway~~ to fund transportation projects located within the county or counties in which the project is located and contained in the adopted work program of the department.

(11) The department's Pinellas Bayway System may be transferred by the department and become part of the turnpike system under the Florida Turnpike Enterprise Law. The transfer does not affect the rights of the parties, or their successors in interest, under the settlement agreement and final judgment in *Leonard Lee Ratner, Esther Ratner, and Leeco Gas and Oil Co. v. State Road Department of the State of Florida*, No. 67-1081 (Fla. 2nd Cir. Ct. 1968). Upon transfer of the Pinellas Bayway System to the turnpike system, the department shall also transfer to the Florida Turnpike Enterprise the funds deposited in the reserve account established by chapter 85-364, Laws of Florida, as amended by chapters 95-382 and 2014-223, Laws of Florida, which funds shall be used by the Florida Turnpike Enterprise solely to help fund the costs of repair or replacement of the transferred facilities.

Section 11. Chapter 85-364, Laws of Florida, as amended by chapter 95-382 and section 48 of chapter 2014-223, Laws of Florida, is repealed.

Section 12. Paragraph (c) of subsection (3) and subsections (5) and (6) of section 338.231, Florida Statutes, are amended to read:

338.231 Turnpike tolls, fixing; pledge of tolls and other revenues.—The department shall at all times fix, adjust, charge, and collect such tolls and amounts for the use of the turnpike

system as are required in order to provide a fund sufficient with other revenues of the turnpike system to pay the cost of maintaining, improving, repairing, and operating such turnpike system; to pay the principal of and interest on all bonds issued to finance or refinance any portion of the turnpike system as the same become due and payable; and to create reserves for all such purposes.

(3)

(c) Notwithstanding any other ~~provision of~~ law to the contrary, any prepaid toll account of any kind which has remained inactive for 10 ~~3~~ years shall be presumed unclaimed and its disposition shall be handled by the Department of Financial Services in accordance with all applicable provisions of chapter 717 relating to the disposition of unclaimed property, and the prepaid toll account shall be closed by the department.

~~(5) In each fiscal year while any of the bonds of the Broward County Expressway Authority series 1984 and series 1986-A remain outstanding, the department is authorized to pledge revenues from the turnpike system to the payment of principal and interest of such series of bonds and the operation and maintenance expenses of the Sawgrass Expressway, to the extent gross toll revenues of the Sawgrass Expressway are insufficient to make such payments. The terms of an agreement relative to the pledge of turnpike system revenue will be negotiated with the parties of the 1984 and 1986 Broward County Expressway Authority lease purchase agreements, and subject to the covenants of those agreements. The agreement must establish that the Sawgrass Expressway is subject to the planning, management, and operating control of the department limited only by the terms of the~~

~~lease-purchase agreements. The department shall provide for the payment of operation and maintenance expenses of the Sawgrass Expressway until such agreement is in effect. This pledge of turnpike system revenues is subordinate to the debt service requirements of any future issue of turnpike bonds, the payment of turnpike system operation and maintenance expenses, and subject to any subsequent resolution or trust indenture relating to the issuance of such turnpike bonds.~~

(5) ~~(6)~~ The use and disposition of revenues pledged to bonds are subject to ss. 338.22-338.241 and such regulations as the resolution authorizing the issuance of the bonds or such trust agreement may provide.

Section 13. Paragraph (c) of subsection (7) of section 339.175, Florida Statutes, is amended to read:

339.175 Metropolitan planning organization.—

(7) LONG-RANGE TRANSPORTATION PLAN.—Each M.P.O. must develop a long-range transportation plan that addresses at least a 20-year planning horizon. The plan must include both long-range and short-range strategies and must comply with all other state and federal requirements. The prevailing principles to be considered in the long-range transportation plan are: preserving the existing transportation infrastructure; enhancing Florida's economic competitiveness; and improving travel choices to ensure mobility. The long-range transportation plan must be consistent, to the maximum extent feasible, with future land use elements and the goals, objectives, and policies of the approved local government comprehensive plans of the units of local government located within the jurisdiction of the M.P.O. Each M.P.O. is encouraged to consider strategies that integrate transportation

and land use planning to provide for sustainable development and reduce greenhouse gas emissions. The approved long-range transportation plan must be considered by local governments in the development of the transportation elements in local government comprehensive plans and any amendments thereto. The long-range transportation plan must, at a minimum:

(c) Assess capital investment and other measures necessary to:

1. Ensure the preservation of the existing metropolitan transportation system including requirements for the operation, resurfacing, restoration, and rehabilitation of major roadways and requirements for the operation, maintenance, modernization, and rehabilitation of public transportation facilities; and

2. Make the most efficient use of existing transportation facilities to relieve vehicular congestion, improve safety, and maximize the mobility of people and goods. Such efforts must include, but are not limited to, consideration of infrastructure and technological improvements necessary to accommodate advances in vehicle technology, such as autonomous technology and other developments.

In the development of its long-range transportation plan, each M.P.O. must provide the public, affected public agencies, representatives of transportation agency employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transit, and other interested parties with a reasonable opportunity to comment on the long-range transportation plan. The long-range transportation plan must be approved by the

M.P.O.

Section 14. Subsection (2) of section 339.2818, Florida Statutes, is amended to read:

339.2818 Small County Outreach Program.—

(2) ~~(a)~~ For the purposes of this section, the term "small county" means any county that has a population of 170,000 ~~150,000~~ or less as determined by the most recent official estimate pursuant to s. 186.901.

~~(b) Notwithstanding paragraph (a), for the 2015-2016 fiscal year, for purposes of this section, the term "small county" means any county that has a population of 165,000 or less as determined by the most recent official estimate pursuant to s. 186.901. This paragraph expires July 1, 2016.~~

Section 15. Paragraph (c) is added to subsection (3) of section 339.64, Florida Statutes, and paragraph (a) of subsection (4) of that section is amended, to read:

339.64 Strategic Intermodal System Plan.—

(3)

(c) The department shall coordinate with federal, regional, and local partners, as well as industry representatives, to consider infrastructure and technological improvements necessary to accommodate advances in vehicle technology, such as autonomous technology and other developments, in Strategic Intermodal System facilities.

(4) The Strategic Intermodal System Plan shall include the following:

(a) A needs assessment that must include, but is not limited to, consideration of infrastructure and technological improvements necessary to accommodate advances in vehicle

technology, such as autonomous technology and other developments.

Section 16. Section 341.0532, Florida Statutes, is repealed.

Section 17. Subsection (3) of section 348.565, Florida Statutes, is amended, and subsection (5) is added to that section, to read:

348.565 Revenue bonds for specified projects.—The existing facilities that constitute the Tampa-Hillsborough County Expressway System are hereby approved to be refinanced by revenue bonds issued by the Division of Bond Finance of the State Board of Administration pursuant to s. 11(f), Art. VII of the State Constitution and the State Bond Act or by revenue bonds issued by the authority pursuant to s. 348.56(1)(b). In addition, the following projects of the Tampa-Hillsborough County Expressway Authority are approved to be financed or refinanced by the issuance of revenue bonds in accordance with this part and s. 11(f), Art. VII of the State Constitution:

(3) Lee Roy Selmon Crosstown Expressway System widening, and any extensions thereof.

(5) Capital projects that the authority is authorized to acquire, construct, reconstruct, equip, operate, and maintain pursuant to this part, including, without limitation, s. 348.54(15), provided that any financing of such projects does not pledge the full faith and credit of the state.

Section 18. This act shall take effect July 1, 2016.

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 Appropriations Committee

BILL:	CS/CS/SB 1392
INTRODUCER:	Appropriations Committee (Recommended by Appropriations Subcommittee on Transportation, Tourism, and Economic Development); Transportation Committee; and Senator Brandes
SUBJECT:	Transportation
DATE:	March 1, 2016
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Eichin	TR	**Fav/CS**
2.	Sneed	Miller	ATD	**Recommend: Fav/CS**
3.	Sneed	Kynoch	AP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1392 includes a number of transportation-related provisions. Specifically, the bill:

- Authorizes the transfer of the Florida Department of Transportation's (FDOT) Pinellas Bayway System to become part of the turnpike system and, in such event, also requires the transfer of certain funds to be used to help fund the costs of repair and replacement of the transferred facilities.
- Establishes the Seaport Security Advisory Committee within the Florida Seaport Transportation and Economic Development Council and establishes a Seaport Security Grant Program, subject to specific appropriation.
- Clarifies the FDOT's authority with respect to noncompliant traffic and pedestrian control devices.
- Revises specifications for bus deceleration lighting systems.
- Expands the authority of a chartered municipal parking enforcement specialist to enforce state, county, and municipal parking laws and ordinances under specified circumstances.
- Revises the definition of the term "port vehicles and equipment."
- Extends the authorized term of certain airport-related leases.
- Requires the FDOT to install roadside barriers to shield water bodies contiguous with state roads where a death due to drowning resulted from a crash between July 1, 2006, and July 1, 2016.

- Revises conditions under which the FDOT may waive a required surety bond relating to contracts for construction or maintenance.
- Requires local governments to consider information provided by the FDOT regarding the effect that approving or denying certain land use changes, regulations, or orders may have on the cost of construction aggregate materials in the local area, region, and state.
- Increases from three years to ten years the period after which a dormant prepaid toll account is presumed unclaimed.
- Increases the population ceiling in the definition of "small county" for purposes of the Small County Outreach Program.
- Expands the list of project types that the Tampa-Hillsborough County Expressway Authority is approved to finance with certain revenue bonds.
- Repeals obsolete bond language relating to the already-repealed Broward County Expressway Authority.
- Revises the purpose of the state-funded infrastructure bank within the FDOT to include constructing and improving ancillary facilities that produce or distribute natural gas fuel; authorizes the FDOT to consider applications for loans from the bank for development and construction of certain natural gas fuel production or distribution facilities beginning July 1, 2017; and authorizes such loans to be used to refinance outstanding debt.
- Provides an exemption from permitting for certain outdoor advertising signs in place since 1995.
- Makes several statutory changes specific to the operation and regulation of autonomous vehicles, including:
  - Clarifies that the authorization for a person holding a valid driver license to operate an autonomous vehicle applies on the public roads of this state.
  - Revises provisions regarding the operation of autonomous vehicles on roads for testing purposes.
  - Revises equipment requirements for autonomous vehicles, requiring a system to alert an operator of a technology failure and to take control, or to stop the vehicle under certain conditions.
  - Provides an exemption from required minimum following distance, and from a prohibition on certain television-type equipment visible from a driver's seat, to users of driver-assistive truck platooning technology, as defined in the bill.
  - Requires metropolitan planning organizations to accommodate advances in vehicle technology when developing long-range transportation plans.
  - Requires the FDOT to accommodate advances in vehicle technology when updating the Strategic Intermodal System (SIS) Plan.
  - Authorizes television-type receiving equipment visible from the driver's seat if the vehicle is equipped with the autonomous technology and operated in autonomous mode.
  - Defines the term "Driver-Assistive Truck Platooning";
  - Requires the FDOT to study, in consultation with the Florida Department of Highway Safety and Motor Vehicles (DHSMV), the use and safe operation of driver assistive truck platooning technology, and authorizes a pilot project to test vehicles equipped with such technology;
  - Requires manufacturers to provide certain insurance or security acceptable to the DHSMV before the start of the pilot project.

- Provides an exemption from required minimum following distance, and from a prohibition on certain television-type equipment visible from a driver's seat, for purposes of the driver-assistive truck platooning technology pilot program.

This bill has potential economic benefits for the private sector. The waiver of certain surety bond requirements for certain construction or maintenance contracts may create contractual opportunities for qualifying businesses. The impacts of operating autonomous vehicles and the use of driver-assistive truck platooning technology are unknown at this time; however, positive economic benefits are expected in terms of improved safety and mobility, and cost and travel-time savings. Further, while the transfer of the Pinellas Bayway System to the Florida Turnpike Enterprise may not have an immediate impact, the construction of the replacement bridge over Boca Ciega Bay on SR 679 is expected to result in more efficient travel for motorists. The repeal of the $50 annual pass is expected to have an insignificant fiscal impact on the private sector who will now be required to pay tolls at all Bayway System toll collection points.

Several provisions in the bill have an indeterminate fiscal impact on state government. According to the FDOT, the installation of roadside barriers on state roads at specific crash sites is projected to cost at least $2.4 million. While the transfer of ownership of the Pinellas Bayway System occurs without the expenditure of any funds, the method by which the replacement of the bridge over Boca Ciega Bay is funded or financed is unknown. Increasing the population ceiling in the Small County Outreach Program allows Charlotte, Martin, and Santa Rosa Counties to be eligible to participate in the program and compete for program funding. The Tampa-Hillsborough County Expressway Authority bonding provisions have no immediate fiscal impact; however, the potential impact of future bond financing is unknown.

The bill takes effect on July 1, 2016.

II. Present Situation:

Due to the disparate issues in the bill, the present situation for each section is discussed below in conjunction with the Effect of Proposed Changes.

III. Effect of Proposed Changes:

Pinellas Bayway System (Sections 17 and 18)

Present Situation

The Pinellas Bayway System, currently owned by the Florida Department of Transportation (FDOT), is a tolled system of bridges and causeways that provides an east-west link between St. Petersburg and St. Petersburg Beach via State Road 682. Tolls on the Pinellas Bayway System are collected by the Florida Turnpike Enterprise.[1] The system also serves Tierra Verde and Fort De Soto Park to the south via State Road 679. One of the bridges on State Road 679 over Boca Ciega Bay was classified as structurally deficient in 2013. "Structurally deficient," according to

[1] *See* the Florida Transportation Commission's *Transportation Authority Monitoring and Oversight Fiscal year 2014 Report*, at p. 95: http://www.ftc.state.fl.us/reports/TAMO.shtm. Last visited January 21, 2016.

the FDOT, "means that a bridge has to be repaired or replaced within six years." The term does not mean that a bridge is unsafe.[2]

FDOT's policy is to replace a structurally deficient bridge within six years of the deficient classification.[3, 4] The scope of the work for the bridge over Boca Ciega Bay is to replace the existing movable bridge with a high-level fixed bridge through a design-build contract, at a proposed cost of $52.1 million.[5] However, no funds for replacement of the bridge are currently included in the FDOT District work program. The FDOT advises that the balance of an existing reserve construction account for the Pinellas Bayway System improvements as of December 31, 2015, was $7,326,346.13.[6]

Bayway System Construction and Tolls

In 1968, the predecessor of the FDOT entered into a settlement agreement in *Leonard Lee Ratner, Esther Ratner, and LEECO Gas and Oil Co., vs. State Road Department of the State of Florida*.[7] In the settlement agreement, the State Road Department agreed that owners and residents of real property in the Bayway Isles Development would have the right to purchase an annual pass through the toll gate at the easterly terminus of the Bayway system in St. Petersburg for $15 per vehicle. That agreement remains in place.

Chapter 85-364, L.O.F., required a toll of $.50, following completion of widening to four lanes from the eastern toll booth to State Road 679, at the eastern and western toll plazas on State Road 682. The FDOT was required, after payment of annual operating costs and discharge of bond indebtedness, to establish a reserve construction account to be used for widening to four lanes State Road 682 from State Road 679 west to Gulf Boulevard. Continued collection of tolls was required upon completion of the widening to reimburse the FDOT for all accrued maintenance costs for the Pinellas Bayway. In addition, ch. 85-364, L.O.F., required the FDOT to allow any person to purchase an annual pass for each motor vehicle they own at a cost of $50 per year which exempts the motor vehicle from any Pinellas Bayway System tolls during its term. Currently the $50 pass remains available.

Chapter 95-382, L.O.F., required tolls collected to first be placed in the construction reserve account, after payment of operating costs and bond indebtedness, to be used for construction of Blind Pass Road, State Road 699 improvements in Pinellas County, *and then* for Phase II of the Pinellas Bayway widening to four lanes of State Road 682 from State Road 679 west to Gulf

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[2] *See* the Bay News 9 article,"*6 Bay area bridges "structurally deficient:*" http://www.baynews9.com/content/news/baynews9/news/article.html/content/news/articles/bn9/2016/1/13/tampa_bay_deficient_.html. Last visited January 21, 2016. *See also* the FDOT's e-mailed response to committee staff questions re Pinellas Bayway dated January 5, 2016. (On file in the Senate Transportation Committee.)

[3] *Id.*

[4] Note that replacement of the old drawbridge on State Road 682 connecting St. Petersburg and St. Petersburg Beach was completed in 2014 at a cost of approximately $41 million. *See* the 10 News article, "*New Pinellas Bayway grand opening Friday*:" http://www.wtsp.com/story/news/traffic/road-warrior/2014/10/16/bayway/17352735/. Last visited January 21, 2016.

[5] *See* the FDOT's e-mailed response to committee staff questions re Pinellas Bayway System dated January 5, 2016. (On file in the Senate Transportation Committee.)

[6] *See* the FDOT email to committee staff dated January 21, 2016. (On file in the Senate Transportation Committee.)

[7] Copy on file in the Senate Transportation Committee.

Boulevard. Tolls continue to be collected to reimburse the FDOT for all accrued maintenance costs.

Section 48 of ch. 2014-223, L.O.F., repealed reference to the Blind Pass Road/State Road 699 improvements and provided that funds in the reserve construction account be used for the widening of State Road 682 from State Road 679 west to Gulf Boulevard. These improvements have been completed. As noted, however, the bridge on State Road 679 over Boca Ciega Bay has been declared structurally deficient.

Currently, for a two-axle vehicle, the toll, other than for those that hold the $15 or the $50 annual pass, is:

- $.53 for SunPass customers and $.75 for cash customers, both westbound at the East Plaza and eastbound at the West Plaza, plus $.53 and $.75, respectively, for each additional axle.
- $.26 for SunPass customers and $.50 for cash customers southbound at the south plaza, plus an additional $.26 and $.50, respectively, for each additional axle.[8]

Effect of Proposed Changes

Section 17 creates s. 338.165(11), F.S., authorizing the FDOT to transfer the Pinellas Bayway System to become part of the turnpike system. The bill also preserves the provisions of the settlement agreement and final judgment by retaining the ability to purchase a $15 annual pass. Additionally, the bill transfers the construction reserve account to the FDOT Turnpike Enterprise when ownership of the system is transferred to the Florida Turnpike Enterprise.

The FDOT advises that the transfer of the system would allow replacement of the structurally deficient bridge over Boca Ciega Bay on SR 679 to be moved up from 2020 to 2017 in the FDOT work program, and funded through a combination of the accrued reserve account revenues and other financing available to the Florida Turnpike.

Section 18 repeals ch. 85-634, L.O.F., as amended by ch. 95-382 and section 48 of ch. 2014-223, L.O.F. The ability of the specified owners and residents to purchase the $15 annual passage through the easterly terminus of the Bayway System will remain in place, pursuant to the 1968 settlement agreement. As a result of the repeal of ch. 85-364, L.O.F., the $50 annual pass authorized in that law would no longer be available for purchase. Current holders of those passes would be required to pay tolls at all of the Bayway toll collection points.

Seaport Security Advisory Committee/Seaport Security Grant Program (Section 1)

Present Situation

The Florida Seaport Transportation and Economic Development (FSTED) Program was created within the FDOT to finance port transportation or port facilities projects that will improve the movement and intermodal transportation of cargo or passengers in commerce and trade and

[8] *See* the Florida Turnpike Toll Calculator, click on "Tampa Area," roll over hot buttons to select the Pinellas Toll Plazas: http://www.floridasturnpike.com/TollCalcV3/index.htm. Last visited January 21, 2016.

support the interests, purposes, and requirements of all 15 public seaports.[9]Section 311.07(2), F.S., currently requires a minimum of $15 million annually to be made available from the State Transportation Trust Fund to fund the FSTED Program.[10, 11]

The FSTED Program is managed by the FSTED Council, which consists of the port director of the state's 15 public seaports or the director's designee, the Secretary of the FDOT or his or her designee, and the Executive Director of the Department of Economic Opportunity (DEO) or his or her designee.[12] The Council evaluates eligible projects[13] and submits an annual list of approved projects, along with a recommended funding level for each project to the FDOT and the DEO. The FDOT and the DEO review the list of approved projects[14] and funding approved by the FDOT and the DEO for projects selected to go forward is included in the FDOT's work program.[15]

Seaport Security

Each seaport is required to adopt and maintain a security plan. The plan must provide for a secure seaport infrastructure that promotes the safety and security of state residents and visitors and the flow of trade and travel.[16] Such plans must be periodically revised based on an ongoing assessment of security risks and reviewed for compliance with federal security regulations,[17] but a seaport may implement security measures that are more stringent, extensive, or supplemental to the federal regulations.[18]

Effect of Proposed Changes

Section 1 creates subsection (5) of s. 311.12, F.S., establishing the Seaport Security Advisory Committee (SSAC) for the purpose of providing a forum for discussion of seaport security issues, including such matters as national and state security strategy and policy, actions required to meet current and future security threats, statewide cooperation on security issues, and security concerns of the state's maritime industry. The SSAC is established under the direction of the FSTED Council with the following members:

- Five or more port security directors appointed by the Council chair. The Council chair must designate one member of the SACC to serve as the SACC chair.

[9]See s. 331.07(1), F.S. The 15 seaports, listed in s. 311.09(1), F.S., are Jacksonville (JaxPort), Port Canaveral, Port Citrus, Port of Fort Pierce, Port of Palm Beach, Port Everglades, Port of Miami, Port Manatee, Port of St. Petersburg, Port of Tampa, Port St. Joe, Port Panama City, Port of Pensacola, Port of Key West, and Port of Fernandina.
[10]*See also* s. 311.09(9), directing the FDOT to include no less than $15 million annually in its legislative budget request for the FSTED Program.
[11] Additional seaport-related funding is provided for specified projects under the Strategic Port Investment Initiative under s. 311.10, F.S. and the Intermodal Logistics Center Infrastructure Support Program under s. 311.101, F.S. Additional debt service funding is also provided under ss. 320.20 and 339.0801, F.S., for seaport-related bonds.
[12] Section 311.09(1), F.S.
[13] Eligible project types are listed in s. 311.07(3)(b), F.S., and funding is limited to the specified port facility or port transportation projects on a 50-50 matching basis per s. 311.07(3)(a), F.S.
[14]*See* s. 311.09(6) and (7), F.S.
[15]*See* s. 311.09(8) and (9), F.S.
[16] Section 311.12(2)(a), F.S.
[17] Section 311.12(2)(b), F.S.
[18] Section 3111.12(1)(a), F.S.

- One designee each from the U.S. Coast Guard and the U.S. Customs and Border Protection, serving as ex officio nonvoting members.
- Two representatives from local law enforcement agencies providing security services at a Florida seaport, serving as ex officio nonvoting members.

The bill provides for meetings at the call of the SSAC chair but requires at least an annual meeting. The bill also provides quorum and voting requirements.

The bill also creates subsection (6) of s. 311.12, F.S., directing the FSTED Council to establish a Seaport Security Grant Program for the purpose of assisting in the implementation of security plans and measures at the state's 15 deepwater seaports. Funds may be used for the purchase of equipment, infrastructure needs, cybersecurity programs, and other security measures identified in a seaport's approved federal security plan. Grant funding is subject to legislative appropriation. Grants may not exceed 75 percent of the total cost of a request The SSAC is charged with reviewing applications for the grant program and making recommendations to the FSTED Council for grant approvals. Lastly, the Council is directed to adopt rules for implementation of this new subsection.

Toll Facilities No Longer Owned by the FDOT (Section 17)

Present Situation

The Beeline-East Expressway (renamed the Beachline East Expressway) became part of the Turnpike Enterprise on July 1, 2012, pursuant to ch. 2012-128, L.O.F.[19] The Navarre Bridge is now county-owned and no longer a state toll facility. The references to each facility in s. 338.165(4), F.S., are now obsolete.

Effect of Proposed Changes

Section 17 amends subsection (4) of s. 338.165, F.S., to remove obsolete references to the Beeline-East Expressway and the Navarre Bridge within the FDOT's authority to request issuance of bonds secured by toll revenues from certain toll facilities, as the expressway and bridge are no longer owned by the FDOT. The reference to the Pinellas Bayway is also removed.

Uniform Traffic Control Devices/School Zones (Section 4)

Present Situation

Section 316.0745, F.S., requires the FDOT to adopt a uniform system of traffic control devices for use on the streets and highways of this state. The FDOT has adopted the Federal Highway Administration's Manual on Uniform Traffic Control Devices (MUTCD) by rule.[20] All official traffic control signals and devices purchased and installed in this state must conform to the MUTCD. [21] An "official traffic control device" includes all signs, signals, markings, and devices, not inconsistent with ch. 316, F.S., placed or erected by authority of a public body or official

[19] *See* s. 338.165(10), F.S.
[20] *See* Rule 14-15.010, F.A.C.
[21] Section 316.0745(3), F.S.

having traffic control jurisdiction for the purpose of regulating, warning, or guiding traffic. An "official traffic control signal" includes any device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.[22]

Similarly, s. 316.1895, F.S., requires the FDOT, pursuant to its authority in s. 316.0745, F.S., to adopt a uniform system of traffic control and pedestrian control devices for use on the streets and highways in the state surrounding all schools, public and private. Each county and municipality in the state is required to install and maintain traffic and pedestrian control devices that conform to the MUTCD.[23] The FDOT is required to maintain school zones located on state-maintained primary or secondary roads. Counties are required to maintain school zones located outside of any municipality and on a county road, and municipalities are required to maintain school zones located within their municipal boundaries.[24]

The FDOT is currently authorized, after a hearing with 14 days' notice, to direct the removal of any purported traffic control device, wherever located, that fails to meet the MUTCD requirements. In such case, the public agency that erected or installed the device must remove it immediately and is prohibited from installing any device paid for with state revenues, for five years unless prior written approval is received from the FDOT. Any additional violation by a public body or official is cause for withholding of state funds for traffic control purposes until the public body or official demonstrates compliance.[25]

According to media reports, disputes have arisen over the FDOT's authority to require compliant school signage that is erected or installed in a municipal school zone.[26]

Effect of Proposed Changes

Section 4 amends s. 316.0745(7), F.S., to clarify the FDOT's authority with respect to uniform signals and devices. The FDOT is authorized, *upon receipt and investigation of reported noncompliance*, and after a hearing with 14 days' notice, to direct the removal of any traffic control device that fails to meet the requirements of that section, wherever the device is located *and without regard to assigned responsibility under s. 316.1895, F.S.* The FDOT may allow the erecting or installing public agency to *immediately bring the device into compliance* or remove the device or signal at the FDOT's direction. The five-year prohibition against installing traffic control devices without the FDOT's written approval, and the penalty for any additional violation, remain unchanged. If the FDOT receives a report of noncompliance, it is authorized to investigate the noncompliance, provide the notice and hearing, and order that a device or signal be made compliant or order the removal of the device or signal, regardless of existing assignment of maintenance responsibility under s. 316.1895, F.S.

[22] Sections 316.003(23) and (24), F.S.
[23] Section 316.1895(1), F.S.
[24] Section 316.0895(3), F.S. "Maintained" is defined to mean the care and maintenance of all school zone signs, markers, and traffic and pedestrian control devices.
[25] Section 316.0745(7), F.S.
[26] *See* the 10 News article, *Is city staff downplaying school zone speed traps?*, available at: http://www.wtsp.com/story/news/investigations/2015/09/29/st-pete-council-not-getting-all-facts-on-school-zone-speed-traps/73049462/. Last visited January 25, 2016.

Additional Lighting on Buses (Section 5)

Present Situation

Section 316.235, F.S., allows buses to have additional lighting on the rear of the bus to indicate it is slowing down, preparing to stop, or is stopped. The deceleration lighting system consists of amber lights mounted horizontally on the back of the bus, which are visible from a distance of not less than 300 feet to the rear in normal sunlight. The lights are permitted to light and flash during deceleration, braking, or idling of the bus.[27]

Effect of Proposed Changes

Section 5 of the bill amends s. 316.235(3)(c)2., F.S., to provide that the bus deceleration lighting system must consist of *two red or* amber lights mounted on the rear of a bus that are no greater than 12 inches apart and no higher than 100 inches from the ground.

Parking Enforcement Specialists (Section 7)

Present Situation

Counties and municipalities are authorized to enforce the traffic laws of the state.[28] A county may employ parking enforcement specialists[29] to enforce all state and county laws, ordinances, regulations, and official signs governing parking within the unincorporated areas of the county by appropriate state or county citation. A specialist may also issue citations for parking in violation of posted signage at parking areas located on property owned or leased by a county, whether or not such areas are within the boundaries of a chartered municipality.[30]

A chartered municipality or its authorized agency or instrumentality may employ parking enforcement specialists[31] to enforce all state, county, and municipal laws and ordinances governing parking within the boundaries of the municipality employing the specialist, by appropriate state, county, or municipal traffic citation.[32] Such specialists are not currently authorized to enforce any laws or ordinances governing parking *outside* the municipality's boundaries.

Effect of Proposed Changes

Section 7 amends s. 316.640(3)(c)2., F.S., to expand the jurisdiction of parking enforcement specialists employed by chartered municipalities. The bill authorizes a specialist employed by a chartered municipality to enforce all state, county, and municipal laws and ordinances governing parking within the boundaries of *the county in which the chartered municipality is located*, pursuant to a memorandum of understanding between the county and the municipality.

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[27] Section 316.235(5), F.S.
[28] Section 316.640, F.S.
[29] Such individuals must first complete a training program established and approved by the Criminal Justice Standards and Training Commission for such specialists in accordance with s. 316.640(2)(c), F.S.
[30] Section 316.640(2)(c)1., F.S.
[31] Again, such individuals must first complete required training. Section 316.640(3)(c)1., F.S.
[32] Section 316.640(3)(c)2., F.S.

Port Vehicles and Equipment/Vehicle Registration (Section 11)

Present Situation

Section 320.525(1), F.S., defines "port vehicles and equipment" to mean trucks, tractors, trailers, truck cranes, top loaders, fork lifts, hostling tractors, chassis, or other vehicles or equipment used for transporting cargo, containers, or other equipment. These vehicles and equipment are exempt from requirements related to motor vehicle registration, the payment of license taxes, and the display of license plates when operated or used within the port facility of any deepwater port listed in s. 403.021(9)(b), F.S.,[33] for the purpose of transporting cargo, containers, or other equipment:

- Between wharves and storage areas or terminals within the port.
- On appropriately signed port roads designated by the FDOT connecting port facilities of a single deepwater port listed in s. 403.021(9)(b), F.S.[34]

Incidental operation of port vehicles or equipment on the roads of this state within the listed port facilities while being operated for the above-described purposes does not deprive such vehicles of the exemption.[35]

Effect of Proposed Changes

Section 11 amends s. 320.525(1), F.S., revising the definition of the term "port vehicles and equipment" to include any motor vehicle being relocated within a port facility or via designated port district road regardless of whether the vehicle is transporting cargo, containers, or other equipment.

Airport and Airport-Related Lease Terms (Section 12)

Present Situation

In addition to certain other powers,[36] a municipality that has or may establish an airport or other air navigation facilities, or that has acquired, set apart, or may acquire or set apart real property for such purposes, is authorized to:

- Lease for a term not exceeding 30 years such airports or other air navigation facilities, or real property, to private parties, any municipal or state government or the national government, or any department of either, for operation.
- Lease or assign for a term not exceeding 30 years, to the same parties, space, area, improvements, or equipment on such airports. [37]

Lease terms reportedly vary, depending on when a lease is negotiated, the size of the tenant's investment, and the useful life of improvements made by a tenant. While there are no set rules,

[33] Listed in that section are the ports of Jacksonville (JaxPort), Tampa, Port Everglades, Miami, Port Canaveral, Ft. Pierce, Palm Beach, Port Manatee, Port St. Joe, Panama City, St. Petersburg, Pensacola, Fernandina, and Key West.
[34] Section 320.525(2)(a) – (c), F.S.
[35] Section 320.525(3), F.S.
[36] *See* ss. 332.01-332.12, F.S.
[37] Section 332.08(1)(c), F.S. A municipality may also confer the privileges of concessions of supplying upon its airports goods, commodities, things, services, and facilities.

and different airports have differing guidelines based upon applicable state and local statutes, it is important to consider that leases that are too long in term may prevent land from being developed in the most advantageous manner. Conversely, a lease term that is too short may prevent the potential tenant from being able to fully amortize their initial investment for the necessary improvements, thus dissuading interested tenants from entering into airport development projects.[38]

The Federal Aviation Administration (FAA) has opined that *most* tenant ground leases of 30 to 35 years are sufficient to retire a tenant's initial financing and provide a reasonable return for the tenant's development of major facilities.[39] However, leases of up to 50 years are allowed.[40] Concern has been raised that the current 30-year limitation is adversely impacting the ability of municipal airports to attract tenants due to the potential inability to fully amortize initial investments.

Effect of Proposed Changes

Section 12 amends s. 332.08(1)(c), F.S., to extend the allowable term of the specified leases from 30 years to 50 years. This revision may facilitate airport development and continued economic health by providing tenant confidence in a reasonable rate of return, thereby increasing the likelihood of tenants who are willing to make investments in municipal airports.

Roadside Barriers (Sections 13 and 14)

Present Situation

Existing FDOT Requirements

No current statutory provision exists relating to guardrail installation along water bodies that are contiguous with state roads. However, the FDOT's 2016 Plans Preparation Manual (PPM)[41] defines "canal hazard" as an open ditch parallel to the roadway for a minimum distance of 1000 feet and with a seasonal water depth in excess of 3 feet for extended periods of time (24 hours or more).[42]

The PPM also addresses "clear zones," which are defined as the amount of recoverable area provided beyond the traveled way, and which include shoulders and bike lanes. A clear zone is intended to provide "an opportunity for an errant vehicle to safely recover." The PPM generally

[38] *See* the Airport Cooperative Research Program Report 47, *Guidebook for Developing and Leasing Airport Property*, at p. 17. (On file in the Senate Transportation Committee.)
[39] *See* the FAA Airport Compliance Manual, Order 5190.6B, Chapter 12, 12.3.b.(3), available at: http://www.faa.gov/airports/resources/publications/orders/compliance_5190_6/. Last visited January 27, 2016.
[40] *Id.*
[41] The PPM recites that it "sets forth geometric and other design criteria, as well as procedures, for Florida Department of Transportation (FDOT) projects. The information contained herein applies to the preparation of contract plans for roadways and structures." *See* the FDOT's website, heading "Introduction": http://www.dot.state.fl.us/rddesign/PPMManual/2016PPM.shtm. Last visited January 13, 2016.
[42] *See* the FDOT's website, heading "Chapter 4," subheading "4.3.2:" http://www.dot.state.fl.us/rddesign/PPMManual/2016PPM.shtm. Last visited January 13, 2016.

prohibits aboveground fixed objects, water bodies, and non-traversable slopes[43] in the clear zone.[44] The required clear zone is dependent upon the type of roadway facility and the design speed.[45]

The FDOT advises that water bodies greater than three feet deep are treated as roadside hazards and must be outside the clear zone, if possible.[46]

The FDOT's Previous Study and Conclusions

According to the FDOT,[47] the canal hazard criteria contained in the PPM were incorporated following a study conducted between February 2013 and July 2014, based on crash data from 2003 to 2011.[48] The study included cost-benefit analyses of shielding parallel water bodies of various lengths and offset distances from the roadway for selected roadway types and traffic volumes, the findings of which "show that shielding water bodies based on FDOT's current offset clearance requirements in most cases is cost beneficial and/or results in a reduction in societal crash costs."[49]

Further, the PPM provides the following guidance:

> The evaluation of Roadside Safety is highly dependent on site specific conditions and constraints which are unique to a given situation. Therefore the determination as to when shielding is warranted for [a] given roadside feature must be made on a case-by-case basis, and generally requires engineering judgment. It should be noted that the installation of roadside barriers presents a hazard in and of itself, and as such, the designer must analyze whether or not the installation of a barrier presents a greater risk than the feature it is intended to shield.[50]

Application to Water Bodies Other than Canal Hazards

As previously noted, whether the provisions of the PPM applicable to canal hazards, and shielding of such hazards, are also applicable to other water bodies, such as ponds, is unclear. To illustrate, in the evaluation of roadside hazards, the PPM recommends barriers "when hazards exist within the clear zone, hazards cannot be cost effectively eliminated or corrected, and collisions with the hazards are more serious than collisions with the barriers."[51]

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[43] A non-traversable slope is classified as a slope that is rough, obstructed, or slopes steeper than a 1:3 ratio. *Supra* note 4, subheading "4.2.2" and "4.2.3."
[44] *Supra* note 42, subheading "4.2.2" and "4.2.3."
[45] *See* the FDOT's SB 522 bill analysis, July 1, 2016, at p. 2. (On file in the Senate Transportation Committee.)
[46] *Supra* note 44.
[47] *Supra* note 44.
[48] *See* the FDOT documentation, "*A Re-examination of FDOT Criteria for Shielding Canal Hazards."* (On file in the Senate Transportation Committee.) The document reflects an extensive review of the history of the FDOT's design criteria since it was first established in 1965.
[49] *Id.*, at "Task 5 – Benefit Cost Analysis."
[50] *Supra* note 42, subheading "4.4.7."
[51] *Supra* note 42, subheading "4.4.7.1."

When listing conditions within the clear zone that are normally considered more hazardous than a roadside barrier, "canals, ponds, and other bodies of water (*other than parallel ditches*)[52] are included. Thus, it appears that water bodies may exist that do not meet the definition of a canal hazard, defined in part as an "open ditch parallel to the roadway."

Effect of Proposed Changes

Section 13 creates s. 335.085, F.S., requiring the FDOT, by June 30, 2018, to install roadside barriers to shield water bodies contiguous with state roads at locations where a death due to drowning resulted from a motor vehicle accident in which a vehicle departed the adjacent state road between July 1, 2006, and July 1, 2016. This provision appears to require barrier installation, as specified, along water bodies that do not necessarily meet the FDOT's definition of a "canal hazard." However, because crash reports do not always reflect that a death was due to drowning, the FDOT is unable to definitively identify all locations where such deaths occurred during the ten-year time period identified in the bill.

The bill also provides that the barrier installation requirement does not apply to any location at which the FDOT's chief engineer determines, based on engineering principles, that installation of a barrier would increase the risk of injury to motorists traveling on the adjacent

Section 14 requires the FDOT to review all motor vehicle accidents that resulted in death due to drowning in a water body contiguous with a state road which occurred during the same period. The FDOT must use reconciled[53] crash data from the Florida Department of Highway Safety and Motor Vehicles (DHSMV) and submit a report to the President of the Senate and Speaker of the House by January 3, 2017, providing recommendations for any necessary changes to state laws and the FDOT's rules to enhance traffic safety.

Construction Aggregate Material/Local Government Decision-Making (Section 15)

Present Situation

Construction aggregates provide the basic materials needed for concrete, asphalt, and road base.[54] The Legislature has recognized the critical need for an available supply of construction aggregate material and that disruption of the supply could cause a significant detriment to the state's construction industry, transportation system, and overall health, safety, and welfare. Further, mining of such material is recognized as an industry of critical importance to the state and is in the public interest. [55]

[52] Emphasis added.
[53] The process of reconciling involves ensuring the data taken from fatality crash reports and included in the Florida Department of Highway Safety and Motor Vehicles (DHSMV) crash database is accurate. *See* DHSMV email to committee staff, January 20, 2016. On file in the Senate Transportation Committee.
[54] Section 337.0261, F.S., defines "construction aggregate materials" as crushed stone, limestone, dolomite, limerock, shell rock, cemented coquina, sand for use as a component of mortars, concrete, bituminous mixtures, or underdrain filters, and other mined resources providing the basic material for concrete, asphalt, and road base.
[55] Section 337.0261(2), F.S.

Due to the critical nature of aggregate supply, the Legislature has placed certain restrictions on local government with respect to aggregate material. Local governments are prohibited from approving or denying a proposed land use zoning change, comprehensive plan amendment, land use permit, ordinance, or order regarding construction aggregate materials without considering information provided by the FDOT regarding the effect such change, amendment, permit decision, ordinance, or order would have on the availability, transportation and potential extraction of such material. Additionally, local governments are prohibited from imposing a moratorium, or combination of moratoria, of more than 12 months' duration on the mining or extraction of construction aggregate materials. The failure of the FDOT to provide this information is not a basis for delay or invalidation of the local government action.[56]

Effect of Proposed Changes

Section 15 amends s. 337.0261, F.S., to require local governments to also consider information provided by the FDOT regarding the effect that approving or denying an identified zoning change, plan amendment, land use permit, ordinance, or order may have on the *cost* of construction aggregate materials in the local area, the region, and the state.

Surety Bond Waiver/Contracts for Construction or Maintenance (Section 16)

Present Situation

The successful bidder on an FDOT contract for construction or maintenance is generally required to provide a surety bond. The bond must be payable to the FDOT and conditioned for performance of the contract according to the plans and specifications within the time period specified, and for prompt payment of all persons furnishing labor, materials, equipment, and supplies for work provided in the contract. The FDOT is authorized to waive the surety bond requirement under the following circumstances.[57]

- For a project with a contract price of $250,000 or less, the FDOT may waive the bond requirement if it determines the project is of a noncritical nature and nonperformance will not endanger public health, safety, or property.
- For a project with a contract price of $250 million or more, the FDOT may waive the bond requirement in an amount equal to the contract price, accept a surety bond for some portion of the contract price, and require an alternate means of security for the balance of the contract amount not covered by the bond, if the FDOT Secretary determines doing so is in the best interest of the FDOT and will not endanger public health, safety, and welfare.[58]

Effect of Proposed Changes

Section 16 amends s. 337.18(1)(a), F.S., to authorize the FDOT to waive the requirement for all or a portion of a surety bond for the prime contractor that is a qualified nonprofit agency for the blind or other severely handicapped,[59] or for a prime contractor using a subcontractor that is

[56] Section 337.0261(3), F.S.
[57] Section 337.18(1), F.S.
[58] *Id.*
[59] "Other severely handicapped" is defined in s. 413.033(2), F.S., to mean an individual or class of individuals under a physical or mental disability other than blindness, which, according to criteria established by the department, after

such a qualified nonprofit agency. The FDOT may already waive the bond requirement for such contractors upon determining that waiver will not pose a public danger. The revisions allow a waiver of the bond requirement without making such a determination for the specified prime contractors.

Turnpike Dormant Toll Accounts (Section 19)

Present Situation

SunPass is the Florida Turnpike's electronic prepaid tolls program. SunPass is accepted on all Florida toll roads and nearly all toll bridges. The system uses electronic devices, called transponders, which are attached to the inside of a vehicle's windshield. The transponder sends a signal when the vehicle goes through a tolling location, and the toll is deducted from the customer's pre-paid account. The pre-paid accounts may be set up and replenished with a credit card or with cash.[60]

Under current law, any prepaid toll account of any kind which has been inactive for three years is presumed unclaimed. The Department of Financial Services (DFS) is required to process any such inactive account in accordance with applicable provisions of ch. 717, F.S., relating to the disposition of unclaimed property, and the FDOT is directed to close such accounts.[61]

Effect of Proposed Changes

Section 19 amends s. 338.231(3)(c), F.S., to increase the period after which a dormant prepaid toll account is presumed unclaimed from three years to ten years, thereby delaying disposition by the DFS and closing of the account by the FDOT. The FDOT advises:

> [T]he deletion is desired because, with multi-state toll interoperability already implemented, and national toll interoperability mandated by federal law,[62] prepaid customers may live outside Florida and use their Florida prepaid toll account only when vacationing or otherwise visiting the state.
>
> We believe that the affected citizens and businesses would react positively to the proposal as funds on a prepaid toll account continue to be managed by the Department. This provides the customers that have had no activity

consultation with appropriate entities of the state and taking into account the views of nongovernmental entities representing the handicapped, constitutes a substantial handicap to employment and is of such a nature as to prevent the individual under such disability from currently engaging in normal competitive employment.

[60] *See* the SunPass website, *Frequently Asked Questions:* https://www.sunpass.com/faq. Last visited January 25, 2016.

[61] Section 338.231(3)(c), F.S.

[62] The Moving Ahead for Progress in the 21st Century Act (MAP-21) requires implementation of technologies or business practices that provide for the interoperability of electronic toll collection on all Federal-aid highway toll facilities by October 1, 2016. See the FHWA website, *Investment* heading, *Tolling [1512]* subheading: http://www.fhwa.dot.gov/map21/summaryinfo.cfm. Last visited January 25, 2016.

on a prepaid toll account for the 10 year time with continued direct access to the same agency with whom they established the account.[63]

Small County Outreach Program (Section 21)

Present Situation

The Small County Outreach Program (SCOP) is authorized in s. 339.2818, F.S. The purpose of the program is to assist small county governments in repairing or rehabilitating county bridges, paving unpaved roads, addressing road-related drainage improvements, resurfacing or reconstruction of county roads, or construction capacity or safety improvements to county roads. A small county is defined as any county that has a population of 150,000 or less as determined by the most recent official population estimate as determined by the Office of Economic and Demographic Research (EDR).[64] However, for the 2015-2016 fiscal year, a small county is defined as any county with a population of 165,000 or less.[65]

Small counties are eligible to compete for funds designated for projects on county roads. The FDOT provides 75 percent of the cost of the projects funded under this program. Funds paid into the State Transportation Trust Fund pursuant to s. 201.15, F.S., for the purposes of the SCOP are annually appropriated for expenditure to support the program.[66]

Effect of Proposed Changes

Section 21 amends s. 339.2818, F.S., increasing the population ceiling in the definition of "small county" from 150,000 to 170,000. The increase allows Charlotte, Martin, and Santa Rosa Counties that currently exceed the current population limit of 150,000, to be eligible for the SCOP. Those counties would still have to compete for funding and priority using the program criteria. The bill also repeals the alternative 2015-2016 fiscal year definition of "small county," which is set to expire on July 1, 2016.

State-funded Infrastructure Bank/Natural Gas Fuel Production or Distribution Facilities (Section 22)

Present Situation

The 2000 Legislature created the state-funded infrastructure bank (SIB) within the FDOT to provide loans and credit enhancements for use in constructing and improving transportation facilities.[67] Government units and private entities may apply to the SIB for assistance. As outstanding obligations are repaid to the SIB, those repayments are made available for future

[63] *See* the FDOT 2015 Legislative Proposal, *Dormant Accounts/Tolls/SunPass.* On file in the Senate Transportation Committee.
[64] Section 186.901, F.S., requires the EDR to provide annually on April 1 population estimates of local government units, using accepted statistical practice and employing the same general guidelines used by the U.S. Bureau of the Census. *See* the EDR website for population and demographic data as of April 1, 2015, available at: http://www.edr.state.fl.us/Content/population-demographics/data/index.cfm. Last visited January 26, 2016.
[65] This provision allowed Charlotte and Santa Rosa counties to participate in the SCOP program and is set to expire on July 1, 2016. Section 339.2818(2)(b), F.S.
[66] Additional SCOP funding is provided under ss. 215.211, 320.072, and 339.0801, F.S.
[67] Section 339.55, F.S.

lending on other eligible SIB projects. Generally, repayment of a loan must begin no later than five years after the project has been completed or, in the case of a highway project, the facility has opened to traffic, whichever is later.[68, 69]

The SIB consists of two separate escrow accounts established with the Department of Financial Services, one federally-funded and one state-funded. Projects eligible for assistance from the former account include those meeting certain federal requirements. For assistance from the state-funded account, a project must:

- Be on the State Highway System;
- Provide for increased mobility on the state's transportation system; or
- Provide intermodal connectivity with airports, seaports, rail facilities, and other transportation terminals for the movement of people and goods.[70]

Additionally, projects identified under the Transportation Regional Incentive Program are eligible for assistance from the state-funded account.[71] Emergency loans for damages incurred to public-use seaports, airports, and other transit and intermodal facilities within an area that is part of an official state declaration of emergency are also authorized under specified conditions.[72]

Effect of Proposed Changes

Section 22 amends s. 339.55, F.S., to revise the purpose of the SIB. In addition to providing loans and credit enhancements for use in constructing and improving transportation facilities, the bill adds the purpose of constructing and improving ancillary facilities that produce or distribute natural gas or fuel. The bill authorizes the FDOT, beginning July 1, 2017, to consider applications for SIB loans for the development and construction of natural gas fuel production or distribution facilities used primarily to support the transportation activities at seaports or intermodal facilities. Use of such SIB loans to refinance outstanding debt is also authorized.

Tampa-Hillsborough County Expressway Authority Bonding (Section 27)

Present Situation

The Tampa-Hillsborough County Expressway Authority (THEA) is an agency of the state, created in s. 348.52, F.S., for the purpose of constructing, reconstructing, improving, extending, repairing, maintaining, and operating the expressway system in the Tampa metropolitan area or

[68] Section 339.55(4), F.S.
[69] *See* the FDOT's website for further information describing the SIB, its history, and its capitalization, available at: http://www.dot.state.fl.us/officeofcomptroller/PFO/sibintro.shtm. Last visited February 26, 2016.
[70] Section 339.55(2)(a), F.S.
[71] Sections 339.55(2)(b) and 339.2819, F.S. The FDOT is authorized to match up to 50% of the cost for projects that, at a minimum, serve national, statewide, or regional functions and function as part of an integrated regional transportation system; are identified in the capital improvements element of a comprehensive plan and are in compliance with local government plan policies relative to corridor management; are consistent with the Strategic Intermodal System Plan developed under s. 339.64, F.S.; and have a commitment for local, regional, or private financial matching funds as a percentage of the overall project cost.
[72] Section 339.55(2)(c), F.S.

within Hillsborough County.[73] With the consent of the county within whose jurisdiction the activities occur, THEA may also construct, operate, and maintain roads, bridges, avenues of access, thoroughfares, and boulevards and managed lanes and other transit supporting facilities within the jurisdictional boundaries of contiguous counties.[74]

Bonds may be issued on behalf of THEA pursuant to the State Bond Act, or THEA may issue revenue bonds for construction, reconstruction, improvement, extension, repair, maintenance, and operation of the expressway system.[75] In addition, THEA may issue revenue bonds to finance or refinance the following projects:

- Brandon area feeder roads.
- Capital improvements to the expressway system, including safety and operational improvements and toll collection equipment.
- Lee Roy Selmon Crosstown Expressway System widening.
- The connector highway linking the Lee Roy Selmon Crosstown Expressway to Interstate 4.[76]

THEA may also issue revenue bonds to refund any bonds outstanding, regardless of whether the bonds being refunded were issued by THEA or on behalf of THEA.[77] THEA is further authorized to issue bonds for the combined purpose of:

- Paying the cost of constructing, reconstructing, improving, extending, repairing, maintaining, and operating the expressway system.
- Refunding outstanding bonds.

THEA owns and operates the Lee Roy Selmon Crosstown Expressway (Selmon Expressway),[78] which is a 15-mile, four-lane limited access toll road crossing the City of Tampa from Gandy Boulevard and MacDill Air Force Base in the south, through downtown Tampa and east to Brandon. The Selmon Expressway connects St. Petersburg with Tampa and Brandon via the Gandy Bridge and a short segment of Gandy Boulevard. THEA also owns and operates the Brandon Parkway, a 3.1-mile set of non-tolled feeder roads, and Reverse Express Lanes (REL) within the median of the Selmon Expressway.[79]

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[73] "Expressway system" or "system" means a modern highway system of roads, bridges, causeways, and tunnels in the metropolitan area of the City of Tampa, or within any area of Hillsborough County, with access limited or unlimited as the authority may determine, and such buildings and structures and appurtenances and facilities related thereto, including all approaches, streets, roads, bridges, and avenues of access for such system. Section 348.51(7), F.S.
[74] Section 348.54(15), F.S.
[75] Section 348.56, F.S.
[76] Section 348.565, F.S.
[77] Section 348.57, F.S.
[78] The Research and Innovative Technology Administration and the USDOT have designated THEA as a test bed for autonomous vehicle technology. The Reverse Express Lanes (REL) is reportedly the only test bed in the U.S. that has the ability to do real-time traffic tests and have a closed course environment in the same location. *See* the Florida Transportation Commission's *Transportation Authority Monitoring and Oversight Fiscal year 2014 Report*, at p. 80: http://www.ftc.state.fl.us/reports/TAMO.shtm. Last visited January 21, 2016.
[79] *Id.* at p. 79.

Effect of Proposed Changes

Section 27 amends s. 348.565, F.S., to revise the list of specified THEA projects for which revenue bonds may be issued for financing or refinancing purposes. The bill adds *extensions* of the Selmon Expressway as eligible projects. It also adds capital projects that THEA is authorized to acquire, construct, reconstruct, equip, operate, and maintain pursuant to part II of ch. 348, F.S., governing THEA, including, without limitation, projects identified in s. 348.54(15), F.S.; *i.e.*, projects within the jurisdictional boundaries of a consenting, contiguous county, provided that any financing does not pledge the full faith and credit of the state.

Broward County Expressway Authority/Obsolete Bond Language (Section 19)

Present Situation

The Broward County Expressway Authority built the Sawgrass Expressway, a 23-mile facility that extends from its junction with Interstate 75 in Weston to its interchange with Florida's Turnpike and Southwest 10th Street in Deerfield Beach. In 1990, the FDOT acquired the expressway, and it became a part of Florida's Turnpike System.[80] The Expressway Authority was abolished in 2011.[81] Section 338.221(5), F.S., authorizes the FDOT to pledge revenues from the turnpike system to the payment of Broward County Expressway Authority bond series 1984 and series 1986-A bonds. The bonds are no longer outstanding,[82] and the language is obsolete.

Effect of Proposed Changes

Section 19 repeals the obsolete language in s. 338.231(5), F.S., relating to bonds of the abolished Broward County Expressway Authority.

Transportation Corridors (Section 24)

Present Situation

Section 341.0532, F.S., enacted in 2003, defines "statewide transportation corridor" as a system of transportation infrastructure that collectively provides for the efficient movement of significant volumes of intrastate, interstate, and international commerce by seamlessly linking multiple modes of transport. That section also lists eight corridors deemed "Florida's statewide transportation corridors."

In the same year, the Legislature enacted the Strategic Intermodal System (SIS) which collectively serves 56 percent of State Highway System traffic, 70 percent of State Highway System truck traffic, 89 percent of interregional bus and rail passengers, 99 percent of commercial air passengers and cargo, and 100 percent of rail and waterborne freight tonnage and

[80] *See* the Florida Turnpike website: http://www.floridasturnpike.com/about_system.cfm#7. Last visited January 25, 2016.
[81] *See* s. 18, ch. 2011-64, Laws of Florida.
[82] *See* the FDOT email to committee staff dated February 26, 2015. On file in the Senate Transportation Committee.

cruise ship passengers.[83, 84] The corridors currently listed in s. 341.0532, F.S., with limited exception,[85] are also part of the SIS. Section 341.0532, F.S., is not referenced elsewhere in the Florida Statutes, and the FDOT advises that section is not used in performing any of its duties and responsibilities.[86] The statute appears to be obsolete.

Effect of Proposed Changes

Section 24 repeals s. 341.0532, F.S., which created Florida's statewide transportation corridors. The corridors continue to be managed through their inclusion in the SIS.

Tampa Bay Area Regional Transportation Authority (Sections 25 and 26)

Present Situation

The U.S. Bureau of the Census designates urbanized areas throughout the state based on census data. Federal law and rule[87] require a metropolitan planning organization (MPO) to be designated for each urbanized area or group of contiguous urbanized areas. In addition, federal law and rules specify the requirements for MPO transportation planning and programming activities. These requirements are updated after each federal transportation reauthorization bill enacted by Congress. State law also includes provisions governing MPO activities. Section 339.175, F.S., paraphrases or restates some key federal requirements. In addition, state law includes provisions that go beyond the federal requirements. For example, federal requirements regarding MPO membership are very general, while state law is more specific.

Current law provides for a chair's coordinating committee, composed of the Metropolitan Planning Organizations (MPOs) serving Hernando, Hillsborough, Manatee, Pasco, Pinellas, Polk, and Sarasota counties, which must:

- Coordinate transportation projects deemed to be regionally significant by the committee.
- Review the impact of regionally significant land use decisions on the region.
- Review all proposed regionally significant transportation projects in the respective transportation improvement programs which affect more than one of the M.P.O.'s represented on the committee.
- Institute a conflict resolution process to address any conflict that may arise in the planning and programming of such regionally significant projects.[88]

The Tampa Bay Area Regional Transportation Authority (TBARTA) was created by the Legislature in 2007[89] to develop and implement a Regional Transportation Master Plan for the

[83] The Strategic Intermodal System (SIS) is the statewide network of high priority transportation facilities, including the state's largest and most significant airports, spaceports, deepwater seaports, freight rail terminals, interregional rail and bus terminals, rail corridors, urban fixed guideway transit corridors, waterways, and highways. The SIS is the state's highest statewide priority for transportation capacity improvements. See the FDOT SIS brochure, available at: http://www.dot.state.fl.us/planning/sis/Strategicplan/. Last visited January 25, 2016.
[84] See the 2014 FDOT *Strategic Intermodal System Briefing*. (On file in the Senate Transportation Committee.)
[85] See the FDOT email, March 2, 2015. (On file in the Senate Transportation Committee.)
[86] *Id.*
[87] *See* 23 U.S.C. 134 and 23 C.F.R. 450 Part C.
[88] Section 339.175(6)(i), F.S.
[89] Chapter 2007-254, L.O.F.

West Central Florida region consisting of Citrus, Hernando, Hillsborough, Manatee, Pasco, Pinellas and Sarasota Counties.

Section 343.92, F.S. provides that the TBARTA governing board consist of 16 members, one of whom must be the Secretary of a FDOT district located within the TBARTA area (FDOT District 1 or District 7, serving as a nonvoting, ex officio member appointed by the FDOT Secretary.

Effect of Proposed Changes

Section 25 amends s. 343.92, F.S., providing that the TBARTA governing board will consist of 15 voting members, eliminating the membership of one of the FDOT district secretaries. Instead, the Secretary of the FDOT is required to appoint, as advisors to the board, both of the FDOT District Secretaries for District 1 and District 7.

Section 26 amends s. 343.922, F.S., requiring the TBARTA to present its original master plan and updates to, and to coordinate with the TBARTA MPO Chairs Coordinating Committee which replaces the West Central Florida MPO Chairs Coordinating Committee, and with the legislative delegation members representing the TBARTA counties. The TBARTA is required to provide administrative support and direction to the MPO Chairs Coordinating Committee.

Control of Outdoor Advertising/Permits and Exceptions (Section 28)

Present Situation

Since the passage of the Highway Beautification Act (HBA) in 1965, the Federal Highway Administration (FHWA) has established controls for outdoor advertising along federal-aid primary, interstate, and National Highway System roads. The HBA allows the location of billboards in commercial or industrial areas, mandates a state compliance program, requires the development of state standards, promotes the expeditious removal of illegal signs, and requires just compensation for takings when appropriate.

While the states are not directly forced to control outdoor advertising signs, failure to impose the required controls can result in a substantial penalty. Under the provisions of a 1972 agreement between the State of Florida and the U.S. Department of Transportation (USDOT)[90] incorporating the HBA's required controls, the FDOT requires commercial signs to meet certain requirements when they are within 660 feet of interstate and federal-aid primary highways in urban areas, or visible at any distance from the same roadways when outside of urban areas; i.e., a "controlled area." The agreement embodies the federally required "effective control" of the erection and maintenance of outdoor advertising signs, displays, and devices. Absent this effective control, a state may be penalized 10 percent of federal highway funds.[91] Florida's outdoor advertising laws are found in ch. 479, F.S., and are based on federal law and regulations, and the 1972 agreement.

[90] Copy on file in the Senate Transportation Committee.
[91] 23 U.S.C. § 131(b)

Required Permits and Exemptions

Generally, a person may not erect or maintain, or cause to be erected or maintained, any sign on the State Highway System outside an urban area or on any portion of the interstate or federal-aid primary highway system without first obtaining a permit for the sign from the FDOT.[92] A number of signs are exempt from the permit requirement.[93]

Additional exemptions are contained in current law. However, these exemptions are conditional; *i.e.*, implementation or continuance of these exemptions is expressly prohibited if the federal government notifies the FDOT that implementation or continuation will adversely affect the allocation of federal funds to the FDOT. In such case, the FDOT must provide notice to the sign owner that the sign must be removed within 30 days after receipt of the notice. If the sign is not removed, the FDOT may remove the sign, and the costs incurred must be assessed against, and collected from, the sign owner.

The following signs are conditionally exempt from the permit requirement:

- Signs measuring up to 16 square feet placed at a road junction with the State Highway System denoting only the distance or direction of a residence or farm operation, or, outside an incorporated area where a hardship is created because a small business is not visible from the road junction with the State Highway System, one sign measuring up to 16 square feet denoting only the name of the business and the distance and direction to the business.
- Signs placed by a local tourist-oriented business located within a rural area of opportunity, with certain restrictions as to size and location.
- Signs measuring up to 32 square feet denoting only the distance or direction of a farm operation which are erected at a road junction with the State Highway System, but only during the harvest season of the farm operation for up to 4 months.
- Acknowledgment signs erected upon publicly funded school premises which relate to sponsorship of a specific public school club, team, or event and which are placed at least 1,000 feet from any other acknowledgment sign on the same side of the roadway.
- Displays erected upon a sports facility, the content of which is directly related to the facility's activities or to the facility's products or services.[94]

Effect of Proposed Changes

Section 28 amends s. 479.16, F.S., providing an additional conditional exemption from the FDOT for an outdoor advertising sign. The bill exempts signs located within the controlled area of a federal-aid primary highway on a parcel adjacent to an off-ramp to the termination point of a turnpike system, if no directional decision is to be made by a driver, the signs are primarily facing the off-ramp, and the signs have been in existence since 1995.

[92] Section 479.07, F.S. The term "on any portion of the State Highway System, interstate highway system, or federal-aid primary system" means a sign located within the controlled area which is visible from any portion of the main-traveled way of such system.
[93] *See* s. 479.16(1) – (14), F.S.
[94] *See* s. 479.16(15) – (19), F.S.

Because Florida law references only one turnpike system under the responsibility of Florida's Turnpike Enterprise,[95] this exemption applies only to the described signs and locations on the turnpike system. Should the federal government notify the FDOT that implementation or continuation of this new exemption will adversely affect the allocation of federal funds, the FDOT must provide the required notice to remove the sign. If the FDOT removes the sign, it will assess the owner for the removal costs.

Autonomous Vehicles (Sections 6, 8-10, 20, and 23)

Present Situation

Autonomous or "self-driving" vehicles are those operated "without direct driver input to control the steering, acceleration, and braking and … designed so that the driver is not expected to constantly monitor the roadway while operating in self-driving mode."[96] According to the National Highway Traffic Safety Administration (NHTSA), autonomous vehicles have the potential to improve highway safety, increase environmental benefits, expand mobility, and create new economic opportunities for jobs and investment.[97]

A review of material obtained via a simple Internet search reveals that common availability and use of such vehicles was not previously anticipated for at least a couple of decades. However, some expect increased availability and use in the relative near future, perhaps within the next five years.[98]

Levels of Vehicle Automation and Evolving Federal Policy

Self-driving cars are just one form of vehicle automation. The NHTSA in 2013[99] defined a range of vehicle automation, from vehicles with no automated control systems to fully automated vehicles.

The NHTSA also made several recommendations in its 2013 Policy Statement, including those for:

- Licensing Drivers to Operate Self-Driving Vehicles for Testing.
- State Regulations Governing Testing of Self-Driving Vehicles.
- Basic Principles for Testing of Self-Driving Vehicles.
- Regulations Governing the Operation of Self-Driving Vehicles.[100]

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[95] *See* ss. 20.23(4)(e) and 338.2215, F.S.**CS**

[96] See the National Highway Traffic Safety Administration's Press Release: *U.S. Department of Transportation Releases Policy on Automated Vehicle Development*, (May 30, 2013) *available at:* http://www.nhtsa.gov/About+NHTSA/Press+Releases/U.S.+Department+of+Transportation+Releases+Policy+on+Automated+Vehicle+Development (last visited Jan. 25, 2016).

[97] See NHTSA, *Preliminary Statement of Policy Concerning Automated Vehicles*, http://www.nhtsa.gov/staticfiles/rulemaking/pdf/Automated_Vehicles_Policy.pdf (last visited Jan. 25, 2016).

[98] *See* TechCrunch, *Autonomous Cars are Closer Thank You Think* (Jan. 18, 2015), http://techcrunch.com/2015/01/18/autonomous-cars-are-closer-than-you-think/ (last visited Jan. 25, 2016).

[99] *See* NHTSA's *2013 Preliminary Statement of Policy Concerning Automated Vehicles*, at p. 4. (On file in the Senate Transportation Committee.)

[100] NHTSA at that time recommended against states authorizing the operation of self-driving vehicles for purposes other than testing and suggested: "Should a state nevertheless decide to permit such non-testing operation of self-driving vehicles, at a

The increase in the general availability of autonomous vehicles has been the subject of much discussion. The NHTSA, however, recently updated its policy, acknowledging rapid development of emerging automation technologies and recognizing the feasibility of widespread deployment of partially and fully automated vehicles.[101] The NHTSA's administrator announced the NHTSA's use of available tools to accelerate deployment of technologies that can eliminate 94 percent of crashes involving human error. The NHTSA committed to working with state partners on a consistent national policy to provide options, now and in the future, for manufacturers to seek deployment of autonomous vehicles.

In an announcement on January 14, 2016, the U.S. Department of Transportation (USDOT) outlined the following 2016 milestones:

- The NHTSA will work with industry and other stakeholders within six months of the announcement to develop guidance on the safe deployment and operation of autonomous vehicles, providing a common understanding of the performance characteristics necessary for fully autonomous vehicles and the testing and analysis methods needed to assess them.
- In the same six months, the NHTSA will work with state partners, the American Association of Motor Vehicle Administrators, and other stakeholders to develop a model state policy on automated vehicles that offers a path to consistent national policy.
- Manufacturers are encouraged to submit rule interpretation requests where appropriate to help enable technology innovation.[102]
- When interpretation authority is not sufficient, manufacturers are encouraged to submit requests for use of the agency's exemption authority to allow the deployment of fully autonomous vehicles.[103] Exemption authority allows the NHTSA to enable the deployment of up to 2,500 vehicles for up to two years if the agency determines that an exemption would ease development of new safety features.[104]
- The USDOT and the NHTSA will develop the new tools necessary for this new era of vehicle safety and mobility, and will consider seeking new authorities when they are necessary to ensure that fully autonomous vehicles, including those designed without a human driver in mind, are deployable in large numbers when they are demonstrated to provide an equivalent or higher level of safety than is now available.

The USDOT also announced that the President's budget proposal for fiscal year 2017 will include nearly $4 billion to test connected vehicle systems in designated corridors throughout the

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minimum the state should require that a properly licensed driver (i.e., one licensed to drive self-driving vehicles) be seated in the driver's seat and be available at all times in order to operate the vehicle in situations in which the automated technology is not able to safely control the vehicle." *Id.*, at pp. 11-14.

[101] *See* NHTSA, *2016 Update to Preliminary Statement of Policy Concerning Automated Vehicles*, at p. 1: http://www.nhtsa.gov/staticfiles/rulemaking/pdf/Autonomous-Vehicles-Policy-Update-2016.pdf (last visited Feb. 10, 2016).

[102] As an example, the announcement links to a NHTSA response to a BMW request for an interpretation confirming that BMW's remote self-parking system meets the Federal Motor Vehicle Safety Standards. The response notes that NHTSA does not provide approvals of vehicles or vehicle equipment or make determinations as to whether a product conforms to the Federal Motor Vehicle Safety Standards (FMVSSs) outside of an agency compliance test. Instead, federal law requires manufacturers to self-certify that a product conforms to all applicable FMVSSs in effect on the date of product manufacture. *See* the NHTSA response: file:///C:/Users/One/Downloads/BMW-response-01042016.pdf. Last visited January 23, 2016.

[103] *See* 49 C.F.R. Part 555.

[104] *See* 49 C.F.R., Subpart A, s. 555.6.

county. The budget proposal will also allow funding to be used for working with industry leaders on a common multistate structure for connected and autonomous vehicles.[105]

State Regulation of Autonomous Vehicles

Nevada, in 2011, was the first state to authorize operation of autonomous vehicles.[106] Various legislation has also been enacted by the District of Columbia and five states, including Florida.[107] The Florida Legislature first enacted legislation relating to autonomous vehicles in 2012[108] that:

- Provided legislative intent,
- Defined relevant terms,
- Provided vehicle requirements and guidelines for testing,
- Added liability provisions, and
- Required the DHSMV to submit a report on recommendations for the safe testing and operation of motor vehicles equipped with autonomous technology.[109]

Sixteen states introduced legislation related to autonomous vehicles in 2015, an increase from 12 states in 2014, nine states and the District of Columbia introduced such legislation in 2013, and six states did so in 2012.[110] The most recent development at the state level occurred in California in December of 2015. The California Department of Motor Vehicles released draft autonomous vehicle deployment regulations for public comment, in preparation for "the next step toward allowing the public to operate self-driving cars on California roadways in the future."[111]

Current Florida Law

Definitions: Section 316.003(90), F.S., defines "autonomous vehicle" as any vehicle equipped with autonomous technology. That subsection also includes a definition of "autonomous technology," which means technology installed on a motor vehicle that has the capability to drive the vehicle on which the technology is installed without the active control or monitoring by a human operator.[112]

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[105] *Supra* note 49.
[106] *See* the National Conference of State Legislatures website for additional detail on legislation already enacted by specified states: http://www.ncsl.org/research/transportation/autonomous-vehicles-legislation.aspx#Enacted Autonomous Vehicles Legislation. Last visited January 23, 2016.
[107] The other four states are California, Michigan, North Dakota, and Tennessee. *Id.*
[108] Chapter 2012-174, L.O.F. *See* also ch. 2014-216, L.O.F.
[109] *See* the report at: http://www.flhsmv.gov/html/HSMVAutonomousVehicleReport2014.pdf. Last visited January 24, 2016.
[110] *Supra* note 50.
[111] This followed California's legislation directing the adoption of safety standards and performance requirements to ensure the safe operation and testing of autonomous vehicles. *See* the California Department of Motor Vehicles Press Release: https://www.dmv.ca.gov/portal/dmv/detail/pubs/newsrel/newsrel15/2015_63. Last visited January 23, 2016.
[112] The latter definition does not include a motor vehicle enabled with active safety systems or driver assistance systems, including, without limitation, a system to provide electronic blind spot assistance, crash avoidance, emergency braking, parking assistance, adaptive cruise control, lane keep assistance, lane departure warning, or traffic jam and queuing assistant, unless any such system alone or in combination with other systems enables the vehicle on which the technology is installed to drive without the active control or monitoring by a human operator.

Operation: Operation of autonomous vehicles is authorized in s. 316.85, F.S. A person who possesses a valid driver license may operate an autonomous vehicle in autonomous mode.[113] When a person causes the vehicle's autonomous technology to engage, regardless of whether the person is physically present in the vehicle while the vehicle is operating in autonomous mode, that person is deemed the operator of the vehicle.

Testing: Testing of vehicles equipped with autonomous technology is authorized in s. 316.86, F.S. Employees, contractors, or other persons designated by manufacturers of autonomous technology, or by research organizations associated with accredited educational institutions, are authorized to operate such vehicles on roads in this state to test autonomous technology. A human operator must be present in the vehicle being tested, with the ability to monitor the vehicle's performance and intervene, if necessary, unless the vehicle is being tested or demonstrated on a closed course.[114] Before testing, the entity performing the testing must submit an instrument of insurance, surety bond, or proof of self-insurance acceptable to the DHSMV in the amount of $5 million.[115]

Vehicle Requirements: Section 319.145, F.S., requires an autonomous vehicle registered in this state[116] to meet federal standards and regulations for a motor vehicle. This section of law is expressly superseded when in conflict with NHTSA federal regulations. In addition, an autonomous vehicle must:

- Have a means to engage and disengage the autonomous technology which is easily accessible to the operator.
- Have a means, inside the vehicle, to visually indicate when the vehicle is operating in autonomous mode.
- Have a means to alert the operator of the vehicle if a technology failure affecting the ability of the vehicle to safely operate autonomously is detected while the vehicle is operating autonomously in order to indicate to the operator to take control of the vehicle.
- Be capable of being operated in compliance with the applicable traffic and motor vehicle laws of this state.

[113] The DHSMV will authorize a person who possesses a valid driver license to operate an autonomous vehicle in autonomous mode on a Florida roadway, but only if manufacturers of the technology designate the person as a driver for testing purposes. *See* the DHSMV publication, *Excellence in Service, Education, and Enforcement*, Summer 2012, heading "2012 Legislative Update," at p. 1: http://www.flhsmv.gov/html/CJSummer2012.pdf. Last visited January 24, 2016.
[114] The DHSMV will authorize operation of an autonomous vehicle in autonomous mode without a human physically present in the vehicle only on a closed course. *See* the DHSMV email to committee staff dated January 25, 2016. On filed in the Senate Transportation Committee.
[115] This section of the law also provides immunity from certain liability for the original manufacturer of a vehicle converted by a third party into an autonomous vehicle under specified conditions. Section 316.86(2), F.S.
[116] Chapter 320, F.S., reflects no vehicle registration provision specific to autonomous vehicles.

Television-Type Equipment in Motor Vehicles

Section 316.303(1) and (3), F.S., currently prohibit operation of a motor vehicle if it is equipped with television-type receiving equipment that is visible from the driver's seat. However, an electronic display used in conjunction with a vehicle navigation system is not prohibited.

Local Regulation of Autonomous Vehicles

Current Florida law contains no provision addressing local regulation of autonomous vehicles.

Transportation Planning and Autonomous Vehicles

Section 339.175(7), F.S., requires metropolitan planning organizations (MPOs) to develop a long-range transportation plan addressing at least a 20-year planning horizon. The plans must be consistent, to the maximum extent feasible, with local government comprehensive plans of the local governments located within the jurisdiction of the MPO.

Section 339.64, F.S., requires the FDOT to develop and update every five years, in cooperation with MPOs, regional planning councils, local governments, and other transportation providers, a Strategic Intermodal System (SIS) Plan. The plan must be consistent with the Florida Transportation Plan.[117]

Effect of Proposed Changes:

Section 6 amends s. 316.303(1) and (3), F.S., to authorize active display of moving television broadcast or pre-recorded video entertainment content visible from the driver's seat while the vehicle is in motion if the vehicle is equipped with autonomous technology and operated in autonomous mode.

Section 8 amends s. 316.85, F.S., to expressly authorize a person holding a valid driver license to operate an autonomous vehicle in autonomous mode on roads in this state if the vehicle is equipped with autonomous technology, as defined in s. 316.003, F.S. Operation of an autonomous vehicle on roads in this state would no longer be limited to licensed drivers designated for testing purposes.

Section 9 amends s. 316.86, F.S., to remove provisions regarding the operation of vehicles equipped with autonomous technology on roads for testing purposes, including the provisions:

- Authorizing employees, contractors, or other persons designated by manufacturers of autonomous technology, or by research organizations associated with accredited educational institutions, to operate such vehicles on roads in this state to test autonomous technology.
- Requiring a human operator to be present in the vehicle being tested, with the ability to monitor the vehicle's performance and intervene, if necessary, unless the vehicle is being tested or demonstrated on a closed course.
- Requiring the specified proof of insurance or surety bond before testing.

[117] The Florida Transportation Plan is a statewide transportation plan that considers the needs of the entire state transportation system and examines the use of all modes of transportation to meet such needs. The purpose of the plan is to establish and define the state's long-range transportation goals and objectives over a period of at least 20 years. See s. 339.155, F.S.

The original manufacture liability protections are not amended.

Section 10 amends s. 319.145, F.S., to clarify that registered autonomous vehicles must meet *applicable* federal standards and regulations for such vehicles. This section also requires an autonomous vehicle to have a system to safely alert the operator if an autonomous technology failure is detected while the autonomous technology is engaged. When an alert is given, the system must:

- Require the operator to take control of the autonomous vehicle, or
- If the operator does not or is unable to take control, be capable of bringing the vehicle to a complete stop.

The latter revision replaces the currently required easily accessible means by which the operator engages and disengages the technology, and the required means to alert the operator of a described technology failure to indicate to the operator to take control of the vehicle.

Taken together, these sections of the bill authorize operation of autonomous vehicles equipped with the defined autonomous technology on the public roads of this state by any person holding a valid driver license, without the need to be designated by an autonomous vehicle manufacturer for testing purposes, and without any testing. The physical presence of an operator is no longer required. Autonomous vehicles registered in this state must continue to meet federal standards and regulations that apply to such vehicles. To the extent that any new provision in the bill regarding vehicle equipment is or becomes in conflict with federal law, the bill's provision would be superseded.

Section 20 amends s. 339.175(7)(c)2., F.S., to include in an MPO's capital investment assessment the goal of improving safety while making the most efficient use of existing transportation facilities. In addition, MPOs are required to consider in developing long-range transportation plans infrastructure and technological improvements necessary to accommodate advances in vehicle technology, such as autonomous vehicle technology and other developments.

Section 23 amends s. 339.64, F.S., to require the FDOT when updating the SIS Plan to coordinate with federal, regional, and local partners, as well as industry representatives, to consider infrastructure and technological improvements to the SIS necessary to accommodate advances in vehicle technology.

Driver-Assistive Truck Platooning (Sections 2, 3 and 6)

Present Situation

In August of 2014, the NHTSA issued an advance notice of proposed rulemaking, following the NHTSA's earlier announcement that the agency will begin working on a regulatory proposal to require vehicle-to-vehicle (V2V) devices in passenger cars and light trucks in a future year. V2V is a crash avoidance technology, relying on communication of information between nearby vehicles to warn drivers about dangerous situations that could lead to a crash.[118] The NHTSA

[118] *See* the USDOT Fact Sheet on Vehicle-To-Vehicle Communication Technology, *available at:* http://www.its.dot.gov/safety_pilot/pdf/safetypilot_nhtsa_factsheet.pdf. On file in the Senate Transportation Committee.

advises that, "Using V2V technology, vehicles ranging from cars to trucks and buses to trains could one day be able to communicate important safety and mobility information to one another that can help save lives, prevent injuries, ease traffic congestion, and improve the environment."[119]

One form of V2V technology is known as driver-assistive truck platooning (DATP), which allows trucks to communicate with each other and to travel as close as thirty feet apart with automatic acceleration and braking. A draft is created, reducing wind resistance and cutting down on fuel consumption.[120]

> The DATP concept is based on a system that controls inter-vehicle spacing based on information from forward-looking radars and direct vehicle-to-vehicle communications. Braking and other operational data is constantly exchanged between the trucks, enabling the control system to automatically adjust engine and brakes in real-time. This allows equipped trucks to travel closer together than manual operations would safely allow. Platooning technology is increasingly a subject of interest in the truck community, with multiple companies developing prototypes.[121]

One such system uses integrated sensors, controls, and wireless communications for "connected" trucks. The system is cloud-based, determining in real time whether traffic conditions are appropriate to allow specific trucks to engage in platooning operations. Using V2V communications, the system synchronizes acceleration and braking between tractor-trailers, leaving steering to the drivers, but eliminating braking distance otherwise caused by lags in the front or rear driver's response time. The following vehicle is provided video showing the lead truck's line of sight while the lead vehicle is provided video showing the area behind the following truck. If another vehicle enters between platooning trucks, the system will automatically increase following distance or delink the trucks and then relink once the cut-in risk has passed. If data transfer between platooning trucks ceases, the driver is immediately notified that manual acceleration and braking control is about to resume.[122]

Currently, s. 316.0895, F.S., prohibits a driver of a motor vehicle to follow another vehicle more closely than is reasonable and prudent. It is unlawful, when traveling upon a roadway outside a business or residence district, for a motor truck, motor truck drawing another vehicle, or vehicle towing another vehicle or trailer to follow within 300 feet of another vehicle.

Additionally, s. 316.303, F.S., prohibits the operation of a motor vehicle with television-type receiving equipment that is visible from the driver's seat. This prohibition does not apply to an electronic display used in conjunction with a vehicle navigation system.[123]

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[119] *See* the NHTSA *Vehicle-to-Vehicle Communications*, http://www.safercar.gov/v2v/index.html. Last visited January 25, 2016.
[120] *See* the GBT Global News website: http://www.gobytrucknews.com/driver-survey-platooning/123. Last visited January 25, 2016.
[121] *See* the American Transportation Research Institute, *ATRI Seeks Input on Driver Assistive Truck Platooning* (Nov. 17, 2014), http://atri-online.org/2014/11/17/atri-seeks-input-on-driver-assistive-truck-platooning/. Last visited January 25, 2016.
[122] *See* Peloton, *FAQ*, http://www.peloton-tech.com/faq/ (last visited Jan. 25, 2016).
[123] Section 316.303, F.S.

Effect of Proposed Changes

Section 2 amends s. 316.003, F.S., to define the term "driver-assistive truck platooning technology."

Section 3 requires the FDOT to study, in consultation with the DHSMV, the use and safe operation of driver assistive truck platooning technology for the purpose of developing a pilot project to test vehicles equipped with such technology.

The bill authorizes the FDOT, upon conclusion of the study and in consultation with the DHSMV, to conduct a pilot project that tests the operation of vehicles equipped with driver-assistive truck platooning technology.[124] The pilot project may be conducted notwithstanding the traffic control provisions related to following too closely and television-type equipment in motor vehicles.[125] Prior to the start of the pilot project, manufacturers of driver-assistive truck platooning technology being tested in the pilot project must submit to the DHSMV an instrument of insurance, surety bond, or proof of self-insurance in the amount of $5 million.

The DOT, in consultation with the DHSMV, shall submit the results of the study and any findings or recommendations from the pilot project to the Governor, Senate President, and Speaker of the House upon conclusion of the pilot project.

Section 6 amends s. 316.303(3), F.S., to allow vehicles equipped and operating with driver-assistive truck platooning technology to be equipped with electronic displays visible from the driver's seat, and to authorize the operator of a vehicle equipped and operating with truck platooning technology to use an electronic display.

The bill takes effect July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

[124] The pilot project may be conducted in such a manner and at such locations as determined by the DOT.
[125] Sections 316.0895 and 316.303, F.S.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Sections 6, 8 through 10, 20, and 23: The impact of the provisions in CS/CS/SB 1392 relating to the operation of autonomous vehicles is unknown. The private sector may realize positive economic benefits in terms of improved safety and mobility, and cost and travel-time savings. The companies that sell vehicles with autonomous technology may experience more sales to the extent that the bill promotes wider use of such vehicles.

Sections 2, 3, and 6: Depending on the outcome of the pilot project, the bill may have an indeterminate positive fiscal impact on companies that sell or use driver-assistive truck platooning technology.

Section 17: Transfer of ownership of the Pinellas Bayway System from the FDOT to the Florida Turnpike Enterprise does not appear to have an immediate impact on the private sector but a positive fiscal impact may be realized upon construction of the replacement bridge in terms of more efficient travel.

C. Government Sector Impact:

Sections 13 and 14: The FDOT provided a spreadsheet attachment to its SB 522 analysis which appears to identify deaths between 2006 and 2015 reported on specified crash report form numbers, as well as costs associated with additional *guardrail* installation at the identified locations. The spreadsheet reflects that whether drowning was the cause of each death is, in some cases, undetermined. These locations, with limited exception, do not appear to be anticipated as candidates for additional guardrail installation. However, the spreadsheet does indicate, "for cases where nearly identical water hazard scenarios were present in the vicinity, the proposals [add] guardrail for shielding all water hazards seen nearby (with the exception of interchange approaches, as explained in the comments []."
Aside from this information, the FDOT provided the following estimate based on the bill's language, as filed, requiring guardrail installation, as opposed to roadside barriers:

> Assuming [] the addition of varying feet of guardrail at each location, the bill would result in the addition of 132,845 linear feet of guardrail at a cost of approximately $17 per foot for a total estimated cost of $2,381,614. New installation locations will be added to existing inventory and maintained at an additional [unspecified] cost.[126]

[126] *Supra* note 45, at p. 3. *See* also the spreadsheet attached to the FDOT's bill analysis for information on specific identified locations for additional shielding.

Section 17: The transfer of ownership of the Pinellas Bayway System does not appear to have any immediate fiscal impact, as the transfer occurs without the expenditure of any funds. Aside from the project cost information on replacing the structurally deficient bridge over Boca Ciega Bay on SR 679 provided by the Florida Department of Transportation, the method by which replacement will be funded or financed is unknown.

Section 21: Increasing the population ceiling in the Small County Outreach Program definition of "small county" from 150,000 to 170,000 will allow Charlotte, Martin, and Santa Rosa Counties to be eligible to participate in the program. Those counties would still have to compete for funding and priority using the program criteria.

Section 27: The Tampa-Hillsborough County Expressway Authority bonding provisions pose no immediate fiscal impact. The fiscal impact of any potential bonding is unknown.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Under current law, the "operator" of an autonomous vehicle is the person who engages the technology. The identity of the "operator" of an unoccupied vehicle is unclear.

According to the FDOT, "Autonomous vehicle technology development and testing is being evaluated in a test track setting. Coordination with federal and local partners will be completed within existing resources. It may be several years before the department can estimate the infrastructure investment needed to support autonomous vehicle operations on state roads."[127]

Further, the FDOT has indicated that the department and the Metropolitan Planning Organizations (MPOs) are directed to consider infrastructure and technological improvements during the development of the Five-Year Work Program and Long Range Transportation Plan, respectively. Intelligent Transportation System (ITS) technological solutions are considered during this process. Consideration of autonomous vehicle technology introduces a new demand on funding. It is difficult to estimate the amount of future investments in technological solutions versus infrastructure solutions.[128]

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 311.12, 316.003, 316.0745, 316.235, 316.303, 316.640, 316.85, 316.86, 319.145, 320.525, 332.08, 337.0261, 337.18, 338.165, 338.231, 339.175, 339.2818, 339.55, 339.64, 343.92, 343.922, 348.565, and 479.16.

[127] *Supra* note 73.
[128] *Ibid.*

The bill creates section 335.085 of the Florida Statutes.

This bill repeals section 341.0532 of the Florida Statutes.

This bill repeals ch. 85-364, as amended by ch. 95-382 and section 48 of ch. 2014-223, Laws of Florida.

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 March 1, 2017:
The committee substitute modifies the bill by:

- Establishing the Seaport Security Advisory Committee within the Florida Seaport Transportation and Economic Development (FSTED) Council as a forum for discussion of seaport security and establishing a Seaport Security Grant Program.
- Correcting a scrivener's error in the definition of the term "driver-assistive truck platooning technology" and correcting an error in a title amendment directory clause.
- Revising specifications for bus deceleration lighting systems.
- Expanding the authority of a chartered municipal parking enforcement specialist to enforce state, county, and municipal parking laws and ordinances under specified circumstances.
- Revising the definition of the term "port vehicles and equipment."
- Requiring the Florida Department of Transportation (FDOT) to install certain roadside barriers to shield water bodies contiguous with state roads where a death due to drowning resulted from a crash between July 1, 2006, and July 1, 2016, and to conduct a study of specified motor vehicle accidents.
- Revising conditions under which the FDOT may waive a required surety bond relating to contracts for construction or maintenance.
- Removing from the bill a requirement for a toll facility to install certain signage notifying drivers if cash payment is not an option.
- Requiring local government to consider information provided by the FDOT regarding the effect that certain land use decisions may have on the cost of construction aggregate materials in the local area, region, and state.
- Revising the purpose of the state-funded infrastructure bank within the FDOT to include constructing and improving ancillary facilities that produce or distribute natural gas fuel.
- Authorizing the FDOT to consider applications for loans from the bank for development and construction of certain natural gas fuel production or distribution facilities beginning July 1, 2017, and authorizing such loans to be used to refinance outstanding debt.
- Revising the membership of the Tampa Bay Area Regional Transportation Authority (TBARTA); requiring the TBARTA to present a certain master plan and updates to the TBARTA Metropolitan Planning Organization (M.P.O.) Chairs Coordinating

Committee; requiring TBARTA to provide administrative support and direction to the TBARTA M.P.O. Chairs Coordinating Committee.

- Providing an exemption for certain outdoor advertising signs from permitting requirements.
- Revises the definition for driver-assistive truck platooning (DATP) technology and requires compliance with the National Highway Traffic Safety Administration (NHTSA) rules regarding vehicle-to-vehicle communications.
- Requires FDOT, in consultation with the DHSMV, to study the use and safe operation of DATP technology; authorizes a pilot project upon conclusion of the study to test vehicles equipped with the technology; requires insurance coverage by the manufacturers that participate in the pilot; and requires the findings to be submitted to the Governor and Legislature.
- Revises the provisions in the bill relating to television-type receiving equipment visible from the driver's seat in vehicles equipped with DAPT technology.

CS by Transportation on January 27, 2016:
The CS modifies the bill by:

- Removing from the bill preemption of regulation and operation of autonomous vehicles to the state.
- Revising equipment requirements for autonomous vehicles by requiring a system to alert an operator of a technology failure and to take control, or to stop the vehicle under certain conditions.
- Extending the authorized term of certain airport-related leases.
- Requiring signage at toll facilities notifying drivers if cash payment is not an option.
- Transferring certain funds to be used to help fund the costs of repair and replacement of the Pinellas Bayway System.
- Increasing the population ceiling in the definition of "small county" for purposes of the Small County Outreach Program.
- Expanding the list of THEA project types approved to be financed by certain revenue bonds.

B. Amendments:

None.

By the Committee on Transportation; and Senator Brandes

596-02696-16 20161392c1

A bill to be entitled

An act relating to transportation; amending s. 316.003, F.S.; defining and revising the definitions of terms; amending s. 316.0745, F.S.; revising the circumstances under which the Department of Transportation is authorized to direct the removal of certain traffic control devices; requiring the public agency erecting or installing such a device to bring it into compliance with certain requirements or remove it upon the direction of the department; amending s. 316.0895, F.S.; providing that provisions prohibiting a driver from following certain vehicles within a specified distance do not apply to truck tractor-semitrailer combinations under certain circumstances; amending s. 316.303, F.S.; providing exceptions to the prohibition against certain television-type receiving equipment in vehicles; amending s. 316.85, F.S.; revising the circumstances under which a licensed driver is authorized to operate an autonomous vehicle in autonomous mode; amending s. 316.86, F.S.; deleting a provision authorizing the operation of vehicles equipped with autonomous technology on roads in this state for testing purposes by certain persons or research organizations; deleting a requirement that a human operator be present in an autonomous vehicle for testing purposes; deleting certain financial responsibility requirements for entities performing such testing; amending s. 319.145, F.S.; revising provisions relating to required equipment and operation of autonomous vehicles; amending s. 332.08, F.S.; extending the authorized term of certain airport-related leases; amending s. 338.155, F.S.;

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requiring a toll facility to ensure the presence of signage notifying drivers if cash payment is not an option; amending s. 338.165, F.S.; deleting an authorization to issue certain bonds secured by toll revenues collected on the Beeline-East Expressway, the Navarre Bridge, and the Pinellas Bayway; authorizing the department's Pinellas Bayway System to be transferred by the department and become part of the turnpike system under the Florida Turnpike Enterprise Law; providing applicability; requiring the department to transfer certain funds to the Florida Turnpike Enterprise for certain purposes; repealing chapter 85-364, Laws of Florida, as amended, relating to the Pinellas Bayway; amending s. 338.231, F.S.; increasing the number of years before an inactive prepaid toll account shall be presumed unclaimed; deleting provisions relating to the use of revenues from the turnpike system to pay the principal and interest of a specified series of bonds and certain expenses of the Sawgrass Expressway; amending s. 339.175, F.S.; requiring certain long-range transportation plans to include assessment of capital investment and other measures necessary to make the most efficient use of existing transportation facilities to improve safety; requiring the assessments to include consideration of infrastructure and technological improvements necessary to accommodate advances in vehicle technology; amending s. 339.2818, F.S.; increasing the population ceiling in the definition of the term

"small county" for purposes of the Small County Outreach Program; deleting an alternative definition of the term "small county" for a specified fiscal year; amending s. 339.64, F.S.; requiring the department to coordinate with certain partners and industry representatives to consider infrastructure and technological improvements necessary to accommodate advances in vehicle technology in Strategic Intermodal System facilities; requiring the Strategic Intermodal System Plan to include a needs assessment regarding such infrastructure and technological improvements; repealing s. 341.0532, F.S., relating to statewide transportation corridors; amending s. 348.565, F.S.; expanding the list of projects of the Tampa-Hillsborough County Expressway Authority which are approved to be financed or refinanced by the issuance of certain revenue bonds; providing an effective date.

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

Section 1. Present subsections (90) through (93) of section 316.003, Florida Statutes, are redesignated as subsections (91), (93), (94), and (95), respectively, present subsection (90) of that section is amended, and new subsections (90) and (92) are added to that section, to read:

316.003 Definitions.—The following words and phrases, when used in this chapter, shall have the meanings respectively ascribed to them in this section, except where the context

otherwise requires:

(90) AUTONOMOUS TECHNOLOGY.—Technology installed on a motor vehicle which has the capability to drive the vehicle on which the technology is installed without the active control of or monitoring by a human operator.

(91)~~(90)~~ AUTONOMOUS VEHICLE.—Any vehicle equipped with autonomous technology. ~~The term "autonomous technology" means technology installed on a motor vehicle that has the capability to drive the vehicle on which the technology is installed without the active control or monitoring by a human operator.~~ The term excludes a motor vehicle enabled with active safety systems or driver assistance systems, including, without limitation, a system to provide electronic blind spot assistance, crash avoidance, emergency braking, parking assistance, adaptive cruise control, lane keep assistance, lane departure warning, or traffic jam and queuing assistant, unless any such system alone or in combination with other systems enables the vehicle on which the technology is installed to drive without the active control or monitoring by a human operator.

(92) DRIVER-ASSISTIVE TRUCK PLATOONING TECHNOLOGY.—Vehicle automation technology that integrates a sensor array, wireless communications, vehicle controls, and specialized software to synchronize the acceleration and braking between no more than two truck tractor-semitrailer combinations, while leaving each vehicle's steering control and systems command in the control of the vehicle's driver.

Section 2. Subsection (7) of section 316.0745, Florida Statutes, is amended to read:

316.0745 Uniform signals and devices.—

(7) The Department of Transportation may, upon receipt and investigation of reported noncompliance and ~~is authorized,~~ after hearing pursuant to 14 days' notice, ~~to~~ direct the removal of any purported traffic control device that fails to meet the requirements of this section, wherever the device is located and without regard to assigned responsibility under s. 316.1895 ~~which fails to meet the requirements of this section~~. The public agency erecting or installing the same shall immediately bring it into compliance with the requirements of this section or remove said device or signal upon the direction of the Department of Transportation and may not, for a period of 5 years, install any replacement or new traffic control devices paid for in part or in full with revenues raised by the state unless written prior approval is received from the Department of Transportation. Any additional violation by a public body or official shall be cause for the withholding of state funds for traffic control purposes until such public body or official demonstrates to the Department of Transportation that it is complying with this section.

Section 3. Subsection (2) of section 316.0895, Florida Statutes, is amended to read:

316.0895 Following too closely.—

(2) It is unlawful for the driver of any motor truck, motor truck drawing another vehicle, or vehicle towing another vehicle or trailer, when traveling upon a roadway outside of a business or residence district, to follow within 300 feet of another motor truck, motor truck drawing another vehicle, or vehicle towing another vehicle or trailer. ~~The provisions of~~ This

subsection may ~~shall~~ not be construed to prevent overtaking and passing, nor does it ~~nor shall the same~~ apply upon any lane specially designated for use by motor trucks or other slow-moving vehicles. This subsection does not apply to two truck tractor-semitrailer combinations equipped and connected with driver-assistive truck platooning technology, as defined in s. 316.003, and operating on a multilane limited access facility, if:

(a) The owner or operator first submits to the department an instrument of insurance, a surety bond, or proof of self-insurance acceptable to the department in the amount of $1 million;

(b) The vehicles are equipped with an external indication, visible to surrounding motorists, that the vehicles are engaged in truck platooning; and

(c) The vehicles are not required to be placarded pursuant to 49 C.F.R. parts 171-179.

Section 4. Subsections (1) and (3) of section 316.303, Florida Statutes, are amended to read:

316.303 Television receivers.—

(1) A ~~No~~ motor vehicle may not be operated on the highways of this state if the vehicle is ~~shall be~~ equipped with television-type receiving equipment so located that the viewer or screen is visible from the driver's seat, unless the vehicle is equipped with autonomous technology, as defined in s. 316.003, and is being operated in autonomous mode, as provided in s. 316.85(2).

(3) This section does not prohibit the use of an electronic display used in conjunction with a vehicle navigation system; an

electronic display used by an operator of a vehicle equipped with autonomous technology, as defined in s. 316.003; or an electronic display used by an operator of a vehicle equipped and operating with driver-assistive truck platooning technology, as defined in s. 316.003.

Section 5. Subsection (1) of section 316.85, Florida Statutes, is amended to read:

316.85 Autonomous vehicles; operation.—

(1) A person who possesses a valid driver license may operate an autonomous vehicle in autonomous mode on roads in this state if the vehicle is equipped with autonomous technology, as defined in s. 316.003.

Section 6. Section 316.86, Florida Statutes, is amended to read:

316.86 ~~Operation of vehicles equipped with autonomous technology on roads for testing purposes; financial responsibility;~~ Exemption from liability for manufacturer when third party converts vehicle.—

~~(1) Vehicles equipped with autonomous technology may be operated on roads in this state by employees, contractors, or other persons designated by manufacturers of autonomous technology, or by research organizations associated with accredited educational institutions, for the purpose of testing the technology. For testing purposes, a human operator shall be present in the autonomous vehicle such that he or she has the ability to monitor the vehicle's performance and intervene, if necessary, unless the vehicle is being tested or demonstrated on a closed course. Before the start of testing in this state, the entity performing the testing must submit to the department an~~

~~instrument of insurance, surety bond, or proof of self-insurance acceptable to the department in the amount of $5 million.~~

~~(2)~~ The original manufacturer of a vehicle converted by a third party into an autonomous vehicle is ~~shall~~ not ~~be~~ liable in, and shall have a defense to and be dismissed from, any legal action brought against the original manufacturer by any person injured due to an alleged vehicle defect caused by the conversion of the vehicle, or by equipment installed by the converter, unless the alleged defect was present in the vehicle as originally manufactured.

Section 7. Subsection (1) of section 319.145, Florida Statutes, is amended to read:

319.145 Autonomous vehicles.—

(1) An autonomous vehicle registered in this state must continue to meet applicable federal standards and regulations for such ~~a~~ motor vehicle. The vehicle must ~~shall~~:

(a) Have a system to safely alert the operator if an autonomous technology failure is detected while the autonomous technology is engaged. When an alert is given, the system must:

1. Require the operator to take control of the autonomous vehicle; or

2. If the operator does not, or is not able to, take control of the autonomous vehicle, be capable of bringing the vehicle to a complete stop ~~Have a means to engage and disengage the autonomous technology which is easily accessible to the operator~~.

(b) Have a means, inside the vehicle, to visually indicate when the vehicle is operating in autonomous mode.

~~(c) Have a means to alert the operator of the vehicle if a~~

~~technology failure affecting the ability of the vehicle to safely operate autonomously is detected while the vehicle is operating autonomously in order to indicate to the operator to take control of the vehicle.~~

(c)~~(d)~~ Be capable of being operated in compliance with the applicable traffic and motor vehicle laws of this state.

Section 8. Paragraph (c) of subsection (1) of section 332.08, Florida Statutes, is amended to read:

332.08 Additional powers.—

(1) In addition to the general powers in ss. 332.01-332.12 conferred and without limitation thereof, a municipality that has established or may hereafter establish airports, restricted landing areas, or other air navigation facilities, or that has acquired or set apart or may hereafter acquire or set apart real property for such purposes, is authorized:

(c) To lease for a term not exceeding 50 ~~30~~ years such airports or other air navigation facilities, or real property acquired or set apart for airport purposes, to private parties, any municipal or state government or the national government, or any department of either thereof, for operation; to lease or assign for a term not exceeding 50 ~~30~~ years to private parties, any municipal or state government or the national government, or any department of either thereof, for operation or use consistent with the purposes of ss. 332.01-332.12, space, area, improvements, or equipment on such airports; to sell any part of such airports, other air navigation facilities, or real property to any municipal or state government, or the United States or any department or instrumentality thereof, for aeronautical purposes or purposes incidental thereto, and to confer the

privileges of concessions of supplying upon its airports goods, commodities, things, services, and facilities; provided, that in each case in so doing the public is not deprived of its rightful equal and uniform use thereof.

Section 9. Section 338.155, Florida Statutes, is amended to read:

338.155 Payment of toll on toll facilities required; exemptions; signage required.—

(1) A person may not use any toll facility without payment of tolls, except employees of the agency operating the toll project when using the toll facility on official state business, state military personnel while on official military business, handicapped persons as provided in this section, persons exempt from toll payment by the authorizing resolution for bonds issued to finance the facility, and persons exempt on a temporary basis where use of such toll facility is required as a detour route. Any law enforcement officer operating a marked official vehicle is exempt from toll payment when on official law enforcement business. Any person operating a fire vehicle when on official business or a rescue vehicle when on official business is exempt from toll payment. Any person participating in the funeral procession of a law enforcement officer or firefighter killed in the line of duty is exempt from toll payment. The secretary or the secretary's designee may suspend the payment of tolls on a toll facility when necessary to assist in emergency evacuation. The failure to pay a prescribed toll constitutes a noncriminal traffic infraction, punishable as a moving violation as provided in s. 318.18. The department may adopt rules relating to the payment, collection, and enforcement of tolls, as authorized in

this chapter and chapters 316, 318, 320, and 322, including, but not limited to, rules for the implementation of video or other image billing and variable pricing. With respect to toll facilities managed by the department, the revenues of which are not pledged to repayment of bonds, the department may by rule allow the use of such facilities by public transit vehicles or by vehicles participating in a funeral procession for an active-duty military service member without the payment of tolls.

(2) Any person driving an automobile or other vehicle belonging to the Department of Military Affairs used for transporting military personnel, stores, and property, when properly identified, shall, together with any such conveyance and military personnel and property of the state in his or her charge, be allowed to pass free through all tollgates and over all toll bridges and ferries in this state.

(3) Any handicapped person who has a valid driver license, who operates a vehicle specially equipped for use by the handicapped, and who is certified by a physician licensed under chapter 458 or chapter 459 or by comparable licensing in another state or by the Adjudication Office of the United States Department of Veterans Affairs or its predecessor as being severely physically disabled and having permanent upper limb mobility or dexterity impairments which substantially impair the person's ability to deposit coins in toll baskets, shall be allowed to pass free through all tollgates and over all toll bridges and ferries in this state. A person who meets the requirements of this subsection shall, upon application, be issued a vehicle window sticker by the Department of Transportation.

(4) A copy of this section shall be posted at each toll bridge and on each ferry.

(5) The Department of Transportation shall provide envelopes for voluntary payments of tolls by those persons exempted from the payment of tolls pursuant to this section. The department shall accept any voluntary payments made by exempt persons.

(6) Personal identifying information held by the Department of Transportation, a county, a municipality, or an expressway authority for the purpose of paying, prepaying, or collecting tolls and associated administrative charges due for the use of toll facilities is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the Department of Transportation, a county, a municipality, or an expressway authority before, on, or after the effective date of the exemption. This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2019, unless reviewed and saved from repeal through reenactment by the Legislature.

(7) A toll facility must ensure the presence of signage notifying drivers if cash payment of the applicable toll at such facility is not an available option.

Section 10. Subsection (4) of section 338.165, Florida Statutes, is amended, and subsection (11) is added to that section, to read:

338.165 Continuation of tolls.—

(4) Notwithstanding any other law to the contrary, pursuant to s. 11, Art. VII of the State Constitution, and subject to the

requirements of subsection (2), the Department of Transportation may request the Division of Bond Finance to issue bonds secured by toll revenues collected on the Alligator Alley and~~,~~ the Sunshine Skyway Bridge~~, the Beeline-East Expressway, the Navarre Bridge, and the Pinellas Bayway~~ to fund transportation projects located within the county or counties in which the project is located and contained in the adopted work program of the department.

(11) The department's Pinellas Bayway System may be transferred by the department and become part of the turnpike system under the Florida Turnpike Enterprise Law. The transfer does not affect the rights of the parties, or their successors in interest, under the settlement agreement and final judgment in *Leonard Lee Ratner, Esther Ratner, and Leeco Gas and Oil Co. v. State Road Department of the State of Florida*, No. 67-1081 (Fla. 2nd Cir. Ct. 1968). Upon transfer of the Pinellas Bayway System to the turnpike system, the department shall also transfer to the Florida Turnpike Enterprise the funds deposited in the reserve account established by chapter 85-364, Laws of Florida, as amended by chapters 95-382 and 2014-223, Laws of Florida, which funds shall be used by the Florida Turnpike Enterprise solely to help fund the costs of repair or replacement of the transferred facilities.

Section 11. Chapter 85-364, Laws of Florida, as amended by chapters 95-382 and section 48 of 2014-223, Laws of Florida, is repealed.

Section 12. Paragraph (c) of subsection (3) and subsections (5) and (6) of section 338.231, Florida Statutes, are amended to read:

338.231 Turnpike tolls, fixing; pledge of tolls and other revenues.—The department shall at all times fix, adjust, charge, and collect such tolls and amounts for the use of the turnpike system as are required in order to provide a fund sufficient with other revenues of the turnpike system to pay the cost of maintaining, improving, repairing, and operating such turnpike system; to pay the principal of and interest on all bonds issued to finance or refinance any portion of the turnpike system as the same become due and payable; and to create reserves for all such purposes.

(3)

(c) Notwithstanding any other ~~provision of~~ law to the contrary, any prepaid toll account of any kind which has remained inactive for 10 ~~3~~ years shall be presumed unclaimed and its disposition shall be handled by the Department of Financial Services in accordance with all applicable provisions of chapter 717 relating to the disposition of unclaimed property, and the prepaid toll account shall be closed by the department.

~~(5) In each fiscal year while any of the bonds of the Broward County Expressway Authority series 1984 and series 1986-A remain outstanding, the department is authorized to pledge revenues from the turnpike system to the payment of principal and interest of such series of bonds and the operation and maintenance expenses of the Sawgrass Expressway, to the extent gross toll revenues of the Sawgrass Expressway are insufficient to make such payments. The terms of an agreement relative to the pledge of turnpike system revenue will be negotiated with the parties of the 1984 and 1986 Broward County Expressway Authority lease-purchase agreements, and subject to the covenants of those~~

~~agreements. The agreement must establish that the Sawgrass Expressway is subject to the planning, management, and operating control of the department limited only by the terms of the lease-purchase agreements. The department shall provide for the payment of operation and maintenance expenses of the Sawgrass Expressway until such agreement is in effect. This pledge of turnpike system revenues is subordinate to the debt service requirements of any future issue of turnpike bonds, the payment of turnpike system operation and maintenance expenses, and subject to any subsequent resolution or trust indenture relating to the issuance of such turnpike bonds.~~

(5) ~~(6)~~ The use and disposition of revenues pledged to bonds are subject to ss. 338.22-338.241 and such regulations as the resolution authorizing the issuance of the bonds or such trust agreement may provide.

Section 13. Paragraph (c) of subsection (7) of section 339.175, Florida Statutes, is amended to read:

339.175 Metropolitan planning organization.—

(7) LONG-RANGE TRANSPORTATION PLAN.—Each M.P.O. must develop a long-range transportation plan that addresses at least a 20-year planning horizon. The plan must include both long-range and short-range strategies and must comply with all other state and federal requirements. The prevailing principles to be considered in the long-range transportation plan are: preserving the existing transportation infrastructure; enhancing Florida's economic competitiveness; and improving travel choices to ensure mobility. The long-range transportation plan must be consistent, to the maximum extent feasible, with future land use elements and the goals, objectives, and policies of the approved local

government comprehensive plans of the units of local government located within the jurisdiction of the M.P.O. Each M.P.O. is encouraged to consider strategies that integrate transportation and land use planning to provide for sustainable development and reduce greenhouse gas emissions. The approved long-range transportation plan must be considered by local governments in the development of the transportation elements in local government comprehensive plans and any amendments thereto. The long-range transportation plan must, at a minimum:

(c) Assess capital investment and other measures necessary to:

1. Ensure the preservation of the existing metropolitan transportation system including requirements for the operation, resurfacing, restoration, and rehabilitation of major roadways and requirements for the operation, maintenance, modernization, and rehabilitation of public transportation facilities; and

2. Make the most efficient use of existing transportation facilities to relieve vehicular congestion, improve safety, and maximize the mobility of people and goods. Such efforts must include, but are not limited to, consideration of infrastructure and technological improvements necessary to accommodate advances in vehicle technology, such as autonomous technology and other developments.

In the development of its long-range transportation plan, each M.P.O. must provide the public, affected public agencies, representatives of transportation agency employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public

transit, and other interested parties with a reasonable opportunity to comment on the long-range transportation plan. The long-range transportation plan must be approved by the M.P.O.

Section 14. Subsection (2) of section 339.2818, Florida Statutes, is amended to read:

339.2818 Small County Outreach Program.—

(2)~~(a)~~ For the purposes of this section, the term "small county" means any county that has a population of 170,000 ~~150,000~~ or less as determined by the most recent official estimate pursuant to s. 186.901.

~~(b) Notwithstanding paragraph (a), for the 2015-2016 fiscal year, for purposes of this section, the term "small county" means any county that has a population of 165,000 or less as determined by the most recent official estimate pursuant to s. 186.901. This paragraph expires July 1, 2016.~~

Section 15. Paragraph (c) is added to subsection (3) of section 339.64, Florida Statutes, and paragraph (a) of subsection (4) of that section is amended, to read:

339.64 Strategic Intermodal System Plan.—

(3)

(c) The department shall coordinate with federal, regional, and local partners, as well as industry representatives, to consider infrastructure and technological improvements necessary to accommodate advances in vehicle technology, such as autonomous technology and other developments, in Strategic Intermodal System facilities.

(4) The Strategic Intermodal System Plan shall include the following:

(a) A needs assessment that must include, but is not limited to, consideration of infrastructure and technological improvements necessary to accommodate advances in vehicle technology, such as autonomous technology and other developments.

Section 16. Section 341.0532, Florida Statutes, is repealed.

Section 17. Subsection (3) of section 348.565, Florida Statutes, is amended, and subsection (5) is added to that section, to read:

348.565 Revenue bonds for specified projects.—The existing facilities that constitute the Tampa-Hillsborough County Expressway System are hereby approved to be refinanced by revenue bonds issued by the Division of Bond Finance of the State Board of Administration pursuant to s. 11(f), Art. VII of the State Constitution and the State Bond Act or by revenue bonds issued by the authority pursuant to s. 348.56(1)(b). In addition, the following projects of the Tampa-Hillsborough County Expressway Authority are approved to be financed or refinanced by the issuance of revenue bonds in accordance with this part and s. 11(f), Art. VII of the State Constitution:

(3) Lee Roy Selmon Crosstown Expressway System widening, and any extensions thereof.

(5) Capital projects that the authority is authorized to acquire, construct, reconstruct, equip, operate, and maintain pursuant to this part, including, without limitation, s. 348.54(15), provided that any financing of such projects does not pledge the full faith and credit of the state.

Section 18. This act shall take effect July 1, 2016.

The Florida Senate

Committee Agenda Request

To: Senator Tom Lee, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: February 17, 2016

I respectfully request that **Senate Bill #1392**, relating to **Transportation**, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

Senator Jeff Brandes
Florida Senate, District 22

File signed original with committee office

S-020 (03/2004)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/16
Meeting Date

1392
Bill Number (if applicable)

248640
Amendment Barcode (if applicable)

Topic TRANSPORTATION

Name MICHAEL MURTHA

Job Title PRESIDENT

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Phone 407-895-9333

Email mmurtha@fcpa.org

Speaking: ☑ For ☐ Against ☐ Information

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

Representing FL CONCRETE + PRODUCTS ASSOCIATION

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-1-16
Meeting Date

1392
Bill Number (if applicable)

Topic TRANSPORTATION BILL #392

BARCODE 174272
Amendment Barcode (if applicable)

Name Chris Doolin

Support LFAA by Latvala

Job Title

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Street

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TALLAHASSEE, FLA. 32303
City *State* *Zip*

Email cdoolin@nettally.com

Speaking: ☑ For ☐ Against ☐ Information

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

Representing SMALL COUNTY COALITION

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3 / 1 / 2016
Meeting Date

Topic _____ Bill Number 1392 *(if applicable)*

Name BRIAN PITTS Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

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

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

Speaking: ☐ For ☐ Against ☑ Information

Representing JUSTICE-2-JESUS

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/16
Meeting Date

Bill Number (if applicable)

110946
Amendment Barcode (if applicable)

Topic App. Red Lights

Name Greg Pound

Job Title

Address 9166 Sunrise Dr. Phone

Street

Largo FL 33773 Email

City *State* *Zip*

Speaking: ☐ For ☐ Against ☒ Information

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

Representing Pinellas County Florida Government Corruption

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL:	PCS/SB 1418 (146376)
INTRODUCER:	Appropriations Committee (Recommended by Appropriations Subcommittee on Education); and Senators Simmons and Garcia
SUBJECT:	Supplemental Academic Instruction
DATE:	February 29, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Scott	Klebacha	ED	**Favorable**
2.	Sikes	Elwell	AED	**Recommend: Fav/CS**
3.	Sikes	Kynoch	AP	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/SB 1418 modifies and extends the requirement of providing an additional hour of daily intensive reading instruction to students enrolled in elementary schools identified as the lowest-performing.

Specifically, the bill:

- Extends the requirement through the 2016-2017 fiscal year.
- Requires the 100 lowest-performing elementary schools to provide at least 40 hours of the instruction in a 2017 summer program to students who have Level 1 or Level 2 reading assessment scores.
- Allows students enrolled in the 300 lowest-performing elementary schools who have Level 5 reading assessment scores to participate in the additional hour of instruction on an optional basis.
- Requires a school district to provide 180 hours of additional instruction through a district-adopted plan for students who have Level 1 or Level 2 reading assessment scores at any elementary school that is one of the 300 lowest-performing, but not one of the 100 lowest-performing.

Funding for the additional hour of intensive reading instruction at the lowest-performing elementary schools is provided in the supplemental academic instruction and the research-based reading instruction allocation categoricals within the Florida Education Finance Program

(FEFP). The Senate General Appropriations Bill for Fiscal Year 2016-2017, SB 2500, requires school districts to spend at least $90 million from these categorical programs and other funding sources and provides an additional $53 million for the supplemental academic instruction categorical to fund the additional hour of intensive reading instruction.

The bill provides for an effective date of July 1, 2016.

II. Present Situation:

Intensive Reading Instruction

Supplemental Academic Instruction Categorical Fund

In 1999, the Legislature created the Supplemental Academic Instruction (SAI) Categorical Fund as part of the A+ Education Plan[1] for the purpose of assisting school districts in providing supplemental instruction to students in kindergarten through grade 12.[2] The SAI fund was created to:[3]

- Address the school districts' requests for more flexibility; and
- Provide additional resources to districts to help students gain at least a year's worth of knowledge for each year in school.

A school district that has one or more of the 300 lowest-performing elementary schools based on the state reading assessment is required to provide an additional hour of intensive reading instruction beyond the normal school day for each day of the entire school year in those schools.[4] The additional hour of instruction must be provided by teachers or reading specialists who are effective in teaching reading or by a K-5 mentoring reading program that is supervised by a teacher who is effective in teaching reading.[5] Students who score Level 5 on the assessment may opt to participate in the additional hour of instruction.[6]

Supplemental instruction may be provided to a student in any manner and at any time during or beyond the regular 180-day term identified by the school as being the most effective and efficient way to best help that student progress from grade to grade and to graduate.[7]

Supplemental instructional strategies may include, but are not limited to:[8]

- Modified curriculum;
- Reading instruction;

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[1] Section 23, ch. 99-398, L.O.F.
[2] Florida House of Representatives, Council for Lifelong Learning, *Supplemental Academic Instruction Fact Sheet* (Sept. 2001) *available at* http://archive.flsenate.gov/data/publications/2002/house/reports/EdFactSheets/fact%20sheets/supplementalacademicinstruction.pdf.
[3] *Id.* Prior to the SAI fund, school districts were given resources for summer school and supplemental instruction with more restrictive funds. *Id.* The following funding sources were combined to become a portion of the SAI fund: K-8 summer school categorical, 9-12 FTE funds for summer school, and the weighted portion of dropout prevention funds. *Id.*
[4] Section 1011.62(1)(f), F.S.
[5] *Id.*
[6] *Id.*
[7] *Id.*
[8] *Id.*

- After-school instruction;
- Tutoring;
- Mentoring;
- Class size reduction;
- Extended school year;
- Intensive skills development in summer school; and
- Other methods for improving student achievement.

The SAI funds are allocated annually in the amount provided in the General Appropriations Act (GAA), and are in addition to funds appropriated on the basis of full-time equivalent (FTE) student membership in the Florida Finance Education Program (FEFP).[9] For the 2015-2016 fiscal year, school districts with one or more of the 300 lowest-performing elementary schools based on the statewide, standardized English Language Arts (ELA) assessment were required to use at least $75 million in SAI funds for the required additional hour of intensive reading instruction.[10]

Research-Based Reading Instruction Allocation

In addition to the SAI categorical fund, school districts may use funds from the research-based reading instruction allocation to provide comprehensive reading instruction to students in kindergarten through grade 12.[11] The funds must be used to provide a system of comprehensive reading instruction to K-12 students which may include providing:[12]

- An additional hour per day of intensive reading instruction to students in the 300 lowest-performing elementary schools[13] by teachers and reading specialists who are effective in teaching reading.
- Intensive intervention during the school day and in the required extra hour for students identified as having a reading deficiency through K-5 reading intervention teachers.
- Highly qualified reading coaches to specifically support teachers in making instructional decisions based on student data, and improve teacher delivery of effective reading instruction, intervention, and reading in the content area based on student need.
- Professional development for school district teachers in scientifically based reading instruction, including strategies to teach reading in content areas and with an emphasis on technical and informational text.
- Summer reading camps for all K-2 students who demonstrate a reading deficiency and students in grades 3-5 who score at Level 1 on the statewide, standardized reading assessment or ELA assessment.
- Supplemental instructional materials grounded in scientifically based reading research.
- Intensive interventions for K-12 students who have been identified as having a reading deficiency or who are reading below grade level.

[9] *Id.*
[10] Section 2, ch. 2015-232, L.O.F. The 300 lowest-performing schools were the same schools as identified for the 2014-2015 fiscal year. *Id. See also* s. 7, ch. 2015-222, L.O.F.
[11] Section 1011.62(9), F.S.
[12] *Id.* at (9)(c).
[13] For the 2015-2016 fiscal year, the 300 lowest-performing schools were the same schools identified as such for the 2014-2015 fiscal year. Section 7, ch. 2015-222, L.O.F

School districts must annually submit a K-12 comprehensive reading plan to the Department of Education (DOE) for the specific use of the allocation.[14] The Just Read, Florida! Office within the DOE reviews and approves the district's plan.[15] School districts have flexibility in developing their plans and are encouraged to offer reading intervention through innovative methods.[16] One hundred percent of the research-based reading instruction allocation must be used to implement a school district's approved plan.[17]

For the 2015-2016 fiscal year, school districts with one or more of the 300 lowest-performing elementary schools based on the statewide, standardized ELA assessment were required to use at least $15 million of the research-based reading instruction allocation[18] for the required additional hour of intensive reading instruction.

III. Effect of Proposed Changes:

The bill modifies and extends the requirement of providing an additional hour of daily intensive reading instruction to students enrolled in elementary schools identified as the lowest-performing.

Specifically, the bill:

- Extends the requirement through the 2016-2017 fiscal year, which is set to expire July 1, 2016.
- Requires the 100 lowest-performing elementary schools to provide at least 40 hours of the instruction in a 2017 summer program to students who have Level 1 or Level 2 reading assessment scores.
- Allows students enrolled in the 300 lowest-performing elementary schools who have Level 5 assessment scores to participate in the additional hour of instruction on an optional basis.
- Requires a school district to provide 180 hours of additional instruction through a district-adopted plan for students who have Level 1 or Level 2 reading assessment scores at any elementary school that is one of the 300 lowest-performing, but not one of the 100 lowest-performing.

The bill extends the requirement of providing an additional hour of daily intensive reading instruction through the 2016-2017 fiscal year. Currently, the requirement applies only for the 2015-2016 fiscal year pursuant to s. 7, ch. 2015-222, L.O.F., which implemented the 2015 General Appropriations Act. The amendments made to s. 1011.62, F.S., in SB 2502-A (2015) are scheduled to expire July 1, 2016.[19]

The bill requires that each school district that has one or more of the 300 lowest-performing elementary schools based on the state reading assessment use funds from the Supplemental Academic Instruction and Research-Based Reading Instruction Allocation categoricals to

[14] Section 1011.62(9)(d), F.S. *See also* Rule 6A-6.053, F.A.C.
[15] *Id.*
[16] *Id.*
[17] *Id.*
[18] Specific Appropriations 7 and 90, s. 2, ch. 2015-232, L.O.F. The amount of $115,000 was allocated to each district and the remaining balance allocated based on each district's proportion of the total K-12 based funding. *Id.*
[19] Section 9, ch. 2015-222, L.O.F.

provide an additional hour of instruction beyond the normal school day of the entire school year for intensive reading instruction for students in those schools.

The bill requires the 100 lowest-performing elementary schools to provide at least 40 hours of instruction in a 2017 summer program to students who have Level 1 or Level 2 reading assessment scores.

For elementary schools identified as one of the 300 lowest-performing in reading, but not one of the 100 lowest-performing, the bill requires a school district to provide additional instruction through a plan adopted by the local school district. At a minimum, the plan must include 180 hours of additional instruction for students who have Level 1 or Level 2 reading assessment scores, and must be submitted to the Department of Education.

Additionally, the bill provides students enrolled in these schools who have Level 5 assessment scores the option of participating in the additional hour of instruction if they choose. The bill also specifies that for the 2016-2017 fiscal year, the 300 lowest-performing elementary schools must be the same schools as those identified for the 2015-2016 fiscal year, and must not include exceptional student education centers.

The bill provides for an effective date of July 1, 2016.

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:

Funding for the additional hour of intensive reading instruction at the lowest-performing elementary schools is provided in the supplemental academic instruction and the

research-based reading instruction allocation categoricals within the Florida Education Finance Program (FEFP). The Senate General Appropriations Bill for Fiscal Year 2016-2017, SB 2500, requires school districts to spend at least $90 million from these categorical programs and other funding sources and provides an additional $53 million for the supplemental academic instruction categorical to fund the additional hour of intensive reading instruction.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill substantially amends section 1011.62 of the Florida Statutes.

IX. Additional Information:

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

Recommended CS by Appropriations Subcommittee on Education on February 17, 2016:
The committee substitute clarifies that supplemental academic instruction and research-based reading allocation categorical funds are to be used to provide an additional hour of instruction in the 300 lowest-performing elementary schools, not just the 100 lowest-performing elementary schools.

B. Amendments:

None.

146376

576-03705-16

Proposed Committee Substitute by the Committee on Appropriations (Appropriations Subcommittee on Education)

A bill to be entitled

An act relating to supplemental academic instruction; amending s. 1011.62, F.S.; requiring supplemental academic instruction categorical funds and research-based reading instruction allocation funds to be used by a school district that has one or more of the lowest-performing elementary schools for additional intensive reading instruction at the school during the summer program in addition to instruction during the school year; requiring certain school districts to provide additional instruction under certain circumstances; requiring such districts to provide the Department of Education with certain plans; providing effective dates.

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

Section 1. Effective July 1, 2016, and upon the expiration of the amendment to section 1011.62, Florida Statutes, made by chapter 2015-222, Laws of Florida, paragraph (f) of subsection (1) and paragraph (a) of subsection (9) of that section are amended to read:

1011.62 Funds for operation of schools.—If the annual allocation from the Florida Education Finance Program to each district for operation of schools is not determined in the annual appropriations act or the substantive bill implementing the annual appropriations act, it shall be determined as

146376

576-03705-16

follows:

(1) COMPUTATION OF THE BASIC AMOUNT TO BE INCLUDED FOR OPERATION.—The following procedure shall be followed in determining the annual allocation to each district for operation:

(f) *Supplemental academic instruction; categorical fund.*—

1. There is created a categorical fund to provide supplemental academic instruction to students in kindergarten through grade 12. This paragraph may be cited as the "Supplemental Academic Instruction Categorical Fund."

2. Categorical funds for supplemental academic instruction shall be allocated annually to each school district in the amount provided in the General Appropriations Act. These funds shall be in addition to the funds appropriated on the basis of FTE student membership in the Florida Education Finance Program and shall be included in the total potential funds of each district. These funds shall be used to provide supplemental academic instruction to students enrolled in the K-12 program. For the 2016-2017 ~~2014-2015~~ fiscal year, each school district that has one or more of the 300 lowest-performing elementary schools based on the state reading assessment shall use these funds, together with the funds provided in the district's research-based reading instruction allocation and other available funds, to provide an additional hour of instruction beyond the normal school day for each day of the entire school year for intensive reading instruction for the students in each such school. Students enrolled in these schools who have Level 5 assessment scores may participate in the additional hour of instruction on an optional basis ~~of these schools~~. In addition,

the 100 lowest-performing elementary schools shall provide at least 40 hours of instruction in a 2017 summer program to students who have Level 1 and Level 2 reading assessment scores. The ~~This~~ additional hour of instruction must be provided by teachers or reading specialists who are effective in teaching reading or by a K-5 mentoring reading program that is supervised by a teacher who is effective in ~~at~~ teaching reading. ~~Students enrolled in these schools who have level 5 assessment scores may participate in the additional hour of instruction on an optional basis. Exceptional student education centers shall not be included in the 300 schools.~~ After this requirement has been met, supplemental instruction strategies may include, but are not limited to: use of a modified curriculum, reading instruction, after-school instruction, tutoring, mentoring, a reduction in class size ~~reduction~~, an extended school year, intensive skills development in summer school, and other methods of ~~for~~ improving student achievement. Supplemental instruction may be provided to a student in any manner and at any time during or beyond the regular 180-day term identified by the school as being the most effective and efficient way to best help that student progress from grade to grade and to graduate. For an elementary school that is one of the 300 lowest-performing in reading, but not one of the 100 lowest-performing in reading, a school district shall provide additional instruction through a plan adopted by the local school district. At a minimum, the plan must include 180 hours of additional instruction for students who have Level 1 and Level 2 reading assessment scores. A school district shall provide the department with a copy of the district-approved plan. For the

2016-2017 fiscal year, the 300 lowest-performing elementary schools must be the same schools as those identified for the 2015-2016 fiscal year. Exceptional student education centers may not be included in the 300 schools.

3. Effective with the 1999-2000 fiscal year, funding on the basis of FTE membership beyond the 180-day regular term shall be provided in the FEFP only for students enrolled in juvenile justice education programs or in education programs for juveniles placed in secure facilities or programs under s. 985.19. Funding for instruction beyond the regular 180-day school year for all other K-12 students shall be provided through the supplemental academic instruction categorical fund and other state, federal, and local fund sources with ample flexibility for schools to provide supplemental instruction to assist students in progressing from grade to grade and graduating.

4. The Florida State University School, as a lab school, is authorized to expend from its FEFP or Lottery Enhancement Trust Fund allocation the cost to the student of remediation in reading, writing, or mathematics for any graduate who requires remediation at a postsecondary educational institution.

5. Beginning in the 1999-2000 school year, dropout prevention programs as defined in ss. 1003.52, 1003.53(1)(a), (b), and (c), and 1003.54 shall be included in group 1 programs under subparagraph (d)3.

(9) RESEARCH-BASED READING INSTRUCTION ALLOCATION.—

(a) The research-based reading instruction allocation is created to provide comprehensive reading instruction to students in kindergarten through grade 12. For the 2016-2017 ~~2014-2015~~

fiscal year, in each school district that has one or more of the 300 lowest-performing elementary schools based on the state reading assessment, priority shall be given to providing an additional hour per day of intensive reading instruction beyond the normal school day for each day of the entire school year for the students in each such school. Students enrolled in these schools who have Level 5 assessment scores may participate in the additional hour of instruction on an optional basis. In addition, the 100 lowest-performing elementary schools shall provide at least 40 hours of instruction in a 2017 summer program for students who have Level 1 or Level 2 reading assessment scores. A school district shall provide the additional instruction through a plan adopted by the local school district for an elementary school that is one of the 300 lowest-performing in reading, but not one of the 100 lowest-performing in reading. At a minimum, the plan must include 180 hours of additional instruction for students who have Level 1 and Level 2 reading assessment scores. A copy of the district-approved plan must be provided to the department. For the 2016-2017 fiscal year, the 300 lowest-performing schools must be the same schools as those identified for the 2015-2016 fiscal year. Exceptional student education centers may ~~shall~~ not be included in the 300 schools. The intensive reading instruction delivered in this additional hour and for other students must ~~shall~~ include: research-based reading instruction that has been proven to accelerate the progress of students exhibiting a reading deficiency; differentiated instruction based on student assessment data to meet students' specific reading needs; explicit and systematic reading development in phonemic

awareness, phonics, fluency, vocabulary, and comprehension, with more extensive opportunities for guided practice, error correction, and feedback; and the integration of social studies, science, and mathematics-text reading, text discussion, and writing in response to reading. ~~For the 2012-2013 and 2013-2014 fiscal years, a school district may not hire more reading coaches than were hired during the 2011-2012 fiscal year unless all students in kindergarten through grade 5 who demonstrate a reading deficiency, as determined by district and state assessments, including students scoring Level 1 or Level 2 on the statewide, standardized reading assessment or, upon implementation, the English Language Arts assessment, are provided an additional hour per day of intensive reading instruction beyond the normal school day for each day of the entire school year.~~

Section 2. This act shall take effect July 1, 2016.

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 1418
INTRODUCER:	Appropriations Committee (Recommended by Appropriations Subcommittee on Education); and Senators Simmons and Garcia
SUBJECT:	Supplemental Academic Instruction
DATE:	March 1, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Scott	Klebacha	ED	**Favorable**
2.	Sikes	Elwell	AED	**Recommend: Fav/CS**
3.	Sikes	Kynoch	AP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1418 modifies and extends the requirement of providing an additional hour of daily intensive reading instruction to students enrolled in elementary schools identified as the lowest-performing.

Specifically, the bill:

- Extends the requirement through the 2016-2017 fiscal year.
- Requires the 100 lowest-performing elementary schools to provide at least 40 hours of the instruction in a 2017 summer program to students who have Level 1 or Level 2 reading assessment scores.
- Allows students enrolled in the 300 lowest-performing elementary schools who have Level 5 reading assessment scores to participate in the additional hour of instruction on an optional basis.
- Requires a school district to provide 180 hours of additional instruction through a district-adopted plan for students who have Level 1 or Level 2 reading assessment scores at any elementary school that is one of the 300 lowest-performing, but not one of the 100 lowest-performing.

Funding for the additional hour of intensive reading instruction at the lowest-performing elementary schools is provided in the supplemental academic instruction and the research-based reading instruction allocation categoricals within the Florida Education Finance Program

(FEFP). The Senate General Appropriations Bill for Fiscal Year 2016-2017, SB 2500, requires school districts to spend at least $90 million from these categorical programs and other funding sources and provides an additional $53 million for the supplemental academic instruction categorical to fund the additional hour of intensive reading instruction.

The bill provides for an effective date of July 1, 2016.

II. Present Situation:

Intensive Reading Instruction

Supplemental Academic Instruction Categorical Fund

In 1999, the Legislature created the Supplemental Academic Instruction (SAI) Categorical Fund as part of the A+ Education Plan[1] for the purpose of assisting school districts in providing supplemental instruction to students in kindergarten through grade 12.[2] The SAI fund was created to:[3]

- Address the school districts' requests for more flexibility; and
- Provide additional resources to districts to help students gain at least a year's worth of knowledge for each year in school.

A school district that has one or more of the 300 lowest-performing elementary schools based on the state reading assessment is required to provide an additional hour of intensive reading instruction beyond the normal school day for each day of the entire school year in those schools.[4] The additional hour of instruction must be provided by teachers or reading specialists who are effective in teaching reading or by a K-5 mentoring reading program that is supervised by a teacher who is effective in teaching reading.[5] Students who score Level 5 on the assessment may opt to participate in the additional hour of instruction.[6]

Supplemental instruction may be provided to a student in any manner and at any time during or beyond the regular 180-day term identified by the school as being the most effective and efficient way to best help that student progress from grade to grade and to graduate.[7]

Supplemental instructional strategies may include, but are not limited to:[8]

- Modified curriculum;
- Reading instruction;

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[1] Section 23, ch. 99-398, L.O.F.
[2] Florida House of Representatives, Council for Lifelong Learning, *Supplemental Academic Instruction Fact Sheet* (Sept. 2001) *available at* http://archive.flsenate.gov/data/publications/2002/house/reports/EdFactSheets/fact%20sheets/supplementalacademicinstruction.pdf.
[3] *Id.* Prior to the SAI fund, school districts were given resources for summer school and supplemental instruction with more restrictive funds. *Id.* The following funding sources were combined to become a portion of the SAI fund: K-8 summer school categorical, 9-12 FTE funds for summer school, and the weighted portion of dropout prevention funds. *Id.*
[4] Section 1011.62(1)(f), F.S.
[5] *Id.*
[6] *Id.*
[7] *Id.*
[8] *Id.*

- After-school instruction;
- Tutoring;
- Mentoring;
- Class size reduction;
- Extended school year;
- Intensive skills development in summer school; and
- Other methods for improving student achievement.

The SAI funds are allocated annually in the amount provided in the General Appropriations Act (GAA), and are in addition to funds appropriated on the basis of full-time equivalent (FTE) student membership in the Florida Finance Education Program (FEFP).[9] For the 2015-2016 fiscal year, school districts with one or more of the 300 lowest-performing elementary schools based on the statewide, standardized English Language Arts (ELA) assessment were required to use at least $75 million in SAI funds for the required additional hour of intensive reading instruction.[10]

Research-Based Reading Instruction Allocation

In addition to the SAI categorical fund, school districts may use funds from the research-based reading instruction allocation to provide comprehensive reading instruction to students in kindergarten through grade 12.[11] The funds must be used to provide a system of comprehensive reading instruction to K-12 students which may include providing:[12]

- An additional hour per day of intensive reading instruction to students in the 300 lowest-performing elementary schools[13] by teachers and reading specialists who are effective in teaching reading.
- Intensive intervention during the school day and in the required extra hour for students identified as having a reading deficiency through K-5 reading intervention teachers.
- Highly qualified reading coaches to specifically support teachers in making instructional decisions based on student data, and improve teacher delivery of effective reading instruction, intervention, and reading in the content area based on student need.
- Professional development for school district teachers in scientifically based reading instruction, including strategies to teach reading in content areas and with an emphasis on technical and informational text.
- Summer reading camps for all K-2 students who demonstrate a reading deficiency and students in grades 3-5 who score at Level 1 on the statewide, standardized reading assessment or ELA assessment.
- Supplemental instructional materials grounded in scientifically based reading research.
- Intensive interventions for K-12 students who have been identified as having a reading deficiency or who are reading below grade level.

[9] *Id.*
[10] Section 2, ch. 2015-232, L.O.F. The 300 lowest-performing schools were the same schools as identified for the 2014-2015 fiscal year. *Id. See also* s. 7, ch. 2015-222, L.O.F.
[11] Section 1011.62(9), F.S.
[12] *Id.* at (9)(c).
[13] For the 2015-2016 fiscal year, the 300 lowest-performing schools were the same schools identified as such for the 2014-2015 fiscal year. Section 7, ch. 2015-222, L.O.F

School districts must annually submit a K-12 comprehensive reading plan to the Department of Education (DOE) for the specific use of the allocation.[14] The Just Read, Florida! Office within the DOE reviews and approves the district's plan.[15] School districts have flexibility in developing their plans and are encouraged to offer reading intervention through innovative methods.[16] One hundred percent of the research-based reading instruction allocation must be used to implement a school district's approved plan.[17]

For the 2015-2016 fiscal year, school districts with one or more of the 300 lowest-performing elementary schools based on the statewide, standardized ELA assessment were required to use at least $15 million of the research-based reading instruction allocation[18] for the required additional hour of intensive reading instruction.

III. Effect of Proposed Changes:

The bill modifies and extends the requirement of providing an additional hour of daily intensive reading instruction to students enrolled in elementary schools identified as the lowest-performing.

Specifically, the bill:

- Extends the requirement through the 2016-2017 fiscal year, which is set to expire July 1, 2016.
- Requires the 100 lowest-performing elementary schools to provide at least 40 hours of the instruction in a 2017 summer program to students who have Level 1 or Level 2 reading assessment scores.
- Allows students enrolled in the 300 lowest-performing elementary schools who have Level 5 assessment scores to participate in the additional hour of instruction on an optional basis.
- Requires a school district to provide 180 hours of additional instruction through a district-adopted plan for students who have Level 1 or Level 2 reading assessment scores at any elementary school that is one of the 300 lowest-performing, but not one of the 100 lowest-performing.

The bill extends the requirement of providing an additional hour of daily intensive reading instruction through the 2016-2017 fiscal year. Currently, the requirement applies only for the 2015-2016 fiscal year pursuant to s. 7, ch. 2015-222, L.O.F., which implemented the 2015 General Appropriations Act. The amendments made to s. 1011.62, F.S., in SB 2502-A (2015) are scheduled to expire July 1, 2016.[19]

The bill requires that each school district that has one or more of the 300 lowest-performing elementary schools based on the state reading assessment use funds from the Supplemental Academic Instruction and Research-Based Reading Instruction Allocation categoricals to

[14] Section 1011.62(9)(d), F.S. *See also* Rule 6A-6.053, F.A.C.
[15] *Id.*
[16] *Id.*
[17] *Id.*
[18] Specific Appropriations 7 and 90, s. 2, ch. 2015-232, L.O.F. The amount of $115,000 was allocated to each district and the remaining balance allocated based on each district's proportion of the total K-12 based funding. *Id.*
[19] Section 9, ch. 2015-222, L.O.F.

provide an additional hour of instruction beyond the normal school day of the entire school year for intensive reading instruction for students in those schools.

The bill requires the 100 lowest-performing elementary schools to provide at least 40 hours of instruction in a 2017 summer program to students who have Level 1 or Level 2 reading assessment scores.

For elementary schools identified as one of the 300 lowest-performing in reading, but not one of the 100 lowest-performing, the bill requires a school district to provide additional instruction through a plan adopted by the local school district. At a minimum, the plan must include 180 hours of additional instruction for students who have Level 1 or Level 2 reading assessment scores, and must be submitted to the Department of Education.

Additionally, the bill provides students enrolled in these schools who have Level 5 assessment scores the option of participating in the additional hour of instruction if they choose. The bill also specifies that for the 2016-2017 fiscal year, the 300 lowest-performing elementary schools must be the same schools as those identified for the 2015-2016 fiscal year, and must not include exceptional student education centers.

The bill provides for an effective date of July 1, 2016.

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:

Funding for the additional hour of intensive reading instruction at the lowest-performing elementary schools is provided in the supplemental academic instruction and the

research-based reading instruction allocation categoricals within the Florida Education Finance Program (FEFP). The Senate General Appropriations Bill for Fiscal Year 2016-2017, SB 2500, requires school districts to spend at least $90 million from these categorical programs and other funding sources and provides an additional $53 million for the supplemental academic instruction categorical to fund the additional hour of intensive reading instruction.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill substantially amends section 1011.62 of the Florida Statutes.

IX. Additional Information:

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

CS by Appropriations on March 1, 2016:
The committee substitute clarifies that supplemental academic instruction and research-based reading allocation categorical funds are to be used to provide an additional hour of instruction in the 300 lowest-performing elementary schools, not just the 100 lowest-performing elementary schools.

B. Amendments:

None.

By Senator Simmons

10-01462-16 20161418__

A bill to be entitled

An act relating to supplemental academic instruction; amending s. 1011.62, F.S.; requiring supplemental academic instruction categorical funds and research-based reading instruction allocation funds to be used by a school district that has one or more of the lowest-performing elementary schools for additional intensive reading instruction at the school during the summer program in addition to instruction during the school year; requiring certain school districts to provide additional instruction under certain circumstances; requiring such districts to provide the Department of Education with certain plans; providing effective dates.

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

Section 1. Effective July 1, 2016, and upon the expiration of the amendment to section 1011.62, Florida Statutes, made by chapter 2015-222, Laws of Florida, paragraph (f) of subsection (1) and paragraph (a) of subsection (9) of that section are amended to read:

1011.62 Funds for operation of schools.—If the annual allocation from the Florida Education Finance Program to each district for operation of schools is not determined in the annual appropriations act or the substantive bill implementing the annual appropriations act, it shall be determined as follows:

(1) COMPUTATION OF THE BASIC AMOUNT TO BE INCLUDED FOR OPERATION.—The following procedure shall be followed in determining the annual allocation to each district for operation:

10-01462-16 20161418__

(f) *Supplemental academic instruction; categorical fund.*—

1. There is created a categorical fund to provide supplemental academic instruction to students in kindergarten through grade 12. This paragraph may be cited as the "Supplemental Academic Instruction Categorical Fund."

2. Categorical funds for supplemental academic instruction shall be allocated annually to each school district in the amount provided in the General Appropriations Act. These funds shall be in addition to the funds appropriated on the basis of FTE student membership in the Florida Education Finance Program and shall be included in the total potential funds of each district. These funds shall be used to provide supplemental academic instruction to students enrolled in the K-12 program. For the 2016-2017 ~~2014-2015~~ fiscal year, each school district that has one or more of the 100 ~~300~~ lowest-performing elementary schools based on the state reading assessment shall use these funds, together with the funds provided in the district's research-based reading instruction allocation and other available funds, to provide an additional hour of instruction beyond the normal school day for each day of the entire school year for intensive reading instruction for the students in each such school. Students enrolled in these schools who have Level 5 assessment scores may participate in the additional hour of instruction on an optional basis ~~of these schools~~. In addition, the 100 lowest-performing elementary schools shall provide at least 40 hours of instruction in a 2017 summer program to students who have Level 1 and Level 2 reading assessment scores. The ~~This~~ additional hour of instruction must be provided by teachers or reading specialists who are effective in teaching

reading or by a K-5 mentoring reading program that is supervised by a teacher who is effective in ~~at~~ teaching reading. ~~Students enrolled in these schools who have level 5 assessment scores may participate in the additional hour of instruction on an optional basis. Exceptional student education centers shall not be included in the 300 schools.~~ After this requirement has been met, supplemental instruction strategies may include, but are not limited to: use of a modified curriculum, reading instruction, after-school instruction, tutoring, mentoring, a reduction in class size ~~reduction~~, an extended school year, intensive skills development in summer school, and other methods of ~~for~~ improving student achievement. Supplemental instruction may be provided to a student in any manner and at any time during or beyond the regular 180-day term identified by the school as being the most effective and efficient way to best help that student progress from grade to grade and to graduate. For an elementary school that is one of the 300 lowest-performing in reading, but not one of the 100 lowest-performing in reading, a school district shall provide additional instruction through a plan adopted by the local school district. At a minimum, the plan must include 180 hours of additional instruction for students who have Level 1 and Level 2 reading assessment scores. A school district shall provide the department with a copy of the district-approved plan. For the 2016-2017 fiscal year, the 300 lowest-performing elementary schools must be the same schools as those identified for the 2015-2016 fiscal year. Exceptional student education centers may not be included in the 300 schools.

3. Effective with the 1999-2000 fiscal year, funding on the

basis of FTE membership beyond the 180-day regular term shall be provided in the FEFP only for students enrolled in juvenile justice education programs or in education programs for juveniles placed in secure facilities or programs under s. 985.19. Funding for instruction beyond the regular 180-day school year for all other K-12 students shall be provided through the supplemental academic instruction categorical fund and other state, federal, and local fund sources with ample flexibility for schools to provide supplemental instruction to assist students in progressing from grade to grade and graduating.

4. The Florida State University School, as a lab school, is authorized to expend from its FEFP or Lottery Enhancement Trust Fund allocation the cost to the student of remediation in reading, writing, or mathematics for any graduate who requires remediation at a postsecondary educational institution.

5. Beginning in the 1999-2000 school year, dropout prevention programs as defined in ss. 1003.52, 1003.53(1)(a), (b), and (c), and 1003.54 shall be included in group 1 programs under subparagraph (d)3.

(9) RESEARCH-BASED READING INSTRUCTION ALLOCATION.—

(a) The research-based reading instruction allocation is created to provide comprehensive reading instruction to students in kindergarten through grade 12. For the 2016-2017 ~~2014-2015~~ fiscal year, in each school district that has one or more of the 100 ~~300~~ lowest-performing elementary schools based on the state reading assessment, priority shall be given to providing an additional hour per day of intensive reading instruction beyond the normal school day for each day of the entire school year for

the students in each such school. Students enrolled in these schools who have Level 5 assessment scores may participate in the additional hour of instruction on an optional basis. In addition, the 100 lowest-performing elementary schools shall provide at least 40 hours of instruction in a 2017 summer program for students who have Level 1 or Level 2 reading assessment scores. A school district shall provide the additional instruction through a plan adopted by the local school district for an elementary school that is one of the 300 lowest-performing in reading, but not one of the 100 lowest-performing in reading. At a minimum, the plan must include 180 hours of additional instruction for students who have Level 1 and Level 2 reading assessment scores. A copy of the district-approved plan must be provided to the department. For the 2016-2017 fiscal year, the 300 lowest-performing schools must be the same schools as those identified for the 2015-2016 fiscal year. Exceptional student education centers may ~~shall~~ not be included in the 300 schools. The intensive reading instruction delivered in this additional hour and for other students must ~~shall~~ include: research-based reading instruction that has been proven to accelerate the progress of students exhibiting a reading deficiency; differentiated instruction based on student assessment data to meet students' specific reading needs; explicit and systematic reading development in phonemic awareness, phonics, fluency, vocabulary, and comprehension, with more extensive opportunities for guided practice, error correction, and feedback; and the integration of social studies, science, and mathematics-text reading, text discussion, and writing in response to reading. ~~For the 2012-2013 and 2013-2014~~

~~fiscal years, a school district may not hire more reading coaches than were hired during the 2011-2012 fiscal year unless all students in kindergarten through grade 5 who demonstrate a reading deficiency, as determined by district and state assessments, including students scoring Level 1 or Level 2 on the statewide, standardized reading assessment or, upon implementation, the English Language Arts assessment, are provided an additional hour per day of intensive reading instruction beyond the normal school day for each day of the entire school year.~~

Section 2. This act shall take effect July 1, 2016.

The Florida Senate

Committee Agenda Request

To: Senator Tom Lee, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: February 18, 2016

I respectfully request that **Senate Bill 1418**, relating to Supplemental Academic Instruction, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Senator David Simmons
Florida Senate, District 10

File signed original with committee office

S-020 (03/2004)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3 / 1 /2016
Meeting Date

Topic _____ Bill Number 1418 *(if applicable)*

Name BRIAN PITTS Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

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

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

Speaking: ☑ For ☐ Against ☑ Information

Representing JUSTICE-2-JESUS

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

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

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

S-001 (10/20/11)

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 1462
INTRODUCER:	Appropriations Committee; Education Pre-K - 12 Committee; and Senator Latvala
SUBJECT:	Character-development Instruction
DATE:	March 2, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Scott	Klebacha	ED	**Fav/CS**
2.	Sikes	Elwell	AED	**Recommend: Favorable**
3.	Sikes	Kynoch	AP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1462 expands the requirements for high school character-development programs to include instruction on developing life and career-related skills.

Specifically, the bill requires instruction on:
- Developing leadership skills, interpersonal skills, organization skills, and research skills;
- Creating a resume;
- Developing and practicing the skills necessary for employment interviews;
- Managing stress and expectations;
- Conflict resolution, workplace ethics, and workplace law; and
- Developing skills that enable students to become more resilient and self-motivated.

The bill has no impact on state funds.

The bill provides an effective date of July 1, 2016.

II. Present Situation:

Florida law outlines specific content area instructional requirements, in addition to required core curricular content areas,[1] for middle grades promotion and high school graduation.[2]

Required Instruction

In addition to the required core curriculum, Florida law requires public school instruction in certain specified content areas, including, but not limited to:[3]

- The history and content of the Declaration of Independence.
- The history, meaning, significance, and effect of the provisions of the Constitution of the United States.
- The arguments in support of adopting our republican form of government.
- The elements of civil government.
- The history of the Holocaust.
- The history of African Americans.
- The elementary principles of agriculture.
- Kindness to animals.
- The history of the state.
- Comprehensive health education.
- A character-development program in kindergarten through grade 12.

The law encourages the State Board of Education (State Board) to adopt standards and pursue assessment relating to the required instructional content.[4]

Character-Development Program

In 1999, legislation was passed requiring a secular, character-development program, similar to Character First[5] or Character Counts,[6] to be incorporated into elementary school instruction.[7]

Current law requires that each school district develop or adopt a curriculum for a character-development program in kindergarten through grade 12, and submit that curriculum to the Department of Education for approval.[8] The character-development curriculum must stress the qualities of patriotism; responsibility; citizenship; kindness; respect for authority, life, liberty,

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[1] Section 1003.41, F.S.
[2] Each district school board is required to provide all courses required for middle grades promotion, high school graduation, and appropriate instruction designed to ensure that students meet the State Board of Education adopted standards in reading and other language arts, mathematics, science, social studies, foreign languages, health and physical education, and the arts. Section 1003.42(1), F.S.
[3] Section 1003.42(2), F.S.
[4] *Id.*
[5] Character First Education offers curriculum and training for public and private schools, home school families, mentoring programs, summer camps, and other educational settings. Character First Education, *About Character First*, http://characterfirsteducation.com/c/about.php, (last visited January 29, 2016).
[6] Character Counts! is a 501(c)(3) nonprofit program that provides a curriculum, along with resources, based on its Six Pillars of Character®: trustworthiness, respect, responsibility, fairness, caring, and citizenship. Character Counts!, *The Six Pillars of Character*®, http://charactercounts.org/program-overview/six-pillars/, (last visited January 29, 2016).
[7] Section 1, ch. 99-347, L.O.F., *codified as* s. 233.061(2)(q), F.S.
[8] Section 1003.42(2)(s), F.S.

and personal property; honesty; charity; self-control; racial, ethnic, religious tolerance; and cooperation.[9]

III. Effect of Proposed Changes:

The bill expands the requirements for high school character-development programs to include instruction on developing life and career-related skills.

Specifically, the bill requires instruction on:

- Developing leadership skills, interpersonal skills, organization skills, and research skills;
- Creating a resume;
- Developing and practicing the skills necessary for employment interviews;
- Managing stress and expectations;
- Conflict resolution, workplace ethics, and workplace law; and
- Developing skills that enable students to become more resilient and self-motivated.

Current law requires each school district to develop or adopt a K-12 character-development curriculum, and specifies the character qualities that must be emphasized in such curriculum. The bill expands current law by requiring instruction on additional life and career-related skills for students in grades 9 through 12. In effect, all public high school students will receive instruction on such skills as part of each respective school district's existing character-development curriculum.

The bill provides an effective date of July 1, 2016.

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.

[9] *Id.*

B. Private Sector Impact:

None.

C. Government Sector Impact:

CS/CS/SB 1462 has no impact on state funds. Since school districts currently provide a variety of character-development programs for K-12 students, the additional requirements for high school students are not expected to have a fiscal impact on school districts.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill substantially amends section 1003.42 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 March 1, 2016:
The committee substitute adds conflict resolution, workplace ethics, and workplace law to the required character-development instruction.

CS by Education Pre-K – 12 on February 2, 2016:
The committee substitute includes the following substantial changes:

- Amends s. 1003.42(2)(s), F.S., requiring K-12 character-development programs, to include instruction on life and career-related skills for students in grades 9 through 12.
- Removes a requirement that the Commissioner of Education, in consultation with the Articulation Coordinating Committee, develop an elective course for high school students addressing life skills and character development.
- Maintains the types of life and career-related skills on which high school students must receive instruction.

B. Amendments:

None.

311454

LEGISLATIVE ACTION

Senate . House

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. .

. .

. .

The Committee on Appropriations (Latvala) recommended the following:

Senate Amendment

Between lines 34 and 35
insert:
conflict resolution, workplace ethics, and workplace law;

By the Committee on Education Pre-K - 12; and Senator Latvala

581-02940-16 20161462c1

A bill to be entitled

An act relating to character-development instruction; amending s. 1003.42, F.S.; requiring character education programs to provide certain instruction to students in grades 9-12; providing an effective date.

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

Section 1. Paragraph (s) of subsection (2) of section 1003.42, Florida Statutes, is amended to read:

1003.42 Required instruction.—

(2) Members of the instructional staff of the public schools, subject to the rules of the State Board of Education and the district school board, shall teach efficiently and faithfully, using the books and materials required that meet the highest standards for professionalism and historic accuracy, following the prescribed courses of study, and employing approved methods of instruction, the following:

(s) A character-development program in the elementary schools, similar to Character First or Character Counts, which is secular in nature. Beginning in school year 2004-2005, the character-development program shall be required in kindergarten through grade 12. Each district school board shall develop or adopt a curriculum for the character-development program that shall be submitted to the department for approval. The character-development curriculum shall stress the qualities of patriotism; responsibility; citizenship; kindness; respect for authority, life, liberty, and personal property; honesty; charity; self-control; racial, ethnic, and religious tolerance; and cooperation. The character-development program in grades 9 through 12 shall, at a minimum, include instruction on developing leadership skills, interpersonal skills, organization

581-02940-16 20161462c1

skills, and research skills; creating a resume; developing and practicing the skills necessary for employment interviews; managing stress and expectations; and developing skills that enable students to become more resilient and self-motivated.

The State Board of Education is encouraged to adopt standards and pursue assessment of the requirements of this subsection.

Section 2. This act shall take effect July 1, 2016.

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Subcommittee on Transportation, Tourism, and Economic Development, *Chair*
Appropriations
Commerce and Tourism
Governmental Oversight and Accountability
Regulated Industries
Rules

SENATOR JACK LATVALA
20th District

February 24, 2016

The Honorable Tom Lee, Chair
Senate Appropriations Committee
201 The Capitol
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Lee:

I respectfully request consideration of Senate Bill 1462/Education Instruction by the Senate Appropriations Committee at your earliest convenience.

This bill requires that character development programs in high school require pieces of instruction including creating a resume, job and college interview skills, time and stress management, etc.

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

Sincerely,

Jack Latvala
State Senator
District 20

Cc: Cindy Kynoch, Staff Director; Lisa Roberts, Administrative Assistant

REPLY TO:
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☐ 408 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5020

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

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

3 / 1 /2016
Meeting Date

Topic _____ Bill Number 1462 *(if applicable)*

Name BRIAN PITTS Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

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

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

Speaking: ☑ For ☐ Against ☑ Information

Representing JUSTICE-2-JESUS

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/16
Meeting Date

1462
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Mark Anderson

Job Title _____

Address _____ Phone _____
Street

_____ Email _____
City *State* *Zip*

Speaking: ☒ For ☐ Against ☐ Information

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

Representing FL Council on Economic Education

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

The Florida Senate

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 Appropriations Subcommittee on Criminal and Civil Justice

BILL:	CS/SB 1662
INTRODUCER:	Appropriations Committee and Senator Bradley
SUBJECT:	Sexual Offenders
DATE:	March 1, 2016
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson	Cannon	CJ	**Favorable**
2.	Clodfelter	Sadberry	ACJ	**Recommend: Favorable**
3.	Clodfelter	Kynoch	AP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 1662 amends numerous provisions of the laws pertaining to registration of sexual predators and sexual offenders. Some of these changes are to more closely align Florida's registry laws with requirements of the federal Sex Offender Registration and Notification Act. Major features of the bill include:

- Requiring sexual predator or sexual offender registration by a parent or guardian convicted of kidnapping, falsely imprisoning, or luring or enticing his or her child if the child is a minor and the offense has a sexual component;
- Clarifying that section 943.0435, Florida Statutes (the "Romeo and Juliet" law), applies only to consensual acts and removing sexual battery as a qualifying offense;
- Clarifying to which court a sexual offender must petition for removal from registration requirements and removing inoperable language regarding calculation of the registration period;
- Including lewd or lascivious battery upon an elderly or disabled person as an offense that requires sexual offenders to register quarterly and for life;
- Amending various definitions relevant to registration of certain information, primarily to address omissions, and providing consistency among relevant statutes regarding registration requirements;
- Expanding the types of information that can be registered or updated through the Florida Department of Law Enforcement's online system;
- Clarifying the appropriate entity to which a sexual predator or sexual offender must report;
- Modifying reporting requirements for international travel;

- Requiring sexual predators and sexual offenders taking online courses at Florida higher education institutions to report such information and for institutions of higher education to be notified of such attendance; and
- Clarifying the obligation to obtain a driver license or identification card.

The bill's changes to registration and reporting requirements, as well as removal of the exception that keeps a parent or guardian of a child who commits certain offenses against the child from being designated as a sexual offender or sexual predator, are expected to result in some increase in convictions and prison sentences for violations of sexual offender and sexual predator registration requirements. However, the Criminal Justice Impact Conference has found that the resulting increase in the need for prison beds cannot be quantified.

The bill has an effective date of October 1, 2016.

II. Present Situation:

Overview of Sexual Predator and Sexual Offender Registration

Florida law requires certain persons to register as a sexual predator or sexual offender. In very general terms, the distinction between a sexual predator and a sexual offender depends on what offense the person has been convicted of, whether the person has previously been convicted of a sexual offense, and the date the offense occurred.[1]

A sexual predator or sexual offender must comply with a number of registration requirements.[2] Most of these requirements relate to the registration of particular identifying and residence information but other information may also be required (e.g., vehicular information, attendance at an institution of higher education, and temporarily or permanently departing from or reentering this state). The agency to which the person reports this information is determined by the person's status or the type of information that has to be reported. For example, if the person is not in the custody of or under the supervision of the Department of Corrections (DOC), Department of Juvenile Justice (DJJ), or Department of Children and Families (DCF) (civilly-confined violent sexual predators), he or she would report, in most circumstances, to the local sheriff's office. An exception would be reporting to the Department of Highway Safety and Motor Vehicles (DHSMV) to obtain or renew a driver license or state identification card (or to update information relevant to the license or card).

Information reported by registered sexual predators and sexual offenders is provided to the Florida Department of Law Enforcement (FDLE) and entered in a statewide database. The

[1] *See generally* ss. 775.21, 943.0435, 944.607, and 985.4815, F.S. "All sex offenders that are required to register have been convicted of certain qualifying felonies set forth in Florida statutes or have registration requirements in other states…. Some sex offenders are designated by the court as sexual predators because they are deemed to present an extreme threat to public safety as demonstrated through repeated sex offenses, the use of physical violence, or preying on child victims." *Sex Offender Registration and Monitoring: Statewide Requirements, Local Practices, and Monitoring Procedures*, Report No. 15-16, p. 2 (footnote omitted), Office of Program Policy Analysis & Government Accountability, The Florida Legislature. This report is available at http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1516rpt.pdf (last visited on February 18, 2016). This report is further referenced in this analysis as "OPPAGA Report."

[2] *Id.* Failure to comply with these requirements is generally a third degree felony. *See* ss. 775.21, 943.0435, and 985.4815, F.S.

registry laws contain a public or community notification component.[3] The FDLE maintains a website that makes available to the public some of this information (e.g., identifying information, residence information, and registration-qualifying sexual offense or offenses).[4] Information is also available through a toll-free hotline.

The remainder of this section of the analysis describes these registration requirements and other provisions of the registry laws that are relevant to the bill.

Sexual Predator and Sexual Offender Criteria

Several provisions of the registry laws specify that the following offenses are registration-qualifying offenses: kidnapping (s. 797.01, F.S); false imprisonment (s. 787.02, F.S.); and luring or enticing a child (s. 787.025(2)(c)), F.S. However, these are registration-qualifying offenses only if the victim is a minor and the defendant is not the victim's parent or guardian.[5] In addition, convictions for these offenses can only be used as a registration-qualifying offense if the court finds that the conviction has a sexual component. As one Florida appellate court has held, the state has an interest in protecting the public from sexual offenders and the designation of a person as a sexual offender is rationally related to that goal where an accused has been convicted of false imprisonment of a child under 13 when committed along with an enumerated sexual offense. However, where an accused is convicted of false imprisonment devoid of a sexual component, such rational basis is lost.[6]

The "parent or guardian" language also appears in s. 856.022, F.S., (loitering or prowling), which prohibits a person convicted of a specified sexual offense from being within 300 feet of a place where children are congregating. Sexual offenses specified in this section include, in part, convictions for kidnapping, false imprisonment, and luring or enticing a child if any of these offenses involved a victim who is a minor and a defendant who is not the victim's parent or guardian. The statute does not apply to a person who has been removed from the requirement to register as a sexual predator or sexual offender.

Section 943.0435(1)(a)1.d., F.S., includes a list of registration-qualifying offenses relevant to certain juvenile offenders. This subparagraph does not include similar offenses committed in Florida which have been redesignated from a former statute number to one of the listed offenses. This appears to be an error because a provision of this type appears in all other provisions of the registry laws relating to registration criteria.

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[3] "Local law enforcement agencies are … required to notify the public of the presence of sexual predators living in their communities. Within 48 hours, law enforcement agencies must notify licensed child care centers and schools within a one-mile radius of the predator's residence." OPAAGA Report. "In addition, local law enforcement agencies, or … [DOC], if an offender is on community supervision, are also required to notify institutions of higher learning when a sex offender enrolls, is employed, or volunteers at that institution of higher learning, including technical schools, community colleges, and state universities." *Id.*

[4] *See* https://offender.fdle.state.fl.us/offender/Search.jsp (last visited on February 18, 2016).

[5] Sections 775.21(4)(a), 943.0435(1)(a) and (14)(b), and 944.607(1)(a) and (13)(b), F.S. This language is also included in the requirement for notifications the FDLE and/or others are required to make regarding certain sex offenders under s. 944.606(1)(b), F.S.

[6] *Raines v. State*, 805 So. 2d 999, 1003 (Fla. 4th DCA 2001).

Registration and Reregistration

Sexual predators and sexual offenders must register at the sheriff's office within 48 hours of establishing or maintaining a residence.[7] Sexual predators and sexual offenders who are in the custody of, or under the supervision of, the DOC or a local jail must register with the DOC and the jail, respectively. During initial registration, the registrant must provide information to the sheriff's office including, in part, his or her name, address, e-mail address, home and cellular telephone number, and Internet identifier. The sheriff's office is then responsible for providing the information to the FDLE for inclusion in the statewide database. Sexual predators and sexual offenders also must reregister at specified intervals and immediately report any changes to registration information.[8]

The interval at which sexual predators and sexual offenders must reregister depends on whether the person is designated as a sexual predator or as a sexual offender and the qualifying offense that was the basis for the designation. Sexual predators and certain sexual offenders must report to reregister in person each year during their birth month and during every third month thereafter to the sheriff's office in the county in which they reside or are otherwise located.[9] Examples of sexual offenders who must register quarterly include sexual offenders who have a conviction for kidnapping or false imprisonment (where the victim is a minor and the offender is not the victim's parent or guardian) or sexual battery.[10] Sexual offenders who do not fall in the quarterly reporting category must report semiannually during their birthday month and during the sixth month thereafter.[11] Reports must be made in person to the sheriff's office in the county in which the registrant resides or is otherwise located.[12]

Registration – Electronic Mail Addresses and Internet Identifiers

Sexual predators and sexual offenders must register all electronic mail (e-mail) address or Internet identifiers with the FDLE before such addresses or identifiers can be used.[13] Registration must be made either in person or through the FDLE's online system.[14]

The term "Internet identifier" is defined in s. 775.21(2)(i), F.S., to mean all electronic mail, chat, instant messenger, social networking, application software, or similar names used for Internet communication, but does not include a date of birth, social security number, or personal identification number (PIN).[15] According to the FDLE, this definition does not currently include "corresponding website URL or application software associated with the login/username/screen identifier."[16]

[7] *See* ss. 775.21 and 943.0435, F.S.
[8] *Id.*
[9] Sections 775.21(8)(a), 943.0435(14)(b), 944.607(13)(b), and 985.4815(13)(a), F.S.
[10] Sections 943.0435(14)(b) and 944.607(13)(b), F.S.
[11] Sections 943.0435(14)(a) and 944.607(13)(a), F.S.
[12] *Id.*
[13] Sections 775.21(6)(a)1., (6)(e)2., and (6)(g)5. and 943.0435(2)(a), (2)(b), and (4)(e), F.S.
[14] Sections 775.21(6)(g)5. and 943.0435(4)(e), F.S.
[15] Voluntary disclosure by a sexual predator of his or her date of birth, social security number, or PIN as an Internet identifier waives the disclosure exemption in this paragraph for such personal information. *Id.*
[16] Analysis of SB 1662, Florida Department of Law Enforcement (October 1, 2016) (on file with Senate Committee on Criminal Justice). This document is further referenced in this analysis as "FDLE Analysis."

Sections 775.21 and 943.0435, F.S., require the FDLE to establish an online system through which sexual predators and sexual offenders may securely access and update all electronic mail addresses and Internet identifier information.

Registration – Location of Residence or Travel

Sexual predators and sexual offenders must register their permanent, temporary, or transient residences both within the state and outside the state.[17] A sexual predator or sexual offender who intends to establish a permanent, temporary, or transient residence in a state or jurisdiction other than Florida must report in person to the sheriff of the county of current residence within:

- 48 hours before the date he or she intends to leave Florida to establish residence in another state or jurisdiction; or
- 21 days before his or her planned departure date for stays outside the country lasting longer than five days.[18]

The notification provided to the sheriff must include the address, municipality, county, state, and country of intended residence.[19] The sheriff must promptly provide the FDLE with the information received from the registrant and the FDLE must notify the statewide law enforcement agency, or a comparable agency, in the intended state, jurisdiction, or country of residence of the registrant's intended residence.[20]

Registration – Institution of Higher Education

Sexual predators and sexual offenders who are enrolled, employed, volunteering, or carrying on a vocation at an institution of high education must provide:

- The name, address, and county of each institution, including each campus attended; and
- Enrollment, volunteer, or employment status.[21]

Additionally, a change in such enrollment, volunteer, or employment status must be reported in person to the appropriate entity within 48 hours.[22] The appropriate entity must promptly notify each institution of the sexual predator's or sexual offender's presence and any change in enrollment, volunteer, or employment status.[23]

The term:

[17] Sections 775.21(6)(a)1. and (i) and 943.0435(2)(b) and (7), F.S.
[18] *Id.*
[19] *Id.*
[20] *Id.*
[21] Sections 775.21(6)(b), 943.0435(2)(b)2., 944.607(4)(b), and 985.4815(4)(b), F.S.
[22] Section 775.21(6)(b), F.S., provides that the sheriff or the DOC is the appropriate reporting entity. Section 943.0435(2)(b)2., F.S., provides that the sheriff is the appropriate reporting entity. Section 944.607(4)(b), F.S., provides that the DOC is the appropriate reporting agency. Section 985.4815(4)(b), F.S., provides that the DJJ is the appropriate reporting agency.
[23] *Id.*

- "Institution of higher education" is included in ss. 775.21, 943.0435, 944.607, and 985.4815, F.S., and is defined to mean a "career center, community college, college, state university, or independent postsecondary institution."[24]
- "Change in enrollment or employment status" is included in ss. 775.21, 943.0435, 944.607, and 985.4815, F.S., and is defined to mean the "commencement or termination of enrollment or employment or a change in location of enrollment or employment."[25]

Registration – Professional Licenses and Employment Information

Sexual predators and sexual offenders must provide information about employment and any professional licenses they possess.[26] The term "professional license" is not currently defined in the registry laws.

Registration – Driver License or Identification Card

Sexual predators and sexual offenders who are not incarcerated must register in person at a driver license office within 48 hours to obtain a driver license or identification card.[27] Additionally, sexual predators and sexual offenders must report specified information to the Department of Highway Safety and Motor Vehicles (DHSMV), maintain an accurate driver license or identification card, and report to a driver license office within 48 hours any time the registrant's:

- Driver license or identification card is subject to renewal;
- Residence has changed; or
- Name has changed by reason of marriage or other legal process.[28]

The DHSMV must forward to the FDLE and the DOC all photographs and information provided by sexual predators and sexual offenders.[29]

A sexual predator or sexual offender who is unable to secure or update a driver license or identification card with the DHSMV as described must report any change of the residence or change in name by reason of marriage or other legal process within 48 hours after the change to the sheriff's office in the county where the registrant resides or is located, and provide confirmation that he or she reported such information to the DHSMV.[30]

[24] Sections 775.21(1)(j), 943.0435(1)(d), 944.607(1)(d), and 985.4815(1)(c), F.S.
[25] Sections 775.21(1)(a), 943.0435(1)(e), 944.607(1)(e), and 985.4815(1)(a), F.S.
[26] Sections 775.21(6)(a)1. and (8), 943.0435(2)(b) and (14)(c), 944.606(3)(a), 944.607(4)(a) and (14)(c), 985.481(3)(a)1., 985.4815(4)(a) and (13)(b)1., F.S.
[27] Sections 775.21(6)(f) and (g) and 943.0435(4)(a), F.S. Section 944.607, F.S., covers this requirement for sexual offenders who are not incarcerated, but are under the supervision of the DOC.
[28] *Id.* "Local tax collectors perform driver's license related functions previously conducted by DHSMV, including processing sex offender identification requests, for 64 of Florida's 67 counties. The three counties with DHSMV offices are Broward, Miami Dade, and Volusia. When combined, these three counties reflect approximately 40% of all transactions and will remain the responsibility of DHSMV because their tax collectors are appointed, not elected officials." OPPAGA Report.
[29] *Id.*
[30] *Id.*

Removal of the Requirement to Register as a Sexual Offender or Sexual Predator

Generally, a sexual offender must maintain registration with the FDLE for the duration of the offender's life unless he or she has received a full pardon or has had the registration-qualifying conviction set aside in a postconviction proceeding.[31] However, there are other ways in which the registration requirements can be removed.[32]

Registration Removal under s. 943.0435(11), F.S.

Section 943.0435(11)(a), F.S., permits sexual offenders who have been lawfully released from confinement, supervision, or sanction, whichever is later, for at least 25 years and who have not been arrested for any felony or misdemeanor offense since release to petition for removal of the requirement to register as a sexual offender. The petition must be filed in the criminal division of the circuit court in the circuit where the conviction or adjudication occurred. The offender is ineligible for removal of the requirement to register if the requirement was based on an adult conviction for a specified offense such as kidnapping, false imprisonment, or sexual battery.[33]

Section 943.0435(11)(a)4., F.S., contains language regarding calculation of the registration period that was included in legislation passed in 2014. The FDLE states that this language was connected to provisions of the original bill that were subsequently removed, and that the language is orphaned and inoperable.[34] Additionally, the language "added some unnecessary ambiguity to the long preexisting language regarding duration of registration requirements and has already allowed at least one offender to gain relief from registration despite not technically qualifying for it."[35]

Registration Removal under Section 943.04354, F.S.

Section 943.04354, F.S., which is sometimes referred to as the "Romeo and Juliet" statute, allows certain minors or young adults who must register as a sexual predator or sexual offender to request removal of registration requirements if the court finds that certain criteria are met. Criteria that must be met include:

- The person was convicted, regardless of adjudication, or adjudicated delinquent of:
  - Sexual battery (s. 794.011, F.S.), a lewd offense (s. 800.04, F.S., F.S.), promoting, etc., sexual performance of a child (s. 827.071, F.S.), or lewd acts transmitted over a computer (s. 847.0135(5), F.S.), or of a similar offense in another jurisdiction if the person does not

[31] Sections 775.21(6) and 943.0435(11), F.S.
[32] Sections 775.21(6) and 943.0435(11), F.S.
[33] The full list of offenses that exclude an offender from removal of the requirement to register is found in s. 943.0435(11)(a)1., F.S. *See also*, s. 943.0435(11)(a)2., F.S.: "The court may grant or deny relief if the offender demonstrates to the court that he or she has not been arrested for any crime since release; the requested relief complies with the provisions of the federal Adam Walsh Child Protection and Safety Act of 2006 and any other federal standards applicable to the removal of registration requirements for a sexual offender or required to be met as a condition for the receipt of federal funds by the state; and the court is otherwise satisfied that the offender is not a current or potential threat to public safety. The state attorney in the circuit in which the petition is filed must be given notice of the petition at least 3 weeks before the hearing on the matter. The state attorney may present evidence in opposition to the requested relief or may otherwise demonstrate the reasons why the petition should be denied. If the court denies the petition, the court may set a future date at which the sexual offender may again petition the court for relief . . ."
[34] FDLE Analysis. The legislation was in ch. 2014-5, L.O.F
[35] E-mail to Senate Criminal Justice staff from FDLE staff (January 28, 2016) (on file with the Senate Committee on Criminal Justice).

have any other conviction, regardless of adjudication, or adjudication of delinquency for a violation of any of these referenced statutes or for a similar offense in another jurisdiction;
    - A violation of any of the statutes referenced above if the person must register as a sexual offender or sexual predator solely on the basis of this conviction or adjudication; or
    - An offense in another jurisdiction which is similar to a violation of any of statutes referenced above and the person no longer meets the criteria for registration as a sexual offender or sexual predator under the laws of the jurisdiction in which the similar offense occurred; and
- The person is not more than four years older than the victim of the violation, and the victim was 13 years of age or older but younger than 18 years of age at the time the violation was committed.

A person who meets these criteria may seek removal of the requirement to register as a sexual offender or sexual predator in the criminal division of the circuit court for the circuit where the conviction or adjudication for the qualifying offense occurred. The person must:
- Allege in the motion that he or she meets the criteria and that removal of the registration requirement will not "conflict with federal law"; and
- Provide the court with written confirmation that he or she is not required to register in the jurisdiction in which the conviction or adjudication occurred if the offense occurred in a jurisdiction other than Florida.[36]

While Florida is substantially compliant with the requirements of the federal Sex Offender Registration and Notification Act (SORNA),[37] one requirement of the SORNA is not specifically articulated in the registry laws. According to the FDLE, the SORNA requires that the sexual act be "consensual, notwithstanding the age of the victim"[38] and the FDLE interprets the words "conflict with federal law" to mean a conflict with this federal requirement (i.e., a non-consensual sexual act would conflict with the SORNA).[39] The FDLE notes that it "received a

[36] The state attorney and the FDLE must be given notice of the motion at least 21 days before the date of sentencing, disposition of the violation, or hearing on the motion and may present evidence in opposition to the requested relief or may otherwise demonstrate why the motion should be denied. If the court determines the person meets the criteria in subsection (1) and the removal of the registration requirements will not conflict with federal law, it may grant the motion and order the removal of the registration requirements. If the motion is granted, the person must provide the FDLE with a certified copy of the order granting relief. If the motion is denied, the person is not authorized under s. 943.04354, F.S., to file another motion for removal of the registration requirements. *See*, s. 943.04354(2), F.S.
[37] Title I of the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109-248). OPPAGA Report.
[38] "SORNA section 111(5)(C) addresses the minimum standards for requiring sex offender registration for consensual sexual conduct under the Adam Walsh Act. SORNA does NOT require registration in the following situations: 1) If both participants are adults, and neither is under the custodial authority of the other (e.g., inmate/prison guard) and the conduct was consensual, then this conduct does not constitute a registerable sex offense for purposes of the Adam Walsh Act. 2) With respect to acts involving at least one minor (person under 18) who engages in consensual sexual conduct, the following minimum standards apply: Where both participants are at least 13 years old and neither participant is more than four years older than the other, a sex offense conviction based on consensual sexual conduct does not require registration under the Adam Walsh Act. In all situations, jurisdictions have discretion to exceed the minimum standards of SORNA and require registration upon convictions based on consensual sexual conduct." "Frequently Asked Questions: The Sex Offender Registration and Notification Act (SORNA) Final Guidelines" (July 2008), Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking, U.S. Department of Justice, available at http://ojp.gov/smart/pdfs/faq_sorna_guidelines.pdf (last visited on February 18, 2016).
[39] FDLE Analysis.

recent court order for registration relief based on the R&J statute and further review found that the act was not consensual and attorneys involved in the matter were not aware of the requirements of the federal law."[40]

III. Effect of Proposed Changes:

The bill, which takes effect October 1, 2016, amends numerous provisions of the laws pertaining to registration of sexual predators and sexual offenders. Some of these changes are to more closely align Florida's registry laws with requirements of the federal Sex Offender Registration and Notification Act (SORNA).

Sexual Predator and Sexual Offender Criteria

The bill amends ss. 775.21, 856.022, 943.0435, 944.606, and 944.607, F.S., to remove language associated with kidnapping, false imprisonment, and luring or enticing a child that prevents a parent or guardian who committed such a registration-qualifying offense against his or her minor child for a sexual purpose from being designated as a sexual predator or sexual offender. Therefore, if a parent or guardian is convicted of any of these offenses against his or her minor child and such offense had a sexual component, this will result in the parent or guardian being designated as a sexual predator or sexual offender.

The bill amends s. 856.022, F.S., relating to loitering or prowling by a person convicted of a sexual offense, to remove the "parent or guardian" language from the enumerated list of offenses in that statute. As a result of these changes, additional persons (qualifying parents or guardians) could be designated as a sexual predator or sexual offender and subject to registration requirements.

The bill amends a list of registration-qualifying offenses relevant to certain juvenile offenders to include any similar offense committed in this state which has been redesignated from a former statute number to one of the listed offenses. This change is consistent with other criteria provisions of the registry laws that include identical language.

Removal of the Requirement to Register as a Sexual Offender or Sexual Predator

Registration Removal under s. 943.0435(11), F.S.

The bill amends s. 943.0435, F.S., to include a violation of s. 825.1025(2)(a), F.S. (lewd or lascivious battery upon an elderly or disabled person), as an offense that, if committed as an adult, will prohibit a sexual offender from petitioning the court for removal from registration. This change will bring the statute in line with the federal Adam Walsh Act.

The bill removes from s. 943.0435(11), F.S. (petition for removal of registration requirements), inoperable language regarding calculation of the registration period.

[40] *Id.*

The bill amends s. 943.0435, F.S., to clarify that an eligible sexual offender may, for the purpose of removing the requirement for registration as a sexual offender, petition the criminal division of the circuit court of the circuit where the:

- Conviction or adjudication occurred, for a conviction in this state;
- Sexual offender resides, for a conviction of a violation of similar law of another jurisdiction; or
- Sexual offender last resided, for a sexual offender who has a conviction for a violation of a similar law of another jurisdiction and who no longer resides in this state.

Registration Removal under Section 943.04354, F.S.

The bill amends s. 943.04354(1), F.S., to remove sexual battery (s. 794.011, F.S.) from the list of registration-qualifying offenses for which a person is permitted to seek removal from registration requirements.

The bill clarifies that a person who seeks to have his or her registration requirements removed under this statute must file a motion in the criminal division of the circuit court where the:

- Conviction or adjudication for the qualifying offense occurred if registration is required for a conviction that occurred in this state;
- Sexual offender or sexual predator resides if registration is required for a violation of a similar law of another jurisdiction; or
- Sexual offender or sexual predator last resided for a sexual offender or sexual predator who has a conviction for a violation of a similar law of another jurisdiction and who no longer resides in this state.

Registration and Reregistration

The bill amends ss. 943.0435 and 944.607, F.S., to provide that a sexual offender who must register as a result of a conviction for lewd or lascivious battery upon an elderly or disabled person (s. 825.1025(2)(a), F.S.), must reregister quarterly and for life. According to the Florida Department of Law Enforcement (FDLE), this change is in accordance with federal SORNA requirements.[41]

Online Registration and Reregistration

The bill amends ss. 775.21 and 943.0435, F.S., to expand the information that can be registered or updated through the FDLE's online system, including changes to:

- Home telephone numbers and cellular telephone numbers, including added and deleted numbers;
- Employment information; and
- Status relating to enrollment, volunteering, or employment at institutions of higher education.

Additionally, the bill provides that sexual predators and sexual offenders may continue to register such changes in person. If a sexual predator or sexual offender chooses to register information changes in person, he or she must ensure that the changes are registered with the

[41] FDLE Analysis.

appropriate entity.[42] The bill further provides that changes in information registered in person or through the online system must be done within 48 hours of the change.

The bill amends ss. 775.21 and 943.0435, F.S., to provide that the FDLE's online system must permit sexual predators and sexual offenders to securely access, submit, and update all home telephone numbers and cellular telephone numbers, employment information, and institution of higher education information.

Registration – Electronic Mail Addresses and Internet Identifiers

The bill amends s. 775.21, F.S., to modify the definition of the term "Internet identifier" to include, but not be limited to:

> all website uniform resource locators (URLs) and application software, whether mobile or nonmobile, used for Internet communication, including anonymous communication, through electronic mail, chat, instant messages, social networking, social gaming, or other similar programs and all corresponding usernames, logins, screen names, and screen identifiers associated with each URL or application software. Internet identifier does not include a date of birth, Social Security number, or personal identification number (PIN), URL, or application software used for utility, banking, retail, or medical purposes. Voluntary disclosure by a sexual predator or sexual offender of his or her date of birth, Social Security number, or PIN as an Internet identifier waives the disclosure exemption in this paragraph for such personal information.

This modification expands the definition of "Internet identifier" to include the corresponding website URLs or application software that is associated with the identifier, rather than limiting the information that must be registered to the names used for Internet communication. The bill amends the definition of "Internet identifier" found in ss. 943.0435, 944.606, 944.607, and 985.4815, F.S., to have the same meaning as in s. 775.21, F.S.

The bill adds the term "electronic mail address" to ss. 985.481 and 985.4815, F.S., and provides that the term has the same meaning as in s. 668.602, F.S.

Relevant to information on electronic mail addresses and Internet identifiers that must be registered prior to their use, the bill amends ss. 775.21 and 943.0435, F.S., to provide that sexual predators and sexual offenders may register such information through the FDLE's online system or in person at the sheriff's office. Additionally, the bill amends these sections to provide that sexual predators and sexual offenders who are in the custody or control, or under the supervision, of the Department of Corrections (DOC) or the Department of Juvenile Justice (DJJ) must report all email addresses and Internet identifiers to the applicable agency prior to using such email addresses or Internet identifiers.

[42] Applicable entities include the sheriff's office; the Department of Corrections (DOC), if in the custody or control, or under the supervision of the DOC; or the DJJ, if in the custody or control, or under the supervision of the DJJ.

Registration – Location of Residence or Travel

The bill amends the definition sections found in ss. 944.606, 985.481, and 985.4815, F.S., to include definitions for the terms permanent, temporary, and transient residence. The definitions are relevant to reporting residence information. The bill provides these terms have the same meaning as in s. 775.21, F.S.

The bill amends ss. 775.21 and 943.0435, F.S., to clarify that sexual predators and sexual offenders must report to the sheriff of the county of current residence at least 21 days before the date of intended travel for international travel, rather than within 21 days of the planned departure date. Additionally, the bill requires registrants to provide travel information including, but not limited to, expected departure and return dates, flight number, airport of departure, cruise port of departure, or any other means of intended travel for international travel plans.

Registration – Institution of Higher Education

The bill amends s. 775.21, F.S., to rename the term "change in enrollment or employment status" to "change in status at an institution of higher education," and to amend the definition to mean "the commencement or termination of enrollment including, but not limited to, traditional classroom setting or online courses, or employment, whether for compensation or as a volunteer, at an institution of higher education or a change in location of enrollment or employment, whether for compensation or as a volunteer, at an institution of higher education". The bill also amends the name of the term in ss. 943.0435, 944.607, and 985.4815, F.S., in the same manner and provides that the term has the same meaning as provided in s. 775.21, F.S.

As a result of these changes, sexual predators and sexual offenders who are enrolled in online classes at institutions that meet this definition will now be required to register such information and reregister changes to status. Additionally, appropriate reporting entities will be required to notify institutions of sexual predators and sexual offenders who are enrolled in online classes through their institution.

The bill retains the reporting agencies included in ss. 944.607 and 985.4815, F.S., but amends ss. 775.21 and 943.0435, F.S., to require the sheriff, the DOC, or the DJJ to promptly notify each institution of higher education of a registrant's presence or change in status.

The bill amends ss. 775.21, 943.0435, 944.607, and 985.4815, F.S., to specifically include information regarding changes in enrollment status as a type of information that sexual predators and sexual offenders must register and reregister.

Registration – Professional Licenses and Employment Information

The bill amends s. 775.21, F.S., to define the term "professional license" as "the document of authorization or certification issued by an agency of this state for a regulatory purpose, or by any similar agency in another jurisdiction for a regulatory purpose, to a person to engage in an occupation or to carry out a trade or business". The bill also amends ss. 943.0435, 944.606, 944.607, 985.481, and 985.4815, F.S., to include the term "professional license" and define the term to have the same meaning as in s. 775.21, F.S.

As a result of these changes, sexual predators and sexual offenders who have a professional license that meets the definition will be required to provide information about such license at the time of registration.

The bill amends ss. 775.21, 943.0435, 944.607, and 985.4815, F.S., to specifically include employment information and changes in employment information as information that sexual predators and sexual offenders must register and reregister.

Registration – Driver License or Identification Card

The bill amends s. 775.21, F.S., to clarify that a sexual predator who has previously obtained a driver license or identification card as a requirement under s. 944.607, F.S., is not required to obtain a driver license or identification card again.

The bill amends ss. 775.21 and 943.0435, F.S., to clarify that the requirement to report specified information to the Department of Highway Safety and Motor Vehicles (DHSMV) does not negate the requirement to obtain a Florida driver license or identification card.

Penalties for Failure to Register

As noted above, the bill expands various current registration and reregistration requirements or adds new registration requirements. If a sexual predator or sexual offender fails to provide initially or update as necessary any of the above-mentioned types of information, he or she will be subject to the criminal penalties associated with failure to comply with registration requirements.

The bills amends s. 775.21(10) F.S., to provide that a sexual predator commits a third degree felony if he or she fails to provide employment information or information regarding change in status at an institution of higher education. While it appears the failure to provide employment information or information regarding change in status at an institution of higher education is already punishable under subsection (10) as a failure, by act or omission, to comply with the requirements of s. 775.21, F.S., the inclusion of this information in subsection (10) would clearly indicate that failure to provide this information is a third degree felony.

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:

Under CS/SB 1662, changes to registration and reporting requirements, as well as removal of the exception that keeps a parent or guardian of a child who commits certain offenses against the child from being designated as a sexual offender or sexual predator, are expected to result in some increase in convictions and prison sentences for violations of sexual offender and sexual predator registration requirements. However, the Criminal Justice Impact Conference has found that the resulting increase in the need for prison beds cannot be quantified.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 92.55, 775.0862, 775.21, 856.022, 943.0435, 943.04354, 943.0515, 944.606, 944.607, 947.1405, 948.30, 948.31, 985.481, 985.4815, 1012.315, and 1012.467.

This bill reenacts the following sections (or provisions of those sections) of the Florida Statutes: 322.141, 397.4872, 435.07, 775.25, 775.24, 794.056, 921.0022, 938.085, 944.607, 944.608, 948.06, 948.063, and 985.04.

IX. Additional Information:

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

CS by Appropriations on March 1, 2016:
The committee substitute amends s. 775.21(6)(g)5.b., F.S., to replace the term "subparagraph" with "sub-subparagraph". This is a technical amendment that does not change substantive law.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/01/2016	.	
	.	
	.	
	.	

The Committee on Appropriations (Richter) recommended the following:

Senate Amendment (with title amendment)

Delete lines 773 - 784

and insert:

(b)~~1.~~ Knowingly be present in any child care facility or school containing any students in prekindergarten through grade 12 or on real property comprising any child care facility or school containing any students in prekindergarten through grade 12 when the child care facility or school is in operation unless the person had previously provided written notification of his

599414

or her intent to be present to the school board, superintendent, principal, or child care facility owner and:~~;~~

1.~~2.~~ Fail to notify the child care facility owner or the school principal's office when he or she arrives and departs the child care facility or school; or

2.~~3.~~ Fail to remain under direct supervision of a school

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

And the title is amended as follows:

Between lines 16 and 17

insert:

revising unlawful actions for certain offenders in close proximity to children;

277738

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/01/2016	.	
	.	
	.	
	.	

The Committee on Appropriations (Richter) recommended the following:

Senate Amendment

Delete line 564
and insert:
reported in this sub-subparagraph shall be reported within 48 hours

By Senator Bradley

7-01110A-16 20161662__

A bill to be entitled

An act relating to sexual offenders; amending s. 775.21, F.S.; revising definitions; revising the criteria for a felony offense for which an offender is designated as a sexual predator; expanding the criteria by removing a requirement that the defendant not be the victim's parent or guardian; revising the information that a sexual predator is required to provide to specified entities under certain circumstances; revising registration and verification requirements imposed upon a sexual predator; conforming provisions to changes made by the act; amending s. 856.022, F.S.; revising the criteria for loitering or prowling by certain offenders; expanding the criteria by removing a requirement that the offender not be the victim's parent or guardian; amending s. 943.0435, F.S.; revising definitions; revising the reporting and registering requirements imposed upon a sexual offender to conform provisions to changes made by the act; deleting provisions of applicability; amending s. 943.04354, F.S.; modifying the list of offenses for which a sexual offender or sexual predator must be considered by the department for removal from registration requirements; deleting from the list a conviction or adjudication of delinquency for sexual battery; specifying the appropriate venue for a defendant to move the circuit court to remove the requirement to register as a sexual offender or sexual predator; amending s. 944.606, F.S.; revising definitions; revising the information that the Department of Law Enforcement is required to provide about a sexual offender upon his

7-01110A-16 20161662__

or her release from incarceration; conforming provisions to changes made by the act; amending s. 944.607, F.S.; revising definitions; conforming provisions to changes made by the act; amending s. 985.481, F.S.; revising definitions; conforming provisions to changes made by the act; amending s. 985.4815, F.S.; revising definitions; revising the reporting and registering requirements imposed upon a sexual offender to conform provisions to changes made by the act; amending ss. 92.55, 775.0862, 943.0515, 947.1405, 948.30, 948.31, 1012.315, and 1012.467, F.S.; conforming cross-references; reenacting s. 938.085, F.S., relating to additional costs to fund rape crisis centers, to incorporate the amendment made to s. 775.21, F.S., in a reference thereto; reenacting s. 794.056(1), F.S., relating to the Rape Crisis Program Trust Fund, to incorporate the amendments made to ss. 775.21 and 943.0435, F.S., in references thereto; reenacting s. 921.0022(3)(g), F.S., relating to level 7 of the offense severity ranking chart of the Criminal Punishment Code, to incorporate the amendments made to ss. 775.21, 943.0435, 944.607, and 985.4815, F.S., in references thereto; reenacting s. 985.04(6)(b), F.S., relating to confidential information, to incorporate the amendments made to ss. 775.21, 943.0435, 944.606, 944.607, 985.481, and 985.4815, F.S., in references thereto; reenacting ss. 322.141(3) and (4), 948.06(4), and 948.063, F.S., relating to color or markings of certain licenses or

identification cards, probation or community control, and violations of probation or community control by designated sexual offenders and sexual predators, respectively, to incorporate the amendments made to ss. 775.21, 943.0435, and 944.607, F.S., in references thereto; reenacting s. 944.607(10)(c), F.S., relating to notification to the Department of Law Enforcement of information on sexual offenders, to incorporate the amendment made to s. 943.0435, F.S., in a reference thereto; reenacting ss. 397.4872(2) and 435.07(4)(b), F.S., relating to exemptions from disqualification, to incorporate the amendment made to s. 943.04354, F.S., in references thereto; reenacting s. 775.25, F.S., relating to prosecutions for acts or omissions, to incorporate the amendments made to ss. 944.606 and 944.607, F.S., in references thereto; reenacting ss. 775.24(2) and 944.608(7), F.S., relating to duty of the court to uphold laws governing sexual predators and sexual offenders and notification to the Department of Law Enforcement of information on career offenders, respectively, to incorporate the amendment made to s. 944.607, F.S., in references thereto; providing an effective date.

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

Section 1. Subsection (2), paragraph (a) of subsection (4), paragraphs (a), (e), (f), (g), and (i) of subsection (6), paragraph (a) of subsection (8), and paragraphs (a) and (b) of

subsection (10) of section 775.21, Florida Statutes, are amended, and paragraphs (c) and (d) of subsection (4), paragraphs (a) and (b) of subsection (5), and paragraphs (c) and (e) of subsection (10) of that section are republished, to read:

775.21 The Florida Sexual Predators Act.—

(2) DEFINITIONS.—As used in this section, the term:

(a) "Change in ~~enrollment or employment~~ status at an institution of higher education" means the commencement or termination of enrollment, including, but not limited to, traditional classroom settings or online courses, or employment, whether for compensation or as a volunteer, at an institution of higher education or a change in location of enrollment or employment, whether for compensation or as a volunteer, at an institution of higher education.

(b) "Chief of police" means the chief law enforcement officer of a municipality.

(c) "Child care facility" has the same meaning as provided in s. 402.302.

(d) "Community" means any county where the sexual predator lives or otherwise establishes or maintains a permanent, temporary, or transient ~~permanent~~ residence.

(e) "Conviction" means a determination of guilt which is the result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld. A conviction for a similar offense includes, but is not limited to, a conviction by a federal or military tribunal, including courts-martial conducted by the Armed Forces of the United States, and includes a conviction or entry of a plea of guilty or nolo contendere resulting in a sanction in any state of the

United States or other jurisdiction. A sanction includes, but is not limited to, a fine, probation, community control, parole, conditional release, control release, or incarceration in a state prison, federal prison, private correctional facility, or local detention facility.

(f) "Department" means the Department of Law Enforcement.

(g) "Electronic mail address" has the same meaning as provided in s. 668.602.

(h) "Entering the county" includes being discharged from a correctional facility or jail or secure treatment facility within the county or being under supervision within the county for the commission of a violation enumerated in subsection (4).

(i) "Institution of higher education" means a career center, a community college, a college, a state university, or an independent postsecondary institution.

(j) ~~(i)~~ "Internet identifier" includes, but is not limited to, all website uniform resource locators (URLs) and application software, whether mobile or nonmobile, used for Internet communication, including anonymous communication, through ~~means all~~ electronic mail, chat, instant messages ~~messenger~~, social networking, social gaming, or other similar programs and all corresponding usernames, logins, screen names, and screen identifiers associated with each URL or application software. Internet identifier ~~application software, or similar names used for Internet communication, but~~ does not include a date of birth, Social Security number, ~~or~~ personal identification number (PIN), URL, or application software used for utility, banking, retail, or medical purposes. Voluntary disclosure by a sexual predator or sexual offender of his or her date of birth, Social

Security number, or PIN as an Internet identifier waives the disclosure exemption in this paragraph for such personal information.

~~(j) "Institution of higher education" means a career center, community college, college, state university, or independent postsecondary institution.~~

(k) "Permanent residence" means a place where the person abides, lodges, or resides for 5 or more consecutive days.

(l) "Professional license" means the document of authorization or certification issued by an agency of this state for a regulatory purpose, or by any similar agency in another jurisdiction for a regulatory purpose, to a person to engage in an occupation or to carry out a trade or business.

(m) ~~(l)~~ "Temporary residence" means a place where the person abides, lodges, or resides, including, but not limited to, vacation, business, or personal travel destinations in or out of this state, for a period of 5 or more days in the aggregate during any calendar year and which is not the person's permanent address or, for a person whose permanent residence is not in this state, a place where the person is employed, practices a vocation, or is enrolled as a student for any period of time in this state.

(n) ~~(m)~~ "Transient residence" means a county where a person lives, remains, or is located for a period of 5 or more days in the aggregate during a calendar year and which is not the person's permanent or temporary address. The term includes, but is not limited to, a place where the person sleeps or seeks shelter and a location that has no specific street address.

(o) ~~(n)~~ "Vehicles owned" means any motor vehicle as defined

in s. 320.01, which is registered, coregistered, leased, titled, or rented by a sexual predator or sexual offender; a rented vehicle that a sexual predator or sexual offender is authorized to drive; or a vehicle for which a sexual predator or sexual offender is insured as a driver. The term also includes any motor vehicle as defined in s. 320.01, which is registered, coregistered, leased, titled, or rented by a person or persons residing at a sexual predator's or sexual offender's permanent residence for 5 or more consecutive days.

(4) SEXUAL PREDATOR CRITERIA.—

(a) For a current offense committed on or after October 1, 1993, upon conviction, an offender shall be designated as a "sexual predator" under subsection (5), and subject to registration under subsection (6) and community and public notification under subsection (7) if:

1. The felony is:

a. A capital, life, or first degree felony violation, or any attempt thereof, of s. 787.01 or s. 787.02, where the victim is a minor ~~and the defendant is not the victim's parent or guardian~~, or s. 794.011, s. 800.04, or s. 847.0145, or a violation of a similar law of another jurisdiction; or

b. Any felony violation, or any attempt thereof, of s. 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor ~~and the defendant is not the victim's parent or guardian~~; s. 787.06(3)(b), (d), (f), or (g); former s. 787.06(3)(h); s. 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035; s. 800.04; s. 810.145(8)(b); s. 825.1025; s. 827.071; s. 847.0135, excluding s. 847.0135(6); s. 847.0145; s. 916.1075(2); or s.

985.701(1); or a violation of a similar law of another jurisdiction, and the offender has previously been convicted of or found to have committed, or has pled nolo contendere or guilty to, regardless of adjudication, any violation of s. 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor ~~and the defendant is not the victim's parent or guardian~~; s. 787.06(3)(b), (d), (f), or (g); former s. 787.06(3)(h); s. 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035; s. 800.04; s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0145; s. 916.1075(2); or s. 985.701(1); or a violation of a similar law of another jurisdiction;

2. The offender has not received a pardon for any felony or similar law of another jurisdiction that is necessary for the operation of this paragraph; and

3. A conviction of a felony or similar law of another jurisdiction necessary to the operation of this paragraph has not been set aside in any postconviction proceeding.

(c) If an offender has been registered as a sexual predator by the Department of Corrections, the department, or any other law enforcement agency and if:

1. The court did not, for whatever reason, make a written finding at the time of sentencing that the offender was a sexual predator; or

2. The offender was administratively registered as a sexual predator because the Department of Corrections, the department, or any other law enforcement agency obtained information that indicated that the offender met the criteria for designation as

a sexual predator based on a violation of a similar law in another jurisdiction,

the department shall remove that offender from the department's list of sexual predators and, for an offender described under subparagraph 1., shall notify the state attorney who prosecuted the offense that met the criteria for administrative designation as a sexual predator, and, for an offender described under this paragraph, shall notify the state attorney of the county where the offender establishes or maintains a permanent, temporary, or transient residence. The state attorney shall bring the matter to the court's attention in order to establish that the offender meets the criteria for designation as a sexual predator. If the court makes a written finding that the offender is a sexual predator, the offender must be designated as a sexual predator, must register or be registered as a sexual predator with the department as provided in subsection (6), and is subject to the community and public notification as provided in subsection (7). If the court does not make a written finding that the offender is a sexual predator, the offender may not be designated as a sexual predator with respect to that offense and is not required to register or be registered as a sexual predator with the department.

(d) An offender who has been determined to be a sexually violent predator pursuant to a civil commitment proceeding under chapter 394 shall be designated as a "sexual predator" under subsection (5) and subject to registration under subsection (6) and community and public notification under subsection (7).

(5) SEXUAL PREDATOR DESIGNATION.—An offender is designated

as a sexual predator as follows:

(a)1. An offender who meets the sexual predator criteria described in paragraph (4)(d) is a sexual predator, and the court shall make a written finding at the time such offender is determined to be a sexually violent predator under chapter 394 that such person meets the criteria for designation as a sexual predator for purposes of this section. The clerk shall transmit a copy of the order containing the written finding to the department within 48 hours after the entry of the order;

2. An offender who meets the sexual predator criteria described in paragraph (4)(a) who is before the court for sentencing for a current offense committed on or after October 1, 1993, is a sexual predator, and the sentencing court must make a written finding at the time of sentencing that the offender is a sexual predator, and the clerk of the court shall transmit a copy of the order containing the written finding to the department within 48 hours after the entry of the order; or

3. If the Department of Corrections, the department, or any other law enforcement agency obtains information which indicates that an offender who establishes or maintains a permanent, temporary, or transient residence in this state meets the sexual predator criteria described in paragraph (4)(a) or paragraph (4)(d) because the offender was civilly committed or committed a similar violation in another jurisdiction on or after October 1, 1993, the Department of Corrections, the department, or the law enforcement agency shall notify the state attorney of the county where the offender establishes or maintains a permanent, temporary, or transient residence of the offender's presence in the community. The state attorney shall file a petition with the

criminal division of the circuit court for the purpose of holding a hearing to determine if the offender's criminal record or record of civil commitment from another jurisdiction meets the sexual predator criteria. If the court finds that the offender meets the sexual predator criteria because the offender has violated a similar law or similar laws in another jurisdiction, the court shall make a written finding that the offender is a sexual predator.

When the court makes a written finding that an offender is a sexual predator, the court shall inform the sexual predator of the registration and community and public notification requirements described in this section. Within 48 hours after the court designating an offender as a sexual predator, the clerk of the circuit court shall transmit a copy of the court's written sexual predator finding to the department. If the offender is sentenced to a term of imprisonment or supervision, a copy of the court's written sexual predator finding must be submitted to the Department of Corrections.

(b) If a sexual predator is not sentenced to a term of imprisonment, the clerk of the court shall ensure that the sexual predator's fingerprints are taken and forwarded to the department within 48 hours after the court renders its written sexual predator finding. The fingerprints shall be clearly marked, "Sexual Predator Registration." The clerk of the court that convicts and sentences the sexual predator for the offense or offenses described in subsection (4) shall forward to the department and to the Department of Corrections a certified copy of any order entered by the court imposing any special condition

or restriction on the sexual predator that restricts or prohibits access to the victim, if the victim is a minor, or to other minors.

(6) REGISTRATION.—

(a) A sexual predator shall register with the department through the sheriff's office by providing the following information to the department:

1. Name; social security number; age; race; sex; date of birth; height; weight; tattoos or other identifying marks; hair and eye color; photograph; address of legal residence and address of any current temporary residence, within the state or out of state, including a rural route address and a post office box; if no permanent or temporary address, any transient residence within the state; address, location or description, and dates of any current or known future temporary residence within the state or out of state; all electronic mail addresses and all Internet identifiers required to be provided pursuant to subparagraph (g)5.; all home telephone numbers and cellular telephone numbers required to be provided pursuant to subparagraph (g)5.; ~~date and place of any~~ employment information required to be provided pursuant to subparagraph (g)5.; the make, model, color, vehicle identification number (VIN), and license tag number of all vehicles owned; date and place of each conviction; fingerprints; palm prints; and a brief description of the crime or crimes committed by the offender. A post office box may not be provided in lieu of a physical residential address. The sexual predator shall produce his or her passport, if he or she has a passport, and, if he or she is an alien, shall produce or provide information about documents

establishing his or her immigration status. The sexual predator shall also provide information about any professional licenses he or she has.

a. If the sexual predator's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined in chapter 320, the sexual predator shall also provide to the department written notice of the vehicle identification number; the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If a sexual predator's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the sexual predator shall also provide to the department written notice of the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat.

b. If the sexual predator is enrolled or~~,~~ employed, whether for compensation or as a volunteer ~~volunteering~~, ~~or carrying on a vocation~~ at an institution of higher education in this state, the sexual predator shall also provide to the department pursuant to subparagraph (g)5. the name, address, and county of each institution, including each campus attended, and the sexual predator's enrollment, volunteer, or employment status. ~~Each change in enrollment, volunteer, or employment status must be reported in person at the sheriff's office, or the Department of Corrections if the sexual predator is in the custody or control of or under the supervision of the Department of Corrections, within 48 hours after any change in status.~~ The sheriff, ~~or~~ the

Department of Corrections, or the Department of Juvenile Justice shall promptly notify each institution of higher education of the sexual predator's presence and any change in the sexual predator's enrollment, volunteer, or employment status.

c. A sexual predator shall report in person to the sheriff's office within 48 hours after any change in vehicles owned to report those vehicle information changes.

2. Any other information determined necessary by the department, including criminal and corrections records; nonprivileged personnel and treatment records; and evidentiary genetic markers when available.

(e)1. If the sexual predator is not in the custody or control of, or under the supervision of, the Department of Corrections or is not in the custody of a private correctional facility, the sexual predator shall register in person:

a. At the sheriff's office in the county where he or she establishes or maintains a residence within 48 hours after establishing or maintaining a residence in this state; and

b. At the sheriff's office in the county where he or she was designated a sexual predator by the court within 48 hours after such finding is made.

2. Any change in the sexual predator's permanent, ~~or~~ temporary, or transient residence~~;~~ name~~;~~ vehicles owned~~;~~ electronic mail addresses~~;~~ ~~or~~ Internet identifiers; home telephone numbers and cellular telephone numbers; and employment information and any change in status at an institution of higher education, required to be provided pursuant to subparagraph (g)5., after the sexual predator registers in person at the sheriff's office as provided in subparagraph 1.~~,~~ must be

accomplished in the manner provided in paragraphs (g), (i), and (j). When a sexual predator registers with the sheriff's office, the sheriff shall take a photograph, a set of fingerprints, and palm prints of the predator and forward the photographs, palm prints, and fingerprints to the department, along with the information that the predator is required to provide pursuant to this section.

(f) Within 48 hours after the registration required under paragraph (a) or paragraph (e), a sexual predator who is not incarcerated and who resides in the community, including a sexual predator under the supervision of the Department of Corrections, shall register in person at a driver license office of the Department of Highway Safety and Motor Vehicles and shall present proof of registration unless a driver license or an identification card that complies with the requirements of s. 322.141(3) was previously secured or updated under s. 944.607. At the driver license office the sexual predator shall:

1. If otherwise qualified, secure a Florida driver license, renew a Florida driver license, or secure an identification card. The sexual predator shall identify himself or herself as a sexual predator who is required to comply with this section, provide his or her place of permanent, temporary, or transient residence, including a rural route address and a post office box, and submit to the taking of a photograph for use in issuing a driver license, a renewed license, or an identification card, and for use by the department in maintaining current records of sexual predators. A post office box may not be provided in lieu of a physical residential address. If the sexual predator's place of residence is a motor vehicle, trailer, mobile home, or

manufactured home, as defined in chapter 320, the sexual predator shall also provide to the Department of Highway Safety and Motor Vehicles the vehicle identification number; the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If a sexual predator's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the sexual predator shall also provide to the Department of Highway Safety and Motor Vehicles the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat.

2. Pay the costs assessed by the Department of Highway Safety and Motor Vehicles for issuing or renewing a driver license or an identification card as required by this section. The driver license or identification card issued to the sexual predator must comply with s. 322.141(3).

3. Provide, upon request, any additional information necessary to confirm the identity of the sexual predator, including a set of fingerprints.

(g)1. Each time a sexual predator's driver license or identification card is subject to renewal, and, without regard to the status of the predator's driver license or identification card, within 48 hours after any change of the predator's residence or change in the predator's name by reason of marriage or other legal process, the predator shall report in person to a driver license office and is subject to the requirements specified in paragraph (f). The Department of Highway Safety and

Motor Vehicles shall forward to the department and to the Department of Corrections all photographs and information provided by sexual predators. Notwithstanding the restrictions set forth in s. 322.142, the Department of Highway Safety and Motor Vehicles may release a reproduction of a color-photograph or digital-image license to the Department of Law Enforcement for purposes of public notification of sexual predators as provided in this section. A sexual predator who is unable to secure or update a driver license or an identification card with the Department of Highway Safety and Motor Vehicles as provided in paragraph (f) and this paragraph shall also report any change of the predator's residence or change in the predator's name by reason of marriage or other legal process within 48 hours after the change to the sheriff's office in the county where the predator resides or is located and provide confirmation that he or she reported such information to the Department of Highway Safety and Motor Vehicles. The reporting requirements under this subparagraph do not negate the requirement for a sexual predator to obtain a Florida driver license or identification card as required by this section.

2.a. A sexual predator who vacates a permanent, temporary, or transient residence and fails to establish or maintain another permanent, temporary, or transient residence shall, within 48 hours after vacating the permanent, temporary, or transient residence, report in person to the sheriff's office of the county in which he or she is located. The sexual predator shall specify the date upon which he or she intends to or did vacate such residence. The sexual predator shall provide or update all of the registration information required under

paragraph (a). The sexual predator shall provide an address for the residence or other place that he or she is or will be located during the time in which he or she fails to establish or maintain a permanent or temporary residence.

b. A sexual predator shall report in person at the sheriff's office in the county in which he or she is located within 48 hours after establishing a transient residence and thereafter must report in person every 30 days to the sheriff's office in the county in which he or she is located while maintaining a transient residence. The sexual predator must provide the addresses and locations where he or she maintains a transient residence. Each sheriff's office shall establish procedures for reporting transient residence information and provide notice to transient registrants to report transient residence information as required in this sub-subparagraph. Reporting to the sheriff's office as required by this sub-subparagraph does not exempt registrants from any reregistration requirement. The sheriff may coordinate and enter into agreements with police departments and other governmental entities to facilitate additional reporting sites for transient residence registration required in this sub-subparagraph. The sheriff's office shall, within 2 business days, electronically submit and update all information provided by the sexual predator to the department.

3. A sexual predator who remains at a permanent, temporary, or transient residence after reporting his or her intent to vacate such residence shall, within 48 hours after the date upon which the predator indicated he or she would or did vacate such residence, report in person to the sheriff's office to which he

or she reported pursuant to subparagraph 2. for the purpose of reporting his or her address at such residence. When the sheriff receives the report, the sheriff shall promptly convey the information to the department. An offender who makes a report as required under subparagraph 2. but fails to make a report as required under this subparagraph commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

4. The failure of a sexual predator who maintains a transient residence to report in person to the sheriff's office every 30 days as required by sub-subparagraph 2.b. is punishable as provided in subsection (10).

5.a. A sexual predator shall register all electronic mail addresses and Internet identifiers with the department through the department's online system or in person at the sheriff's office before using such electronic mail addresses and Internet identifiers. If the sexual predator is in the custody or control, or under the supervision, of the Department of Corrections, he or she must report all electronic mail addresses and Internet identifiers to the Department of Corrections before using such electronic mail addresses or Internet identifiers. If the sexual predator is in the custody or control, or under the supervision, of the Department of Juvenile Justice, he or she must report all electronic mail addresses and Internet identifiers to the Department of Juvenile Justice before using such electronic mail addresses or Internet identifiers.

b. A sexual predator shall register all changes to home telephone numbers and cellular telephone numbers, including added and deleted numbers, all changes to employment

information, and all changes in status related to enrollment, volunteering, or employment at institutions of higher education, through the department's online system; in person at the sheriff's office; in person at the Department of Corrections if the sexual predator is in the custody or control, or under the supervision, of the Department of Corrections; or in person at the Department of Juvenile Justice if the sexual predator is in the custody or control, or under the supervision, of the Department of Juvenile Justice. All changes required to be reported in this subparagraph shall be reported within 48 hours after the change.

c. The department shall establish an online system through which sexual predators may securely access, submit, and update all electronic mail address and Internet identifier information, home telephone numbers and cellular telephone numbers, employment information, and institution of higher education information.

(i) A sexual predator who intends to establish a permanent, temporary, or transient residence in another state or jurisdiction other than the State of Florida shall report in person to the sheriff of the county of current residence within 48 hours before the date he or she intends to leave this state to establish residence in another state or jurisdiction or at least ~~within~~ 21 days before the date he or she intends to travel ~~before his or her planned departure date~~ if the intended residence of 5 days or more is outside of the United States. Any travel that is not known by the sexual predator 21 days before the departure date must be reported to the sheriff's office as soon as possible before departure. The sexual predator shall

provide to the sheriff the address, municipality, county, state, and country of intended residence. For international travel, the sexual predator shall also provide travel information, including, but not limited to, expected departure and return dates, flight number, airport of departure, cruise port of departure, or any other means of intended travel. The sheriff shall promptly provide to the department the information received from the sexual predator. The department shall notify the statewide law enforcement agency, or a comparable agency, in the intended state, jurisdiction, or country of residence of the sexual predator's intended residence. The failure of a sexual predator to provide his or her intended place of residence is punishable as provided in subsection (10).

(8) VERIFICATION.—The department and the Department of Corrections shall implement a system for verifying the addresses of sexual predators. The system must be consistent with ~~the~~ provisions of the federal Adam Walsh Child Protection and Safety Act of 2006 and any other federal standards applicable to such verification or required to be met as a condition for the receipt of federal funds by the state. The Department of Corrections shall verify the addresses of sexual predators who are not incarcerated but who reside in the community under the supervision of the Department of Corrections and shall report to the department any failure by a sexual predator to comply with registration requirements. County and local law enforcement agencies, in conjunction with the department, shall verify the addresses of sexual predators who are not under the care, custody, control, or supervision of the Department of Corrections, and may verify the addresses of sexual predators

who are under the care, custody, control, or supervision of the Department of Corrections. Local law enforcement agencies shall report to the department any failure by a sexual predator to comply with registration requirements.

(a) A sexual predator shall report in person each year during the month of the sexual predator's birthday and during every third month thereafter to the sheriff's office in the county in which he or she resides or is otherwise located to reregister. The sheriff's office may determine the appropriate times and days for reporting by the sexual predator, which must be consistent with the reporting requirements of this paragraph. Reregistration must include any changes to the following information:

1. Name; social security number; age; race; sex; date of birth; height; weight; tattoos or other identifying marks; hair and eye color; address of any permanent residence and address of any current temporary residence, within the state or out of state, including a rural route address and a post office box; if no permanent or temporary address, any transient residence within the state; address, location or description, and dates of any current or known future temporary residence within the state or out of state; all electronic mail addresses or Internet identifiers required to be provided pursuant to subparagraph (6)(g)5.; all home telephone numbers and cellular telephone numbers required to be provided pursuant to subparagraph (6)(g)5.; date and place of any employment required to be provided pursuant to subparagraph (6)(g)5.; the make, model, color, vehicle identification number (VIN), and license tag number of all vehicles owned; fingerprints; palm prints; and

photograph. A post office box may not be provided in lieu of a physical residential address. The sexual predator shall also produce his or her passport, if he or she has a passport, and, if he or she is an alien, shall produce or provide information about documents establishing his or her immigration status. The sexual predator shall also provide information about any professional licenses he or she has.

2. If the sexual predator is enrolled or~~,~~ employed, whether for compensation or as a volunteer ~~volunteering~~, ~~or carrying on a vocation~~ at an institution of higher education in this state, the sexual predator shall also provide to the department the name, address, and county of each institution, including each campus attended, and the sexual predator's enrollment, volunteer, or employment status.

3. If the sexual predator's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined in chapter 320, the sexual predator shall also provide the vehicle identification number; the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If the sexual predator's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the sexual predator shall also provide the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat.

(10) PENALTIES.—

(a) Except as otherwise specifically provided, a sexual

predator who fails to register; who fails, after registration, to maintain, acquire, or renew a driver license or an identification card; who fails to provide required location information, electronic mail address information before use, Internet identifier information before use, all home telephone numbers and cellular telephone numbers, employment information, change in status at an institution of higher education, or change-of-name information; who fails to make a required report in connection with vacating a permanent residence; who fails to reregister as required; who fails to respond to any address verification correspondence from the department within 3 weeks of the date of the correspondence; who knowingly provides false registration information by act or omission; or who otherwise fails, by act or omission, to comply with the requirements of this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) A sexual predator who has been convicted of or found to have committed, or has pled nolo contendere or guilty to, regardless of adjudication, any violation, or attempted violation, of s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor ~~and the defendant is not the victim's parent or guardian~~; s. 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035; s. 800.04; s. 827.071; s. 847.0133; s. 847.0135(5); s. 847.0145; or s. 985.701(1); or a violation of a similar law of another jurisdiction when the victim of the offense was a minor, and who works, whether for compensation or as a volunteer, at any business, school, child care facility, park, playground, or other place where children regularly congregate, commits a

felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) Any person who misuses public records information relating to a sexual predator, as defined in this section, or a sexual offender, as defined in s. 943.0435 or s. 944.607, to secure a payment from such a predator or offender; who knowingly distributes or publishes false information relating to such a predator or offender which the person misrepresents as being public records information; or who materially alters public records information with the intent to misrepresent the information, including documents, summaries of public records information provided by law enforcement agencies, or public records information displayed by law enforcement agencies on websites or provided through other means of communication, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(e) An arrest on charges of failure to register, the service of an information or a complaint for a violation of this section, or an arraignment on charges for a violation of this section constitutes actual notice of the duty to register when the predator has been provided and advised of his or her statutory obligation to register under subsection (6). A sexual predator's failure to immediately register as required by this section following such arrest, service, or arraignment constitutes grounds for a subsequent charge of failure to register. A sexual predator charged with the crime of failure to register who asserts, or intends to assert, a lack of notice of the duty to register as a defense to a charge of failure to register shall immediately register as required by this section.

A sexual predator who is charged with a subsequent failure to register may not assert the defense of a lack of notice of the duty to register.

Section 2. Subsection (1) of section 856.022, Florida Statutes, is amended, and subsections (2), (3), and (4) of that section are republished, to read:

856.022 Loitering or prowling by certain offenders in close proximity to children; penalty.—

(1) Except as provided in subsection (2), this section applies to a person convicted of committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction against a victim who was under 18 years of age at the time of the offense: s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor ~~and the offender was not the victim's parent or guardian~~; s. 787.06(3)(g); s. 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035; s. 800.04; s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; s. 985.701(1); or any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this subsection, if the person has not received a pardon for any felony or similar law of another jurisdiction necessary for the operation of this subsection and a conviction of a felony or similar law of another jurisdiction necessary for the operation of this subsection has not been set aside in any postconviction proceeding.

(2) This section does not apply to a person who has been

removed from the requirement to register as a sexual offender or sexual predator pursuant to s. 943.04354.

(3) A person described in subsection (1) commits loitering and prowling by a person convicted of a sexual offense against a minor if, in committing loitering and prowling, he or she was within 300 feet of a place where children were congregating.

(4) It is unlawful for a person described in subsection (1) to:

(a) Knowingly approach, contact, or communicate with a child under 18 years of age in any public park building or on real property comprising any public park or playground with the intent to engage in conduct of a sexual nature or to make a communication of any type with any content of a sexual nature. This paragraph applies only to a person described in subsection (1) whose offense was committed on or after May 26, 2010.

(b)1. Knowingly be present in any child care facility or school containing any students in prekindergarten through grade 12 or on real property comprising any child care facility or school containing any students in prekindergarten through grade 12 when the child care facility or school is in operation unless the person had previously provided written notification of his or her intent to be present to the school board, superintendent, principal, or child care facility owner;

2. Fail to notify the child care facility owner or the school principal's office when he or she arrives and departs the child care facility or school; or

3. Fail to remain under direct supervision of a school official or designated chaperone when present in the vicinity of children. As used in this paragraph, the term "school official"

means a principal, a school resource officer, a teacher or any other employee of the school, the superintendent of schools, a member of the school board, a child care facility owner, or a child care provider.

(c) A person is not in violation of paragraph (b) if:

1. The child care facility or school is a voting location and the person is present for the purpose of voting during the hours designated for voting; or

2. The person is only dropping off or picking up his or her own children or grandchildren at the child care facility or school.

Section 3. Subsection (1) of section 943.0435, Florida Statutes, is reordered and amended, and subsection (2), paragraphs (a) and (e) of subsection (4), subsection (7), subsection (11), and paragraphs (b) and (c) of subsection (14) of that section are amended, to read:

943.0435 Sexual offenders required to register with the department; penalty.—

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

(h) ~~(a)~~ 1. "Sexual offender" means a person who meets the criteria in sub-subparagraph a., sub-subparagraph b., sub-subparagraph c., or sub-subparagraph d., as follows:

a.(I) Has been convicted of committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor ~~and the defendant is not the victim's parent or guardian~~; s. 787.06(3)(b), (d), (f), or (g); former s.

787.06(3)(h); s. 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035; s. 800.04; s. 810.145(8); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; s. 916.1075(2); or s. 985.701(1); or any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this sub-sub-subparagraph; and

(II) Has been released on or after October 1, 1997, from the sanction imposed for any conviction of an offense described in sub-sub-subparagraph (I). For purposes of sub-sub-subparagraph (I), a sanction imposed in this state or in any other jurisdiction includes, but is not limited to, a fine, probation, community control, parole, conditional release, control release, or incarceration in a state prison, federal prison, private correctional facility, or local detention facility;

b. Establishes or maintains a residence in this state and who has not been designated as a sexual predator by a court of this state but who has been designated as a sexual predator, as a sexually violent predator, or by another sexual offender designation in another state or jurisdiction and was, as a result of such designation, subjected to registration or community or public notification, or both, or would be if the person were a resident of that state or jurisdiction, without regard to whether the person otherwise meets the criteria for registration as a sexual offender;

c. Establishes or maintains a residence in this state who is in the custody or control of, or under the supervision of, any other state or jurisdiction as a result of a conviction for

committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes or similar offense in another jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor ~~and the defendant is not the victim's parent or guardian~~; s. 787.06(3)(b), (d), (f), or (g); former s. 787.06(3)(h); s. 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035; s. 800.04; s. 810.145(8); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; s. 916.1075(2); or s. 985.701(1); or any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this sub-subparagraph; or

d. On or after July 1, 2007, has been adjudicated delinquent for committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction when the juvenile was 14 years of age or older at the time of the offense:

(I) Section 794.011, excluding s. 794.011(10);

(II) Section 800.04(4)(a)2. where the victim is under 12 years of age or where the court finds sexual activity by the use of force or coercion;

(III) Section 800.04(5)(c)1. where the court finds molestation involving unclothed genitals; or

(IV) Section 800.04(5)(d) where the court finds the use of force or coercion and unclothed genitals.

(V) Any similar offense committed in this state which has

been redesignated from a former statute number to one of those listed in this sub-subparagraph.

2. For all qualifying offenses listed in sub-subparagraph 1.d. ~~(1)(a)1.d.~~, the court shall make a written finding of the age of the offender at the time of the offense.

For each violation of a qualifying offense listed in this subsection, except for a violation of s. 794.011, the court shall make a written finding of the age of the victim at the time of the offense. For a violation of s. 800.04(4), the court shall also make a written finding indicating whether the offense involved sexual activity and indicating whether the offense involved force or coercion. For a violation of s. 800.04(5), the court shall also make a written finding that the offense did or did not involve unclothed genitals or genital area and that the offense did or did not involve the use of force or coercion.

(b) "Convicted" means that there has been a determination of guilt as a result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld, and includes an adjudication of delinquency of a juvenile as specified in this section. Conviction of a similar offense includes, but is not limited to, a conviction by a federal or military tribunal, including courts-martial conducted by the Armed Forces of the United States, and includes a conviction or entry of a plea of guilty or nolo contendere resulting in a sanction in any state of the United States or other jurisdiction. A sanction includes, but is not limited to, a fine, probation, community control, parole, conditional release, control release, or incarceration in a state prison,

federal prison, private correctional facility, or local detention facility.

(f)~~(c)~~ "Permanent residence," "temporary residence," and "transient residence" have the same meaning as provided ~~ascribed~~ in s. 775.21.

(d) "Institution of higher education" has the same meaning as provided in s. 775.21 ~~means a career center, community college, college, state university, or independent postsecondary institution~~.

(a)~~(c)~~ "Change in ~~enrollment or employment~~ status at an institution of higher education" has the same meaning as provided in s. 775.21 ~~means the commencement or termination of enrollment or employment or a change in location of enrollment or employment~~.

(c)~~(f)~~ "Electronic mail address" has the same meaning as provided in s. 668.602.

(e)~~(g)~~ "Internet identifier" has the same meaning as provided in s. 775.21.

(i)~~(h)~~ "Vehicles owned" has the same meaning as provided in s. 775.21.

(g) "Professional license" has the same meaning as provided in s. 775.21.

(2) A sexual offender shall:

(a) Report in person at the sheriff's office:

1. In the county in which the offender establishes or maintains a permanent, temporary, or transient residence within 48 hours after:

a. Establishing permanent, temporary, or transient residence in this state; or

b. Being released from the custody, control, or supervision of the Department of Corrections or from the custody of a private correctional facility; or

2. In the county where he or she was convicted within 48 hours after being convicted for a qualifying offense for registration under this section if the offender is not in the custody or control of, or under the supervision of, the Department of Corrections, or is not in the custody of a private correctional facility.

Any change in the information required to be provided pursuant to paragraph (b), including, but not limited to, any change in the sexual offender's permanent, temporary, or transient residence~~;~~ name~~;~~ electronic mail addresses~~; or~~ Internet identifiers; home telephone numbers and cellular telephone numbers; and employment information and any change in status at an institution of higher education, required to be provided pursuant to paragraph (4)(e), after the sexual offender reports in person at the sheriff's office~~,~~ must be accomplished in the manner provided in subsections (4), (7), and (8).

(b) Provide his or her name; date of birth; social security number; race; sex; height; weight; hair and eye color; tattoos or other identifying marks; fingerprints; palm prints; photograph; ~~occupation and place of~~ employment information required to be provided pursuant to paragraph (4)(e); address of permanent or legal residence or address of any current temporary residence, within the state or out of state, including a rural route address and a post office box; if no permanent or temporary address, any transient residence within the state,

address, location or description, and dates of any current or known future temporary residence within the state or out of state; the make, model, color, vehicle identification number (VIN), and license tag number of all vehicles owned; all home telephone numbers and cellular telephone numbers required to be provided pursuant to paragraph (4)(e); all electronic mail addresses and all Internet identifiers required to be provided pursuant to paragraph (4)(e); date and place of each conviction; and a brief description of the crime or crimes committed by the offender. A post office box may not be provided in lieu of a physical residential address. The sexual offender shall also produce his or her passport, if he or she has a passport, and, if he or she is an alien, shall produce or provide information about documents establishing his or her immigration status. The sexual offender shall also provide information about any professional licenses he or she has.

1. If the sexual offender's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined in chapter 320, the sexual offender shall also provide to the department through the sheriff's office written notice of the vehicle identification number; the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If the sexual offender's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the sexual offender shall also provide to the department written notice of the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including

color scheme, of the vessel, live-aboard vessel, or houseboat.

2. If the sexual offender is enrolled or~~,~~ employed, whether for compensation or as a volunteer ~~volunteering~~, ~~or carrying on a vocation~~ at an institution of higher education in this state, the sexual offender shall also provide to the department pursuant to paragraph (4)(e) ~~through the sheriff's office~~ the name, address, and county of each institution, including each campus attended, and the sexual offender's enrollment, volunteer, or employment status. ~~Each change in enrollment, volunteer, or employment status must be reported in person at the sheriff's office, within 48 hours after any change in status.~~ The sheriff, the Department of Corrections, or the Department of Juvenile Justice shall promptly notify each institution of higher education of the sexual offender's presence and any change in the sexual offender's enrollment, volunteer, or employment status.

3. A sexual offender shall report in person to the sheriff's office within 48 hours after any change in vehicles owned to report those vehicle information changes.

(c) Provide any other information determined necessary by the department, including criminal and corrections records; nonprivileged personnel and treatment records; and evidentiary genetic markers, when available.

When a sexual offender reports at the sheriff's office, the sheriff shall take a photograph, a set of fingerprints, and palm prints of the offender and forward the photographs, palm prints, and fingerprints to the department, along with the information provided by the sexual offender. The sheriff shall promptly

provide to the department the information received from the sexual offender.

(4)(a) Each time a sexual offender's driver license or identification card is subject to renewal, and, without regard to the status of the offender's driver license or identification card, within 48 hours after any change in the offender's permanent, temporary, or transient residence or change in the offender's name by reason of marriage or other legal process, the offender shall report in person to a driver license office, and is subject to the requirements specified in subsection (3). The Department of Highway Safety and Motor Vehicles shall forward to the department all photographs and information provided by sexual offenders. Notwithstanding the restrictions set forth in s. 322.142, the Department of Highway Safety and Motor Vehicles may release a reproduction of a color-photograph or digital-image license to the Department of Law Enforcement for purposes of public notification of sexual offenders as provided in this section and ss. 943.043 and 944.606. A sexual offender who is unable to secure or update a driver license or an identification card with the Department of Highway Safety and Motor Vehicles as provided in subsection (3) and this subsection shall also report any change in the sexual offender's permanent, temporary, or transient residence or change in the offender's name by reason of marriage or other legal process within 48 hours after the change to the sheriff's office in the county where the offender resides or is located and provide confirmation that he or she reported such information to the Department of Highway Safety and Motor Vehicles. The reporting requirements under this paragraph do not negate the requirement

for a sexual offender to obtain a Florida driver license or an identification card as required in this section.

(e)1. A sexual offender shall register all electronic mail addresses and Internet identifiers with the department through the department's online system or in person at the sheriff's office before using such electronic mail addresses and Internet identifiers. If the sexual offender is in the custody or control, or under the supervision, of the Department of Corrections, he or she must report all electronic mail addresses and Internet identifiers to the Department of Corrections before using such electronic mail addresses or Internet identifiers. If the sexual offender is in the custody or control, or under the supervision, of the Department of Juvenile Justice, he or she must report all electronic mail addresses and Internet identifiers to the Department of Juvenile Justice before using such electronic mail addresses or Internet identifiers.

2. A sexual offender shall register all changes to home telephone numbers and cellular telephone numbers, including added and deleted numbers, all changes to employment information, and all changes in status related to enrollment, volunteering, or employment at institutions of higher education, through the department's online system; in person at the sheriff's office; in person at the Department of Corrections if the sexual offender is in the custody or control, or under the supervision, of the Department of Corrections; or in person at the Department of Juvenile Justice if the sexual offender is in the custody or control, or under the supervision, of the Department of Juvenile Justice. All changes required to be reported under this subparagraph must be reported within 48

hours after the change.

3. The department shall establish an online system through which sexual offenders may securely access, submit, and update all changes in status to electronic mail address and Internet identifier information, home telephone numbers and cellular telephone numbers, employment information, and institution of higher education information.

(7) A sexual offender who intends to establish a permanent, temporary, or transient residence in another state or jurisdiction other than the State of Florida shall report in person to the sheriff of the county of current residence within 48 hours before the date he or she intends to leave this state to establish residence in another state or jurisdiction or at least ~~within~~ 21 days before the date he or she intends to travel ~~before his or her planned departure date~~ if the intended residence of 5 days or more is outside of the United States. Any travel that is not known by the sexual offender 21 days before the departure date must be reported in person to the sheriff's office as soon as possible before departure. The sexual offender shall provide to the sheriff ~~The notification must include~~ the address, municipality, county, state, and country of intended residence. For international travel, the sexual offender shall also provide travel information, including, but not limited to, expected departure and return dates, flight number, airport of departure, cruise port of departure, or any other means of intended travel. The sheriff shall promptly provide to the department the information received from the sexual offender. The department shall notify the statewide law enforcement agency, or a comparable agency, in the intended state,

jurisdiction, or country of residence of the sexual offender's intended residence. The failure of a sexual offender to provide his or her intended place of residence is punishable as provided in subsection (9).

(11) Except as provided in s. 943.04354, a sexual offender shall maintain registration with the department for the duration of his or her life unless the sexual offender has received a full pardon or has had a conviction set aside in a postconviction proceeding for any offense that meets the criteria for classifying the person as a sexual offender for purposes of registration. However, a sexual offender shall be considered for removal of the requirement to register as a sexual offender only if the person:

(a)1. ~~Who~~ Has been lawfully released from confinement, supervision, or sanction, whichever is later, for at least 25 years and has not been arrested for any felony or misdemeanor offense since release, provided that the sexual offender's requirement to register was not based upon an adult conviction:

a. For a violation of s. 787.01 or s. 787.02;

b. For a violation of s. 794.011, excluding s. 794.011(10);

c. For a violation of s. 800.04(4)(a)2. where the court finds the offense involved a victim under 12 years of age or sexual activity by the use of force or coercion;

d. For a violation of s. 800.04(5)(b);

e. For a violation of s. 800.04(5)(c)2. where the court finds the offense involved the use of force or coercion and unclothed genitals or genital area;

f. For a violation of s. 825.1025(2)(a);

g.~~f.~~ For any attempt or conspiracy to commit any such

offense;

h.~~g.~~ For a violation of similar law of another jurisdiction; or

i.~~h.~~ For a violation of a similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this subparagraph.~~,~~

2. If the sexual offender meets the criteria in subparagraph 1., the sexual offender may, for the purpose of removing the requirement for registration as a sexual offender, petition the criminal division of the circuit court of the circuit:

a. Where the conviction or adjudication occurred, for a conviction in this state;

b. Where the sexual offender resides, for a conviction of a violation of similar law of another jurisdiction; or

c. Where the sexual offender last resided, for a sexual offender with a conviction of a violation of similar law of another jurisdiction who no longer resides in this state ~~for the purpose of removing the requirement for registration as a sexual offender~~.

3.~~2.~~ The court may grant or deny relief if the offender demonstrates to the court that he or she has not been arrested for any crime since release; the requested relief complies with ~~the provisions of~~ the federal Adam Walsh Child Protection and Safety Act of 2006 and any other federal standards applicable to the removal of registration requirements for a sexual offender or required to be met as a condition for the receipt of federal funds by the state; and the court is otherwise satisfied that the offender is not a current or potential threat to public

safety. The state attorney in the circuit in which the petition is filed must be given notice of the petition at least 3 weeks before the hearing on the matter. The state attorney may present evidence in opposition to the requested relief or may otherwise demonstrate the reasons why the petition should be denied. If the court denies the petition, the court may set a future date at which the sexual offender may again petition the court for relief, subject to the standards for relief provided in this subsection.

4.~~3.~~ The department shall remove an offender from classification as a sexual offender for purposes of registration if the offender provides to the department a certified copy of the court's written findings or order that indicates that the offender is no longer required to comply with the requirements for registration as a sexual offender.

~~4. For purposes of this paragraph:~~

~~a. The registration period of a sexual offender sentenced to a term of incarceration or committed to a residential program begins upon the offender's release from incarceration or commitment for the most recent conviction that required the offender to register.~~

~~b. A sexual offender's registration period is tolled during any period in which the offender is incarcerated, civilly committed, detained pursuant to chapter 985, or committed to a residential program.~~

~~c. Except as provided in sub-subparagraph c., if the sexual offender is only sentenced to a term of supervision for the most recent conviction that required the offender to register as a sexual offender or is only subject to a period of supervision~~

~~for that conviction, the registration period begins when the term or period of supervision for that conviction begins.~~

~~d. Except as provided in sub-subparagraph c., if the sexual offender is sentenced to a term of supervision that follows a term of incarceration for the most recent conviction that required the offender to register as a sexual offender or is subject to a period of supervision that follows commitment to a residential program for that conviction, the registration period begins when the term or period of supervision for that conviction begins.~~

~~e. If a sexual offender is sentenced to a term of more than 25 years' supervision for the most recent conviction that required the offender to register as a sexual offender, the sexual offender may not petition for removal of the requirement for registration as a sexual offender until the term of supervision for that conviction is completed.~~

(b) As defined in sub-subparagraph (1)(h)1.b. ~~(1)(a)1.b.~~ must maintain registration with the department for the duration of his or her life until the person provides the department with an order issued by the court that designated the person as a sexual predator, as a sexually violent predator, or by another sexual offender designation in the state or jurisdiction in which the order was issued which states that such designation has been removed or demonstrates to the department that such designation, if not imposed by a court, has been removed by operation of law or court order in the state or jurisdiction in which the designation was made, and provided such person no longer meets the criteria for registration as a sexual offender under the laws of this state.

(14)

(b) However, a sexual offender who is required to register as a result of a conviction for:

1. Section 787.01 or s. 787.02 where the victim is a minor ~~and the offender is not the victim's parent or guardian~~;

2. Section 794.011, excluding s. 794.011(10);

3. Section 800.04(4)(a)2. where the court finds the offense involved a victim under 12 years of age or sexual activity by the use of force or coercion;

4. Section 800.04(5)(b);

5. Section 800.04(5)(c)1. where the court finds molestation involving unclothed genitals or genital area;

6. Section 800.04(5)(c)2. where the court finds molestation involving the use of force or coercion and unclothed genitals or genital area;

7. Section 800.04(5)(d) where the court finds the use of force or coercion and unclothed genitals or genital area;

8. Section 825.1025(2)(a);

9.~~8.~~ Any attempt or conspiracy to commit such offense;

10.~~9.~~ A violation of a similar law of another jurisdiction; or

11.~~10.~~ A violation of a similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this paragraph,

must reregister each year during the month of the sexual offender's birthday and every third month thereafter.

(c) The sheriff's office may determine the appropriate times and days for reporting by the sexual offender, which must

be consistent with the reporting requirements of this subsection. Reregistration must include any changes to the following information:

1. Name; social security number; age; race; sex; date of birth; height; weight; tattoos or other identifying marks; hair and eye color; address of any permanent residence and address of any current temporary residence, within the state or out of state, including a rural route address and a post office box; if no permanent or temporary address, any transient residence within the state; address, location or description, and dates of any current or known future temporary residence within the state or out of state; all electronic mail addresses or Internet identifiers required to be provided pursuant to paragraph (4)(e); all home telephone numbers and cellular telephone numbers required to be provided pursuant to paragraph (4)(e); ~~date and place of any~~ employment information required to be provided pursuant to paragraph (4)(e); the make, model, color, vehicle identification number (VIN), and license tag number of all vehicles owned; fingerprints; palm prints; and photograph. A post office box may not be provided in lieu of a physical residential address. The sexual offender shall also produce his or her passport, if he or she has a passport, and, if he or she is an alien, shall produce or provide information about documents establishing his or her immigration status. The sexual offender shall also provide information about any professional licenses he or she has.

2. If the sexual offender is enrolled or~~, volunteering,~~ employed, whether for compensation or as a volunteer, ~~or carrying on a vocation~~ at an institution of higher education in

this state, the sexual offender shall also provide to the department the name, address, and county of each institution, including each campus attended, and the sexual offender's enrollment, volunteer, or employment status.

3. If the sexual offender's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined in chapter 320, the sexual offender shall also provide the vehicle identification number; the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If the sexual offender's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the sexual offender shall also provide the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel or houseboat.

4. Any sexual offender who fails to report in person as required at the sheriff's office, who fails to respond to any address verification correspondence from the department within 3 weeks of the date of the correspondence, who fails to report all electronic mail addresses and all Internet identifiers before ~~prior to~~ use, or who knowingly provides false registration information by act or omission commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 4. Subsections (1) and (2) of section 943.04354, Florida Statutes, are amended to read:

943.04354 Removal of the requirement to register as a

sexual offender or sexual predator in special circumstances.—

(1) For purposes of this section, a person shall be considered for removal of the requirement to register as a sexual offender or sexual predator only if the person:

(a) Was convicted, regardless of adjudication, or adjudicated delinquent of a violation of ~~s. 794.011,~~ s. 800.04, s. 827.071, or s. 847.0135(5) or of a similar offense in another jurisdiction and if the person does not have any other conviction, regardless of adjudication, or adjudication of delinquency for a violation of s. 794.011, s. 800.04, s. 827.071, or s. 847.0135(5) or for a similar offense in another jurisdiction;

(b)1. Was convicted, regardless of adjudication, or adjudicated delinquent of an offense listed in paragraph (a) and is required to register as a sexual offender or sexual predator solely on the basis of this conviction or adjudication; or

2. Was convicted, regardless of adjudication, or adjudicated delinquent of an offense in another jurisdiction which is similar to an offense listed in paragraph (a) and no longer meets the criteria for registration as a sexual offender or sexual predator under the laws of the jurisdiction in which the similar offense occurred; and

(c) Is not more than 4 years older than the victim of this violation who was 13 years of age or older but younger than 18 years of age at the time the person committed this violation.

(2)(a) If a person meets the criteria in subsection (1), the person may, for the purpose of removing the requirement that he or she register as a sexual offender or sexual predator, move the criminal division of the circuit court of the circuit:

1. ~~the person may move the criminal division of the circuit court of the circuit~~ Where the conviction or adjudication for the qualifying offense occurred for a conviction in this state;

2. Where the sexual offender or sexual predator resides for a conviction for a violation of similar law of another jurisdiction; or

3. Where the sexual offender or sexual predator last resided for a sexual offender or sexual predator with a conviction of a violation of a similar law of another jurisdiction who no longer resides in this state ~~to remove the requirement that the person register as a sexual offender or sexual predator~~.

(b) The person must allege in the motion that he or she meets the criteria in subsection (1) and that removal of the registration requirement will not conflict with federal law that requires that the sexual act be consensual, notwithstanding the age of the victim. A person convicted or adjudicated delinquent of an offense in another jurisdiction which is similar to an offense listed in paragraph (1)(a) must provide the court written confirmation that he or she is not required to register in the jurisdiction in which the conviction or adjudication occurred. The state attorney and the department must be given notice of the motion at least 21 days before the date of sentencing, disposition of the violation, or hearing on the motion and may present evidence in opposition to the requested relief or may otherwise demonstrate why the motion should be denied. At sentencing, disposition of the violation, or hearing on the motion, the court shall rule on the motion, and, if the court determines the person meets the criteria in subsection (1)

and the removal of the registration requirement will not conflict with federal law that requires that the sexual act be consensual, notwithstanding the age of the victim, it may grant the motion and order the removal of the registration requirement. The court shall instruct the person to provide the department a certified copy of the order granting relief. If the court denies the motion, the person is not authorized under this section to file another motion for removal of the registration requirement.

Section 5. Subsection (1) of section 944.606, Florida Statutes, is reordered and amended, and paragraph (a) of subsection (3) of that section is amended, to read:

944.606 Sexual offenders; notification upon release.—

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

(a) "Convicted" means there has been a determination of guilt as a result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld. A conviction for a similar offense includes, but is not limited to, a conviction by a federal or military tribunal, including courts-martial conducted by the Armed Forces of the United States, and includes a conviction or entry of a plea of guilty or nolo contendere resulting in a sanction in any state of the United States or other jurisdiction. A sanction includes, but is not limited to, a fine; probation; community control; parole; conditional release; control release; or incarceration in a state prison, federal prison, private correctional facility, or local detention facility.

(f) ~~(b)~~ "Sexual offender" means a person who has been convicted of committing, or attempting, soliciting, or

conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor ~~and the defendant is not the victim's parent or guardian~~; s. 787.06(3)(b), (d), (f), or (g); former s. 787.06(3)(h); s. 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035; s. 800.04; s. 810.145(8); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; s. 916.1075(2); or s. 985.701(1); or any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this subsection, when the department has received verified information regarding such conviction; an offender's computerized criminal history record is not, in and of itself, verified information.

(b) ~~(c)~~ "Electronic mail address" has the same meaning as provided in s. 668.602.

(c) ~~(d)~~ "Internet identifier" has the same meaning as provided in s. 775.21.

(d) "Permanent residence," "temporary residence," and "transient residence" have the same meaning as provided in s. 775.21.

(e) "Professional license" has the same meaning as provided in s. 775.21.

(3)(a) The department shall provide information regarding any sexual offender who is being released after serving a period of incarceration for any offense, as follows:

1. The department shall provide: the sexual offender's

name, any change in the offender's name by reason of marriage or other legal process, and any alias, if known; the correctional facility from which the sexual offender is released; the sexual offender's social security number, race, sex, date of birth, height, weight, and hair and eye color; tattoos or other identifying marks; address of any planned permanent residence or temporary residence, within the state or out of state, including a rural route address and a post office box; if no permanent or temporary address, any transient residence within the state; address, location or description, and dates of any known future temporary residence within the state or out of state; date and county of sentence and each crime for which the offender was sentenced; a copy of the offender's fingerprints, palm prints, and a digitized photograph taken within 60 days before release; the date of release of the sexual offender; all electronic mail addresses and all Internet identifiers required to be provided pursuant to s. 943.0435(4)(e); employment information, if known, provided pursuant to s. 943.0435(4)(e); all home telephone numbers and cellular telephone numbers required to be provided pursuant to s. 943.0435(4)(e); information about any professional licenses the offender has, if known; and passport information, if he or she has a passport, and, if he or she is an alien, information about documents establishing his or her immigration status. The department shall notify the Department of Law Enforcement if the sexual offender escapes, absconds, or dies. If the sexual offender is in the custody of a private correctional facility, the facility shall take the digitized photograph of the sexual offender within 60 days before the sexual offender's release and provide this photograph to the

Department of Corrections and also place it in the sexual offender's file. If the sexual offender is in the custody of a local jail, the custodian of the local jail shall register the offender within 3 business days after intake of the offender for any reason and upon release, and shall notify the Department of Law Enforcement of the sexual offender's release and provide to the Department of Law Enforcement the information specified in this paragraph and any information specified in subparagraph 2. that the Department of Law Enforcement requests.

2. The department may provide any other information deemed necessary, including criminal and corrections records, nonprivileged personnel and treatment records, when available.

Section 6. Subsection (1) of section 944.607, Florida Statutes, is reordered and amended, and subsections (4) and (13) of that section are amended, to read:

944.607 Notification to Department of Law Enforcement of information on sexual offenders.—

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

(f) ~~(a)~~ "Sexual offender" means a person who is in the custody or control of, or under the supervision of, the department or is in the custody of a private correctional facility:

1. On or after October 1, 1997, as a result of a conviction for committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor ~~and the defendant is not the victim's parent or guardian~~; s.

787.06(3)(b), (d), (f), or (g); former s. 787.06(3)(h); s. 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035; s. 800.04; s. 810.145(8); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; s. 916.1075(2); or s. 985.701(1); or any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this paragraph; or

2. Who establishes or maintains a residence in this state and who has not been designated as a sexual predator by a court of this state but who has been designated as a sexual predator, as a sexually violent predator, or by another sexual offender designation in another state or jurisdiction and was, as a result of such designation, subjected to registration or community or public notification, or both, or would be if the person were a resident of that state or jurisdiction, without regard as to whether the person otherwise meets the criteria for registration as a sexual offender.

(g) ~~(b)~~ "Vehicles owned" has the same meaning as provided in s. 775.21.

(b) ~~(c)~~ "Conviction" means a determination of guilt which is the result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld. Conviction of a similar offense includes, but is not limited to, a conviction by a federal or military tribunal, including courts-martial conducted by the Armed Forces of the United States, and includes a conviction or entry of a plea of guilty or nolo contendere resulting in a sanction in any state of the United States or other jurisdiction. A sanction includes, but is

not limited to, a fine; probation; community control; parole; conditional release; control release; or incarceration in a state prison, federal prison, private correctional facility, or local detention facility.

(d) "Institution of higher education" has the same meaning as provided in s. 775.21 ~~means a career center, community college, college, state university, or independent postsecondary institution~~.

(a) ~~(c)~~ "Change in ~~enrollment or employment~~ status at an institution of higher education" has the same meaning as provided in s. 775.21 ~~means the commencement or termination of enrollment or employment or a change in location of enrollment or employment~~.

(c) ~~(f)~~ "Electronic mail address" has the same meaning as provided in s. 668.602.

(e) ~~(g)~~ "Internet identifier" has the same meaning as provided in s. 775.21.

(4) A sexual offender, as described in this section, who is under the supervision of the Department of Corrections but is not incarcerated shall register with the Department of Corrections within 3 business days after sentencing for a registrable offense and otherwise provide information as required by this subsection.

(a) The sexual offender shall provide his or her name; date of birth; social security number; race; sex; height; weight; hair and eye color; tattoos or other identifying marks; all electronic mail addresses and Internet identifiers required to be provided pursuant to s. 943.0435(4)(e); employment information required to be provided pursuant to s.

943.0435(4)(e); all home telephone numbers and cellular telephone numbers required to be provided pursuant to s. 943.0435(4)(e); the make, model, color, vehicle identification number (VIN), and license tag number of all vehicles owned; permanent or legal residence and address of temporary residence within the state or out of state while the sexual offender is under supervision in this state, including any rural route address or post office box; if no permanent or temporary address, any transient residence within the state; and address, location or description, and dates of any current or known future temporary residence within the state or out of state. The sexual offender shall also produce his or her passport, if he or she has a passport, and, if he or she is an alien, shall produce or provide information about documents establishing his or her immigration status. The sexual offender shall also provide information about any professional licenses he or she has. The Department of Corrections shall verify the address of each sexual offender in the manner described in ss. 775.21 and 943.0435. The department shall report to the Department of Law Enforcement any failure by a sexual predator or sexual offender to comply with registration requirements.

(b) If the sexual offender is enrolled or~~,~~ employed, whether for compensation or as a volunteer ~~volunteering~~, ~~or carrying on a vocation~~ at an institution of higher education in this state, the sexual offender shall provide the name, address, and county of each institution, including each campus attended, and the sexual offender's enrollment, volunteer, or employment status required to be provided pursuant to s. 943.0435(4)(e). Each change in ~~enrollment, volunteer, or employment~~ status at an

institution of higher education must be reported to the department within 48 hours after the change in status at an institution of higher education as provided pursuant to s. 943.0435(4)(e). The Department of Corrections shall promptly notify each institution of the sexual offender's presence and any change in the sexual offender's enrollment, volunteer, or employment status.

(c) A sexual offender shall report in person to the sheriff's office within 48 hours after any change in vehicles owned to report those vehicle information changes.

(13)(a) A sexual offender must report in person each year during the month of the sexual offender's birthday and during the sixth month following the sexual offender's birth month to the sheriff's office in the county in which he or she resides or is otherwise located to reregister.

(b) However, a sexual offender who is required to register as a result of a conviction for:

1. Section 787.01 or s. 787.02 where the victim is a minor ~~and the offender is not the victim's parent or guardian~~;

2. Section 794.011, excluding s. 794.011(10);

3. Section 800.04(4)(a)2. where the victim is under 12 years of age or where the court finds sexual activity by the use of force or coercion;

4. Section 800.04(5)(b);

5. Section 800.04(5)(c)1. where the court finds molestation involving unclothed genitals or genital area;

6. Section 800.04(5)(c)2. where the court finds molestation involving use of force or coercion and unclothed genitals or genital area;

7. Section 800.04(5)(d) where the court finds the use of force or coercion and unclothed genitals or genital area;

8. Section 825.1025(2)(a);

9.~~8.~~ Any attempt or conspiracy to commit such offense;

10.~~9.~~ A violation of a similar law of another jurisdiction; or

11.~~10.~~ A violation of a similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this paragraph,

must reregister each year during the month of the sexual offender's birthday and every third month thereafter.

(c) The sheriff's office may determine the appropriate times and days for reporting by the sexual offender, which must be consistent with the reporting requirements of this subsection. Reregistration must include any changes to the following information:

1. Name; social security number; age; race; sex; date of birth; height; weight; tattoos or other identifying marks; hair and eye color; address of any permanent residence and address of any current temporary residence, within the state or out of state, including a rural route address and a post office box; if no permanent or temporary address, any transient residence; address, location or description, and dates of any current or known future temporary residence within the state or out of state; all electronic mail addresses and Internet identifiers required to be provided pursuant to s. 943.0435(4)(e); all home telephone numbers and cellular telephone numbers required to be provided pursuant to s. 943.0435(4)(e); ~~date and place of any~~

employment information required to be provided pursuant to s. 943.0435(4)(e); the make, model, color, vehicle identification number (VIN), and license tag number of all vehicles owned; fingerprints; palm prints; and photograph. A post office box may not be provided in lieu of a physical residential address. The sexual offender shall also produce his or her passport, if he or she has a passport, and, if he or she is an alien, shall produce or provide information about documents establishing his or her immigration status. The sexual offender shall also provide information about any professional licenses he or she has.

2. If the sexual offender is enrolled or~~,~~ employed, whether for compensation or as a volunteer ~~volunteering~~, ~~or carrying on a vocation~~ at an institution of higher education in this state, the sexual offender shall also provide to the department the name, address, and county of each institution, including each campus attended, and the sexual offender's enrollment, volunteer, or employment status.

3. If the sexual offender's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined in chapter 320, the sexual offender shall also provide the vehicle identification number; the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If the sexual offender's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the sexual offender shall also provide the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the

vessel, live-aboard vessel or houseboat.

4. Any sexual offender who fails to report in person as required at the sheriff's office, who fails to respond to any address verification correspondence from the department within 3 weeks of the date of the correspondence, who fails to report all electronic mail addresses or Internet identifiers before ~~prior to~~ use, or who knowingly provides false registration information by act or omission commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) The sheriff's office shall, within 2 working days, electronically submit and update all information provided by the sexual offender to the Department of Law Enforcement in a manner prescribed by that department.

Section 7. Subsection (1) and paragraph (a) of subsection (3) of section 985.481, Florida Statutes, are amended to read:

985.481 Sexual offenders adjudicated delinquent; notification upon release.—

(1) As used in this section:

(a) "Convicted" has the same meaning as provided in s. 943.0435.

(b) "Electronic mail address" has the same meaning as provided in s. 668.602.

(c)~~(b)~~ "Internet identifier" has the same meaning as provided in s. 775.21.

(d) "Permanent residence," "temporary residence," and "transient residence" have the same meaning as provided in s. 775.21.

(e) "Professional license" has the same meaning as provided in s. 775.21.

(f) ~~(c)~~ "Sexual offender" means a person who has been adjudicated delinquent as provided in s. 943.0435(1)(h)1.d. ~~s. 943.0435(1)(a)1.d.~~

(g) ~~(d)~~ "Vehicles owned" has the same meaning as provided in s. 775.21.

(3)(a) The department shall provide information regarding any sexual offender who is being released after serving a period of residential commitment under the department for any offense, as follows:

1. The department shall provide the sexual offender's name, any change in the offender's name by reason of marriage or other legal process, and any alias, if known; the correctional facility from which the sexual offender is released; the sexual offender's social security number, race, sex, date of birth, height, weight, and hair and eye color; tattoos or other identifying marks; the make, model, color, vehicle identification number (VIN), and license tag number of all vehicles owned; address of any planned permanent residence or temporary residence, within the state or out of state, including a rural route address and a post office box; if no permanent or temporary address, any transient residence within the state; address, location or description, and dates of any known future temporary residence within the state or out of state; date and county of disposition and each crime for which there was a disposition; a copy of the offender's fingerprints, palm prints, and a digitized photograph taken within 60 days before release; the date of release of the sexual offender; all home telephone numbers and cellular telephone numbers required to be provided pursuant to s. 943.0435(4)(e); all electronic mail addresses and

Internet identifiers required to be provided pursuant to s. 943.0435(4)(e); information about any professional licenses the offender has, if known; and passport information, if he or she has a passport, and, if he or she is an alien, information about documents establishing his or her immigration status. The department shall notify the Department of Law Enforcement if the sexual offender escapes, absconds, or dies. If the sexual offender is in the custody of a private correctional facility, the facility shall take the digitized photograph of the sexual offender within 60 days before the sexual offender's release and also place it in the sexual offender's file. If the sexual offender is in the custody of a local jail, the custodian of the local jail shall register the offender within 3 business days after intake of the offender for any reason and upon release, and shall notify the Department of Law Enforcement of the sexual offender's release and provide to the Department of Law Enforcement the information specified in this subparagraph and any information specified in subparagraph 2. which the Department of Law Enforcement requests.

2. The department may provide any other information considered necessary, including criminal and delinquency records, when available.

Section 8. Subsections (1), (4), and (13) of section 985.4815, Florida Statutes, are amended, and paragraph (c) of subsection (10) is republished, to read:

985.4815 Notification to Department of Law Enforcement of information on juvenile sexual offenders.—

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

(a) "Change in ~~enrollment or employment~~ status at an

institution of higher education" has the same meaning as provided in s. 775.21 ~~means the commencement or termination of enrollment or employment or a change in location of enrollment or employment~~.

(b) "Conviction" has the same meaning as provided in s. 943.0435.

(c) "Electronic mail address" has the same meaning as provided in s. 668.602.

(d)~~(c)~~ "Institution of higher education" has the same meaning as provided in s. 775.21 ~~means a career center, community college, college, state university, or independent postsecondary institution~~.

(e)~~(d)~~ "Internet identifier" has the same meaning as provided in s. 775.21.

(f) "Permanent residence," "temporary residence," and "transient residence" have the same meaning as provided in s. 775.21.

(g) "Professional license" has the same meaning as provided in s. 775.21.

(h)~~(e)~~ "Sexual offender" means a person who is in the care or custody or under the jurisdiction or supervision of the department or is in the custody of a private correctional facility and who:

1. Has been adjudicated delinquent as provided in s. 943.0435(1)(h)1.d. ~~s. 943.0435(1)(a)1.d.~~; or

2. Establishes or maintains a residence in this state and has not been designated as a sexual predator by a court of this state but has been designated as a sexual predator, as a sexually violent predator, or by another sexual offender

designation in another state or jurisdiction and was, as a result of such designation, subjected to registration or community or public notification, or both, or would be if the person were a resident of that state or jurisdiction, without regard to whether the person otherwise meets the criteria for registration as a sexual offender.

(i)~~(f)~~ "Vehicles owned" has the same meaning as provided in s. 775.21.

(4) A sexual offender, as described in this section, who is under the supervision of the department but who is not committed shall register with the department within 3 business days after adjudication and disposition for a registrable offense and otherwise provide information as required by this subsection.

(a) The sexual offender shall provide his or her name; date of birth; social security number; race; sex; height; weight; hair and eye color; tattoos or other identifying marks; the make, model, color, vehicle identification number (VIN), and license tag number of all vehicles owned; permanent or legal residence and address of temporary residence within the state or out of state while the sexual offender is in the care or custody or under the jurisdiction or supervision of the department in this state, including any rural route address or post office box; if no permanent or temporary address, any transient residence; address, location or description, and dates of any current or known future temporary residence within the state or out of state; all home telephone numbers and cellular telephone numbers required to be provided pursuant to s. 943.0435(4)(e); all electronic mail addresses and Internet identifiers required to be provided pursuant to s. 943.0435(4)(e); and the name and

address of each school attended. The sexual offender shall also produce his or her passport, if he or she has a passport, and, if he or she is an alien, shall produce or provide information about documents establishing his or her immigration status. The offender shall also provide information about any professional licenses he or she has. The department shall verify the address of each sexual offender and shall report to the Department of Law Enforcement any failure by a sexual offender to comply with registration requirements.

(b) If the sexual offender is enrolled or~~,~~ employed, whether for compensation or as a volunteer ~~volunteering~~, ~~or carrying on a vocation~~ at an institution of higher education in this state, the sexual offender shall provide the name, address, and county of each institution, including each campus attended, and the sexual offender's enrollment, volunteer, or employment status. Each change in ~~enrollment, volunteer, or employment~~ status at an institution of higher education must be reported to the department within 48 hours after the change in status at an institution of higher education. The department shall promptly notify each institution of the sexual offender's presence and any change in the sexual offender's enrollment, volunteer, or employment status.

(c) A sexual offender shall report in person to the sheriff's office within 48 hours after any change in vehicles owned to report those vehicle information changes.

(10)

(c) An arrest on charges of failure to register when the offender has been provided and advised of his or her statutory obligations to register under s. 943.0435(2), the service of an

information or a complaint for a violation of this section, or an arraignment on charges for a violation of this section constitutes actual notice of the duty to register. A sexual offender's failure to immediately register as required by this section following such arrest, service, or arraignment constitutes grounds for a subsequent charge of failure to register. A sexual offender charged with the crime of failure to register who asserts, or intends to assert, a lack of notice of the duty to register as a defense to a charge of failure to register shall immediately register as required by this section. A sexual offender who is charged with a subsequent failure to register may not assert the defense of a lack of notice of the duty to register.

(13)(a) A sexual offender must report in person each year during the month of the sexual offender's birthday and during every third month thereafter to the sheriff's office in the county in which he or she resides or is otherwise located to reregister.

(b) The sheriff's office may determine the appropriate times and days for reporting by the sexual offender, which must be consistent with the reporting requirements of this subsection. Reregistration must include any changes to the following information:

1. Name; social security number; age; race; sex; date of birth; height; weight; hair and eye color; tattoos or other identifying marks; fingerprints; palm prints; address of any permanent residence and address of any current temporary residence, within the state or out of state, including a rural route address and a post office box; if no permanent or

temporary address, any transient residence; address, location or description, and dates of any current or known future temporary residence within the state or out of state; passport information, if he or she has a passport, and, if he or she is an alien, information about documents establishing his or her immigration status; all home telephone numbers and cellular telephone numbers required to be provided pursuant to s. 943.0435(4)(e); all electronic mail addresses and Internet identifiers required to be provided pursuant to s. 943.0435(4)(e); name and address of each school attended; ~~date and place of any~~ employment information required to be provided pursuant to s. 943.0435(4)(e); the make, model, color, vehicle identification number (VIN), and license tag number of all vehicles owned; and photograph. A post office box may not be provided in lieu of a physical residential address. The offender shall also provide information about any professional licenses he or she has.

2. If the sexual offender is enrolled or~~,~~ employed, whether for compensation or as a volunteer ~~volunteering~~, ~~or carrying on a vocation~~ at an institution of higher education in this state, the sexual offender shall also provide to the department the name, address, and county of each institution, including each campus attended, and the sexual offender's enrollment, volunteer, or employment status.

3. If the sexual offender's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined in chapter 320, the sexual offender shall also provide the vehicle identification number; the license tag number; the registration number; and a description, including color scheme,

of the motor vehicle, trailer, mobile home, or manufactured home. If the sexual offender's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the sexual offender shall also provide the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat.

4. Any sexual offender who fails to report in person as required at the sheriff's office, who fails to respond to any address verification correspondence from the department within 3 weeks after the date of the correspondence, or who knowingly provides false registration information by act or omission commits a felony of the third degree, punishable as provided in ss. 775.082, 775.083, and 775.084.

(c) The sheriff's office shall, within 2 working days, electronically submit and update all information provided by the sexual offender to the Department of Law Enforcement in a manner prescribed by that department.

Section 9. Paragraph (b) of subsection (1) of section 92.55, Florida Statutes, is amended to read:

92.55 Judicial or other proceedings involving victim or witness under the age of 16, a person who has an intellectual disability, or a sexual offense victim or witness; special protections; use of registered service or therapy animals.—

(1) For purposes of this section, the term:

(b) "Sexual offense" means any offense specified in s. 775.21(4)(a)1. or s. 943.0435(1)(h)1.a.(I) ~~s. 943.0435(1)(a)1.a.(I)~~.

Section 10. Subsection (2) of section 775.0862, Florida Statutes, is amended to read:

775.0862 Sexual offenses against students by authority figures; reclassification.—

(2) The felony degree of a violation of an offense listed in s. 943.0435(1)(h)1.a. ~~s. 943.0435(1)(a)1.a.~~, unless the offense is a violation of s. 794.011(4)(e)7. or s. 810.145(8)(a)2., shall be reclassified as provided in this section if the offense is committed by an authority figure of a school against a student of the school.

Section 11. Subsection (3) of section 943.0515, Florida Statutes, is amended to read:

943.0515 Retention of criminal history records of minors.—

(3) Notwithstanding any other provision of this section, the Criminal Justice Information Program shall retain the criminal history record of a minor adjudicated delinquent for a violation committed on or after July 1, 2007, as provided in s. 943.0435(1)(h)1.d. ~~s. 943.0435(1)(a)1.d.~~ Such records may not be destroyed and must be merged with the person's adult criminal history record and retained as a part of the person's adult record.

Section 12. Subsection (12) of section 947.1405, Florida Statutes, is amended to read:

947.1405 Conditional release program.—

(12) In addition to all other conditions imposed, for a releasee who is subject to conditional release for a crime that was committed on or after May 26, 2010, and who has been convicted at any time of committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses listed in

s. 943.0435(1)(h)1.a.(I) ~~s. 943.0435(1)(a)1.a.(I)~~, or a similar offense in another jurisdiction against a victim who was under 18 years of age at the time of the offense, if the releasee has not received a pardon for any felony or similar law of another jurisdiction necessary for the operation of this subsection, if a conviction of a felony or similar law of another jurisdiction necessary for the operation of this subsection has not been set aside in any postconviction proceeding, or if the releasee has not been removed from the requirement to register as a sexual offender or sexual predator pursuant to s. 943.04354, the commission must impose the following conditions:

(a) A prohibition on visiting schools, child care facilities, parks, and playgrounds without prior approval from the releasee's supervising officer. The commission may also designate additional prohibited locations to protect a victim. The prohibition ordered under this paragraph does not prohibit the releasee from visiting a school, child care facility, park, or playground for the sole purpose of attending a religious service as defined in s. 775.0861 or picking up or dropping off the releasee's child or grandchild at a child care facility or school.

(b) A prohibition on distributing candy or other items to children on Halloween; wearing a Santa Claus costume, or other costume to appeal to children, on or preceding Christmas; wearing an Easter Bunny costume, or other costume to appeal to children, on or preceding Easter; entertaining at children's parties; or wearing a clown costume without prior approval from the commission.

Section 13. Subsection (4) of section 948.30, Florida

Statutes, is amended to read:

948.30 Additional terms and conditions of probation or community control for certain sex offenses.—Conditions imposed pursuant to this section do not require oral pronouncement at the time of sentencing and shall be considered standard conditions of probation or community control for offenders specified in this section.

(4) In addition to all other conditions imposed, for a probationer or community controllee who is subject to supervision for a crime that was committed on or after May 26, 2010, and who has been convicted at any time of committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses listed in s. 943.0435(1)(h)1.a.(I) ~~s. 943.0435(1)(a)1.a.(I)~~, or a similar offense in another jurisdiction, against a victim who was under the age of 18 at the time of the offense; if the offender has not received a pardon for any felony or similar law of another jurisdiction necessary for the operation of this subsection, if a conviction of a felony or similar law of another jurisdiction necessary for the operation of this subsection has not been set aside in any postconviction proceeding, or if the offender has not been removed from the requirement to register as a sexual offender or sexual predator pursuant to s. 943.04354, the court must impose the following conditions:

(a) A prohibition on visiting schools, child care facilities, parks, and playgrounds, without prior approval from the offender's supervising officer. The court may also designate additional locations to protect a victim. The prohibition ordered under this paragraph does not prohibit the offender from

visiting a school, child care facility, park, or playground for the sole purpose of attending a religious service as defined in s. 775.0861 or picking up or dropping off the offender's children or grandchildren at a child care facility or school.

(b) A prohibition on distributing candy or other items to children on Halloween; wearing a Santa Claus costume, or other costume to appeal to children, on or preceding Christmas; wearing an Easter Bunny costume, or other costume to appeal to children, on or preceding Easter; entertaining at children's parties; or wearing a clown costume; without prior approval from the court.

Section 14. Section 948.31, Florida Statutes, is amended to read:

948.31 Evaluation and treatment of sexual predators and offenders on probation or community control.—The court may require any probationer or community controllee who is required to register as a sexual predator under s. 775.21 or sexual offender under s. 943.0435, s. 944.606, or s. 944.607 to undergo an evaluation, at the probationer or community controllee's expense, by a qualified practitioner to determine whether such probationer or community controllee needs sexual offender treatment. If the qualified practitioner determines that sexual offender treatment is needed and recommends treatment, the probationer or community controllee must successfully complete and pay for the treatment. Such treatment must be obtained from a qualified practitioner as defined in s. 948.001. Treatment may not be administered by a qualified practitioner who has been convicted or adjudicated delinquent of committing, or attempting, soliciting, or conspiring to commit, any offense

that is listed in s. 943.0435(1)(h)1.a.(I) ~~s. 943.0435(1)(a)1.a.(I)~~.

Section 15. Subsection (4) of section 1012.315, Florida Statutes, is amended to read:

1012.315 Disqualification from employment.—A person is ineligible for educator certification, and instructional personnel and school administrators, as defined in s. 1012.01, are ineligible for employment in any position that requires direct contact with students in a district school system, charter school, or private school that accepts scholarship students under s. 1002.39 or s. 1002.395, if the person, instructional personnel, or school administrator has been convicted of:

(4) Any delinquent act committed in this state or any delinquent or criminal act committed in another state or under federal law which, if committed in this state, qualifies an individual for inclusion on the Registered Juvenile Sex Offender List under s. 943.0435(1)(h)1.d. ~~s. 943.0435(1)(a)1.d.~~

Section 16. Paragraph (g) of subsection (2) of section 1012.467, Florida Statutes, is amended to read:

1012.467 Noninstructional contractors who are permitted access to school grounds when students are present; background screening requirements.—

(2)

(g) A noninstructional contractor for whom a criminal history check is required under this section may not have been convicted of any of the following offenses designated in the Florida Statutes, any similar offense in another jurisdiction, or any similar offense committed in this state which has been

redesignated from a former provision of the Florida Statutes to one of the following offenses:

1. Any offense listed in s. 943.0435(1)(h)1. ~~s. 943.0435(1)(a)1.~~, relating to the registration of an individual as a sexual offender.

2. Section 393.135, relating to sexual misconduct with certain developmentally disabled clients and the reporting of such sexual misconduct.

3. Section 394.4593, relating to sexual misconduct with certain mental health patients and the reporting of such sexual misconduct.

4. Section 775.30, relating to terrorism.

5. Section 782.04, relating to murder.

6. Section 787.01, relating to kidnapping.

7. Any offense under chapter 800, relating to lewdness and indecent exposure.

8. Section 826.04, relating to incest.

9. Section 827.03, relating to child abuse, aggravated child abuse, or neglect of a child.

Section 17. For the purpose of incorporating the amendment made by this act to section 775.21, Florida Statutes, in a reference thereto, section 938.085, Florida Statutes, is reenacted to read:

938.085 Additional cost to fund rape crisis centers.—In addition to any sanction imposed when a person pleads guilty or nolo contendere to, or is found guilty of, regardless of adjudication, a violation of s. 775.21(6) and (10)(a), (b), and (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s. 784.045; s. 784.048; s. 784.07; s. 784.08; s. 784.081; s. 784.082; s.

784.083; s. 784.085; s. 787.01(3); s. 787.02(3); 787.025; s. 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08; former s. 796.03; former s. 796.035; s. 796.04; s. 796.05; s. 796.06; s. 796.07(2)(a)-(d) and (i); s. 800.03; s. 800.04; s. 810.14; s. 810.145; s. 812.135; s. 817.025; s. 825.102; s. 825.1025; s. 827.071; s. 836.10; s. 847.0133; s. 847.0135(2); s. 847.0137; s. 847.0145; s. 943.0435(4)(c), (7), (8), (9)(a), (13), and (14)(c); or s. 985.701(1), the court shall impose a surcharge of $151. Payment of the surcharge shall be a condition of probation, community control, or any other court-ordered supervision. The sum of $150 of the surcharge shall be deposited into the Rape Crisis Program Trust Fund established within the Department of Health by chapter 2003-140, Laws of Florida. The clerk of the court shall retain $1 of each surcharge that the clerk of the court collects as a service charge of the clerk's office.

Section 18. For the purpose of incorporating the amendments made by this act to sections 775.21 and 943.0435, Florida Statutes, in references thereto, subsection (1) of section 794.056, Florida Statutes, is reenacted to read:

794.056 Rape Crisis Program Trust Fund.—

(1) The Rape Crisis Program Trust Fund is created within the Department of Health for the purpose of providing funds for rape crisis centers in this state. Trust fund moneys shall be used exclusively for the purpose of providing services for victims of sexual assault. Funds credited to the trust fund consist of those funds collected as an additional court assessment in each case in which a defendant pleads guilty or nolo contendere to, or is found guilty of, regardless of

adjudication, an offense provided in s. 775.21(6) and (10)(a), (b), and (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s. 784.045; s. 784.048; s. 784.07; s. 784.08; s. 784.081; s. 784.082; s. 784.083; s. 784.085; s. 787.01(3); s. 787.02(3); s. 787.025; s. 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08; former s. 796.03; former s. 796.035; s. 796.04; s. 796.05; s. 796.06; s. 796.07(2)(a)-(d) and (i); s. 800.03; s. 800.04; s. 810.14; s. 810.145; s. 812.135; s. 817.025; s. 825.102; s. 825.1025; s. 827.071; s. 836.10; s. 847.0133; s. 847.0135(2); s. 847.0137; s. 847.0145; s. 943.0435(4)(c), (7), (8), (9)(a), (13), and (14)(c); or s. 985.701(1). Funds credited to the trust fund also shall include revenues provided by law, moneys appropriated by the Legislature, and grants from public or private entities.

Section 19. For the purpose of incorporating the amendments made by this act to sections 775.21, 943.0435, 944.607, and 985.4815, Florida Statutes, in references thereto, paragraph (g) of subsection (3) of section 921.0022, Florida Statutes, is reenacted to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

(g) LEVEL 7

Florida Statute	Felony Degree	Description
316.027(2)(c)	1st	Accident involving death, failure to stop; leaving

		scene.
316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
316.1935(3)(b)	1st	Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
409.920 (2)(b)1.a.	3rd	Medicaid provider fraud; $10,000 or less.

409.920 (2)(b)1.b.	2nd	Medicaid provider fraud; more than $10,000, but less than $50,000.
456.065(2)	3rd	Practicing a health care profession without a license.
456.065(2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
458.327(1)	3rd	Practicing medicine without a license.
459.013(1)	3rd	Practicing osteopathic medicine without a license.
460.411(1)	3rd	Practicing chiropractic medicine without a license.
461.012(1)	3rd	Practicing podiatric medicine without a license.
462.17	3rd	Practicing naturopathy

		without a license.
463.015(1)	3rd	Practicing optometry without a license.
464.016(1)	3rd	Practicing nursing without a license.
465.015(2)	3rd	Practicing pharmacy without a license.
466.026(1)	3rd	Practicing dentistry or dental hygiene without a license.
467.201	3rd	Practicing midwifery without a license.
468.366	3rd	Delivering respiratory care services without a license.
483.828(1)	3rd	Practicing as clinical laboratory personnel without a license.
483.901(9)	3rd	Practicing medical physics without a license.

484.013(1)(c)	3rd	Preparing or dispensing optical devices without a prescription.
484.053	3rd	Dispensing hearing aids without a license.
494.0018(2)	1st	Conviction of any violation of chapter 494 in which the total money and property unlawfully obtained exceeded $50,000 and there were five or more victims.
560.123(8)(b)1.	3rd	Failure to report currency or payment instruments exceeding $300 but less than $20,000 by a money services business.
560.125(5)(a)	3rd	Money services business by unauthorized person, currency or payment instruments exceeding $300 but less than $20,000.
655.50(10)(b)1.	3rd	Failure to report financial transactions

		exceeding $300 but less than $20,000 by financial institution.
775.21(10)(a)	3rd	Sexual predator; failure to register; failure to renew driver license or identification card; other registration violations.
775.21(10)(b)	3rd	Sexual predator working where children regularly congregate.
775.21(10)(g)	3rd	Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.
782.051(3)	2nd	Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.
782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of

		another (manslaughter).
782.071	2nd	Killing of a human being or unborn child by the operation of a motor vehicle in a reckless manner (vehicular homicide).
782.072	2nd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
784.045(1)(a)1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
784.045(1)(a)2.	2nd	Aggravated battery; using deadly weapon.
784.045(1)(b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
784.048(4)	3rd	Aggravated stalking; violation of injunction or court order.

784.048(7)	3rd	Aggravated stalking; violation of court order.
784.07(2)(d)	1st	Aggravated battery on law enforcement officer.
784.074(1)(a)	1st	Aggravated battery on sexually violent predators facility staff.
784.08(2)(a)	1st	Aggravated battery on a person 65 years of age or older.
784.081(1)	1st	Aggravated battery on specified official or employee.
784.082(1)	1st	Aggravated battery by detained person on visitor or other detainee.
784.083(1)	1st	Aggravated battery on code inspector.
787.06(3)(a)2.	1st	Human trafficking using coercion for labor and services of an adult.

787.06(3)(e)2.	1st	Human trafficking using coercion for labor and services by the transfer or transport of an adult from outside Florida to within the state.
790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
790.16(1)	1st	Discharge of a machine gun under specified circumstances.
790.165(2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
790.165(3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
790.166(3)	2nd	Possessing, selling, using, or attempting to

		use a hoax weapon of mass destruction.
790.166(4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
790.23	1st,PBL	Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.
794.08(4)	3rd	Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age.
796.05(1)	1st	Live on earnings of a prostitute; 2nd offense.
796.05(1)	1st	Live on earnings of a prostitute; 3rd and subsequent offense.

800.04(5)(c)1.	2nd	Lewd or lascivious molestation; victim younger than 12 years of age; offender younger than 18 years of age.
800.04(5)(c)2.	2nd	Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years of age; offender 18 years of age or older.
800.04(5)(e)	1st	Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years; offender 18 years or older; prior conviction for specified sex offense.
806.01(2)	2nd	Maliciously damage structure by fire or explosive.
810.02(3)(a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.

810.02(3)(b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
810.02(3)(d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
810.02(3)(e)	2nd	Burglary of authorized emergency vehicle.
812.014(2)(a)1.	1st	Property stolen, valued at $100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st degree grand theft.
812.014(2)(b)2.	2nd	Property stolen, cargo valued at less than $50,000, grand theft in 2nd degree.
812.014(2)(b)3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.

812.014(2)(b)4.	2nd	Property stolen, law enforcement equipment from authorized emergency vehicle.
812.0145(2)(a)	1st	Theft from person 65 years of age or older; $50,000 or more.
812.019(2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
812.131(2)(a)	2nd	Robbery by sudden snatching.
812.133(2)(b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
817.034(4)(a)1.	1st	Communications fraud, value greater than $50,000.
817.234(8)(a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.

817.234(9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
817.234(11)(c)	1st	Insurance fraud; property value $100,000 or more.
817.2341 (2)(b) & (3)(b)	1st	Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.
817.535(2)(a)	3rd	Filing false lien or other unauthorized document.
825.102(3)(b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
825.103(3)(b)	2nd	Exploiting an elderly person or disabled adult and property is valued at $10,000 or more, but less than $50,000.
827.03(2)(b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
827.04(3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
837.05(2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
838.015	2nd	Bribery.
838.016	2nd	Unlawful compensation or reward for official behavior.
838.021(3)(a)	2nd	Unlawful harm to a public servant.
838.22	2nd	Bid tampering.

843.0855(2)	3rd	Impersonation of a public officer or employee.
843.0855(3)	3rd	Unlawful simulation of legal process.
843.0855(4)	3rd	Intimidation of a public officer or employee.
847.0135(3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
847.0135(4)	2nd	Traveling to meet a minor to commit an unlawful sex act.
872.06	2nd	Abuse of a dead human body.
874.05(2)(b)	1st	Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.
874.10	1st,PBL	Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.
893.13(1)(c)1.	1st	Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.
893.13(1)(e)1.	1st	Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4., within 1,000 feet of property used for religious services or a specified business site.

893.13(4)(a)	1st	Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).	
893.135(1)(a)1.	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.	
893.135 (1)(b)1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.	
893.135 (1)(c)1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.	
893.135 (1)(c)2.a.	1st	Trafficking in hydrocodone, 14 grams or more, less than 28 grams.	
893.135 (1)(c)2.b.	1st	Trafficking in hydrocodone, 28 grams or more, less than 50 grams.	
893.135 (1)(c)3.a.	1st	Trafficking in oxycodone, 7 grams or more, less than 14 grams.	

893.135 (1)(c)3.b.	1st	Trafficking in oxycodone, 14 grams or more, less than 25 grams.	
893.135(1)(d)1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.	
893.135(1)(e)1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.	
893.135(1)(f)1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.	
893.135 (1)(g)1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.	
893.135 (1)(h)1.a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.	
893.135	1st	Trafficking in 1,4-	

(1)(j)1.a.		Butanediol, 1 kilogram or more, less than 5 kilograms.
893.135 (1)(k)2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
893.1351(2)	2nd	Possession of place for trafficking in or manufacturing of controlled substance.
896.101(5)(a)	3rd	Money laundering, financial transactions exceeding $300 but less than $20,000.
896.104(4)(a)1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding $300 but less than $20,000.
943.0435(4)(c)	2nd	Sexual offender vacating permanent residence; failure to comply with

		reporting requirements.
943.0435(8)	2nd	Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.
943.0435(9)(a)	3rd	Sexual offender; failure to comply with reporting requirements.
943.0435(13)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
943.0435(14)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.
944.607(9)	3rd	Sexual offender; failure to comply with reporting requirements.

944.607(10)(a)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
944.607(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
944.607(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.
985.4815(10)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
985.4815(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
985.4815(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.

Section 20. For the purpose of incorporating the amendments made by this act to sections 775.21, 943.0435, 944.606, 944.607, 985.481, and 985.4815, Florida Statutes, in references thereto, paragraph (b) of subsection (6) of section 985.04, Florida Statutes, is reenacted to read:

985.04 Oaths; records; confidential information.—

(6)

(b) Sexual offender and predator registration information as required in ss. 775.21, 943.0435, 944.606, 944.607, 985.481, and 985.4815 is a public record pursuant to s. 119.07(1) and as otherwise provided by law.

Section 21. For the purpose of incorporating the amendments made by this act to sections 775.21, 943.0435, and 944.607, Florida Statutes, in references thereto, subsections (3) and (4) of section 322.141, Florida Statutes, are reenacted to read:

322.141 Color or markings of certain licenses or identification cards.—

(3) All licenses for the operation of motor vehicles or identification cards originally issued or reissued by the department to persons who are designated as sexual predators under s. 775.21 or subject to registration as sexual offenders under s. 943.0435 or s. 944.607, or who have a similar designation or are subject to a similar registration under the laws of another jurisdiction, shall have on the front of the

license or identification card the following:

(a) For a person designated as a sexual predator under s. 775.21 or who has a similar designation under the laws of another jurisdiction, the marking "SEXUAL PREDATOR."

(b) For a person subject to registration as a sexual offender under s. 943.0435 or s. 944.607, or subject to a similar registration under the laws of another jurisdiction, the marking "943.0435, F.S."

(4) Unless previously secured or updated, each sexual offender and sexual predator shall report to the department during the month of his or her reregistration as required under s. 775.21(8), s. 943.0435(14), or s. 944.607(13) in order to obtain an updated or renewed driver license or identification card as required by subsection (3).

Section 22. For the purpose of incorporating the amendments made by this act to sections 775.21, 943.0435, and 944.607, Florida Statutes, in references thereto, subsection (4) of section 948.06, Florida Statutes, is reenacted to read:

948.06 Violation of probation or community control; revocation; modification; continuance; failure to pay restitution or cost of supervision.—

(4) Notwithstanding any other provision of this section, a felony probationer or an offender in community control who is arrested for violating his or her probation or community control in a material respect may be taken before the court in the county or circuit in which the probationer or offender was arrested. That court shall advise him or her of the charge of a violation and, if such charge is admitted, shall cause him or her to be brought before the court that granted the probation or

community control. If the violation is not admitted by the probationer or offender, the court may commit him or her or release him or her with or without bail to await further hearing. However, if the probationer or offender is under supervision for any criminal offense proscribed in chapter 794, s. 800.04(4), (5), (6), s. 827.071, or s. 847.0145, or is a registered sexual predator or a registered sexual offender, or is under supervision for a criminal offense for which he or she would meet the registration criteria in s. 775.21, s. 943.0435, or s. 944.607 but for the effective date of those sections, the court must make a finding that the probationer or offender is not a danger to the public prior to release with or without bail. In determining the danger posed by the offender's or probationer's release, the court may consider the nature and circumstances of the violation and any new offenses charged; the offender's or probationer's past and present conduct, including convictions of crimes; any record of arrests without conviction for crimes involving violence or sexual crimes; any other evidence of allegations of unlawful sexual conduct or the use of violence by the offender or probationer; the offender's or probationer's family ties, length of residence in the community, employment history, and mental condition; his or her history and conduct during the probation or community control supervision from which the violation arises and any other previous supervisions, including disciplinary records of previous incarcerations; the likelihood that the offender or probationer will engage again in a criminal course of conduct; the weight of the evidence against the offender or probationer; and any other facts the court considers relevant. The court, as soon as is

practicable, shall give the probationer or offender an opportunity to be fully heard on his or her behalf in person or by counsel. After the hearing, the court shall make findings of fact and forward the findings to the court that granted the probation or community control and to the probationer or offender or his or her attorney. The findings of fact by the hearing court are binding on the court that granted the probation or community control. Upon the probationer or offender being brought before it, the court that granted the probation or community control may revoke, modify, or continue the probation or community control or may place the probationer into community control as provided in this section. However, the probationer or offender shall not be released and shall not be admitted to bail, but shall be brought before the court that granted the probation or community control if any violation of felony probation or community control other than a failure to pay costs or fines or make restitution payments is alleged to have been committed by:

(a) A violent felony offender of special concern, as defined in this section;

(b) A person who is on felony probation or community control for any offense committed on or after the effective date of this act and who is arrested for a qualifying offense as defined in this section; or

(c) A person who is on felony probation or community control and has previously been found by a court to be a habitual violent felony offender as defined in s. 775.084(1)(b), a three-time violent felony offender as defined in s. 775.084(1)(c), or a sexual predator under s. 775.21, and who is

arrested for committing a qualifying offense as defined in this section on or after the effective date of this act.

Section 23. For the purpose of incorporating the amendments made by this act to sections 775.21, 943.0435, and 944.607, Florida Statutes, in references thereto, section 948.063, Florida Statutes, is reenacted to read:

948.063 Violations of probation or community control by designated sexual offenders and sexual predators.—

(1) If probation or community control for any felony offense is revoked by the court pursuant to s. 948.06(2)(e) and the offender is designated as a sexual offender pursuant to s. 943.0435 or s. 944.607 or as a sexual predator pursuant to s. 775.21 for unlawful sexual activity involving a victim 15 years of age or younger and the offender is 18 years of age or older, and if the court imposes a subsequent term of supervision following the revocation of probation or community control, the court must order electronic monitoring as a condition of the subsequent term of probation or community control.

(2) If the probationer or offender is required to register as a sexual predator under s. 775.21 or as a sexual offender under s. 943.0435 or s. 944.607 for unlawful sexual activity involving a victim 15 years of age or younger and the probationer or offender is 18 years of age or older and has violated the conditions of his or her probation or community control, but the court does not revoke the probation or community control, the court shall nevertheless modify the probation or community control to include electronic monitoring for any probationer or offender not then subject to electronic monitoring.

Section 24. For the purpose of incorporating the amendment made by this act to section 943.0435, Florida Statutes, in a reference thereto, paragraph (c) of subsection (10) of section 944.607, Florida Statutes, is reenacted to read:

944.607 Notification to Department of Law Enforcement of information on sexual offenders.—

(10)

(c) An arrest on charges of failure to register when the offender has been provided and advised of his or her statutory obligations to register under s. 943.0435(2), the service of an information or a complaint for a violation of this section, or an arraignment on charges for a violation of this section constitutes actual notice of the duty to register. A sexual offender's failure to immediately register as required by this section following such arrest, service, or arraignment constitutes grounds for a subsequent charge of failure to register. A sexual offender charged with the crime of failure to register who asserts, or intends to assert, a lack of notice of the duty to register as a defense to a charge of failure to register shall immediately register as required by this section. A sexual offender who is charged with a subsequent failure to register may not assert the defense of a lack of notice of the duty to register.

Section 25. For the purpose of incorporating the amendment made by this act to section 943.04354, Florida Statutes, in a reference thereto, subsection (2) of section 397.4872, Florida Statutes, is reenacted to read:

397.4872 Exemption from disqualification; publication.—

(2) The department may exempt a person from ss. 397.487(6)

and 397.4871(5) if it has been at least 3 years since the person has completed or been lawfully released from confinement, supervision, or sanction for the disqualifying offense. An exemption from the disqualifying offenses may not be given under any circumstances for any person who is a:

(a) Sexual predator pursuant to s. 775.21;

(b) Career offender pursuant to s. 775.261; or

(c) Sexual offender pursuant to s. 943.0435, unless the requirement to register as a sexual offender has been removed pursuant to s. 943.04354.

Section 26. For the purpose of incorporating the amendment made by this act to section 943.04354, Florida Statutes, in a reference thereto, paragraph (b) of subsection (4) of section 435.07, Florida Statutes, is reenacted to read:

435.07 Exemptions from disqualification.—Unless otherwise provided by law, the provisions of this section apply to exemptions from disqualification for disqualifying offenses revealed pursuant to background screenings required under this chapter, regardless of whether those disqualifying offenses are listed in this chapter or other laws.

(4)

(b) Disqualification from employment under this chapter may not be removed from, nor may an exemption be granted to, any person who is a:

1. Sexual predator as designated pursuant to s. 775.21;

2. Career offender pursuant to s. 775.261; or

3. Sexual offender pursuant to s. 943.0435, unless the requirement to register as a sexual offender has been removed pursuant to s. 943.04354.

Section 27. For the purpose of incorporating the amendments made by this act to sections 944.606 and 944.607, Florida Statutes, in references thereto, section 775.25, Florida Statutes, is reenacted to read:

775.25 Prosecutions for acts or omissions.—A sexual predator or sexual offender who commits any act or omission in violation of s. 775.21, s. 943.0435, s. 944.605, s. 944.606, s. 944.607, or former s. 947.177 may be prosecuted for the act or omission in the county in which the act or omission was committed, in the county of the last registered address of the sexual predator or sexual offender, in the county in which the conviction occurred for the offense or offenses that meet the criteria for designating a person as a sexual predator or sexual offender, in the county where the sexual predator or sexual offender was released from incarceration, or in the county of the intended address of the sexual predator or sexual offender as reported by the predator or offender prior to his or her release from incarceration. In addition, a sexual predator may be prosecuted for any such act or omission in the county in which he or she was designated a sexual predator.

Section 28. For the purpose of incorporating the amendment made by this act to section 944.607, Florida Statutes, in a reference thereto, subsection (2) of section 775.24, Florida Statutes, is reenacted to read:

775.24 Duty of the court to uphold laws governing sexual predators and sexual offenders.—

(2) If a person meets the criteria in this chapter for designation as a sexual predator or meets the criteria in s. 943.0435, s. 944.606, s. 944.607, or any other law for

classification as a sexual offender, the court may not enter an order, for the purpose of approving a plea agreement or for any other reason, which:

(a) Exempts a person who meets the criteria for designation as a sexual predator or classification as a sexual offender from such designation or classification, or exempts such person from the requirements for registration or community and public notification imposed upon sexual predators and sexual offenders;

(b) Restricts the compiling, reporting, or release of public records information that relates to sexual predators or sexual offenders; or

(c) Prevents any person or entity from performing its duties or operating within its statutorily conferred authority as such duty or authority relates to sexual predators or sexual offenders.

Section 29. For the purpose of incorporating the amendment made by this act to section 944.607, Florida Statutes, in a reference thereto, subsection (7) of section 944.608, Florida Statutes, is reenacted to read:

944.608 Notification to Department of Law Enforcement of information on career offenders.—

(7) A career offender who is under the supervision of the department but who is not incarcerated shall, in addition to the registration requirements provided in subsection (3), register in the manner provided in s. 775.261(4)(c), unless the career offender is a sexual predator, in which case he or she shall register as required under s. 775.21, or is a sexual offender, in which case he or she shall register as required in s. 944.607. A career offender who fails to comply with the

requirements of s. 775.261(4) is subject to the penalties provided in s. 775.261(8).

Section 30. This act shall take effect October 1, 2016.

The Florida Senate

Committee Agenda Request

To: Senator Tom Lee, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: February 24, 2016

I respectfully request that **Senate Bill #1662**, relating to Sexual Offenders, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Senator Rob Bradley
Florida Senate, District 7

File signed original with committee office

S-020 (03/2004)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3.1.16
Meeting Date

1662
Bill Number (if applicable)

Topic Sexual Offenders

Amendment Barcode (if applicable)

Name RON DRAA

Job Title DIRECTOR OF EXTERNAL AFFAIRS

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TALL FL 32308
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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

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 7018
INTRODUCER:	Appropriations Committee; Children, Families, and Elder Affairs Committee; and Senator Detert
SUBJECT:	Child Welfare
DATE:	March 1, 2016
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Preston	Hendon		**CF Submitted as Committee Bill**
1.	Davis	Cibula	JU	**Favorable**
2.	Brown	Pigott	AHS	**Recommend: Favorable**
3.	Brown/Preston	Kynoch	AP	**Fav/CS**

I. Summary:

CS/SB 7018 revises the state's approach to out-of-home placement services for children living in foster care. Among the revisions, the bill:

- Requires an assessment process to determine the service and support needs, as well as the appropriate placement for each child who enters the foster care system;
- Requires the Department of Children and Families to develop a continuum of care that provides appropriate services based on the level of care for both foster home and group home placements; and
- Requires data collection on every aspect of the assessment, placement, and service provision process for children in foster care.

The bill also requires community-based care lead agencies[1] to have available a full array of services, including safety management services, to help keep children from coming into foster care and requires more accountability for the outcomes of services delivered. Once a child enters the child welfare system, however, the bill requires the child to be assessed through a standardized assessment process to determine the appropriate placement. Finally, the bill repeals a number of residential group home statutes that are rendered obsolete under the bill.

The bill's fiscal impact on state government is indeterminate.

The bill has an effective date of July 1, 2016.

[1] A community-based care lead agency is a single entity with which the Department of Children and Families has a contract for the provision of care for children in the child protection and child welfare system in a community that is no smaller than a county and no larger than two contiguous judicial circuits. See part V, ch. 409, F.S.

II. Present Situation:

State Trends in Child Welfare

Many states are seeking to reduce the use of residential group homes for children in foster care. This shift reflects a growing consensus within the child-welfare field that group home settings for foster children, while sometimes necessary, should be used sparingly. To lower the number of group care placements, states have two main options: provide more preventive support for unsafe families; and recruiting more people, including relatives and non-relatives with whom children have a strong emotional relationship, to serve as foster parents.

Research shows an association between frequent placement disruptions and outcomes that are adverse to the child, including poor academic performance and social or emotional adjustment difficulties such as aggression, withdrawal, and poor social interaction with peers and teachers. Despite this evidence, there has been limited intervention by child welfare systems to reduce placement instability as a mechanism for improving outcomes for children.

Placement Options for Children in Out-of-Home Care

Federal law has long supported the belief that children should grow up in families whenever possible. The Adoption Assistance and Child Welfare Act of 1980 codified the concept that children should be cared for in their own homes whenever it is possible to do so safely and in new permanent homes when it is not. To preserve the well-being of children who enter the system, out-of-home placements must be in the least restrictive setting possible that is most like a family.[2] Florida has likewise codified the concept of least restrictive setting.[3]

The federal Adoption and Safe Families Act of 1997 (ASFA) was considered the most significant piece of legislation addressing child welfare since the enactment of the Adoption Assistance and Child Welfare Act 17 years earlier. The legislation was enacted as a response to increasing concerns voiced around the nation that child welfare systems were not providing for the safety, well-being, and permanent placement of children in a timely and adequate manner. The ASFA sought to focus on child safety when making case decisions and make certain that children did not languish or grow up in foster care but were instead connected with permanent families.[4] Florida was one of the first states to enact the provisions of the ASFA.[5]

Placement with Relatives or Kinship Care

A substantial amount of research acknowledges that children in the care of relatives, or what is often referred to as "kinship care," are less likely to change placements and benefit from increased placement stability, as compared to children placed in general foster care. Most child welfare systems strive to place children in stable conditions without multiple living arrangement changes because it has consistently demonstrated a better result for all children living in out-of-

[2] Adoption Assistance and Child Welfare Act of 1980, Pub. L. No. 96–272, 42 USC s. 675.
[3] See ss. 39.407, 39.6012 and 409.165, F.S.
[4] Olivia Golden and Jennifer Macomber, *Intentions and Results: A Look Back at the Adoption and Safe Families Act* (Dec. 11, 2009), *available at:* http://www.urban.org/research/publication/intentions-and-results-look-back-adoption-and-safe-families-act (last visited Nov. 23, 2015).
[5] Chapter 98-403, Laws of Fla.

home care. As opposed to children living in foster care, children living in kinship care are more likely to remain in their own neighborhoods, be placed with their siblings, and have more consistent interactions with their birth parents than do children who are placed in foster care, all of which might contribute to less disruptive transitions into out-of-home care.[6]

Among the appropriate placement options for children who could not be reunified with their parents, the ASFA included placement with relatives, legal guardians, or another planned permanent-living arrangement. Even though the ASFA encouraged states to seek fit and willing relatives as permanent family options, it did not offer ongoing financial assistance for relatives who were foster parents caring for children as their guardians outside of foster care.[7] The ASFA provided incentives to encourage the movement of children to adoptive families, but did not provide similar fiscal incentives that would help children leave care to live permanently with legal guardians or relatives who were not adopting them.[8]

Additional provisions of the ASFA created challenges for placing a child with a fit and willing relative. In particular, ASFA regulations require that foster homes of relatives be licensed in the same manner as foster homes for children in non-relative placements, with few case-specific exceptions.[9]

More recent federal legislation, the 2008 Fostering Connections to Success and Increasing Adoptions Act (Fostering Connections Act, or FCA), makes this requirement a bit less restrictive by allowing states to waive non-safety related licensing standards for relative homes on a case-by-case basis. The FCA also supports states in providing financial subsidies to kinship legal guardianship placement as long as certain conditions have been met. Florida has not implemented the provisions of the FCA related to relative guardianship.[10]

Florida did, however, recognize the importance of relative placements by creating the Relative Caregiver Program in 1998 to provide financial assistance to eligible relatives caring for children who would otherwise be in the foster care system.[11] In 2014 the program was expanded to include specified nonrelative caregivers.[12]

According to the Department of Children and Families (DCF), as of September 30, 2015, Florida had 12,343 children receiving in-home services, 12,341 children who are in kinship foster care placements, and 10,029 children who are in licensed foster care placements.[13]

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[6] David Rubin and Kevin Downes, K., et al., *The Impact of Kinship Care on Behavioral Well-being for Children in Out-of-Home Care* (June 2, 2008), *available at:* http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2654276/.
[7] MaryLee Allen and Beth Davis-Pratt *The Impact of ASFA on Family Connections for Children* (Dec. 11, 2009), *available at:* http://www.urban.org/research/publication/intentions-and-results-look-back-adoption-and-safe-families-act.
[8] While some relatives want to adopt, grandparents are often hesitant to do so. This is because it is necessary to first terminate their own children's parental rights and because of their hope that their adult sons or daughters will one day be able to resume parenting.
[9] *Supra* at 7.
[10] P.L. 110-351.
[11] Section 39.5085, F.S.
[12] Chapter 2014-224, Laws of Florida.
[13] Florida Department of Children and Families, DCF Quick Facts, *available at:* http://www.dcf.state.fl.us/general-information/quick-facts/cw/ (last visited Nov. 23, 2015).

Family Foster Homes

Family foster homes offer the next least-restrictive environment following kinship care for children who need out-of-home placements. For at least 15 years, Florida has not had enough family foster homes nor an adequate array of homes necessary to meet the variety of needs of children in out-of-home placements. In 2001, it was reported that "Florida's foster care system was overwhelmed with many problems during the past several years as evidenced by lawsuits, grand jury investigations, and special investigations..."[14]

In February 2001, the Office of Program Policy Analysis and Government Accountability (OPPAGA)[15] reported the following problems with Florida's foster care system:

- The number of children admitted to foster care increased by 28.8 percent between June 1996 and June 2000;
- The DCF increased its foster home capacity by only five percent between fiscal year 1997-98 and 1998-99 even after receiving 70 new full-time equivalent positions from the 1999 Legislature solely for the purpose of recruiting new foster families; and
- The number of children needing care outpaced the number of foster homes, leaving many foster homes overcrowded.

Lawsuits also alleged numerous problems associated with the foster care system, including failure on the part of the state to develop an array of foster care settings to ensure a safe and secure placement for each foster child, particularly in respect to foster homes for teenagers.[16]

Florida responded to the lack of foster homes by enacting legislation in 2001 and 2002 to increase the utilization of residential group home placements until additional foster homes could be recruited.[17] The 2001 and 2002 provisions required that any dependent child 11 years of age or older who has been in licensed family foster care for six months or longer, who is then moved more than once and who is a child with extraordinary needs, must be assessed for placement in licensed residential group care. Additionally, funds were authorized to be used for one-time start-up funding for residential group care purposes that include, but are not limited to, remodeling or renovation of existing facilities, construction costs, leasing costs, purchase of equipment and furniture, site development, and other necessary and reasonable costs associated with the start-up of facilities or programs.[18]

However, while the 2001 and 2002 legislation was being considered by the Legislature, the DCF expressed concerns that the provisions of the proposed legislation were contrary to published

[14] Information contained in this portion of this bill analysis is from the analysis for CS/CS/SB 1214 by the Senate Committee on Children and Families (March 29, 2001) *available at:* http://archive.flsenate.gov/session/index.cfm?Mode=Bills&SubMenu=1&BI_Mode=ViewBillInfo&BillNum=1214&Year=2001&Chamber=Senate#Analysis.

[15] Office of Program Policy Analysis and Government Accountability, *Justification Review of the Child Protection Program in the Department of Children and Family Services*. Report Number 01-14 (February, 2001) *available at*: http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/0114rpt.pdf.

[16] See, for example, *31 Foster Children v. Bush*, 329 F.3d 1255 (11th Cir. 2003) and *Ward. v. Feaver, et al*, 2000 WL34025227 U.S. District Court S.D. Florida.

[17] See ss. 39.523, 409.1676, 409.1677 and 409.1679, F.S.

[18] Section 39.523, F.S.

literature, contrary to guidance from the federal government, and contrary to the actions of other states that were moving away from group home care.[19]

Residential Group Care

Residential group care as a placement option for children in the child welfare system has many forms and functions, including serving as a child placement option and as a treatment component of a child's mental health system of care. The multiple roles of group care make an analysis of its effectiveness difficult and complex.[20]

Some schools of thought contend that all residential group care has the potential to be harmful and should be eliminated. Others support the position that those placements can be beneficial for some children under certain circumstances. Still others support the wholesale use of residential group care as an alternative to the limited supply of family placements or dependence on family placements that could expose children to additional risks. However, both favorable and unfavorable claims about the effectiveness of residential group care and other options are often made without adequate supporting evidence.[21]

There appears to be a growing consensus within the child welfare community that residential group home settings for children in out-of-home care are sometimes necessary but should be used sparingly and only for the length of time necessary to place the child in a less restrictive environment. Some states have been more successful than others in efforts to decrease reliance on group home care.[22]

A number of child welfare organizations are supporting an overhaul of the federal funding system for child welfare. Their goal is to shift funding from residential group home settings to alternative placements such as family-based care. The Annie E. Casey Foundation and one of its partners, the Jim Casey Youth Opportunities Initiative, supports the proposal that federal reimbursement should be eliminated for shelters and group care for children under 13 years of age but should be allowed for older children's group care but only for short periods of time when psychiatric treatment or other specialized care is needed.[23]

Nationally, according to the Adoption and Foster Care Analysis and Reporting System (AFCARS) data, in 2014, 46 percent of all children in foster care lived in the foster family homes of non-relatives. Twenty-nine percent lived in family foster homes with relatives or in kinship care. Six percent lived in group homes, eight percent lived in institutions, four percent

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[19] Testimony from committee meetings: Senate Children and Families Committee, SB 623, January 30, 2002; Senate Children and Families Committee, SB 1214, March 14, 2001; House Child and Family Security Committee, HB 1145, March 15, 2001; House Child and Family Security Committee, HB 755, February 7, 2002.
[20] Richard Barth, *Institutions vs. Foster Homes: The Empirical Base for the Second Century of Debate*. Chapel Hill, NC: University of North Carolina, School of Social Work, Jordan Institute for Families (June 17, 2002), *available at*: http://www.researchgate.net/publication/237273744_vs._Foster_Homes_The_Empirical_Base_for_a_Century_of_Action.
[21] Child Welfare League of America, *Residential Transitions Project Phase One Final Report* (April 2008), *available at*: http://rbsreform.org/materials/Residential%20Transitions%20Project%20-%204%2030%2008%20_2_.pdf.
[22] *Id*. Also see California Health and Human Services Agency. California's Child Welfare Continuum of Care Reform, January 2015, *Children's Rights, What Works in Child Welfare Reform: Reducing Reliance on Congregate Care in Tennessee*, July 2011, and The Annie E. Casey Foundation, *Rightsizing Congregate Care, A Powerful First Step in Transforming Child Welfare System*, 2010.
[23] *Id*.

lived in pre-adoptive families, and the remainder lived in other types of facilities.[24] These statistics do not differ substantially from the distributions at the beginning of the decade, although there has been a small decrease of foster children living in group homes and institutions, and a corresponding increase of foster children in home care.[25] In Florida during the 2013-14 fiscal year, 11 percent of children in foster care were in residential group care, and 83 percent of the children in group care were 11 years of age and older, compared to 17 percent of children in family care settings.[26]

Cost of Residential Group Home Care

Residential group homes are one of the most expensive placement options for children in the child welfare system. The costs associated with institutional care far exceed the costs for foster care or treatment foster care. The difference in monthly costs are often six to 10 times higher than foster care. Because there is essentially no evidence that these additional costs yield better outcomes for foster children, according to at least one researcher, there is no justification for the cost benefit for group care, if other placement options are available.[27]

In Florida, unlike rates for foster parents and relative caregivers, which are set in statute and in rule, community-based care lead agencies annually negotiate rates for residential group home placements with providers. According to a 2014 OPPAGA study, in the 2013-2014 fiscal year, the per diem rate for the shift-care group home model averaged $124, and costs ranged from $52 to $283. The per diem rate for a family group home model averaged $97, and costs ranged from $17 to $175. Family foster home care pays an average daily rate of $15.[28] The cost of group home care in Florida for the 2013-14 fiscal year was $81.7 million.[29]

III. Effect of Proposed Changes:

Section 1 amends s. 39.013, F.S., relating to procedures, jurisdiction, and right to counsel, to continue court jurisdiction until the age of 22 for young adults having a disability who choose to remain in extended foster care. This is consistent with the provisions of s. 39.6251, F.S.

Section 2 amends s. 39.2015, F.S., relating to critical incident rapid response teams, to require the quarterly report submitted by the team advisory committee to include implementation details relating to recommendations in the report.

Section 3 amends s. 39.402, F.S., relating to placement in a shelter, to update terminology to better reflect the safety methodology currently being used by the DCF.

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[24] U.S. Department of Health and Human Services, Administration for Children and Families, Administration on Children, Youth and Families, Children's Bureau. The AFCARS Report (Sept. 18, 2015), *available at*: http://www.acf.hhs.gov/programs/cb/resource/afcars-report-22.
[25] Child Trends Data Bank, Foster Care (Dec. 2014), *available at*: http://www.childtrends.org/?indicators=foster-care.
[26] Office of Program Policy and Government Accountability, Research Memorandum, *Florida's Residential Group Care Program for Children in the Child Welfare System* (Dec. 22, 2014) (on file with the Senate Committee on Judiciary).
[27] *Supra* at 20.
[28] *Supra* at 26.
[29] *Id*.

Section 4 amends s. 39.521, F.S., relating to disposition hearings, to update terminology to better reflect the safety methodology currently being used by the DCF and to revise timelines for distribution of case plans.

Section 5 amends s. 39.522, F.S., relating to post-disposition change of custody, to change the standard for the court to return a child to the home from "substantially complied with the terms of the case plan" to whether the "circumstances that caused the out-of-home placement have been remedied" with an in-home safety plan in place.

Section 6 amends s. 39.6011, F.S., relating to the development of case plans, to rearrange and restructure the statutory section. The section now states the purpose of a case plan and requires documentation that a preplacement assessment of the service needs of the child and family, and preplacement preventive services, if appropriate, have been provided and that reasonable efforts to prevent out-of-home placement have been made. Under the bill, procedures for involving the child in the case planning process are revised and put in a separate subsection.

Section 7 amends s. 39.6012, F.S., relating to case plan requirements for services and tasks for parents and safety, permanency, and well-being for children, to rearrange and restructure the statutory section. The bill requires documentation in the case plan that the required placement assessments have been completed; that the child has been placed in the least restrictive, most family-like setting, or if not, the reason for the alternative placement; and that if the child has been placed in a residential group care setting, regular reviews and updates to the case plan must be completed.

The bill also requires that provisions in the case plan relating to visitation and contact of the child with his or her parents and/or siblings also apply to extended family members and fictive kin. The term "fictive kin" is defined as individuals that are unrelated to the child by either birth or marriage, but have an emotionally significant relationship with the child that would take on the characteristics of a family relationship.

Section 8 amends s. 39.6035, F.S., relating to the transition plan, to clarify that the transition plan must be approved by the court before the child's 18th birthday.

Section 9 amends s. 39.621, F.S., relating to permanency determinations by the court, to add provisions relating to maintaining and strengthening the placement. These provisions are current law in s. 39.6011, F.S., and they are being relocated to s. 39.621, F.S.

Section 10 amends s. 39.701, F.S., relating to judicial review, to add a requirement to the social study report for judicial review to include documentation that the placement of the child is in the least restrictive, most family-like setting that meets the needs of the child as determined through assessment. The section also requires the court to order the DCF and the community-based care lead agency to file a written notification before a child changes placements, if possible. If the notification before changing placements is not possible, the notification must be filed immediately following a change. This flexibility would accommodate those cases when a child must be moved on short notice or after work hours.

Section 11 creates s. 409.143, F.S. relating to assessment and determination of appropriate placements for children in care, to require an initial placement assessment whenever a child has been determined to need an out-of-home placement, and to establish timelines for that assessment. The bill requires the DCF to document these initial assessments in the Florida Safe Families Network (FSFN) and update the case plan. The bill also requires an additional assessment for children being placed in group care, establishes time lines for those assessments, and requires an annual report to the Governor, the President of the Senate and the Speaker of the House of Representatives relating to the placement of children.

Section 12 creates s. 409.144, F.S., relating to a continuum of care. The bill provides legislative findings and intent pertaining to the safety, permanency, and well-being of children in out-of-home care. The bill defines the terms "continuum of care," "family foster care," "level of care," "out-of-home care," and "residential group care."

The bill requires the DCF, in collaboration with the Florida Institute for Child Welfare and other stakeholders to develop a continuum of care for the placement of children in out-of-home care that includes both family foster care and residential group care by December 31, 2017. To implement the continuum, the DCF must:

- Establish levels of care that are clearly defined with the qualifying criteria for placement at each level identified;
- Revise licensure standards and rules to reflect the services and supports provided by a placement at each level of care and include the quality standards that must be met by licensed providers;
- Develop policies and procedures to ensure that placements are appropriate for each child as determined by the required assessments and staffing and last only long enough to resolve the issue that required the placement;
- Develop a plan to recruit, train, and retain specialized foster homes for pregnant and parenting teens, sibling groups, young adults who have chosen to remain in foster care after the age of 18, and children who are involved in both the dependency and the juvenile justice systems; and
- Develop a quality rating system for providers of residential group care.

The bill requires an annual report by the DCF to the Governor, the President of the Senate, and the Speaker of the House of Representatives and specifies what the report must contain.

Section 13 amends s. 409.1451, F.S., relating to the Road-to-Independence Program, to clarify that aftercare services are available to young adults who were in licensed care on their 18th birthday.

Section 14 amends s. 409.986, F.S., relating to child protection and child welfare outcomes, to add intervention services to the definition of the term "care."

Section 15 amends s. 409.988, F.S., relating to the duties of community-based care lead agencies. The bill requires lead agencies to ensure the availability of a full array of services necessary to meet the needs of all individuals within their local system of care. The bill adds new requirements relating to intervention services and specifies the types of services that must be

available, eligibility for those services, and authorizes the department to adopt rules to implement these services.

The bill also requires the DCF to report annually to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the adequacy of the available service array by lead agency.

Section 16 amends s 409.996, F.S., relating to duties of the DCF, to require the DCF to ensure an adequate array of services is available.

Section 17 amends s. 39.202, F.S., relating to the confidentiality of records and reports in cases of child abuse or neglect and to revise the designation of an agency.

Section 18 amends s. 39.5085, F.S., relating to the Relative Caregiver Program, to correct a cross reference.
Section 19 amends s. 1002.3305, F.S., relating to the College-Preparatory Boarding Academy Pilot Program for at-risk students, to correct a cross reference.

Section 20 repeals s. 39.523, F.S., relating to placement in residential group care.

Section 21 repeals s. 409.141, F.S., relating to equitable reimbursement methodology for residential group home care.

Section 22 repeals s. 409.1676, F.S., relating to comprehensive residential group care services to children who have extraordinary needs.

Section 23 repeals s. 409.1677, F.S., relating to model comprehensive residential services programs.

Section 24 repeals, s. 409.1679, F.S., relating to additional requirements and reimbursement methodology for residential group care.

Section 25 provides an effective date of July 1, 2016.

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. None. Government Sector Impact:

To the extent CS/SB 7018 reduces the number of children in group home care and increases the number of children in foster homes, the bill would have a positive fiscal impact on the state. The average cost of group care with shift care workers is $124 per day per child, the average cost of group care with house parents is $97 per day per child, and the average cost of foster homes is $15 per day per child.[30] The amount of such an impact is indeterminate.

The bill revises current practices in assessment and placement of children in foster care. To the extent that these new procedures are more costly than current practices, this aspect of the bill could have a negative fiscal impact on the state. The amount of such an impact is indeterminate.

The bill revises current court procedures in the case planning and placement of children in foster care. To the extent that these new procedures are more costly than current practices, this aspect of the bill could have a negative fiscal impact on the state. The amount of such an impact is indeterminate.

The Office of the State Courts Administrator indicates that the bill will increase judicial workloads, but it cannot accurately determine the fiscal impact because the data needed to quantify the increase in judicial time and workload are not available.[31]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

[30] *Supra* at 26.
[31] Office of the State Courts Administrator, *2016 Judicial Impact Statement for SB 7018* (Dec. 1, 2015) (on file with the Senate Committee on Judiciary).

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 39.013, 39.2015, 39.202, 39.402, 39.5085, 39.521, 39.522, 39.6011, 39.6012, 39.6035, 39.621, 39.701, 409.1451, 409.986, 409.988, 409.996, and 1002.3305.

This bill creates the following sections of the Florida Statutes: 409.143 and 409.144

This bill repeals the following sections of the Florida Statutes: 39.523, 409.141, 409.1676, 409.1677, and 409.1679.

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 March 1, 2016:
The committee substitute:

- Updates terminology in numerous sections of statute to reflect the safety methodology currently being used by DCF;
- Revises provisions of the bill relating to assessment to provide an assessment for all children in out-of-home care and an additional assessment for children placed in a group home setting; provides timelines for those assessments;
- Requires the continuum of care to include plans for specialized placements for pregnant and parenting teens, sibling groups, young adults who have chosen to remain in foster care, and children who are involved with both the dependency and juvenile delinquency systems; and
- Requires the department to develop a quality rating system for group home providers.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/01/2016	.	
	.	
	.	
	.	

The Committee on Appropriations (Garcia) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Subsection (2) of section 39.013, Florida Statutes, is amended to read:

39.013 Procedures and jurisdiction; right to counsel.—

(2) The circuit court has exclusive original jurisdiction of all proceedings under this chapter, of a child voluntarily placed with a licensed child-caring agency, a licensed child-

placing agency, or the department, and of the adoption of children whose parental rights have been terminated under this chapter. Jurisdiction attaches when the initial shelter petition, dependency petition, or termination of parental rights petition, or a petition for an injunction to prevent child abuse issued pursuant to s. 39.504, is filed or when a child is taken into the custody of the department. The circuit court may assume jurisdiction over any such proceeding regardless of whether the child was in the physical custody of both parents, was in the sole legal or physical custody of only one parent, caregiver, or some other person, or was not in the physical or legal custody of any person when the event or condition occurred that brought the child to the attention of the court. When the court obtains jurisdiction of any child who has been found to be dependent, the court shall retain jurisdiction, unless relinquished by its order, until the child reaches 21 years of age, or 22 years of age if the child has a disability, with the following exceptions:

(a) If a young adult chooses to leave foster care upon reaching 18 years of age.

(b) If a young adult does not meet the eligibility requirements to remain in foster care under s. 39.6251 or chooses to leave care under that section.

(c) If a young adult petitions the court at any time before his or her 19th birthday requesting the court’s continued jurisdiction, the juvenile court may retain jurisdiction under this chapter for a period not to exceed 1 year following the young adult’s 18th birthday for the purpose of determining whether appropriate services that were required to be provided

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to the young adult before reaching 18 years of age have been provided.

(d) If a petition for special immigrant juvenile status and an application for adjustment of status have been filed on behalf of a foster child and the petition and application have not been granted by the time the child reaches 18 years of age, the court may retain jurisdiction over the dependency case solely for the purpose of allowing the continued consideration of the petition and application by federal authorities. Review hearings for the child shall be set solely for the purpose of determining the status of the petition and application. The court's jurisdiction terminates upon the final decision of the federal authorities. Retention of jurisdiction in this instance does not affect the services available to a young adult under s. 409.1451. The court may not retain jurisdiction of the case after the immigrant child's 22nd birthday.

Section 2. Subsection (11) of section 39.2015, Florida Statutes, is amended to read:

39.2015 Critical incident rapid response team.—

(11) The secretary shall appoint an advisory committee made up of experts in child protection and child welfare, including the Statewide Medical Director for Child Protection under the Department of Health, a representative from the institute established pursuant to s. 1004.615, an expert in organizational management, and an attorney with experience in child welfare, to conduct an independent review of investigative reports from the critical incident rapid response teams and to make recommendations to improve policies and practices related to child protection and child welfare services. The advisory

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committee shall meet at least once each quarter and shall submit quarterly reports to the secretary ~~which include findings and recommendations~~. The quarterly reports must include findings and recommendations and must describe the implementation status of all recommendations contained within the advisory committee reports, including an entity's reason for not implementing a recommendation, if applicable. The secretary shall submit each report to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

Section 3. Paragraphs (f) and (h) of subsection (8) of section 39.402, Florida Statutes, are amended to read:

39.402 Placement in a shelter.—

(8)

(f) At the shelter hearing, the department shall inform the court of:

1. Any identified current or previous case plans negotiated under this chapter in any judicial circuit ~~district~~ with the parents or caregivers ~~under this chapter~~ and problems associated with compliance;

2. Any adjudication of the parents or caregivers of delinquency;

3. Any past or current injunction for protection from domestic violence; and

4. All of the child's places of residence during the prior 12 months.

(h) The order for placement of a child in shelter care must identify the parties present at the hearing and must contain written findings:

1. That placement in shelter care is necessary based on the

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criteria in subsections (1) and (2).

2. That placement in shelter care is in the best interest of the child.

3. That continuation of the child in the home is contrary to the welfare of the child because the home situation presents a substantial and immediate danger to the child's physical, mental, or emotional health or safety which cannot be mitigated by the provision of safety management ~~preventive~~ services.

4. That based upon the allegations of the petition for placement in shelter care, there is probable cause to believe that the child is dependent or that the court needs additional time, which may not exceed 72 hours, in which to obtain and review documents pertaining to the family in order to appropriately determine whether placement in shelter care is necessary to ensure the child's safety ~~risk to the child~~.

5. That the department has made reasonable efforts to prevent or eliminate the need for removal of the child from the home. A finding of reasonable effort by the department to prevent or eliminate the need for removal may be made and the department is deemed to have made reasonable efforts to prevent or eliminate the need for removal if:

a. The first contact of the department with the family occurs during an emergency;

b. The appraisal of the home situation by the department indicates that the home situation presents a substantial and immediate danger to the child's physical, mental, or emotional health or safety which cannot be mitigated by the provision of safety management ~~preventive~~ services, including issuance of an injunction against a perpetrator of domestic violence pursuant

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to s. 39.504;

c. The child cannot safely remain at home, either because there are no safety management ~~preventive~~ services that can ensure the health and safety of the child or because, even with appropriate and available services being provided, the health and safety of the child cannot be ensured; or

d. The parent or legal custodian is alleged to have committed any of the acts listed as grounds for expedited termination of parental rights in s. 39.806(1)(f)-(i).

6. That the department has made reasonable efforts to keep siblings together if they are removed and placed in out-of-home care unless such placement is not in the best interest of each child. It is preferred that siblings be kept together in a foster home, if available. Other reasonable efforts shall include short-term placement in a group home with the ability to accommodate sibling groups if such a placement is available. The department shall report to the court its efforts to place siblings together unless the court finds that such placement is not in the best interest of a child or his or her sibling.

7. That the court notified the parents, relatives that are providing out-of-home care for the child, or legal custodians of the time, date, and location of the next dependency hearing and of the importance of the active participation of the parents, relatives that are providing out-of-home care for the child, or legal custodians in all proceedings and hearings.

8. That the court notified the parents or legal custodians of their right to counsel to represent them at the shelter hearing and at each subsequent hearing or proceeding, and the right of the parents to appointed counsel, pursuant to the

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procedures set forth in s. 39.013.

9. That the court notified relatives who are providing out-of-home care for a child as a result of the shelter petition being granted that they have the right to attend all subsequent hearings, to submit reports to the court, and to speak to the court regarding the child, if they so desire.

Section 4. Paragraph (a) of subsection (1) of section 39.521, Florida Statutes, is amended, present paragraphs (b) through (f) of that subsection are redesignated as paragraphs (c) through (g), respectively, to read:

39.521 Disposition hearings; powers of disposition.—

(1) A disposition hearing shall be conducted by the court, if the court finds that the facts alleged in the petition for dependency were proven in the adjudicatory hearing, or if the parents or legal custodians have consented to the finding of dependency or admitted the allegations in the petition, have failed to appear for the arraignment hearing after proper notice, or have not been located despite a diligent search having been conducted.

(a) A written case plan and a predisposition study prepared by an authorized agent of the department must be approved by ~~filed with~~ the court. The department must file the case plan and the predisposition study with the court, serve a copy of the case plan on~~, served upon~~ the parents of the child, and provide a copy of the case plan ~~provided~~ to the representative of the guardian ad litem program, if the program has been appointed, and ~~provided~~ to all other parties:

1. Not less than 72 hours before the disposition hearing, if the disposition hearing occurs on or after the 60th day after

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the date the child was placed in out-of-home care. All such case plans must be approved by the court.

2. Not less than 72 hours before the case plan acceptance hearing, if the disposition hearing occurs before the 60th day after the date the child was placed in out-of-home care and a case plan has not been submitted pursuant to this paragraph, or if the court does not approve the case plan at the disposition hearing. The case plan acceptance hearing must occur~~, the court must set a hearing~~ within 30 days after the disposition hearing to review and approve the case plan.

(b) The court may grant an exception to the requirement for a predisposition study by separate order or within the judge's order of disposition upon finding that all the family and child information required by subsection (2) is available in other documents filed with the court.

Section 5. Subsection (2) of section 39.522, Florida Statutes, is amended to read:

39.522 Postdisposition change of custody.—The court may change the temporary legal custody or the conditions of protective supervision at a postdisposition hearing, without the necessity of another adjudicatory hearing.

(2) In cases where the issue before the court is whether a child should be reunited with a parent, the court shall determine whether the circumstances that caused the out-of-home placement and issues subsequently identified have been remedied ~~parent has substantially complied with the terms of the case plan~~ to the extent that the return of the child to the home with an in-home safety plan will not be detrimental to the child's safety, well-being, and physical, mental, and emotional health

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~~of the child is not endangered by the return of the child to the home~~.

Section 6. Section 39.6011, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 39.6011, F.S., for present text.)

39.6011 Case plan purpose; requirements; procedures.—

(1) PURPOSE.—The purpose of the case plan is to promote and facilitate change in parental behavior and to address the treatment and long-term well-being of children receiving services under this chapter.

(2) GENERAL REQUIREMENTS.—The department shall draft a case plan for each child receiving services under this chapter. The case plan must:

(a) Document that an assessment of the service needs of the child and family, and preventive services, if appropriate, have been provided pursuant to s. 409.143 and that reasonable efforts to prevent out-of-home placement have been made.

(b) Be developed in a face-to-face conference with the parent of the child, any court-appointed guardian ad litem, the child's attorney, and, if appropriate, the temporary custodian of the child. The parent may receive assistance from any person or social service agency in preparing the case plan. The social service agency, the department, and the court, when applicable, shall inform the parent of the right to receive such assistance, including the right to assistance of counsel.

(c) Be written simply and clearly in English and, if English is not the principal language of the child's parent, in the parent's principal language, to the extent practicable.

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(d) Describe a process for making available to all physical custodians and family services counselors the information required by s. 39.6012(2) and for ensuring that this information follows the child until permanency has been achieved.

(e) Specify the period of time for which the case plan is applicable, which must be as short a period as possible for the parent to comply with the terms of the plan. The case plan's compliance period expires no later than 12 months after the date the child was initially removed from the home, the date the child is adjudicated dependent, or the date the case plan is accepted by the court, whichever occurs first.

(f) Be signed by all of the parties. Signing the case plan constitutes an acknowledgment by each of the parties that they have been involved in the development of the case plan and that they are in agreement with the terms and conditions contained in the case plan. The refusal of a parent to sign the case plan does not preclude the court's acceptance of the case plan if it is otherwise acceptable to the court. The parent's signing of the case plan does not constitute an admission to any allegation of abuse, abandonment, or neglect and does not constitute consent to a finding of dependency or termination of parental rights. The department shall explain the provisions of the case plan to all persons involved in its implementation, before the signing of the plan.

(3) PARTICIPATION BY THE CHILD.—If the child has attained 14 years of age or is otherwise of an appropriate age and capacity, the child must:

(a) Be consulted on the development of the case plan; have the opportunity to attend a face-to-face conference, if

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appropriate; have the opportunity to express a placement preference; and have the option to choose two members for the case planning team who are not a foster parent or caseworker for the child.

1. An individual selected by a child to be a member of the case planning team may be rejected at any time if there is good cause to believe that the individual would not act in the best interest of the child. One individual selected by a child to be a member of the child's case planning team may be designated to be the child's advisor and, as necessary, advocate with respect to the application of the reasonable and prudent parent standard to the child.

2. The child may not be included in an aspect of the case planning process when information will be revealed or discussed which is of a nature that would best be presented to the child in a more therapeutic setting.

(b) Sign the case plan, unless there is reason to waive the child's signature.

(c) Receive an explanation of the provisions of the case plan from the department.

(d) After the case plan is agreed upon and signed by all of the parties, and after jurisdiction attaches and the case plan is filed with the court, be provided a copy of the case plan within 72 hours before the disposition hearing.

(e) Notwithstanding s. 39.202, the department may discuss confidential information during the case planning conference in the presence of individuals who participate in the staffing. All individuals who participate in the staffing shall maintain the confidentiality of all information shared during the case

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planning staffing.

(4) NOTICE TO PARENTS.—The case plan must document that each parent has been advised of the following by written notice:

(a) That he or she may not be coerced or threatened with the loss of custody or parental rights for failing to admit the abuse, neglect, or abandonment of the child in the case plan. Participation in the development of a case plan is not an admission to any allegation of abuse, abandonment, or neglect and does not constitute consent to a finding of dependency or termination of parental rights.

(b) That the department must document a parent's unwillingness or inability to participate in developing a case plan and provide such documentation in writing to the parent when it becomes available for the court record. In such event, the department shall prepare a case plan that, to the extent possible, conforms with the requirements of this section. The parent must also be advised that his or her unwillingness or inability to participate in developing a case plan does not preclude the filing of a petition for dependency or for termination of parental rights. If the parent is available, the department shall provide a copy of the case plan to the parent and advise him or her that, at any time before the filing of a petition for termination of parental rights, he or she may enter into a case plan and that he or she may request judicial review of any provision of the case plan with which he or she disagrees at any court hearing set for the child.

(c) That his or her failure to substantially comply with the case plan may result in the termination of parental rights and that a material breach of the case plan may result in the

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filing of a petition for termination of parental rights before the scheduled completion date.

(5) DISTRIBUTION AND FILING WITH THE COURT.—The department shall adhere to the following procedural requirements in developing and distributing a case plan:

(a) After the case plan has been agreed upon and signed by the parties, a copy of the case plan must immediately be given to the parties and to other persons, as directed by the court.

(b) In each case in which a child has been placed in out-of-home care, a case plan must be prepared within 60 days after the department removes the child from the home and must be submitted to the court for review and approval before the disposition hearing.

(c) After jurisdiction attaches, all case plans must be filed with the court and a copy provided to all of the parties whose whereabouts are known not less than 72 hours before the disposition hearing. The department shall file with the court all case plans prepared before jurisdiction of the court attaches, and the department shall provide copies of all such case plans to all of the parties.

(d) A case plan must be prepared, but need not be submitted to the court, for a child who will be in care for 30 days or less unless that child is placed in out-of-home care for a second time within a 12-month period.

Section 7. Section 39.6012, Florida Statutes, is amended to read:

(Substantial rewording of section. See
s. 39.6012, F.S., for present text.)

39.6012 Services and parental tasks under the case plan;

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safety, permanency, and well-being of the child.—The case plan must include a description of the identified problem that is being addressed, including the parent's behavior or acts that have resulted in a threat to the safety of the child and the reason for the department's intervention. The case plan must be designed to improve conditions in the child's home to facilitate the child's safe return and ensure proper care of the child, or to facilitate the child's permanent placement. The services offered must be as unobtrusive as possible in the lives of the parent and the child, must focus on clearly defined objectives, and must provide the most timely and efficient path to reunification or permanent placement, given the circumstances of the case and the child's need for safe and proper care.

(1) CASE PLAN SERVICES AND TASKS.—The case plan must be based upon an assessment of the circumstances that required intervention by the child welfare system. The case plan must describe the role of the foster parents or legal custodians and must be developed in conjunction with the determination of the services that are to be provided under the case plan to the child, foster parents, or legal custodians. If a parent's substantial compliance with the case plan requires the department to provide services to the parent or the child and the parent agrees to begin compliance with the case plan before it is accepted by the court, the department shall make appropriate referrals for services which will allow the parent to immediately begin the agreed-upon tasks and services.

(a) *Itemization in the case plan.*—The case plan must describe each of the tasks that the parent must complete and the services that will be provided to the parent, in the context of

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the identified problem, including:

1. The type of services or treatment that will be provided.

2. If the service is being provided by the department or its agent, the date the department will provide each service or referral for service.

3. The date by which the parent must complete each task.

4. The frequency of services or treatment to be provided, which shall be determined by the professionals providing the services and may be adjusted as needed based on the best professional judgment of the providers.

5. The location of the delivery of the services.

6. Identification of the staff of the department or of the service provider who are responsible for the delivery of services or treatment.

7. A description of measurable outcomes, including the timeframes specified for achieving the objectives of the case plan and addressing the identified problem.

(b) *Meetings with case manager.*—The case plan must include a schedule of the minimum number of face-to-face meetings to be held each month between the parent and the case manager to review the progress of the case plan, eliminate barriers to completion of the plan, and resolve conflicts or disagreements.

(c) *Request for notification from relative.*—The case manager shall advise the attorney for the department of a relative's request to receive notification of proceedings and hearings submitted pursuant to s. 39.301(14)(b).

(d) *Financial support.*—The case plan must specify the parent's responsibility for the financial support of the child, including, but not limited to, health insurance and child

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support. The case plan must list the costs associated with any services or treatment that the parent and child are expected to receive which are the financial responsibility of the parent. The determination of child support and other financial support must be made independently of any determination of dependency under s. 39.013.

(2) SAFETY, PERMANENCY, AND WELL-BEING OF THE CHILD.—The case plan must include all available information that is relevant to the child's care, including a detailed description of the identified needs of the child while in care and a description of the plan for ensuring that the child receives safe and proper care that is appropriate to his or her needs. Participation by the child must meet the requirements under s. 39.6011.

(a) *Placement.*—To comply with federal law, the department must ensure that the placement of a child in foster care is in the least restrictive, most family-like environment; must review the family assessment, safety plan, and case plan for the child to assess the necessity for and the appropriateness of the placement; must assess the progress that has been made toward case plan outcomes; and must project a likely date by which the child may be safely reunified or placed for adoption or legal guardianship. The family assessment must indicate the type of placement to which the child has been assigned and must document the following:

1. That the child has undergone the placement assessments required pursuant to s. 409.143.

2. That the child has been placed in the least restrictive and most family-like setting available consistent with the best

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interest and special needs of the child and in as close proximity as possible to the child's home.

3. If the child is placed in a setting that is more restrictive than recommended by the placement assessments or is placed more than 50 miles from the child's home, the reasons for which the placement is necessary and in the best interest of the child and the steps required to place the child in the placement recommended by the assessment.

4. If residential group care is recommended for the child, the needs of the child which necessitate such placement, the plan for transitioning the child to a family setting, and the projected timeline for the child's transition to a less restrictive environment.

5. If the child is placed in residential group care, that his or her case plan is reviewed and updated within 90 days after the child's admission to the residential group care facility and at least every 60 days thereafter.

(b) *Permanency.*—If reunifying a child with his or her family is not possible, the department shall make every effort to provide other forms of permanency, such as adoption or guardianship. If a child is placed in an out-of-home placement, the case plan, in addition to any other requirements imposed by law or department rule, must include:

1. If concurrent planning is being used, a description of the permanency goal of reunification with the parent or legal custodian and a description of one of the remaining permanency goals defined in s. 39.01; or, if concurrent case planning is not being used, an explanation as to why it is not being used.

2. If the case plan has as its goal the adoption of the

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child or his or her placement in another permanent home, a statement of the child's wishes regarding his or her permanent placement plan and an assessment of those stated wishes. The case plan must also include documentation of the steps the social service agency is taking to find an adoptive family or other permanent living arrangements for the child; to place the child with an adoptive family, an appropriate and willing relative, or a legal guardian; and to finalize the adoption or legal guardianship. At a minimum, the documentation must include child-specific recruitment efforts, such as the use of state, regional, and national adoption exchanges, including electronic exchange systems, after he or she has become legally eligible for adoption.

3. If the child has been in out-of-home care for at least 12 months and the permanency goal is not adoptive placement, the documentation of the compelling reason for a finding that termination of parental rights is not in the child's best interest.

(c) *Education.*—A case plan must ensure the educational stability of the child while in foster care. To the extent available and accessible, the names and addresses of the child's educational providers, a record of his or her grade level performance, and his or her school record must be attached to the case plan and updated throughout the judicial review process. The case plan must also include documentation that the placement:

1. Takes into account the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement.

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2. Has been coordinated with appropriate local educational agencies to ensure that the child remains in the school in which the child is enrolled at the time of placement or, if remaining in that school is not in the best interest of the child, assurances by the department and the local education agency to provide immediate and appropriate enrollment in a new school and to provide all of the child's educational records to the new school.

(d) *Health care.*—To the extent that they are available and accessible, the names and addresses of the child's health and behavioral health providers, a record of the child's immunizations, the child's known medical history, including any known health issues, the child's medications, and any other relevant health and behavioral health information must be attached to the case plan and updated throughout the judicial review process.

(e) *Contact with family, extended family, and fictive kin.*—When out-of-home placement is made, the case plan must include provisions for the development and maintenance of sibling relationships and visitation, if the child has siblings and is separated from them, a description of the parent's visitation rights and obligations, and a description of any visitation rights with extended family members as defined in s. 751.011. As used in this paragraph, the term "fictive kin" means individuals who are unrelated to the child by birth or marriage, but who have an emotionally significant relationship with the child which would take on the characteristics of a family relationship. As soon as possible after a court order is entered, the following must be provided to the child's out-of-

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home caregiver:

1. Information regarding any court-ordered visitation between the child and the parents and the court-ordered terms and conditions necessary to facilitate the visits and protect the safety of the child.

2. Information regarding the schedule and frequency of the visits between the child and his or her siblings, as well as any court-ordered terms and conditions necessary to facilitate the visits and protect the safety of the child.

3. Information regarding the schedule and frequency of the visits between the child and any extended family member or fictive kin, as well as any court-ordered terms and conditions necessary to facilitate the visits and protect the safety of the child.

(f) *Independent living.*—

1. When appropriate, the case plan for a child who is 13 years of age or older must include a written description of the life skills services to be provided by the caregiver which will assist the child, consistent with his or her best interests, in preparing for the transition from foster care to independent living. The case plan must be developed with the child and individuals identified as important to the child and must include the steps the social service agency is taking to ensure that the child has a connection with a caring adult.

2. During the 180-day period after a child reaches 17 years of age, the department and the community-based care provider, in collaboration with the caregiver and any other individual whom the child would like to include, shall assist the child in developing a transition plan pursuant to s. 39.6035, which is in

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addition to standard case management requirements. The transition plan must address specific options that the child may use in obtaining services, including housing, health insurance, education, and workforce support and employment services. The transition plan must also consider establishing and maintaining naturally occurring mentoring relationships and other personal support services. The transition plan may be as detailed as the child chooses and must be attached to the case plan and updated before each judicial review.

Section 8. Subsection (4) of section 39.6035, Florida Statutes, is amended to read:

39.6035 Transition plan.—

(4) ~~If a child is planning to leave care upon reaching 18 years of age,~~ The transition plan must be approved by the court before the child attains 18 years of age and must be attached to the case plan and updated before each judicial review ~~child leaves care and the court terminates jurisdiction~~.

Section 9. Subsection (2) of section 39.621, Florida Statutes, is amended, and present subsections (3) through (11) of that section are redesignated as subsections (4) through (12), respectively, to read:

39.621 Permanency determination by the court.—

(2) The permanency goal of maintaining and strengthening the placement with a parent may be used in the following circumstances:

(a) If a child has not been removed from a parent but is found to be dependent, even if adjudication of dependency is withheld, the court may leave the child in the current placement with maintaining and strengthening the placement as a permanency

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option.

(b) If a child has been removed from a parent and is placed with the parent from whom the child was not removed, the court may leave the child in the placement with the parent from whom the child was not removed with maintaining and strengthening the placement as a permanency option.

(c) If a child has been removed from a parent and is subsequently reunified with that parent, the court may leave the child with that parent with maintaining and strengthening the placement as a permanency option.

(3) Except as provided in subsection (2), the permanency goals available under this chapter, listed in order of preference, are:

(a) Reunification;

(b) Adoption, if a petition for termination of parental rights has been or will be filed;

(c) Permanent guardianship of a dependent child under s. 39.6221;

(d) Permanent placement with a fit and willing relative under s. 39.6231; or

(e) Placement in another planned permanent living arrangement under s. 39.6241.

Section 10. Paragraphs (a) and (d) of subsection (2) of section 39.701, Florida Statutes, are amended to read:

39.701 Judicial review.—

(2) REVIEW HEARINGS FOR CHILDREN YOUNGER THAN 18 YEARS OF AGE.—

(a) *Social study report for judicial review.*—Before every judicial review hearing or citizen review panel hearing, the

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social service agency shall make an investigation and social study concerning all pertinent details relating to the child and shall furnish to the court or citizen review panel a written report that includes, but is not limited to:

1. A description of the type of placement the child is in at the time of the hearing, including the safety of the child, ~~and~~ the continuing necessity for ~~and appropriateness of~~ the placement, and that the placement is in the least restrictive and most family-like setting that meets the assessed needs of the child, or an explanation of why the placement is not in the least restrictive and most family-like setting available that meets the assessed needs of the child.

2. Documentation of the diligent efforts made by all parties to the case plan to comply with each applicable provision of the case plan.

3. The amount of fees assessed and collected during the period of time being reported.

4. The services provided to the foster family or legal custodian in an effort to address the needs of the child as indicated in the case plan.

5. A statement that either:

a. The parent, though able to do so, did not comply substantially with the case plan, and the agency recommendations;

b. The parent did substantially comply with the case plan; or

c. The parent has partially complied with the case plan, with a summary of additional progress needed and the agency recommendations.

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6. A statement of whether the circumstances that caused the out-of-home placement and issues subsequently identified have been remedied to the extent that the return of the child to the home with an in-home safety plan will not be detrimental to the child's safety, well-being, and physical, mental, and emotional health.

7.~~6.~~ A statement from the foster parent or legal custodian providing any material evidence concerning the return of the child to the parent or parents.

8.~~7.~~ A statement concerning the frequency, duration, and results of the parent-child visitation, if any, and the agency recommendations for an expansion or restriction of future visitation.

9.~~8.~~ The number of times a child has been removed from his or her home and placed elsewhere, the number and types of placements that have occurred, and the reason for the changes in placement.

10.~~9.~~ The number of times a child's educational placement has been changed, the number and types of educational placements which have occurred, and the reason for any change in placement.

11.~~10.~~ If the child has reached 13 years of age but is not yet 18 years of age, a statement from the caregiver on the progress the child has made in acquiring independent living skills.

12.~~11.~~ Copies of all medical, psychological, and educational records that support the terms of the case plan and that have been produced concerning the parents or any caregiver since the last judicial review hearing.

13.~~12.~~ Copies of the child's current health, mental health,

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and education records as identified in s. 39.6012.

(d) *Orders.*—

1. Based upon the criteria ~~set forth~~ in paragraph (c) and the recommended order of the citizen review panel, if any, the court shall determine whether ~~or not~~ the social service agency shall initiate proceedings to have a child declared a dependent child, return the child to the parent, continue the child in out-of-home care for a specified period of time, or initiate termination of parental rights proceedings for subsequent placement in an adoptive home. Amendments to the case plan must be prepared as prescribed in s. 39.6013. If the court finds that remaining in the home with an in-home safety plan will not be detrimental to the child's safety, well-being, and physical, mental, and emotional health ~~the prevention or reunification efforts of the department will allow the child to remain safely at home or be safely returned to the home~~, the court shall allow the child to remain in ~~or return to~~ the home ~~after making a specific finding of fact that the reasons for the creation of the case plan have been remedied to the extent that the child's safety, well-being, and physical, mental, and emotional health will not be endangered~~.

2. The court shall return the child to the custody of the parents at any time it determines that the circumstances that caused the out-of-home placement and issues subsequently identified have been remedied to the extent that the return of the child to the home with an in-home safety plan ~~they have substantially complied with the case plan, if the court is satisfied that reunification~~ will not be detrimental to the child's safety, well-being, and physical, mental, and emotional

health.

3. If, in the opinion of the court, the social service agency has not complied with its obligations as specified in the written case plan, the court may find the social service agency in contempt, shall order the social service agency to submit its plans for compliance with the agreement, and shall require the social service agency to show why the child could not safely be returned to the home of the parents.

4. If possible, the court shall order the department to file a written notification before a child changes placements or living arrangements. If such notification is not possible before the change, the department must file a notification immediately after a change. A written notification filed with the court must include assurances from the department that the provisions of s. 409.145 and administrative rule relating to placement changes have been met.

5.~~4.~~ If, at any judicial review, the court finds that the parents have failed to substantially comply with the case plan to the degree that further reunification efforts are without merit and not in the best interest of the child, on its own motion, the court may order the filing of a petition for termination of parental rights, whether or not the time period as contained in the case plan for substantial compliance has expired.

6.~~5.~~ Within 6 months after the date that the child was placed in shelter care, the court shall conduct a judicial review hearing to review the child's permanency goal as identified in the case plan. At the hearing the court shall make findings regarding the likelihood of the child's reunification

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with the parent or legal custodian within 12 months after the removal of the child from the home. If the court makes a written finding that it is not likely that the child will be reunified with the parent or legal custodian within 12 months after the child was removed from the home, the department must file with the court, and serve on all parties, a motion to amend the case plan under s. 39.6013 and declare that it will use concurrent planning for the case plan. The department must file the motion within 10 business days after receiving the written finding of the court. The department must attach the proposed amended case plan to the motion. If concurrent planning is already being used, the case plan must document the efforts the department is taking to complete the concurrent goal.

7.~~6.~~ The court may issue a protective order in assistance, or as a condition, of any other order made under this part. In addition to the requirements included in the case plan, the protective order may set forth requirements relating to reasonable conditions of behavior to be observed for a specified period of time by a person or agency who is before the court; and the order may require any person or agency to make periodic reports to the court containing such information as the court in its discretion may prescribe.

Section 11. Section 409.143, Florida Statutes, is created to read:

409.143 Assessment of children in out-of-home placement.—

(1) NEEDS ASSESSMENT.—

(a) Each child placed in out-of-home care shall be referred by the department for a comprehensive behavioral health assessment within 7 days after the child enters out-of-home

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care.

(b) The comprehensive assessment shall measure the strengths and needs of the child and family and provide recommendations for developing the case plan to ensure that the child has the services and supports that are necessary to maintain the child in the least restrictive out-of-home care setting, promote the child's well-being, accomplish family preservation and reunification, and facilitate permanency planning.

(c) Completion of the comprehensive assessment must occur within 30 days after the child enters out-of-home care.

(d) Upon receipt of a child's completed comprehensive assessment, the child's case manager shall review the assessment and document whether a less restrictive, more family-like setting for the child is recommended and available. The department shall document determinations resulting from the comprehensive assessment in the Florida Safe Families Network and update the case plan to include identified needs of the child and specified services and supports to be provided in the out-of-home care placement setting to meet the assessed needs of the child. The case manager shall refer the child and family for all services identified through a comprehensive assessment. The planned services shall be implemented within 30 days after the child's needs are identified. If services are not initiated within 30 days, the case manager shall document reasons in the case file as to why services were not initiated.

(e) The department and the community-based care lead agency may conduct additional assessments of a child in out-of-home care if necessary.

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(2) CHILDREN IN GROUP CARE WITH A RESIDENTIAL CHILD-CARING AGENCY.—

(a) Within 30 days after a placement of a child in group care with a residential child-caring agency, a qualified individual shall make an assessment, using a validated and evidence-based assessment tool, and determine whether or not the child's needs can be met with family members or in a family foster home and if not, which of the approved foster care placement settings would provide a more effective and appropriate level of care. The assessment must be done in conjunction with a permanency team that must be established by the department or the community-based care lead agency that places children pursuant to this section. The team must include a representative from the community-based care lead agency, the caseworker for the child, the out-of-home care provider, the guardian ad litem, any provider of services to the child, teachers, clergy, relatives, and fictive kin.

(b) Within 60 days after a placement of a child in group care with a residential child-caring agency, a court must review the assessment and approve or disapprove the placement. At each judicial review and permanency, the department shall demonstrate why the child cannot be served in a family foster home, demonstrate why the placement in group care with a residential child-caring agency continues to be necessary and consistent with the child's short and long-term goals, and document efforts to step the child down into a more family-like setting.

(c) If it is determined during any assessment that a child may be suitable for residential treatment as defined in s. 39.407, the procedures in that section must be followed.

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(3) ANNUAL REPORT.—By October 1 of each year, the department shall report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the placement of children in licensed out-of-home care, including family foster homes and residential group care, during the year. At a minimum, the report must include:

(a) The number of children placed in family foster homes and residential group care.

(b) The number of children placed outside of the county, outside of the circuit, and outside of the region in which they were removed from their homes.

(c) The number of children who had to change schools as a result of a placement decision.

(d) The use of each type of placement setting on a local, regional, and statewide level.

(e) An inventory of services available, by community-based care lead agency, which are necessary to maintain children in the least restrictive settings.

(f) An inventory of permanency teams that are created by each community-based care lead agency and the progress made by each lead agency to use those teams.

Section 12. Section 409.144, Florida Statutes, is created to read:

409.144 Continuum of care for children.—

(1) LEGISLATIVE FINDINGS AND INTENT.—

(a) The Legislature finds that permanency, well-being, and safety are critical goals for all children, especially for those in care, and that children in foster care or at risk of entering foster care are best supported through a continuum of care that

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provides appropriate ongoing services, supports, and a place to live from entry to exit.

(b) The Legislature also finds that federal law requires that out-of-home placements for children be in the least restrictive, most family-like setting available which is in close proximity to the home of their parents and consistent with the best interests and needs of the child, and that children be transitioned from out-of-home care to a permanent home in a timely manner.

(c) The Legislature further finds that permanency can be achieved through preservation of the family, through reunification with the birth family, or through legal guardianship or adoption by relatives or other caring and committed adults. Planning for permanency should begin at entry into care and should be child-driven, family-focused, culturally appropriate, and continuous and approached with the highest degree of urgency.

(d) It is, therefore, the intent of the Legislature that the department and the larger child welfare community establish and maintain a continuum of care that affords every child the opportunity to benefit from the most appropriate and least restrictive interventions, both in or out of the home, while ensuring that well-being and safety are addressed.

(2) DEFINITIONS.—As used in this section, the term:

(a) "Continuum of care" means the complete range of programs, services, and placement options for children served by, or at risk of being served by, the dependency system.

(b) "Family foster care" means a family foster home as defined in s. 409.175.

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(c) "Level of care" means a tiered approach to the type of placements used and the acuity and intensity of intervention services provided to meet the severity of a dependent child's specific physical, emotional, psychological, and social needs.

(d) "Out-of-home care" means the placement of a child in licensed and nonlicensed settings, arranged and supervised by the department or contracted service provider, outside the home of the parent.

(e) "Residential group care" means a 24-hour, live-in environment that provides supervision, care, and services to meet the physical, emotional, social, and life skills needs of children served by the dependency system. Services may be provided by residential group care staff who are qualified to perform the needed services or by a community-based service provider with clinical expertise, credentials, and training to provide services to the children being served.

(3) DEVELOPMENT OF CONTINUUM OF CARE.—The department, in collaboration with the Florida Institute for Child Welfare and other stakeholders, shall develop a continuum of care for the placement of children in care, including, but not limited to, both family foster care and residential group care. Stakeholders involved in the development of the continuum of care must include representatives from providers, child advocates, children who are currently in care, and young adults who have aged out of care. To implement the continuum of care, the department shall, by December 31, 2017:

(a) Establish levels of care in the continuum of care which are clearly and concisely defined with the qualifying criteria for placement for each level of care identified.

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(b) Revise licensure standards and rules to reflect the supports and services provided by a placement at each level of care and the complexity of the needs of the children served. Revisions must include attention to the need for a particular category of provider in a community before licensure may be considered, the quality standards of operation which must be met by all licensed providers, the numbers and qualifications of staff which are adequate to effectively address the issues and meet the needs of the children that the staff's facility seeks to serve, and a well-defined process tied to specific criteria which leads to licensure suspension or revocation.

(c) Develop policies and procedures necessary to ensure that placement in any level of care is appropriate for each specific child, is determined by the required assessments and staffing, and lasts only as long as necessary to resolve the issue that required the placement.

(d) Develop a plan to recruit and retain specialized placements that may be appropriate and necessary for the following:

1. Placements for pregnant and parenting children and young adults must include family foster homes that are designed to provide an out-of-home placement option for young parents and their children to enable them to live in the same family foster home while caring for their children and working toward independent care of the child.

2. Placements for sibling groups must be family foster homes or residential group homes designed to keep sibling groups together unless such placements are not in the best interest of each child.

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3. Young adults who have chosen to remain in foster care after the age of 18 and need independent living arrangements that provide services and case management.

4. Children who are involved in both the dependency and the juvenile justice systems. A plan for living arrangements and access to services for these children shall be developed by the department, in collaboration with the Department of Juvenile Justice.

(4) QUALITY RATING SYSTEM.—By June 30, 2017, the department shall develop, in collaboration with lead agencies, service providers, and other community stakeholders, a statewide quality rating system for providers of residential group care. This system must promote high quality in services and accommodations by creating measurable minimum quality standards. Domains addressed by a quality rating system for residential group care may include, but are not limited to, admissions, service planning and treatment planning, living environment, and program and service requirements. The system must be implemented by July 1, 2018, and must include:

(a) Delineated levels of quality which are clearly and concisely defined, including the domains measured and criteria that must be met to be placed in each level of quality.

(b) A well-defined process for notice, inspection, remediation, appeal, and enforcement.

(5) REPORTING REQUIREMENT.—The department shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by October 1 of each year, with the first report due October 1, 2016. At a minimum, the report must include the following:

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(a) An update on the development of the continuum of care required by this section.

(b) An inventory of existing placements for children by type and by community-based care lead agency.

(c) An inventory of existing services available by community-based care lead agency and a plan for filling any identified gap, as well as a determination of what services are available that can be provided to children in family foster care without having to move the child to a more restrictive placement.

(d) The strategies being used by community-based care lead agencies to recruit, train, and support an adequate number of families to provide home-based family care.

(e) For every placement of a child made which is contrary to an appropriate placement as determined by the assessment process in s. 409.143, an explanation from the community-based care lead agency as to why the placement was made.

(f) The strategies being used by the community-based care lead agencies to reduce the high percentage of turnover in caseworkers.

(g) A plan for oversight by the department over the implementation of the continuum of care by the community-based care lead agencies.

(h) An update on the development of a statewide quality rating system for residential group care and family foster homes, and in 2018 and subsequent years, a list of providers meeting minimum quality standards and their quality ratings, the percentage of children placed in residential group care with highly rated providers, any negative action taken against

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contracted providers for not meeting minimum quality standards, and a plan for department oversight of the implementation of the statewide quality rating system for residential group care by the community-based lead agencies.

(6) RULEMAKING.—The department shall adopt rules to implement this section.

Section 13. Paragraph (a) of subsection (3) of section 409.1451, Florida Statutes, is amended to read:

409.1451 The Road-to-Independence Program.—

(3) AFTERCARE SERVICES.—

(a) Aftercare services are available to a young adult who was living in licensed care on his or her 18th birthday, who ~~has reached 18 years of age but~~ is not yet 23 years of age, and who is:

1. Not in foster care.

2. Temporarily not receiving financial assistance under subsection (2) to pursue postsecondary education.

Section 14. Paragraph (a) of subsection (3) of section 409.986, Florida Statutes, is amended to read:

409.986 Legislative findings and intent; child protection and child welfare outcomes; definitions.—

(3) DEFINITIONS.—As used in this part, except as otherwise provided, the term:

(a) "Care" means services of any kind which are designed to facilitate a child remaining safely in his or her own home, returning safely to his or her own home if he or she is removed from the home, or obtaining an alternative permanent home if he or she cannot remain at home or be returned home. The term includes, but is not limited to, prevention, intervention,

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diversion, and related services.

Section 15. Subsection (3) of section 409.988, Florida Statutes, is amended to read:

409.988 Lead agency duties; general provisions.—

(3) SERVICES.—

(a) *General services.*—

1. A lead agency must provide dependent children with services that are supported by research or that are recognized as best practices in the child welfare field. The agency shall give priority to the use of services that are evidence-based and trauma-informed and may also provide other innovative services, including, but not limited to, family-centered and cognitive-behavioral interventions designed to mitigate out-of-home placements.

2. A lead agency must ensure the availability of a full array of services to address the complex needs of all children, adolescents, parents, and caregivers served within its local system of care and that sufficient flexibility exists within the service array to adequately match services to the unique characteristics of families served, including the ages of the children, cultural considerations, and parental choice.

3. The department shall annually complete an evaluation of the adequacy of the lead agencies service array, their use of trauma-informed and evidence-based programming, and the impact of available services on outcomes for the children served by the lead agencies and any subcontracted providers of lead agencies. The evaluation report shall be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by October 1 of each year.

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(b) *Intervention services.*—

1. Intervention services and supports shall be made available to a child and the parent of a child who is unsafe but can, with services, remain in his or her home or to a child who is placed in out-of-home care and the nonmaltreating parent or relative or nonrelative caregivers with whom an unsafe child is placed. Intervention services and supports must include:

a. Safety management services provided to an unsafe child as part of a safety plan that immediately and actively protects the child from dangerous threats if the parent or other caregiver cannot protect the child, including, but not limited to, behavior management, crisis management, social connection, resource support, and separation;

b. Treatment services provided to a parent or caregiver which are used to achieve a fundamental change in behavioral, cognitive, and emotional functioning associated with the reason that the child is unsafe, including, but not limited to, parenting skills training, support groups, counseling, substance abuse treatment, mental and behavioral health services, certified domestic violence center services for survivors of domestic violence and their children, and batterers' intervention programs that comply with s. 741.325 and other intervention services for perpetrators of domestic violence;

c. Child well-being services provided to an unsafe child which address a child's physical, emotional, developmental, and educational needs, including, but not limited to, behavioral health services, substance abuse treatment, tutoring, counseling, and peer support; and

d. Services provided to nonmaltreating parents or relative

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or nonrelative caregivers to stabilize the child's placement, including, but not limited to, transportation, clothing, household goods, assistance with housing and utility payments, child care, respite care, and assistance connecting families with other community-based services.

2. A lead agency shall prepare a case plan for each child and his or her family receiving services and support under this section. The plan must identify the permanency goal for the child and list the services and supports provided. Services must be tied to the placement and permanency goal and must be specified in advance of delivery. Priority must be given to services that are evidence-based and trauma-informed.

3. By October 1, 2016, each community-based care lead agency shall submit a monitoring plan to the department describing how the lead agency will monitor and oversee the safety of children who receive intervention services and supports. The monitoring plan must include a description of training and support for caseworkers handling intervention cases, including how caseload size and type will be determined, managed, and overseen.

4. Beginning October 1, 2016, each community-based care lead agency shall collect and report annually to the department, as part of the child welfare results-oriented accountability program required under s. 409.997, the following with respect to each child for whom, or on whose behalf, intervention services and supports are provided:

a. The number of children and families served;

b. The specific services provided and the total expenditures for each such service;

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c. The child's placement status at the beginning and at the end of service provision; and

d. The child's placement status 1 year after the end of service provision.

5. Outcomes for this subsection shall be included in the annual report required under s. 409.997.

6. The department shall use programmatic characteristics and research and evaluation characteristics for well-supported, promising, and emerging programs and practices to inventory intervention services and supports by type and by lead agency. The inventory shall be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by October 1 of each year.

7. The department may adopt rules to implement this subsection.

Section 16. Section 409.996, Florida Statutes, is amended to read:

409.996 Duties of the Department of Children and Families.—The department shall contract for the delivery, administration, or management of care for children in the child protection and child welfare system. In doing so, the department retains responsibility to ensure ~~for~~ the quality of contracted services and programs and ~~shall ensure~~ that an adequate array of services are available to be delivered in accordance with applicable federal and state statutes and regulations.

Section 17. Paragraph (s) of subsection (2) of section 39.202, Florida Statutes, is amended to read:

39.202 Confidentiality of reports and records in cases of child abuse or neglect.—

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(2) Except as provided in subsection (4), access to such records, excluding the name of the reporter which shall be released only as provided in subsection (5), shall be granted only to the following persons, officials, and agencies:

(s) Persons with whom the department is seeking to place the child or to whom placement has been granted, including foster parents for whom an approved home study has been conducted, the designee of a licensed residential child-caring agency defined ~~group home described~~ in s. 409.175 ~~s. 39.523~~, an approved relative or nonrelative with whom a child is placed pursuant to s. 39.402, preadoptive parents for whom a favorable preliminary adoptive home study has been conducted, adoptive parents, or an adoption entity acting on behalf of preadoptive or adoptive parents.

Section 18. Paragraph (a) of subsection (2) of section 39.5085, Florida Statutes, is amended to read:

39.5085 Relative Caregiver Program.—

(2)(a) The Department of Children and Families shall establish and operate the Relative Caregiver Program pursuant to eligibility guidelines established in this section as further implemented by rule of the department. The Relative Caregiver Program shall, within the limits of available funding, provide financial assistance to:

1. Relatives who are within the fifth degree by blood or marriage to the parent or stepparent of a child and who are caring full-time for that dependent child in the role of substitute parent as a result of a court’s determination of child abuse, neglect, or abandonment and subsequent placement with the relative under this chapter.

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2. Relatives who are within the fifth degree by blood or marriage to the parent or stepparent of a child and who are caring full-time for that dependent child, and a dependent half-brother or half-sister of that dependent child, in the role of substitute parent as a result of a court's determination of child abuse, neglect, or abandonment and subsequent placement with the relative under this chapter.

3. Nonrelatives who are willing to assume custody and care of a dependent child in the role of substitute parent as a result of a court's determination of child abuse, neglect, or abandonment and subsequent placement with the nonrelative caregiver under this chapter. The court must find that a proposed placement under this subparagraph is in the best interest of the child.

The placement may be court-ordered temporary legal custody to the relative or nonrelative under protective supervision of the department pursuant to s. 39.521(1)(c)3. ~~s. 39.521(1)(b)3.~~, or court-ordered placement in the home of a relative or nonrelative as a permanency option under s. 39.6221 or s. 39.6231 or under former s. 39.622 if the placement was made before July 1, 2006. The Relative Caregiver Program shall offer financial assistance to caregivers who would be unable to serve in that capacity without the caregiver payment because of financial burden, thus exposing the child to the trauma of placement in a shelter or in foster care.

Section 19. Subsection (11) of section 1002.3305, Florida Statutes, is amended to read:

1002.3305 College-Preparatory Boarding Academy Pilot

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Program for at-risk students.—

(11) STUDENT HOUSING.—Notwithstanding s. 409.176 ~~ss. 409.1677(3)(d) and 409.176~~ or any other ~~provision of~~ law, an operator may house and educate dependent, at-risk youth in its residential school for the purpose of facilitating the mission of the program and encouraging innovative practices.

Section 20. Section 39.523, Florida Statutes, is repealed.

Section 21. Section 409.141, Florida Statutes, is repealed.

Section 22. Section 409.1676, Florida Statutes, is repealed.

Section 23. Section 409.1677, Florida Statutes, is repealed.

Section 24. Section 409.1679, Florida Statutes, is repealed.

Section 25. This act shall take effect July 1, 2016.

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

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to child welfare; amending s. 39.013, F.S.; extending court jurisdiction to age 22 for young adults with disabilities in foster care; amending s. 39.2015, F.S.; revising requirements of the quarterly report submitted by the critical incident response team advisory committee; amending s. 39.402, F.S.; revising information that the Department of Children and Families is required to inform the court at

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shelter hearings; revising the written findings required to be included in an order for placement of a child in shelter care; amending s. 39.521, F.S.; revising timelines and distribution requirements for case plans and predisposition studies; amending s. 39.522, F.S.; providing conditions under which a child may be returned home with an in-home safety plan; amending s. 39.6011, F.S.; providing the purpose of a case plan; requiring a case plan to document that a preplacement plan has been provided and reasonable efforts have been made to prevent out-of-home placement; removing the prohibition of threatening or coercing a parent with the loss of custody or parental rights for failing to admit certain actions in a case plan; providing that a child must be given the opportunity to review, sign, and receive a copy of his or her case plan; providing additional requirements when the child attains a certain age; requiring the case plan to document that each parent has received additional written notices; amending s. 39.6012, F.S.; providing additional requirements for the department and criteria for a case plan, with regard to placement, permanency, education, health care, contact with family, extended family, and fictive kin, and independent living; amending s. 39.6035, F.S.; requiring court approval of a transition plan before the child attains 18 years of age; amending s. 39.621, F.S.; creating an exception to the order of preference for permanency goals under ch. 39, F.S., for

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maintaining and strengthening the placement; authorizing the new permanency goal to be used in specified circumstances; amending s. 39.701, F.S.; revising the information that must be included in a specified written report under certain circumstances; requiring a court, if possible, to order the department to file a written notification; creating s. 409.143, F.S.; requiring every child placed in out-of-home care to be referred within a certain time for a comprehensive behavioral health assessment; providing requirements and procedures for such assessment; requiring the department or the community-based care lead agency to establish permanency teams; requiring an assessment within a certain timeframe from the beginning of a new placement in group care; providing for judicial review of certain placements; requiring the department to submit an annual report to the Governor and the Legislature on the placement of children in licensed out-of-home care; creating s. 409.144, F.S.; providing legislative findings and intent; defining terms; requiring the department to develop a continuum of care for the placement of children in care settings; requiring a plan to recruit and retain specialized placements for specific children and young adults; requiring the department to develop a quality rating system for group home and foster homes; providing requirements for the rating system; requiring the department to submit a report annually to the Governor and the Legislature;


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requiring the department to adopt rules; amending s. 409.1451, F.S.; requiring that a child be living in licensed care on or after his or her 18th birthday as a condition for receiving aftercare services; amending s. 409.986, F.S., revising the definition of the term "care"; amending s. 409.988, F.S.; requiring lead agencies to ensure the availability of a full array of services; requiring specified intervention services; requiring the department to submit annually to the Governor and the Legislature a report that evaluates the adequacy of intervention services; requiring the department to adopt rules; amending s. 409.996, F.S.; requiring the department to ensure quality and availability of services; amending s. 39.202, F.S.; conforming provisions to changes made by the act; amending ss. 39.5085 and 1002.3305, F.S.; conforming cross-references; repealing s. 39.523, F.S., relating to the placement of children in residential group care; repealing s. 409.141, F.S., relating to equitable reimbursement methodology; repealing s. 409.1676, F.S., relating to comprehensive residential group care services to children who have extraordinary needs; repealing s. 409.1677, F.S., relating to model comprehensive residential services programs; repealing s. 409.1679, F.S., relating to program requirements and reimbursement methodology; providing an effective date.

By the Committee on Children, Families, and Elder Affairs

586-00943A-16 20167018__

A bill to be entitled

An act relating to child welfare; amending s. 39.01, F.S.; defining a term; amending s. 39.013, F.S.; extending court jurisdiction to age 22 for young adults with disabilities in foster care; amending s. 39.402, F.S.; revising information that the Department of Children and Families is required to inform the court of at shelter hearings; revising the written findings required to be included in an order for placement of a child in shelter care; amending s. 39.521, F.S.; revising the required information a court must include in its written orders of disposition; amending s. 39.522, F.S.; providing conditions under which a child may be returned home with an in-home safety plan; amending s. 39.6011, F.S.; providing the purpose of a case plan; requiring a case plan to document that a preplacement plan has been provided and reasonable efforts have been made to prevent out-of-home placement; removing the prohibition of threatening or coercing a parent with the loss of custody or parental rights for failing to admit certain actions in a case plan; providing that a child must be given the opportunity to review, sign, and receive a copy of his or her case plan; providing additional requirements when the child attains a certain age; requiring the case plan to document that each parent has received additional written notices; amending s. 39.6012, F.S.; providing additional requirements for the department and criteria for a

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case plan, with regard to placement, permanency, education, health care, contact with family, extended family, and fictive kin, and independent living; amending s. 39.6035, F.S.; requiring court approval of a transition plan before the child's 18th birthday; amending s. 39.621, F.S.; creating an exception to the order of preference for permanency goals under ch. 39, F.S., for maintaining and strengthening the placement; authorizing the new permanency goal to be used in specified circumstances; amending s. 39.701, F.S.; revising the information which must be included in a specified written report under certain circumstances; requiring a court, if possible, to order the department to file a written notification; creating s. 409.142, F.S.; providing legislative findings and intent; defining the term "intervention services and supports"; requiring specified intervention services and supports; providing eligibility for such services and supports; providing requirements for the provision of services and supports; requiring community-based care lead agencies to submit a monitoring plan to the department by a certain date; requiring community-based care lead agencies to annually collect and report specified information for each child to whom intervention services and supports are provided; requiring the department to adopt rules; creating s. 409.143, F.S.; providing legislative findings and intent; defining terms; requiring an initial placement assessment for certain children under specified

circumstances; requiring every child placed in out-of-home care to be referred within a certain time for a comprehensive behavioral health assessment; requiring the department or the community-based care lead agency to establish special permanency teams to assist children in adjusting to home placement; requiring the department to submit an annual report to the Governor and the Legislature on the placement of children in licensed out-of-home care; creating s. 409.144, F.S.; providing legislative findings and intent; defining terms; requiring the department to develop a continuum of care for the placement of children in care settings; requiring the department to submit a report annually to the Governor and the Legislature; requiring the department to adopt rules; amending s. 409.1451, F.S.; requiring that a child be living in licensed care on or after his or her 18th birthday as a condition for receiving aftercare services; requiring the department to provide education training vouchers; providing eligibility requirements; prohibiting vouchers from exceeding a certain amount; providing rulemaking authority; amending s. 409.988, F.S.; requiring lead agencies to ensure the availability of a full array of family support services; requiring the department to submit annually to the Governor and Legislature a report that evaluates the adequacy of family support services; requiring the department to adopt rules; amending s. 39.202, F.S.; revising the designation of an agency

with access to records; amending ss. 39.302, 39.524, 39.6013, 394.495, 409.1678, 960.065, and 1002.3305, F.S.; conforming cross-references; repealing s. 39.523, F.S., relating to the placement of children in residential group care; repealing s. 409.141, F.S., relating to equitable reimbursement methodology; repealing s. 409.1676, F.S., relating to comprehensive residential group care services to children who have extraordinary needs; repealing s. 409.1677, F.S., relating to model comprehensive residential services programs; repealing s. 409.1679, F.S., relating to program requirements and reimbursement methodology; providing an effective date.

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

Section 1. Subsection (10) of section 39.01, Florida Statutes, is amended, present subsections (20) through (79) of that section are redesignated as subsections (21) through (80), respectively, a new subsection (20) is added to that section, and present subsection (32) of that section is amended, to read:

39.01 Definitions.—When used in this chapter, unless the context otherwise requires:

(10) "Caregiver" means the parent, legal custodian, permanent guardian, adult household member, or other person responsible for a child's welfare as defined in subsection (48) ~~subsection (47)~~.

(20) "Conditions for return" means the circumstances that caused the out-of-home placement have been remedied to the

extent that the return of the child to the home with an in-home safety plan will not be detrimental to the child's safety, well-being, and physical, mental, and emotional health.

(32) "Institutional child abuse or neglect" means situations of known or suspected child abuse or neglect in which the person allegedly perpetrating the child abuse or neglect is an employee of a private school, public or private day care center, residential home, institution, facility, or agency or any other person at such institution responsible for the child's care as defined in subsection (48) ~~subsection (47)~~.

Section 2. Paragraph (e) is added to subsection (2) of section 39.013, Florida Statutes, to read:

39.013 Procedures and jurisdiction; right to counsel.—

(2) The circuit court has exclusive original jurisdiction of all proceedings under this chapter, of a child voluntarily placed with a licensed child-caring agency, a licensed child-placing agency, or the department, and of the adoption of children whose parental rights have been terminated under this chapter. Jurisdiction attaches when the initial shelter petition, dependency petition, or termination of parental rights petition, or a petition for an injunction to prevent child abuse issued pursuant to s. 39.504, is filed or when a child is taken into the custody of the department. The circuit court may assume jurisdiction over any such proceeding regardless of whether the child was in the physical custody of both parents, was in the sole legal or physical custody of only one parent, caregiver, or some other person, or was not in the physical or legal custody of any person when the event or condition occurred that brought the child to the attention of the court. When the court obtains

jurisdiction of any child who has been found to be dependent, the court shall retain jurisdiction, unless relinquished by its order, until the child reaches 21 years of age, with the following exceptions:

(e) If a young adult with a disability remains in foster care, jurisdiction shall continue until the young adult chooses to leave foster care or upon the young adult reaching 22 years of age, whichever occurs first.

Section 3. Paragraphs (f) and (h) of subsection (8) of section 39.402, Florida Statutes, are amended to read:

39.402 Placement in a shelter.—

(8)

(f) At the shelter hearing, the department shall inform the court of:

1. Any identified current or previous case plans negotiated under this chapter in any judicial circuit ~~district~~ with the parents or caregivers ~~under this chapter~~ and problems associated with compliance;

2. Any adjudication of the parents or caregivers of delinquency;

3. Any past or current injunction for protection from domestic violence; and

4. All of the child's places of residence during the prior 12 months.

(h) The order for placement of a child in shelter care must identify the parties present at the hearing and must contain written findings:

1. That placement in shelter care is necessary based on the criteria in subsections (1) and (2).

2. That placement in shelter care is in the best interest of the child.

3. That the placement proposed by the department is in the least restrictive and most family-like setting that meets the needs of the child, unless it is otherwise documented that the identified type of placement needed is not available.

4.~~3.~~ That continuation of the child in the home is contrary to the welfare of the child because the home situation presents a substantial and immediate danger to the child's physical, mental, or emotional health or safety which cannot be mitigated by the provision of preventive services.

5.~~4.~~ That based upon the allegations of the petition for placement in shelter care, there is probable cause to believe that the child is dependent or that the court needs additional time, which may not exceed 72 hours, in which to obtain and review documents pertaining to the family in order to appropriately determine the risk to the child.

6.~~5.~~ That the department has made reasonable efforts to prevent or eliminate the need for removal of the child from the home. A finding of reasonable effort by the department to prevent or eliminate the need for removal may be made and the department is deemed to have made reasonable efforts to prevent or eliminate the need for removal if:

a. The first contact of the department with the family occurs during an emergency;

b. The appraisal of the home situation by the department indicates that the home situation presents a substantial and immediate danger to the child's physical, mental, or emotional health or safety which cannot be mitigated by the provision of

preventive services;

c. The child cannot safely remain at home, either because there are no preventive services that can ensure the health and safety of the child or because, even with appropriate and available services being provided, the health and safety of the child cannot be ensured; or

d. The parent or legal custodian is alleged to have committed any of the acts listed as grounds for expedited termination of parental rights in s. 39.806(1)(f)-(i).

7.~~6.~~ That the department has made reasonable efforts to keep siblings together if they are removed and placed in out-of-home care unless such placement is not in the best interest of each child. It is preferred that siblings be kept together in a foster home, if available. Other reasonable efforts shall include short-term placement in a group home with the ability to accommodate sibling groups if such a placement is available. The department shall report to the court its efforts to place siblings together unless the court finds that such placement is not in the best interest of a child or his or her sibling.

8.~~7.~~ That the court notified the parents, relatives that are providing out-of-home care for the child, or legal custodians of the time, date, and location of the next dependency hearing and of the importance of the active participation of the parents, relatives that are providing out-of-home care for the child, or legal custodians in all proceedings and hearings.

9.~~8.~~ That the court notified the parents or legal custodians of their right to counsel to represent them at the shelter hearing and at each subsequent hearing or proceeding,

and the right of the parents to appointed counsel, pursuant to the procedures set forth in s. 39.013.

10.~~9.~~ That the court notified relatives who are providing out-of-home care for a child as a result of the shelter petition being granted that they have the right to attend all subsequent hearings, to submit reports to the court, and to speak to the court regarding the child, if they so desire.

Section 4. Paragraph (d) of subsection (1) of section 39.521, Florida Statutes, is amended to read:

39.521 Disposition hearings; powers of disposition.—

(1) A disposition hearing shall be conducted by the court, if the court finds that the facts alleged in the petition for dependency were proven in the adjudicatory hearing, or if the parents or legal custodians have consented to the finding of dependency or admitted the allegations in the petition, have failed to appear for the arraignment hearing after proper notice, or have not been located despite a diligent search having been conducted.

(d) The court shall, in its written order of disposition, include all of the following:

1. The placement or custody of the child, including whether the placement is in the least restrictive and most family-like setting that meets the needs of the child, as determined by assessments completed pursuant to s. 409.143.

2. Special conditions of placement and visitation.

3. Evaluation, counseling, treatment activities, and other actions to be taken by the parties, if ordered.

4. The persons or entities responsible for supervising or monitoring services to the child and parent.

5. Continuation or discharge of the guardian ad litem, as appropriate.

6. The date, time, and location of the next scheduled review hearing, which must occur within the earlier of:

a. Ninety days after the disposition hearing;

b. Ninety days after the court accepts the case plan;

c. Six months after the date of the last review hearing; or

d. Six months after the date of the child's removal from his or her home, if no review hearing has been held since the child's removal from the home.

7. If the child is in an out-of-home placement, child support to be paid by the parents, or the guardian of the child's estate if possessed of assets which under law may be disbursed for the care, support, and maintenance of the child. The court may exercise jurisdiction over all child support matters, shall adjudicate the financial obligation, including health insurance, of the child's parents or guardian, and shall enforce the financial obligation as provided in chapter 61. The state's child support enforcement agency shall enforce child support orders under this section in the same manner as child support orders under chapter 61. Placement of the child shall not be contingent upon issuance of a support order.

8.a. If the court does not commit the child to the temporary legal custody of an adult relative, legal custodian, or other adult approved by the court, the disposition order shall include the reasons for such a decision and shall include a determination as to whether diligent efforts were made by the department to locate an adult relative, legal custodian, or other adult willing to care for the child in order to present

that placement option to the court instead of placement with the department.

b. If no suitable relative is found and the child is placed with the department or a legal custodian or other adult approved by the court, both the department and the court shall consider transferring temporary legal custody to an adult relative approved by the court at a later date, but neither the department nor the court is obligated to so place the child if it is in the child's best interest to remain in the current placement.

For the purposes of this section, "diligent efforts to locate an adult relative" means a search similar to the diligent search for a parent, but without the continuing obligation to search after an initial adequate search is completed.

9. Other requirements necessary to protect the health, safety, and well-being of the child, to preserve the stability of the child's educational placement, and to promote family preservation or reunification whenever possible.

Section 5. Subsection (2) of section 39.522, Florida Statutes, is amended to read:

39.522 Postdisposition change of custody.—The court may change the temporary legal custody or the conditions of protective supervision at a postdisposition hearing, without the necessity of another adjudicatory hearing.

(2) In cases where the issue before the court is whether a child should be reunited with a parent, the court shall determine whether the circumstances that caused the out-of-home placement have been remedied ~~parent has substantially complied~~

~~with the terms of the case plan~~ to the extent that the return of the child to the home with an in-home safety plan will not be detrimental to the child's safety, well-being, and physical, mental, and emotional health ~~of the child is not endangered by the return of the child to the home~~.

Section 6. Section 39.6011, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 39.6011, F.S., for present text.)

39.6011 Case plan purpose; requirements; procedures.—

(1) PURPOSE.—The purpose of the case plan is to promote and facilitate change in parental behavior and to address the treatment and long-term well-being of children receiving services under this chapter.

(2) GENERAL REQUIREMENTS.—The department shall draft a case plan for each child receiving services under this chapter. The case plan must:

(a) Document that a preplacement assessment of the service needs of the child and family, and preplacement preventive services, if appropriate, have been provided pursuant to s. 409.142, and that reasonable efforts to prevent out-of-home placement have been made.

(b) Be developed in a face-to-face conference with the parent of the child, any court-appointed guardian ad litem, the child's attorney, and, if appropriate, the temporary custodian of the child. The parent may receive assistance from any person or social service agency in preparing the case plan. The social service agency, the department, and the court, when applicable, shall inform the parent of the right to receive such assistance,

including the right to assistance of counsel.

(c) Be written simply and clearly in English and, if English is not the principal language of the child's parent, in the parent's principal language, to the extent practicable.

(d) Describe a process for making available to all physical custodians and family services counselors the information required by s. 39.6012(2) and for ensuring that this information follows the child until permanency has been achieved.

(e) Specify the period of time for which the case plan is applicable, which must be as short a period as possible for the parent to comply with the terms of the plan. The case plan's compliance period expires no later than 12 months after the date the child was initially removed from the home, the date the child is adjudicated dependent, or the date the case plan is accepted by the court, whichever occurs first.

(f) Be signed by all of the parties. Signing the case plan constitutes an acknowledgment by each of the parties that they have been involved in the development of the case plan and that they are in agreement with the terms and conditions contained in the case plan. The refusal of a parent to sign the case plan does not preclude the court's acceptance of the case plan if it is otherwise acceptable to the court. The parent's signing of the case plan does not constitute an admission to any allegation of abuse, abandonment, or neglect and does not constitute consent to a finding of dependency or termination of parental rights. The department shall explain the provisions of the case plan to all persons involved in its implementation, before the signing of the plan.

(3) PARTICIPATION BY THE CHILD.—It is important that the

child be involved in all aspects of the case planning process, including development of the plan, as well as the opportunity to review, sign, and receive a copy of the case plan. The child may not be included in any aspect of the case planning process when information will be revealed or discussed that is of a nature that would best be presented to the child in a more therapeutic setting. The child, when the child has attained 14 years of age or the child is otherwise at the appropriate age and capacity, must:

(a) Be included in the face-to-face conference to develop the plan under this section, have the opportunity to express a placement preference, and have the option to choose two members of the case planning team who are not a foster parent or caseworker for the child.

(b) Sign the case plan, unless there is reason to waive the child's signature.

(c) Receive an explanation of the provisions of the case plan from the department.

(d) Be provided a copy of the case plan:

1. After the case plan has been agreed upon and signed; and

2. Within 3 business days before the disposition hearing after jurisdiction attaches and the plan has been filed with the court.

(4) NOTICE TO PARENTS.—The case plan must document that each parent has been advised of the following by written notice:

(a) That he or she may not be coerced or threatened with the loss of custody or parental rights for failing to admit the abuse, neglect, or abandonment of the child in the case plan. Participation in the development of a case plan is not an

admission to any allegation of abuse, abandonment, or neglect and does not constitute consent to a finding of dependency or termination of parental rights.

(b) That the department must document a parent's unwillingness or inability to participate in developing a case plan and provide such documentation in writing to the parent when it becomes available for the court record. In such event, the department will prepare a case plan that, to the extent possible, conforms with the requirements of this section. The parent must also be advised that his or her unwillingness or inability to participate in developing a case plan does not preclude the filing of a petition for dependency or for termination of parental rights. If the parent is available, the department shall provide a copy of the case plan to the parent and advise him or her that, at any time before the filing of a petition for termination of parental rights, he or she may enter into a case plan and that he or she may request judicial review of any provision of the case plan with which he or she disagrees at any court hearing set for the child.

(c) That his or her failure to substantially comply with the case plan may result in the termination of parental rights, and that a material breach of the case plan may result in the filing of a petition for termination of parental rights before the scheduled completion date.

(5) DISTRIBUTION AND FILING WITH THE COURT.—The department shall adhere to the following procedural requirements in developing and distributing a case plan:

(a) After the case plan has been agreed upon and signed by the parties, a copy of the case plan must immediately be given

to the parties and to other persons, as directed by the court.

(b) In each case in which a child has been placed in out-of-home care, a case plan must be prepared within 60 days after the department removes the child from the home and must be submitted to the court for review and approval before the disposition hearing.

(c) After jurisdiction attaches, all case plans must be filed with the court, and a copy provided to all of the parties whose whereabouts are known not less than 3 business days before the disposition hearing. The department shall file with the court and provide copies of such to all of the parties, all case plans prepared before jurisdiction of the court attached.

(d) A case plan must be prepared, but need not be submitted to the court, for a child who will be in care for 30 days or less unless that child is placed in out-of-home care for a second time within a 12-month period.

Section 7. Section 39.6012, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 39.6012, F.S., for present text.)

39.6012 Services and parental tasks under the case plan; safety, permanency, and well-being of the child.—The case plan must include a description of the identified problem that is being addressed, including the parent's behavior or acts that have resulted in a threat to the safety of the child and the reason for the department's intervention. The case plan must be designed to improve conditions in the child's home to facilitate the child's safe return and ensure proper care of the child, or to facilitate the child's permanent placement. The services

offered must be as unobtrusive as possible in the lives of the parent and the child, must focus on clearly defined objectives, and must provide the most timely and efficient path to reunification or permanent placement, given the circumstances of the case and the child's need for safe and proper care.

(1) CASE PLAN SERVICES AND TASKS.—The case plan must be based upon an assessment of the circumstances that required intervention by the child welfare system. The case plan must describe the role of the foster parents or legal custodians, and must be developed in conjunction with the determination of the services that are to be provided under the case plan to the child, foster parents, or legal custodians. If a parent's substantial compliance with the case plan requires the department to provide services to the parent or the child and the parent agrees to begin compliance with the case plan before it is accepted by the court, the department shall make appropriate referrals for services which will allow the parent to immediately begin the agreed-upon tasks and services.

(a) *Itemization in the case plan.*—The case plan must describe each of the tasks which the parent must complete and the services that will be provided to the parent, in the context of the identified problem, including:

1. The type of services or treatment which will be provided.

2. If the service is being provided by the department or its agent, the date the department will provide each service or referral for service.

3. The date by which the parent must complete each task.

4. The frequency of services or treatment to be provided,

which shall be determined by the professionals providing the services and may be adjusted as needed based on the best professional judgment of the provider.

5. The location of the delivery of the services.

6. Identification of the staff of the department or the service provider who are responsible for the delivery of services or treatment.

7. A description of measurable outcomes, including the timeframes specified for achieving the objectives of the case plan and addressing the identified problem.

(b) *Meetings with case manager.*—The case plan must include a schedule of the minimum number of face-to-face meetings to be held each month between the parent and the case manager to review the progress of the case plan, eliminate barriers to completion of the plan, and resolve conflicts or disagreements.

(c) *Request for notification from relative.*—The case manager shall advise the attorney for the department of a relative's request to receive notification of proceedings and hearings submitted pursuant to s. 39.301(14)(b).

(d) *Financial support.*—The case plan must specify the parent's responsibility for the financial support of the child, including, but not limited to, health insurance and child support. The case plan must list the costs associated with any services or treatment that the parent and child are expected to receive which are the financial responsibility of the parent. The determination of child support and other financial support must be made independently of any determination of dependency under s. 39.013.

(2) SAFETY, PERMANENCY, AND WELL-BEING OF THE CHILD.—The

case plan must include all available information that is relevant to the child's care, including a detailed description of the identified needs of the child while in care and a description of the plan for ensuring that the child receives safe and proper care that is appropriate to his or her needs. Participation by the child must meet the requirements under s. 39.6011.

(a) *Placement*.—To comply with federal law, the department must ensure that the placement of a child in foster care be in the least restrictive, most family-like environment; must review the family assessment, safety plan, and case plan for the child to assess the necessity for and the appropriateness of the placement; must assess the progress that has been made toward case plan outcomes; and must project a likely date by which the child can be safely reunified or placed for adoption or legal guardianship. The family assessment must indicate the type of placement to which the child has been assigned and must document the following:

1. That the child has undergone the placement assessments required pursuant to s. 409.143.

2. That the child has been placed in the least restrictive and most family-like setting available consistent with the best interest and special needs of the child, and in as close proximity as possible to the child's home.

3. If the child is placed in a setting that is more restrictive than recommended by the placement assessments or is placed more than 50 miles from the child's home, the reasons why the placement is necessary and in the best interest of the child and the steps required to place the child in the placement

recommended by the assessment.

4. If residential group care is recommended for the child, the needs of the child which necessitate such placement, the plan for transitioning the child to a family setting, and the projected timeline for the child's transition to a less restrictive environment. If the child is placed in residential group care, his or her case plan shall be reviewed and updated within 90 days after the child's admission to the residential group care facility and at least every 60 days thereafter.

(b) *Permanency*.—If reunifying a child with his or her family is not possible, the department shall make every effort to provide other forms of permanency, such as adoption or guardianship. If a child is placed in an out-of-home placement, the case plan, in addition to any other requirements imposed by law or department rule, must include:

1. If concurrent planning is being used, a description of the permanency goal of reunification with the parent or legal custodian and a description of one of the remaining permanency goals defined in s. 39.01; or, if concurrent case planning is not being used, an explanation as to why it is not being used.

2. If the case plan has as its goal the adoption of the child or his or her placement in another permanent home, a statement of the child's wishes regarding his or her permanent placement plan and an assessment of those stated wishes. The case plan must also include documentation of the steps the agency is taking to find an adoptive family or other permanent living arrangements for the child; to place the child with an adoptive family, an appropriate and willing relative, or a legal guardian; and to finalize the adoption or legal guardianship. At

a minimum, the documentation must include child-specific recruitment efforts, such as the use of state, regional, and national adoption exchanges, including electronic exchange systems, after he or she has become legally eligible for adoption.

3. If the child has been in out-of-home care for at least 12 months and the permanency goal is not adoptive placement, the documentation of the compelling reason for a finding that termination of parental rights is not in the child's best interest.

(c) *Education.*—A case plan must ensure the educational stability of the child while in foster care. To the extent available and accessible, the names and addresses of the child's educational providers, a record of his or her grade level performance, and his or her school record must be attached to the case plan and updated throughout the judicial review process. The case plan must also include documentation that the placement:

1. Takes into account the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement.

2. Has been coordinated with appropriate local educational agencies to ensure that the child remains in the school in which the child is enrolled at the time of placement, or, if remaining in that school is not in the best interest of the child, assurances by the department and the local education agency to provide immediate and appropriate enrollment in a new school and to provide all of the child's educational records to the new school.

(d) *Health care.*—To the extent that they are available and accessible, the names and addresses of the child's health and behavioral health providers, a record of the child's immunizations, the child's known medical history, including any known health issues, the child's medications, and any other relevant health and behavioral health information must be attached to the case plan and updated throughout the judicial review process.

(e) *Contact with family, extended family, and fictive kin.*—When out-of-home placement is made, the case plan must include provisions for the development and maintenance of sibling relationships and visitation, if the child has siblings and is separated from them, a description of the parent's visitation rights and obligations, and a description of any visitation rights with extended family members as defined in s. 751.011. As used in this paragraph, the term "fictive kin" means individuals who are unrelated to the child by either birth or marriage, but who have an emotionally significant relationship with the child that would take on the characteristics of a family relationship. As soon as possible after a court order is entered, the following must be provided to the child's out-of-home caregiver:

1. Information regarding any court-ordered visitation between the child and the parents, and the terms and conditions necessary to facilitate such visits and protect the safety of the child.

2. Information regarding the schedule and frequency of the visits between the child and his or her siblings, as well as any court-ordered terms and conditions necessary to facilitate the visits and protect the safety of the child.

3. Information regarding the schedule and frequency of the visits between the child and any extended family member or fictive kin, as well as any court-ordered terms and conditions necessary to facilitate the visits and protect the safety of the child.

(f) *Independent living.*—

1. When appropriate, the case plan for a child who is 13 years of age or older, must include a written description of the life skills services to be provided by the caregiver which will assist the child, consistent with his or her best interests, in preparing for the transition from foster care to independent living. The case plan must be developed with the child and individuals identified as important to the child, and must include the steps the agency is taking to ensure that the child has a connection with a caring adult.

2. During the 180-day period after a child reaches 17 years of age, the department and the community-based care provider, in collaboration with the caregiver and any other individual whom the child would like to include, shall assist the child in developing a transition plan pursuant to s. 39.6035, which is in addition to standard case management requirements. The transition plan must address specific options that the child may use in obtaining services, including housing, health insurance, education, and workforce support and employment services. The transition plan must also consider establishing and maintaining naturally occurring mentoring relationships and other personal support services. The transition plan may be as detailed as the child chooses and must be attached to the case plan and updated before each judicial review.

Section 8. Subsection (4) of section 39.6035, Florida Statutes, is amended to read:

39.6035 Transition plan.—

(4) ~~If a child is planning to leave care upon reaching 18 years of age,~~ The transition plan must be approved by the court before the child's 18th birthday ~~child leaves care and the court terminates jurisdiction~~.

Section 9. Subsection (2) of section 39.621, Florida Statutes, is amended, present subsections (3) through (11) of that section are redesignated as subsections (4) through (12), respectively, and a new subsection (3) is added to that section, to read:

39.621 Permanency determination by the court.—

(2) Except as provided in subsection (3), the permanency goals available under this chapter, listed in order of preference, are:

(a) Reunification;

(b) Adoption, if a petition for termination of parental rights has been or will be filed;

(c) Permanent guardianship of a dependent child under s. 39.6221; or

~~(d) Permanent placement with a fit and willing relative under s. 39.6231; or~~

(d)~~(c)~~ Placement in another planned permanent living arrangement under s. 39.6241.

(3) The permanency goal of maintaining and strengthening the placement with a parent may be used in the following circumstances:

(a) If a child has not been removed from a parent but is

found to be dependent, even if adjudication of dependency is withheld, the court may leave the child in the current placement with maintaining and strengthening the placement as a permanency option.

(b) If a child has been removed from a parent and is placed with the parent from whom the child was not removed, the court may leave the child in the placement with the parent from whom the child was not removed with maintaining and strengthening the placement as a permanency option.

(c) If a child has been removed from a parent and is subsequently reunified with that parent, the court may leave the child with that parent with maintaining and strengthening the placement as a permanency option.

Section 10. Paragraphs (a) and (d) of subsection (2) of section 39.701, Florida Statutes, are amended to read:

39.701 Judicial review.—

(2) REVIEW HEARINGS FOR CHILDREN YOUNGER THAN 18 YEARS OF AGE.—

(a) *Social study report for judicial review.*—Before every judicial review hearing or citizen review panel hearing, the social service agency shall make an investigation and social study concerning all pertinent details relating to the child and shall furnish to the court or citizen review panel a written report that includes, but is not limited to:

1. A description of the type of placement the child is in at the time of the hearing, including the safety of the child, ~~and~~ the continuing necessity for ~~and appropriateness of~~ the placement, and that the placement is in the least restrictive and most family-like setting that meets the needs of the child

as determined by the assessment completed pursuant to s. 409.143.

2. Documentation of the diligent efforts made by all parties to the case plan to comply with each applicable provision of the case plan.

3. The amount of fees assessed and collected during the period of time being reported.

4. The services provided to the foster family or legal custodian in an effort to address the needs of the child as indicated in the case plan.

5. A statement that either:

a. The parent, though able to do so, did not comply substantially with the case plan, and the agency recommendations;

b. The parent did substantially comply with the case plan; or

c. The parent has partially complied with the case plan, with a summary of additional progress needed and the agency recommendations.

6. A statement from the foster parent or legal custodian providing any material evidence concerning the return of the child to the parent or parents.

7. A statement concerning the frequency, duration, and results of the parent-child visitation, if any, and the agency recommendations for an expansion or restriction of future visitation.

8. The number of times a child has been removed from his or her home and placed elsewhere, the number and types of placements that have occurred, and the reason for the changes in

placement.

9. The number of times a child's educational placement has been changed, the number and types of educational placements which have occurred, and the reason for any change in placement.

10. If the child has reached 13 years of age but is not yet 18 years of age, a statement from the caregiver on the progress the child has made in acquiring independent living skills.

11. Copies of all medical, psychological, and educational records that support the terms of the case plan and that have been produced concerning the parents or any caregiver since the last judicial review hearing.

12. Copies of the child's current health, mental health, and education records as identified in s. 39.6012.

(d) *Orders.*—

1. Based upon the criteria ~~set forth~~ in paragraph (c) and the recommended order of the citizen review panel, if any, the court shall determine whether ~~or not~~ the social service agency shall initiate proceedings to have a child declared a dependent child, return the child to the parent, continue the child in out-of-home care for a specified period of time, or initiate termination of parental rights proceedings for subsequent placement in an adoptive home. Amendments to the case plan must be prepared as prescribed in s. 39.6013. If the court finds that ~~the prevention or reunification efforts of the department will allow~~ the child can safely ~~to~~ remain in the ~~safely at~~ home with an in-home safety plan ~~or be safely returned to the home~~, the court shall allow the child to remain in ~~or return to~~ the home ~~after making a specific finding of fact that the reasons for the creation of the case plan have been remedied to the extent that~~

~~the child's safety, well-being, and physical, mental, and emotional health will not be endangered~~.

2. The court shall return the child to the custody of the parents with an in-home safety plan at any time it determines that they have met conditions for return ~~substantially complied with the case plan~~, and if the court is satisfied that return of the child to the home ~~reunification~~ will not be detrimental to the child's safety, well-being, and physical, mental, and emotional health.

3. If, in the opinion of the court, the social service agency has not complied with its obligations as specified in the written case plan, the court may find the social service agency in contempt, shall order the social service agency to submit its plans for compliance with the agreement, and shall require the social service agency to show why the child could not safely be returned to the home of the parents.

4. If possible, the court shall order the department to file a written notification before a child changes placements or living arrangements. If such notification is not possible before the change, the department must file a notification immediately after a change. A written notification filed with the court must include assurances from the department that the provisions of s. 409.145 and administrative rule relating to placement changes have been met.

5.~~4.~~ If, at any judicial review, the court finds that the parents have failed to substantially comply with the case plan to the degree that further reunification efforts are without merit and not in the best interest of the child, on its own motion, the court may order the filing of a petition for

termination of parental rights, whether or not the time period as contained in the case plan for substantial compliance has expired.

6.~~5.~~ Within 6 months after the date that the child was placed in shelter care, the court shall conduct a judicial review hearing to review the child's permanency goal as identified in the case plan. At the hearing the court shall make findings regarding the likelihood of the child's reunification with the parent or legal custodian within 12 months after the removal of the child from the home. If the court makes a written finding that it is not likely that the child will be reunified with the parent or legal custodian within 12 months after the child was removed from the home, the department must file with the court, and serve on all parties, a motion to amend the case plan under s. 39.6013 and declare that it will use concurrent planning for the case plan. The department must file the motion within 10 business days after receiving the written finding of the court. The department must attach the proposed amended case plan to the motion. If concurrent planning is already being used, the case plan must document the efforts the department is taking to complete the concurrent goal.

7.~~6.~~ The court may issue a protective order in assistance, or as a condition, of any other order made under this part. In addition to the requirements included in the case plan, the protective order may set forth requirements relating to reasonable conditions of behavior to be observed for a specified period of time by a person or agency who is before the court; and the order may require any person or agency to make periodic reports to the court containing such information as the court in

its discretion may prescribe.

Section 11. Section 409.142, Florida Statutes, is created to read:

409.142 Intervention services for unsafe children.—

(1) LEGISLATIVE FINDINGS AND INTENT.—The Legislature finds that intervention services and supports are designed to strengthen and support families in order to keep them safely together and to prevent children from entering foster care. Therefore, it is the intent of the Legislature for the department to identify evidence-based intervention programs that remedy child abuse and neglect, reduce the likelihood of foster care placement by supporting parents and relative or nonrelative caregivers, increase family reunification with parents or other relatives, and promote placement stability for children living with relatives or nonrelative caregivers.

(2) DEFINITION.—As used in this section the term "Intervention services and supports" means assistance provided to a child or to the parents or relative and nonrelative caregivers of a child determined by a child protection investigation to be in present or impending danger.

(3) SERVICES AND SUPPORTS.—Intervention services and supports that shall be made available to eligible individuals include, but are not limited to:

(a) Safety management services provided to unsafe children which immediately and actively protect the child from dangerous threats if the parent or other caregiver cannot, as part of a safety plan.

(b) Parenting skills training, including parent advocates, peer-to-peer mentoring, and support groups for parents and

relative caregivers.

(c) Individual, group, and family counseling, mentoring, and therapy.

(d) Behavioral health care needs, domestic violence, and substance abuse services.

(e) Crisis assistance or services to stabilize families in times of crisis or to facilitate relative placement, such as transportation, clothing, household goods, assistance with housing and utility payments, child care, respite care, and assistance connecting families with other community-based services.

(4) ELIGIBILITY FOR SERVICES.—The following individuals are eligible for services and supports under this section:

(a) A child who is unsafe but can remain safely at home or in a relative or nonrelative placement with receipt of specified services and supports.

(b) A parent or relative caregiver of an unsafe child.

(5) GENERAL REQUIREMENTS.—The community-based care lead agency shall prepare a case plan for each child and his or her family receiving services and support under this section which includes:

(a) The safety services and supports necessary to prevent the child's entry into foster care.

(b) The services and supports that will enable the child to return home with an in-home safety plan.

(6) ASSESSMENT AND REPORTING.—

(a) By October 1, 2016, each community-based care lead agency shall submit a monitoring plan to the department describing how the lead agency will monitor and oversee the

safety of children who receive intervention services and supports. The monitoring plan shall include a description of training and support for caseworkers handling intervention cases, including how caseload size and type will be determined, managed, and overseen.

(b) Beginning October 1, 2016, each community-based care lead agency shall collect and report annually to the department, as part of the child welfare Results Oriented Accountability Program required under s. 409.997, the following with respect to each child for whom, or on whose behalf, intervention services and supports are provided during a 12-month period:

1. The number of children and families served;

2. The specific services provided and the total expenditures for each such service;

3. The child's placement status at the beginning and at the end of the period; and

4. The child's placement status 1 year after the end of the period.

(c) Outcomes for this subsection shall be included in the annual report required under s. 409.997.

(7) RULEMAKING.—The department shall adopt rules to administer this section.

Section 12. Section 409.143, Florida Statutes, is created to read:

409.143 Assessment and determination of appropriate placement.—

(1) LEGISLATIVE FINDINGS AND INTENT.—

(a) The Legislature finds that it is a basic tenet of child welfare practice and the law that children be placed in the

least restrictive, most family-like setting available in close proximity to the home of their parents, consistent with the best interests and needs of the child, and that children be placed in permanent homes in a timely manner.

(b) The Legislature also finds that behavior problems can create difficulties in a child's placement and ultimately lead to multiple placements, which have been linked to negative outcomes for children.

(c) The Legislature further finds that given the harm associated with multiple placements, the ideal is connecting children to the most appropriate setting at the time they come into care.

(d) Therefore, it is the intent of the Legislature that through the use of a standardized assessment process and the availability of an adequate array of appropriate placement options, that the first placement be the best placement for every child entering care.

(2) DEFINITIONS.—As used in this section, the term:

(a) "Child functioning level" means specific categories of child behaviors and needs.

(b) "Comprehensive behavioral health assessment" means an in-depth and detailed assessment of the child's emotional, social, behavioral, and developmental functioning within the family home, school, and community that must include direct observation of the child in the home, school, and community, as well as in the clinical setting.

(c) "Level of care" means a tiered approach to the types of placement used and the acuity and intensity of intervention services provided to meet the severity of a dependent child's

specific physical, emotional, psychological, and social needs.

(3) INITIAL PLACEMENT ASSESSMENT.—

(a) Each child that has been determined by the department, a sheriff's office conducting protective investigations, or a community-based care provider to require an out-of-home placement must be assessed prior to placement selection to determine the best placement option to meet the child's immediate and ongoing intervention and services and supports needs. The department shall develop and adopt by rule a preplacement assessment tool, which must include an analysis based on information available to the department at the time of the assessment, of the child's age, maturity level, known behavioral health diagnosis, behaviors, prior placement arrangements, physical and medical needs, and educational commitments.

(b) If it is determined during the preplacement evaluation that a child may be suitable for residential treatment as defined in s. 39.407, the procedures in that section must be followed.

(c) A decision to place a child in group care with a residential child care agency may not be made by any individual or entity who has an actual or perceived conflict of interest with any agency being considered for placement.

(d) The department shall document initial placement assessments in the Florida Safe Families Network.

(4) COMPREHENSIVE ASSESSMENT.—

(a) Each child placed in out-of-home care shall be referred by the department for a comprehensive behavioral health assessment. The comprehensive assessment is intended to support

the family assessment, which will guide the case plan outcomes, treatment, and well-being service provisions for a child in out-of-home care, in addition to providing information to help determine if the child's initial placement was the most appropriate out-of-home care setting for the child.

(b) The referral for the comprehensive behavioral health assessment shall be made within 7 calendars days of the child entering out-of-home care.

(c) The comprehensive assessment will measure the strengths and needs of the child and the services and supports that are necessary to maintain the child in the least restrictive out-of-home care setting. In developing the assessment, consideration must be given to:

1. Current and historical information from any psychological testing or evaluation of the child;

2. Current behaviors exhibited by the child which interfere with or limit the child's role or ability to function in a less restrictive, family-like setting;

3. Current and historical information from the guardian ad litem, if one has been appointed;

4. Current and historical information from any current therapist, teacher, or other professional who has knowledge of the child or has worked with the child;

5. Information related to the placement of any siblings of the child; and

6. If the child has been moved more than once, the circumstances necessitating the moves and the recommendations of the former foster families or other caregivers, if available.

(d) Completion of the comprehensive assessment must occur

within 30 calendar days after the child entering out-of-home care.

(e) The department shall use the results of the comprehensive assessment and any additional information gathered to determine the child's functioning level and the level of care needed for continued placement.

(f) Upon receipt of a child's completed comprehensive assessment, the child's case manager shall review the assessment, and document whether a less restrictive, more family-like setting for the child is recommended and available. The department shall document determinations resulting from the comprehensive assessment in the Florida Safe Families Network and update the case plan to include identified needs of the child, specified services and supports to be provided by the out-of-home care placement setting to meet the needs of the child, and diligent efforts to transition the child to a less restrictive, family-like setting.

(5) PERMANENCY TEAMS.—The department or community-based care lead agency that places children pursuant to this section shall establish special permanency teams dedicated to overcoming the permanency challenges occurring for children in out-of-home care. The special permanency team shall convene a multidisciplinary staffing every 180 calendar days, to coincide with the judicial review, to reassess the appropriateness of the child's current placement. At a minimum, the staffing shall be attended by the community-based care lead agency, the caseworker for the child, out-of-home care provider, guardian ad litem, and any other agency or provider of services to the child. The multidisciplinary staffing shall consider, at a minimum, the

current level of the child's functioning, whether recommended services are being provided effectively, any services that would enable transition to a less restrictive family-like setting, and diligent search efforts to find other permanent living arrangements for the child.

(6) ANNUAL REPORT.—By October 1 of each year, the department shall report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the placement of children in licensed out-of-home care, including family foster homes and residential group care, during the year. At a minimum, the report should include the number of children placed in family foster homes and residential group care, the number of children placed more than 50 miles from their parents, the number of children who had to change schools as a result of a placement decision; use of this form of placement on a local, regional, and statewide level; and the available services array to serve children in the least restrictive settings.

Section 13. Section 409.144, Florida Statutes, is created to read:

409.144 Continuum of care for children.—

(1) LEGISLATIVE FINDINGS AND INTENT.—

(a) The Legislature finds that permanency, well-being, and safety are critical goals for all children, especially for those in care, and that children in foster care or at risk of entering foster care are best supported through a continuum of care that provides appropriate ongoing services, supports and place to live from entry to exit.

(b) The Legislature also finds that federal law requires that out-of-home placements for children are to be in the least

restrictive, most family-like setting available that is in close proximity to the home of their parents and consistent with the best interests and needs of the child, and that children be transitioned from out-of-home care to a permanent home in a timely manner.

(c) The Legislature further finds that permanency can be achieved through preservation of the family, reunification with the birth family, or through legal guardianship or adoption by relatives or other caring and committed adults. Planning for permanency should begin at entry into care and should be child-driven, family-focused, culturally appropriate, continuous, and approached with the highest degree of urgency.

(d) It is, therefore, the intent of the Legislature that the department and the larger child welfare community establish and maintain a continuum of care that affords every child the opportunity to benefit from the most appropriate and least restrictive interventions, both in or out of the home, while ensuring that well-being and safety are addressed.

(2) DEFINITIONS.—As used in this section, the term:

(a) "Continuum of care" means the complete range of programs and services for children served by, or at risk of being served by, the dependency system.

(b) "Family foster care" means a family foster home as defined in s. 409.175.

(c) "Level of care" means a tiered approach to the type of placements used and the acuity and intensity of intervention services provided to meet the severity of a dependent child's specific physical, emotional, psychological, and social needs.

(d) "Out-of-home care" means the placement of a child in

licensed and nonlicensed settings, arranged and supervised by the department or contracted service provider, outside the home of the parent.

(e) "Residential group care" means a 24-hour, live-in environment that provides supervision, care, and services to meet the physical, emotional, social, and life skills needs of children served by the dependency system. Services may be provided by residential group care staff who are qualified to perform the needed service or a community-based service provider with clinical expertise, credentials, and training to provide services to the children being served.

(3) DEVELOPMENT OF CONTINUUM.—The department, in collaboration with the Florida Institute for Child Welfare, the Quality Parenting Initiative, and the Florida Coalition for Children, Inc., shall develop a continuum of care for the placement of children in care, including, but not limited to, both family foster care and residential group care. To implement the continuum of care, the department shall by December 31, 2017:

(a) Establish levels of care in the continuum which are clearly and concisely defined with the qualifying criteria for placement for each level identified.

(b) Revise licensure standards and rules to reflect the supports and services provided by a placement at each level of care and the complexity of the needs of the children served. This must include attention to the need for a particular category of provider in a community before licensure can be considered; quality standards of operation that must be met by all licensed providers; numbers and qualifications of staff

which are adequate to effectively serve children with the issues the facility seeks to serve; and a well-defined process tied to specific criteria which leads to licensure suspension or revocation.

(c) Develop policies and procedures necessary to ensure that placement in any level of care is appropriate for each specific child, is determined by the required assessments and staffing, and lasts only as long as necessary to resolve the issue that required the placement.

(d) Develop a plan to recruit, train, and retain specialized family foster homes for pregnant and parenting children and young adults. These family foster homes must be designed to provide an out-of-home placement option for young parents and their children to enable them to live in the same family foster home while caring for their children and working toward independent care of the child.

(e) Develop, in collaboration with the Department of Juvenile Justice, a plan to develop specialized out-of-home placements for children who are involved in both the dependency and the juvenile justice systems.

(4) REPORTING REQUIREMENT.—The department shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by October 1 of each year, with the first report due October 1, 2016. At a minimum, the report must include the following:

(a) An update on the development of the continuum of care required by this section.

(b) An inventory of existing placements for children by type and by community-based care lead agency.

(c) An inventory of existing services available by community-based care lead agency and a plan for filling any identified gap, as well as a determination of what services are available that can be provided to children in family foster care without having to move the child to a more restrictive placement.

(d) The strategies being used by community-based care lead agencies to recruit, train, and support an adequate number of families to provide home-based family care.

(e) For every placement of a child made that is contrary to an appropriate placement as determined by the assessment process in s. 409.142, an explanation from the community-based care lead agency as to why the placement was made.

(f) The strategies being used by the community-based care lead agencies to reduce the high percentage of turnover in caseworkers.

(g) A plan for oversight by the department over the implementation of the continuum by the community-based care lead agencies.

(5) RULEMAKING.—The department shall adopt rules to implement this section.

Section 14. Subsection (3) of section 409.1451, Florida Statutes, is amended, and subsection (11) is added to that section, to read:

409.1451 The Road-to-Independence Program.—

(3) AFTERCARE SERVICES.—

(a) Aftercare services are available to a young adult who was living in licensed care on his or her 18th birthday, who ~~has reached 18 years of age but~~ is not yet 23 years of age, and is:

1. Not in foster care.

2. Temporarily not receiving financial assistance under subsection (2) to pursue postsecondary education.

(11) EDUCATION AND TRAINING VOUCHERS.—The department shall make available education and training vouchers.

(a) A child or young adult is eligible for services and support under this subsection if he or she is ineligible for services under subsection (2) and:

1. Was living in licensed care on his or her 18th birthday, is currently living in licensed care, or is at least 16 years of age and has been adopted from foster care or placed with a court-approved dependency guardian.

2. Has earned a standard high school diploma pursuant to s. 1002.3105(5), s. 1003.4281, or s. 1003.4282, or its equivalent as provided in s. 1003.435.

3. Has been admitted for enrollment as a student in a postsecondary educational institution.

4. Has made the initial application to participate before age 21 and is not yet 23 years of age.

5. Has applied, with assistance from his or her caregiver and the community-based lead agency, for any other grants and scholarships for which he or she is qualified.

6. Has submitted a Free Application for Federal Student Aid which is complete and error free.

7. Has signed an agreement to allow the department and the community-based care lead agency access to school records.

8. Has maintained satisfactory academic progress as determined by the postsecondary institution.

(b) The voucher provided for an individual under this

subsection may not exceed the lesser of $5,000 per year or the total cost of attendance as defined in 42 U.S.C. s. 672.

(c) The department may adopt rules concerning the payment of financial assistance that considers the applicant's requests concerning disbursement. The rules must include an appeals process.

Section 15. Subsection (3) of section 409.988, Florida Statutes, is amended to read:

409.988 Lead agency duties; general provisions.—

(3) SERVICES.—

(a) A lead agency must provide dependent children with services that are supported by research or that are recognized as best practices in the child welfare field. The agency shall give priority to the use of services that are evidence-based and trauma-informed and may also provide other innovative services, including, but not limited to, family-centered and cognitive-behavioral interventions designed to mitigate out-of-home placements.

(b) Lead agencies shall ensure the availability of a full array of services to address the complex needs of all children, including teens, and caregivers served within their local system of care and that sufficient flexibility exists within the service array to adequately match services to the unique characteristics of families served, including the ages of the children, cultural considerations, and parental choice.

(c) The department shall annually complete an evaluation of the service array adequacies, the engagement of trauma-informed and evidenced-based programming, and the impact of available services on outcomes for the children served by the lead

agencies and any subcontracted providers of lead agencies. The evaluation report shall be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 31 of each year.

(d) The department shall adopt rules to implement this section.

Section 16. Paragraph (s) of subsection (2) of section 39.202, Florida Statutes, is amended to read:

39.202 Confidentiality of reports and records in cases of child abuse or neglect.—

(2) Except as provided in subsection (4), access to such records, excluding the name of the reporter which shall be released only as provided in subsection (5), shall be granted only to the following persons, officials, and agencies:

(s) Persons with whom the department is seeking to place the child or to whom placement has been granted, including foster parents for whom an approved home study has been conducted, the designee of a licensed residential child-caring agency defined ~~group home described~~ in s. 409.175 ~~s. 39.523~~, an approved relative or nonrelative with whom a child is placed pursuant to s. 39.402, preadoptive parents for whom a favorable preliminary adoptive home study has been conducted, adoptive parents, or an adoption entity acting on behalf of preadoptive or adoptive parents.

Section 17. Subsection (1) of section 39.302, Florida Statutes, is amended to read:

39.302 Protective investigations of institutional child abuse, abandonment, or neglect.—

(1) The department shall conduct a child protective

investigation of each report of institutional child abuse, abandonment, or neglect. Upon receipt of a report that alleges that an employee or agent of the department, or any other entity or person covered by s. 39.01(33) or (48) ~~s. 39.01(32) or (47)~~, acting in an official capacity, has committed an act of child abuse, abandonment, or neglect, the department shall initiate a child protective investigation within the timeframe established under s. 39.201(5) and notify the appropriate state attorney, law enforcement agency, and licensing agency, which shall immediately conduct a joint investigation, unless independent investigations are more feasible. When conducting investigations or having face-to-face interviews with the child, investigation visits shall be unannounced unless it is determined by the department or its agent that unannounced visits threaten the safety of the child. If a facility is exempt from licensing, the department shall inform the owner or operator of the facility of the report. Each agency conducting a joint investigation is entitled to full access to the information gathered by the department in the course of the investigation. A protective investigation must include an interview with the child's parent or legal guardian. The department shall make a full written report to the state attorney within 3 working days after making the oral report. A criminal investigation shall be coordinated, whenever possible, with the child protective investigation of the department. Any interested person who has information regarding the offenses described in this subsection may forward a statement to the state attorney as to whether prosecution is warranted and appropriate. Within 15 days after the completion of the investigation, the state attorney shall report the

findings to the department and shall include in the report a determination of whether or not prosecution is justified and appropriate in view of the circumstances of the specific case.

Section 18. Subsection (1) of section 39.524, Florida Statutes, is amended to read:

39.524 Safe-harbor placement.—

(1) Except as provided in s. 39.407 or s. 985.801, a dependent child 6 years of age or older who has been found to be a victim of sexual exploitation as defined in s. 39.01(70)(g) ~~s. 39.01(69)(g)~~ must be assessed for placement in a safe house or safe foster home as provided in s. 409.1678 using the initial screening and assessment instruments provided in s. 409.1754(1). If such placement is determined to be appropriate for the child as a result of this assessment, the child may be placed in a safe house or safe foster home, if one is available. However, the child may be placed in another setting, if the other setting is more appropriate to the child's needs or if a safe house or safe foster home is unavailable, as long as the child's behaviors are managed so as not to endanger other children served in that setting.

Section 19. Subsection (7) of section 39.6013, Florida Statutes, is amended to read:

39.6013 Case plan amendments.—

(7) Amendments must include service interventions that are the least intrusive into the life of the parent and child, must focus on clearly defined objectives, and must provide the most efficient path to quick reunification or permanent placement given the circumstances of the case and the child's need for safe and proper care. A copy of the amended plan must be

immediately given to the persons identified in s. 39.6011(5) ~~s. 39.6011(6)(b)~~.

Section 20. Paragraph (p) of subsection (4) of section 394.495, Florida Statutes, is amended to read:

394.495 Child and adolescent mental health system of care; programs and services.—

(4) The array of services may include, but is not limited to:

(p) Trauma-informed services for children who have suffered sexual exploitation as defined in s. 39.01(70)(g) ~~s. 39.01(69)(g)~~.

Section 21. Paragraph (c) of subsection (1) and paragraphs (a) and (b) of subsection (6) of section 409.1678, Florida Statutes, are amended to read:

409.1678 Specialized residential options for children who are victims of sexual exploitation.—

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

(c) "Sexually exploited child" means a child who has suffered sexual exploitation as defined in s. 39.01(70)(g) ~~s. 39.01(69)(g)~~ and is ineligible for relief and benefits under the federal Trafficking Victims Protection Act, 22 U.S.C. ss. 7101 et seq.

(6) LOCATION INFORMATION.—

(a) Information about the location of a safe house, safe foster home, or other residential facility serving victims of sexual exploitation, as defined in s. 39.01(70)(g) ~~s. 39.01(69)(g)~~, which is held by an agency, as defined in s. 119.011, is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies

to such confidential and exempt information held by an agency before, on, or after the effective date of the exemption.

(b) Information about the location of a safe house, safe foster home, or other residential facility serving victims of sexual exploitation, as defined in s. 39.01(70)(g) ~~s. 39.01(69)(g)~~, may be provided to an agency, as defined in s. 119.011, as necessary to maintain health and safety standards and to address emergency situations in the safe house, safe foster home, or other residential facility.

Section 22. Subsection (5) of section 960.065, Florida Statutes, is amended to read:

960.065 Eligibility for awards.—

(5) A person is not ineligible for an award pursuant to paragraph (2)(a), paragraph (2)(b), or paragraph (2)(c) if that person is a victim of sexual exploitation of a child as defined in s. 39.01(70)(g) ~~s. 39.01(69)(g)~~.

Section 23. Subsection (11) of section 1002.3305, Florida Statutes, is amended to read:

1002.3305 College-Preparatory Boarding Academy Pilot Program for at-risk students.—

(11) STUDENT HOUSING.—Notwithstanding s. 409.176 ~~ss. 409.1677(3)(d) and 409.176~~ or any other provision of law, an operator may house and educate dependent, at-risk youth in its residential school for the purpose of facilitating the mission of the program and encouraging innovative practices.

Section 24. Section 39.523, Florida Statutes, is repealed.

Section 25. Section 409.141, Florida Statutes, is repealed.

Section 26. Section 409.1676, Florida Statutes, is repealed.

Section 27. Section 409.1677, Florida Statutes, is repealed.

Section 28. Section 409.1679, Florida Statutes, is repealed.

Section 29. This act shall take effect July 1, 2016.

The Florida Senate

Committee Agenda Request

To: Senator Tom Lee, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: January 14, 2016

I respectfully request that **Senate Bill #7018**, relating to Child Welfare, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Senator Nancy C. Detert
Florida Senate, District 28

File signed original with committee office

S-020 (03/2004)

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Children, Families, and Elder Affairs, *Chair*
Health Policy, *Vice Chair*
Agriculture
Education Pre-K-12
Appropriations Subcommittee on Health and Human Services

SENATOR ELEANOR SOBEL
33rd District

February 15, 2016

Senator Tom Lee
Chair of the Committee on Appropriations
418 Senate Office Building
404 South Monroe Street
Tallahassee, Florida 32399

Dear Chair Lee,

This letter is to request that **SB 7018**, relating to **Child Welfare**, be placed on the agenda of the next scheduled meeting of the Committee on Appropriations. SB 7018 extends court jurisdiction to age 22 for young adults with disabilities in foster care; provides conditions under which a child may be returned home with an in-home safety plan; requires specified intervention services and supports; requires every child placed in out-of-home care to be referred within a certain time for a comprehensive behavioral health assessment, and requires lead agencies to ensure the availability of a full array of family support services.

Thank you for your consideration of this request.

Respectfully,

Eleanor Sobel
State Senator, 33rd District

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President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

3 / / 2016
Meeting Date

Topic _____ Bill Number 7018 *(if applicable)*

Name BRIAN PITTS Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

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Speaking: ☐ For ☐ Against ☑ Information

Representing JUSTICE-2-JESUS

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

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

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

S-001 (10/20/11)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL:	PCS/SB 7050 (591178)
INTRODUCER:	Appropriations Committee (Recommended by Appropriations Subcommittee on General Government) and Governmental Oversight and Accountability Committee
SUBJECT:	Information Technology Security
DATE:	February 29, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Peacock	McVaney		**GO Submitted as Committee Bill**
1.	Wilson	DeLoach	AGG	**Recommend: Fav/CS**
2.	Wilson	Kynoch	AP	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

PCS/SB 7050 revises duties of the Agency for State Technology (AST) and requires the AST to develop guidelines and policies for state agencies regarding information technology and cybersecurity.

Subject to an annual appropriation, state agencies are required to:

- Conduct risk assessments administered by a third party,
- Establish computer security incident response teams and procedures to respond to suspected technology security incidents, and
- Provide cyber security training to employees.

The AST's Technology Advisory Council is required to collaborate with the State Board of Education in adopting a unified state plan on Science, Technology, Education and Mathematics (STEM) education and the Florida Center for Cybersecurity on various goals related to cybersecurity.

The bill appropriates $650,000 of nonrecurring funds and $50,000 of recurring funds from the General Revenue Fund to the AST to conduct training exercises in coordination with the Florida National Guard, and $12,000,000 from the General Revenue Fund to implement this act.

The bill is effective July 1, 2016.

II. Present Situation:

Agency for State Technology

The AST was created on July 1, 2014.[1] The executive director of the AST is appointed by the Governor and confirmed by the Senate. The duties and responsibilities include:[2]

- Developing and publishing information technology (IT) policy for management of the state's IT resources.
- Establishing and publishing IT architecture standards.
- Establishing project management and oversight standards with which state agencies must comply when implementing IT projects.
- Performing project oversight on all state IT projects with total costs of $10 million or more.
- Identifying opportunities for standardization and consolidation of IT services that support common business functions and operations.
- Establishing best practices for procurement of IT products in collaboration with DMS.
- Participating with the DMS in evaluating, conducting and negotiating competitive solicitations for state term contracts for IT commodities, consultant services, or staff augmentation contractual services.
- Collaborating with the DMS in IT resource acquisition planning.
- Developing standards for IT reports and updates.
- Upon request, assisting state agencies in development of IT related legislative budget requests.
- Conducting annual assessments of state agencies to determine compliance with IT standards and guidelines developed by the AST.
- Providing operational management and oversight of the state data center.
- Recommending other IT services that should be designed, delivered, and managed as enterprise IT services.
- Recommending additional consolidations of agency data centers or computing facilities into the state data center.
- In consultation with state agencies, proposing a methodology for identifying and collecting current and planned IT expenditure data at the state agency level.
- Performing project oversight on any cabinet agency IT project that has a total project cost of $25 million or more and impacts one or more other agencies.
- Consulting with departments regarding risks and other effects for IT projects implemented by an agency that must be connected to or accommodated by an IT system administered by a cabinet agency.
- Reporting annually to the Governor, the President of the Senate, and the Speaker of the House of Representatives regarding state IT standards or policies that conflict with federal regulations or requirements.

[1] Chapter 2014-221, Laws of Florida.
[2] Section 282.0051, F.S.

Technology Advisory Council

The Technology Advisory Council,[3] consisting of seven members, is established within the AST: four members of the council are appointed by the Governor, two of which must be from the private sector. The President of the Senate and the Speaker of the House of Representatives each appoint one member of the council. The Attorney General, the Commissioner of Agriculture and Consumer Services, and the Chief Financial Officer jointly appoint one member by agreement of a majority of these officers.

The Technology Advisory Council considers and makes recommendations to the Executive Director on such matters as enterprise information technology policies, standards, services, and architecture.[4] The council may also identify and recommend opportunities for the establishment of public-private partnerships when considering technology infrastructure and services in order to accelerate project delivery and provide a source of new or increased project funding.[5]
The Executive Director consults with the council with regard to executing the duties and responsibilities of the agency related to statewide information technology strategic planning and policy.[6]

Cybercrime Office, Florida Department of Law Enforcement

The Cybercrime Office within the Florida Department of Law Enforcement (FDLE) was established in 2011 with the functions and personnel of the Department of Legal Affairs Cybercrime Office transferred to FDLE.[7] A cybercrime office has existed within FDLE since 1998.[8]

Some of the Cybercrime Office duties include:
- Monitoring state information technology resources and providing analysis on information technology security incidents, threats, and breaches;
- Investigating violations of state law pertaining to information technology security incidents and assisting in incident response and recovery;
- Providing security awareness training and information to state agency employees concerning cybersecurity, online sexual exploitation of children, and security risks, and the responsibility of employees to comply with policies, standards, guidelines, and operating procedures adopted by the AST; and
- Consulting with the AST in the adoption of rules relating to the information technology security provisions.[9]

[3] Section 20.61(3), F.S.
[4] Section 20.61(3)(a), F.S.
[5] *Id*.
[6] Section 20.61(3)(b), F.S.
[7] Chapter 2011-132, Laws of Florida.
[8] Analysis for HB 5401 by the House Appropriations Committee (July 6, 2011)(copy on file with the Governmental Oversight and Accountability Committee). .
[9] Section 943.0415, F.S.

Unified State Plan for Science, Technology, Engineering, and Mathematics

Section 1001.03(17), F.S., requires the State Board of Education, in consultation with the Board of Governors and the Department of Economic Opportunity, to adopt a unified state plan to improve K-20 Science, Technology, Engineering, and Mathematics (STEM) education and prepare students for high-skill, high-wage, and high-demand employment in STEM and STEM-related fields.

Florida Center for Cybersecurity

The Florida Center for Cybersecurity was established in 2013 when the Legislature required the Board of Governors to submit a report to the Legislature and the Governor that provided a plan for the creation of a Florida Center for Cybersecurity to be located at the University of South Florida.[10]

The goals of the Florida Center for Cybersecurity are to:

- Position Florida as the national leader in cybersecurity and its related workforce through education, research, and community engagement;
- Assist in the creation of jobs in the state's cybersecurity industry and enhance the existing cybersecurity workforce;
- Act as a cooperative facilitator for state business and higher education communities to share cybersecurity knowledge, resources, and training;
- Seek out partnerships with major military installations to assist, when possible, in homeland cybersecurity defense initiatives; and
- Attract cybersecurity companies to the state with an emphasis on defense, finance, health care, transportation, and utility sectors.[11]

III. Effect of Proposed Changes:

Section 1 amends s. 20.61, F.S., to revise the membership of the Technology Advisory Council and requires that at least one of the four members appointed by the Governor be a cybersecurity expert. The bill also requires that the Technology Advisory Council, in coordination with the Florida Center for Cybersecurity, identify and recommend STEM training opportunities. These opportunities are for the establishment of cutting-edge educational and training programs for students consistent with the unified state STEM plan, in order to increase the cybersecurity workforce in the state, and to prepare cybersecurity professionals to possess a wide range of expertise.

Section 2 amends s. 282.318, F.S., to require the AST to establish standards and processes consistent with best practices for both information technology security and cybersecurity and to adopt rules that mitigate risks.

This section requires the AST to develop and publish guidelines and processes in its information technology security framework provided to state agencies for:

[10] Chapter 2013-41, Laws of Florida. *Also, see* s. 1004.444, F.S.
[11] Section 1004.444(2), F.S.

- Completing risk assessments administered by a third party and submitting completed assessments to the AST.
- Establishing a computer security incident response team to respond to suspected information technology security incidents and the timeframe for convening a team to determine an appropriate response.
- Establishing an information technology security incident reporting process, to include a procedure for notification of the AST and Cybercrime Office of the Florida Department of Law Enforcement (FDLE). The notification procedure must provide for a tiered reporting framework with incidents of critical impact reported upon discovery, incidents of high impact reported within four hours of discovery, and incidents of low impact reported within five business days of discovery.
- Incorporating lessons learned through detection and response activities into agency response plans to continuously improve organizational response activities.
- Providing all state agency employees with information technology security and cybersecurity awareness education and training within 30 days after commencing employment.

In collaboration with the Cybercrime Office of the FDLE, the AST's training requirements are revised to require at least annual training on cybersecurity threats, trends, and best practices for state agency information security managers and computer security incident response team members.

This section also requires the AST, in collaboration with relevant partners and the Florida Center for Cybersecurity, to develop and establish a cutting-edge internship or work-study program in STEM to produce a more cybersecurity skilled state workforce.

The bill further requires that each state agency's information security manager establish a computer security incident response team to respond to suspected computer security incidents. The computer security incident response team members must convene as soon as practicable upon notice of a suspected security incident and determine an appropriate response. The response would include taking action to prevent the expansion or recurrence of an incident, mitigating the effects of an incident, and eradicating an incident. The newly identified risks must be mitigated or documented as an accepted risk by computer security incident response team members.

The bill specifies mobile devices and print environments as information technology resources that will be included in the comprehensive risk assessment.

The bill requires state agencies to:

- Conduct a risk assessment, subject to an annual legislative appropriation, by July 31, 2017, that is administered by a third party consistent with guidelines and processes prescribed by the AST. Additional risk assessments must be completed periodically.
- Develop and update written internal policies and procedures for reporting information technology security incidents and breaches to the Cybercrime Office of the FDLE and the AST to include notification procedures and reporting timeframes for information technology security incidents and breaches.
- Provide information technology security and cybersecurity awareness training to all state agency employees in the first 30 days after commencing employment for attainment of an

appropriate level of cyber literacy. State agencies must ensure that privileged users, third-party stakeholders, senior executives, and physical and information security personnel understand their roles and responsibilities.

- Provide training, in collaboration with the Cybercrime Office of the FDLE, at least annually, on cybersecurity threats, trends, and best practices to computer security incident response team members.
- Develop notification procedures for reporting information technology security incidents.
- Improve organizational response activities by incorporating lessons learned from current and previous detection and response activities into response plans.

Section 3 amends s. 1001.03, F.S., to include the Technology Advisory Council as one of the entities that consults with the State Board of Education in the adoption of a unified state plan to improve K-20 STEM education and prepare students for employment in STEM and STEM-related fields.

Section 4 amends s. 1004.444, F.S., to require the Florida Center for Cybersecurity to coordinate with the Technology Advisory Council in pursuit of certain goals.

Section 5 appropriates for Fiscal Year 2016-2017, the sums of $650,000 in nonrecurring funds and $50,000 in recurring funds from the General Revenue Fund to the AST to conduct training exercises in coordination with the Florida National Guard.

Section 6 appropriates for Fiscal Year 2016-2017, the sum of $12,000,000 from the General Revenue Fund to the AST to implement this act.

Section 7 provides an effective date of July 1, 2016.

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 a state tax shares 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:

The impact of PCS/SB 7050 is indeterminate. Firms providing third party risk assessments to state agencies will see an increase in revenues.

C. Government Sector Impact:

The bill appropriates the following amounts for Fiscal Year 2016-2017:

- $650,000 non-recurring from the General Revenue Fund to the AST to conduct training exercises with the Florida National Guard;
- $50,000 recurring from the General Revenue Fund to the AST to conduct training exercises with the Florida National Guard; and
- $12 million from the General Revenue Fund to the AST to implement the provisions of this bill (presumably the risk assessments conducted are for the state agencies).

VI. Technical Deficiencies:

Section 6 does not specify whether the $12 million appropriation from the General Revenue Fund is from a recurring or nonrecurring appropriation.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 20.61, 282.318, 1001.03, and 1004.444 of the Florida Statutes.

IX. Additional Information:

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

Recommended CS by Appropriations Subcommittee on General Government on February 11, 2016:
The CS specifically includes mobile devices and print environments as information technology resources to be included in the comprehensive risk assessment.

B. Amendments:

None.

397316

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/01/2016	.	
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The Committee on Appropriations (Ring) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Subsection (3) of section 20.61, Florida Statutes, is amended to read:

20.61 Agency for State Technology.—The Agency for State Technology is created within the Department of Management Services. The agency is a separate budget program and is not subject to control, supervision, or direction by the Department

of Management Services, including, but not limited to, purchasing, transactions involving real or personal property, personnel, or budgetary matters.

(3) The Technology Advisory Council, consisting of seven members, is established within the Agency for State Technology and shall be maintained pursuant to s. 20.052. Four members of the council shall be appointed by the Governor, two of whom must be from the private sector and one of whom must be a cybersecurity expert. The President of the Senate and the Speaker of the House of Representatives shall each appoint one member of the council. The Attorney General, the Commissioner of Agriculture ~~and Consumer Services~~, and the Chief Financial Officer shall jointly appoint one member by agreement of a majority of these officers. Upon initial establishment of the council, two of the Governor's appointments shall be for 2-year terms. Thereafter, all appointments shall be for 4-year terms.

(a) The council shall consider and make recommendations to the executive director on such matters as enterprise information technology policies, standards, services, and architecture. The council may also identify and recommend opportunities for the establishment of public-private partnerships when considering technology infrastructure and services in order to accelerate project delivery and provide a source of new or increased project funding.

(b) The executive director shall consult with the council with regard to executing the duties and responsibilities of the agency related to statewide information technology strategic planning and policy.

(c) The council shall be governed by the Code of Ethics for

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Public Officers and Employees as set forth in part III of chapter 112, and each member must file a statement of financial interests pursuant to s. 112.3145.

Section 2. Subsections (3) and (4) of section 282.318, Florida Statutes, are amended to read:

282.318 Security of data and information technology.—

(3) The Agency for State Technology is responsible for establishing standards and processes consistent with generally accepted best practices for information technology security, to include cybersecurity, and adopting rules that safeguard an agency's data, information, and information technology resources to ensure availability, confidentiality, and integrity and to mitigate risks. The agency shall also:

(a) Develop, and annually update by February 1, a statewide information technology security strategic plan that includes security goals and objectives for the strategic issues of information technology security policy, risk management, training, incident management, and disaster recovery planning.

(b) Develop and publish for use by state agencies an information technology security framework that, at a minimum, includes guidelines and processes for:

1. Establishing asset management procedures to ensure that an agency's information technology resources are identified and managed consistent with their relative importance to the agency's business objectives.

2. Using a standard risk assessment methodology that includes the identification of an agency's priorities, constraints, risk tolerances, and assumptions necessary to support operational risk decisions.

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3. Completing comprehensive risk assessments and information technology security audits, which may be completed by a private sector vendor, and submitting completed assessments and audits to the Agency for State Technology.

4. Identifying protection procedures to manage the protection of an agency's information, data, and information technology resources.

5. Establishing procedures for accessing information and data to ensure the confidentiality, integrity, and availability of such information and data.

6. Detecting threats through proactive monitoring of events, continuous security monitoring, and defined detection processes.

7. Establishing agency computer security incident response teams and describing their responsibilities for responding to information technology security incidents, including breaches of personal information containing confidential or exempt data.

8. Recovering information and data in response to an information technology security incident. The recovery may include recommended improvements to the agency processes, policies, or guidelines.

9. Establishing an information technology security incident reporting process that includes procedures and tiered reporting timeframes for notifying the Agency for State Technology and the Department of Law Enforcement of information technology security incidents. The tiered reporting timeframes shall be based upon the level of severity of the information technology security incidents being reported.

10. Incorporating information obtained through detection

and response activities into the agency's information technology security incident response plans.

11.~~9.~~ Developing agency strategic and operational information technology security plans required pursuant to this section.

12.~~10.~~ Establishing the managerial, operational, and technical safeguards for protecting state government data and information technology resources that align with the state agency risk management strategy and that protect the confidentiality, integrity, and availability of information and data.

(c) Assist state agencies in complying with this section.

(d) In collaboration with the Cybercrime Office of the Department of Law Enforcement, annually provide training for state agency information security managers and computer security incident response team members that contains training on information technology security, including cybersecurity, threats, trends, and best practices.

(e) Annually review the strategic and operational information technology security plans of executive branch agencies.

(4) Each state agency head shall, at a minimum:

(a) Designate an information security manager to administer the information technology security program of the state agency. This designation must be provided annually in writing to the Agency for State Technology by January 1. A state agency's information security manager, for purposes of these information security duties, shall report directly to the agency head.

(b) In consultation with the Agency for State Technology

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and the Cybercrime Office of the Department of Law Enforcement, establish an agency computer security incident response team to respond to an information technology security incident. The agency computer security incident response team shall convene immediately upon notification of an information technology security incident and must comply with all applicable guidelines and processes established pursuant to paragraph (3)(b).

(c) ~~(b)~~ Submit to the Agency for State Technology annually by July 31, the state agency's strategic and operational information technology security plans developed pursuant to rules and guidelines established by the Agency for State Technology.

1. The state agency strategic information technology security plan must cover a 3-year period and, at a minimum, define security goals, intermediate objectives, and projected agency costs for the strategic issues of agency information security policy, risk management, security training, security incident response, and disaster recovery. The plan must be based on the statewide information technology security strategic plan created by the Agency for State Technology and include performance metrics that can be objectively measured to reflect the status of the state agency's progress in meeting security goals and objectives identified in the agency's strategic information security plan.

2. The state agency operational information technology security plan must include a progress report that objectively measures progress made towards the prior operational information technology security plan and a project plan that includes activities, timelines, and deliverables for security objectives

that the state agency will implement during the current fiscal year.

(d) ~~(c)~~ Conduct, and update every 3 years, a comprehensive risk assessment, which may be completed by a private sector vendor, to determine the security threats to the data, information, and information technology resources, including mobile devices and print environments, of the agency. The risk assessment must comply with the risk assessment methodology developed by the Agency for State Technology and is confidential and exempt from s. 119.07(1), except that such information shall be available to the Auditor General, the Agency for State Technology, the Cybercrime Office of the Department of Law Enforcement, and, for state agencies under the jurisdiction of the Governor, the Chief Inspector General.

(e) ~~(d)~~ Develop, and periodically update, written internal policies and procedures, which include procedures for reporting information technology security incidents and breaches to the Cybercrime Office of the Department of Law Enforcement and the Agency for State Technology. Such policies and procedures must be consistent with the rules, guidelines, and processes established by the Agency for State Technology to ensure the security of the data, information, and information technology resources of the agency. The internal policies and procedures that, if disclosed, could facilitate the unauthorized modification, disclosure, or destruction of data or information technology resources are confidential information and exempt from s. 119.07(1), except that such information shall be available to the Auditor General, the Cybercrime Office of the Department of Law Enforcement, the Agency for State Technology,


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and, for state agencies under the jurisdiction of the Governor, the Chief Inspector General.

(f) ~~(e)~~ Implement managerial, operational, and technical safeguards and risk assessment remediation plans recommended ~~established~~ by the Agency for State Technology to address identified risks to the data, information, and information technology resources of the agency.

(g) ~~(f)~~ Ensure that periodic internal audits and evaluations of the agency's information technology security program for the data, information, and information technology resources of the agency are conducted. The results of such audits and evaluations are confidential information and exempt from s. 119.07(1), except that such information shall be available to the Auditor General, the Cybercrime Office of the Department of Law Enforcement, the Agency for State Technology, and, for agencies under the jurisdiction of the Governor, the Chief Inspector General.

(h) ~~(g)~~ Include appropriate information technology security requirements in the written specifications for the solicitation of information technology and information technology resources and services, which are consistent with the rules and guidelines established by the Agency for State Technology in collaboration with the Department of Management Services.

(i) ~~(h)~~ Provide information technology security and cybersecurity awareness training to all state agency employees in the first 30 days after commencing employment concerning information technology security risks and the responsibility of employees to comply with policies, standards, guidelines, and operating procedures adopted by the state agency to reduce those

risks. The training may be provided in collaboration with the Cybercrime Office of the Department of Law Enforcement.

(j) ~~(i)~~ Develop a process for detecting, reporting, and responding to threats, breaches, or information technology security incidents that are consistent with the security rules, guidelines, and processes established by the Agency for State Technology.

1. All information technology security incidents and breaches must be reported to the Agency for State Technology and the Cybercrime Office of the Department of Law Enforcement and must comply with the notification procedures and reporting timeframes established pursuant to paragraph (3)(b).

2. For information technology security breaches, state agencies shall provide notice in accordance with s. 501.171.

Section 3. Paragraph (e) of subsection (4) of section 501.171, Florida Statutes, is amended to read:

501.171 Security of confidential personal information.—

(4) NOTICE TO INDIVIDUALS OF SECURITY BREACH.—

(e) The notice to an individual with respect to a breach of security shall include, at a minimum:

1. The date, estimated date, or estimated date range of the breach of security.

2. A description of the personal information that was accessed or reasonably believed to have been accessed as a part of the breach of security.

3. Information that the individual can use to contact the covered entity to inquire about the breach of security and the personal information that the covered entity maintained about the individual.

4. Information on how to obtain free medical identity monitoring if personal health information as described in sub-sub-subparagraph (1)(g)1.a.(IV) or sub-sub-subparagraph (1)(g)1.a.(V) was accessed or reasonably believed to have been accessed as part of the breach of security.

5. Information indicating whether the covered entity is required or otherwise chooses to offer free financial credit monitoring to affected individuals.

Section 4. This act shall take effect July 1, 2016.

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

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to information technology security; amending s. 20.61, F.S.; revising the membership of the Technology Advisory Council to include a cybersecurity expert; amending s. 282.318, F.S.; revising the duties of the Agency for State Technology; providing that risk assessments and security audits may be completed by a private vendor; providing for the establishment of computer security incident response teams within state agencies; providing for the establishment of an information technology security incident reporting process; providing for information technology security and cybersecurity awareness training; revising duties of state agency heads; establishing computer security

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incident response team responsibilities; establishing notification procedures and reporting timelines for an information technology security incident or breach; amending s. 501.171, F.S.; revising the information that must be included in a notice of a security breach; providing an effective date.

603480

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/01/2016	.	
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The Committee on Appropriations (Ring) recommended the following:

Senate Amendment to Amendment (397316) (with title amendment)

Delete lines 228 - 250.

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

And the title is amended as follows:

Delete lines 275 - 277

and insert:

providing an effective date.

591178

576-03424-16

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on General Government)

A bill to be entitled

An act relating to information technology security; amending s. 20.61, F.S.; revising the membership of the Technology Advisory Council to include a cybersecurity expert; requiring the council, in coordination with the Florida Center for Cybersecurity, to identify and recommend STEM training opportunities; amending s. 282.318, F.S.; revising duties of the Agency for State Technology; providing for administration of a third-party risk assessment; providing for the establishment of computer security incident response teams within state agencies; establishing procedures for reporting information technology security incidents; providing for continuously updated agency incident response plans; providing for information technology security and cybersecurity awareness training; providing for the establishment of a collaborative STEM program for cybersecurity workforce development; establishing computer security incident response team responsibilities; requiring each state agency head to conduct a third-party administered risk assessment; establishing notification procedures and reporting timelines for an information technology security incident or breach; amending s. 1001.03, F.S.; revising entities directed to adopt a unified state plan for K-20 STEM education to include the Technology

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576-03424-16

Advisory Council; amending s. 1004.444, F.S.; requiring the Florida Center for Cybersecurity to coordinate with the Technology Advisory Council; providing appropriations; providing an effective date.

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

Section 1. Subsection (3) of section 20.61, Florida Statutes, is amended to read:

20.61 Agency for State Technology.—The Agency for State Technology is created within the Department of Management Services. The agency is a separate budget program and is not subject to control, supervision, or direction by the Department of Management Services, including, but not limited to, purchasing, transactions involving real or personal property, personnel, or budgetary matters.

(3) The Technology Advisory Council, consisting of seven members, is established within the Agency for State Technology and shall be maintained pursuant to s. 20.052. Four members ~~of the council~~ shall be appointed by the Governor, two of whom must be from the private sector and one of whom must be a cybersecurity expert. The President of the Senate and the Speaker of the House of Representatives shall each appoint one member ~~of the council~~. The Attorney General, the Commissioner of Agriculture ~~and Consumer Services~~, and the Chief Financial Officer shall jointly appoint one member by agreement of a majority of these officers. Upon initial establishment of the council, two of the Governor's appointments shall be for 2-year terms. Thereafter, all appointments shall be for 4-year terms.

(a) The council shall consider and make recommendations to the executive director on such matters as enterprise information technology policies, standards, services, and architecture. The council may also identify and recommend opportunities for the establishment of public-private partnerships when considering technology infrastructure and services in order to accelerate project delivery and provide a source of new or increased project funding.

(b) The executive director shall consult with the council with regard to executing the duties and responsibilities of the agency related to statewide information technology strategic planning and policy.

(c) The council shall coordinate with the Florida Center for Cybersecurity to identify and recommend opportunities for establishing cutting-edge educational and training programs in science, technology, engineering, and mathematics (STEM) for students, consistent with the unified state plan adopted pursuant to s. 1001.03(17); increasing the cybersecurity workforce in the state; and preparing cybersecurity professionals to possess a wide range of expertise.

(d) ~~(c)~~ The council shall be governed by the Code of Ethics for Public Officers and Employees as set forth in part III of chapter 112, and each member must file a statement of financial interests pursuant to s. 112.3145.

Section 2. Section 282.318, Florida Statutes, is amended to read:

282.318 Security of data and information technology.—

(1) This section may be cited as the "Information Technology Security Act."

(2) As used in this section, the term "state agency" has the same meaning as provided in s. 282.0041, except that the term includes the Department of Legal Affairs, the Department of Agriculture and Consumer Services, and the Department of Financial Services.

(3) The Agency for State Technology is responsible for establishing standards and processes consistent with generally accepted best practices for information technology security and cybersecurity and adopting rules that safeguard an agency's data, information, and information technology resources to ensure availability, confidentiality, and integrity and to mitigate risks. The agency shall also:

(a) Develop, and annually update by February 1, a statewide information technology security strategic plan that includes security goals and objectives for the strategic issues of information technology security policy, risk management, training, incident management, and disaster recovery planning.

(b) Develop and publish for use by state agencies an information technology security framework that, at a minimum, includes guidelines and processes for:

1. Establishing asset management procedures to ensure that an agency's information technology resources are identified and managed consistent with their relative importance to the agency's business objectives.

2. Using a standard risk assessment methodology that includes the identification of an agency's priorities, constraints, risk tolerances, and assumptions necessary to support operational risk decisions.

3. Completing comprehensive risk assessments and

information technology security audits and submitting completed assessments and audits to the Agency for State Technology.

4. Completing risk assessments administered by a third party and submitting completed assessments to the Agency for State Technology.

5.~~4.~~ Identifying protection procedures to manage the protection of an agency's information, data, and information technology resources.

6.~~5.~~ Establishing procedures for accessing information and data to ensure the confidentiality, integrity, and availability of such information and data.

7.~~6.~~ Detecting threats through proactive monitoring of events, continuous security monitoring, and defined detection processes.

8.~~7.~~ Establishing a computer security incident response team to respond to suspected ~~Responding to~~ information technology security incidents, including breaches of personal information containing confidential or exempt data. An agency's computer security incident response team must convene as soon as practicable upon notice of a suspected security incident and shall determine the appropriate response.

9.~~8.~~ Recovering information and data in response to an information technology security incident. The recovery may include recommended improvements to the agency processes, policies, or guidelines.

10. Establishing an information technology security incident reporting process, which must include a procedure for notification of the Agency for State Technology and the Cybercrime Office of the Department of Law Enforcement. The

notification procedure must provide for tiered reporting timeframes, with incidents of critical impact reported immediately upon discovery, incidents of high impact reported within 4 hours of discovery, and incidents of low impact reported within 5 business days of discovery.

11. Incorporating lessons learned through detection and response activities into agency incident response plans to continuously improve organizational response activities.

12.~~9.~~ Developing agency strategic and operational information technology security plans required pursuant to this section.

13.~~10.~~ Establishing the managerial, operational, and technical safeguards for protecting state government data and information technology resources that align with the state agency risk management strategy and that protect the confidentiality, integrity, and availability of information and data.

14. Providing all agency employees with information technology security and cybersecurity awareness education and training within 30 days after commencing employment.

(c) Assist state agencies in complying with this section.

(d) In collaboration with the Cybercrime Office of the Department of Law Enforcement, provide training that must include training on cybersecurity threats, trends, and best practices for state agency information security managers and computer security incident response team members at least annually.

(e) Annually review the strategic and operational information technology security plans of executive branch

agencies.

(f) Develop and establish a cutting-edge internship or work-study program in science, technology, engineering, and mathematics (STEM), which will produce a more skilled cybersecurity workforce in the state. The program must be a collaborative effort involving negotiations between the Agency for State Technology, relevant Agency for State Technology partners, and the Florida Center for Cybersecurity.

(4) Each state agency head shall, at a minimum:

(a) Designate an information security manager to administer the information technology security program of the state agency. This designation must be provided annually in writing to the Agency for State Technology by January 1. A state agency's information security manager, for purposes of these information security duties, shall report directly to the agency head.

1. The information security manager shall establish a computer security incident response team to respond to a suspected computer security incident.

2. Computer security incident response team members shall convene as soon as practicable upon notice of a suspected security incident.

3. Computer security incident response team members shall determine the appropriate response for a suspected computer security incident. An appropriate response includes taking action to prevent expansion or recurrence of an incident, mitigating the effects of an incident, and eradicating an incident. Newly identified risks must be mitigated or documented as an accepted risk by computer security incident response team members.

(b) Submit to the Agency for State Technology annually by July 31, the state agency's strategic and operational information technology security plans developed pursuant to rules and guidelines established by the Agency for State Technology.

1. The state agency strategic information technology security plan must cover a 3-year period and, at a minimum, define security goals, intermediate objectives, and projected agency costs for the strategic issues of agency information security policy, risk management, security training, security incident response, and disaster recovery. The plan must be based on the statewide information technology security strategic plan created by the Agency for State Technology and include performance metrics that can be objectively measured to reflect the status of the state agency's progress in meeting security goals and objectives identified in the agency's strategic information security plan.

2. The state agency operational information technology security plan must include a progress report that objectively measures progress made towards the prior operational information technology security plan and a project plan that includes activities, timelines, and deliverables for security objectives that the state agency will implement during the current fiscal year.

(c) Conduct, and update every 3 years, a comprehensive risk assessment to determine the security threats to the data, information, and information technology resources, including mobile devices and print environments, of the agency. The risk assessment must comply with the risk assessment methodology

developed by the Agency for State Technology and is confidential and exempt from s. 119.07(1), except that such information shall be available to the Auditor General, the Agency for State Technology, the Cybercrime Office of the Department of Law Enforcement, and, for state agencies under the jurisdiction of the Governor, the Chief Inspector General.

(d) Subject to annual legislative appropriation, conduct a risk assessment that must be administered by a third party consistent with the guidelines and processes prescribed by the Agency for State Technology. An initial risk assessment must be completed by July 31, 2017. Additional risk assessments shall be completed periodically consistent with the guidelines and processes prescribed by the Agency for State Technology.

(e) ~~(d)~~ Develop, and periodically update, written internal policies and procedures, which include procedures for reporting information technology security incidents and breaches to the Cybercrime Office of the Department of Law Enforcement and the Agency for State Technology. Procedures for reporting information technology security incidents and breaches must include notification procedures and reporting timeframes. Such policies and procedures must be consistent with the rules, guidelines, and processes established by the Agency for State Technology to ensure the security of the data, information, and information technology resources of the agency. The internal policies and procedures that, if disclosed, could facilitate the unauthorized modification, disclosure, or destruction of data or information technology resources are confidential information and exempt from s. 119.07(1), except that such information shall be available to the Auditor General, the Cybercrime Office of

the Department of Law Enforcement, the Agency for State Technology, and, for state agencies under the jurisdiction of the Governor, the Chief Inspector General.

(f) ~~(e)~~ Implement managerial, operational, and technical safeguards established by the Agency for State Technology to address identified risks to the data, information, and information technology resources of the agency.

(g) ~~(f)~~ Ensure that periodic internal audits and evaluations of the agency's information technology security program for the data, information, and information technology resources of the agency are conducted. The results of such audits and evaluations are confidential information and exempt from s. 119.07(1), except that such information shall be available to the Auditor General, the Cybercrime Office of the Department of Law Enforcement, the Agency for State Technology, and, for agencies under the jurisdiction of the Governor, the Chief Inspector General.

(h) ~~(g)~~ Include appropriate information technology security requirements in the written specifications for the solicitation of information technology and information technology resources and services, which are consistent with the rules and guidelines established by the Agency for State Technology in collaboration with the Department of Management Services.

(i) ~~(h)~~ Provide information technology security and cybersecurity awareness training to all state agency employees in the first 30 days after commencing employment concerning information technology security risks and the responsibility of employees to comply with policies, standards, guidelines, and operating procedures adopted by the state agency to attain an

appropriate level of cyber literacy and reduce those risks. The training may be provided in collaboration with the Cybercrime Office of the Department of Law Enforcement. Agencies shall ensure that privileged users, third-party stakeholders, senior executives, and physical and information security personnel understand their roles and responsibilities.

(j) In collaboration with the Cybercrime Office of the Department of Law Enforcement, provide training on cybersecurity threats, trends, and best practices to computer security incident response team members at least annually.

(k) ~~(i)~~ Develop a process for detecting, reporting, and responding to threats, breaches, or information technology security incidents that are consistent with the security rules, guidelines, and processes established by the Agency for State Technology.

1. All information technology security incidents and breaches must be reported to the Agency for State Technology. Procedures for reporting information technology security incidents and breaches must include notification procedures.

2. For information technology security breaches, state agencies shall provide notice in accordance with s. 501.171.

(l) Improve organizational response activities by incorporating lessons learned from current and previous detection and response activities into response plans.

(5) The Agency for State Technology shall adopt rules relating to information technology security and to administer this section.

Section 3. Subsection (17) of section 1001.03, Florida Statutes, is amended to read:

1001.03 Specific powers of State Board of Education.—

(17) UNIFIED STATE PLAN FOR SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS (STEM).—The State Board of Education, in consultation with the Board of Governors, the Technology Advisory Council, and the Department of Economic Opportunity, shall adopt a unified state plan to improve K-20 STEM education and prepare students for high-skill, high-wage, and high-demand employment in STEM and STEM-related fields.

Section 4. Section 1004.444, Florida Statutes, is amended to read:

1004.444 Florida Center for Cybersecurity.—

(1) The Florida Center for Cybersecurity is established within the University of South Florida.

(2) The goals of the center are to:

(a) Position Florida as the national leader in cybersecurity and its related workforce through education, research, and community engagement. The center shall coordinate with the Technology Advisory Council in pursuit of this goal.

(b) Assist in the creation of jobs in the state's cybersecurity industry and enhance the existing cybersecurity workforce. The center shall coordinate with the Technology Advisory Council in pursuit of this goal.

(c) Act as a cooperative facilitator for state business and higher education communities to share cybersecurity knowledge, resources, and training. The center shall coordinate with the Technology Advisory Council in pursuit of this goal.

(d) Seek out partnerships with major military installations to assist, when possible, in homeland cybersecurity defense initiatives.

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(e) Attract cybersecurity companies to the state with an emphasis on defense, finance, health care, transportation, and utility sectors.

Section 5. For the 2016-2017 fiscal year, the sums of $650,000 in nonrecurring funds and $50,000 in recurring funds are appropriated from the General Revenue Fund to the Agency for State Technology to conduct training exercises in coordination with the Florida National Guard.

Section 6. For the 2016-2017 fiscal year, the sum of $12 million is appropriated from the General Revenue Fund to the Agency for State Technology for the purpose of implementing this act.

Section 7. This act shall take effect July 1, 2016.

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 7050
INTRODUCER:	Appropriations Committee (Recommended by Appropriations Subcommittee on General Government) and Governmental Oversight and Accountability Committee
SUBJECT:	Information Technology Security
DATE:	March 3, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Peacock	McVaney		**GO Submitted as Committee Bill**
1.	Wilson	DeLoach	AGG	**Recommend: Fav/CS**
2.	Wilson	Kynoch	AP	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 7050 revises the duties of the Agency for State Technology (AST) and requires the AST to develop guidelines and policies for state agencies regarding information technology and cybersecurity. Specifically the bill:

- Directs the AST to establish security standards and processes, including cybersecurity, to mitigate the risks;
- Provides the option for agencies to contract with a private sector vendor to complete risk assessments;
- Defines information technology resources to include mobile devices and print environments;
- Directs agencies to establish computer security incident response teams and processes to respond immediately to suspected technology security incidents, and the process must be tiered based on the severity of the suspected incident;
- Directs information learned from incident response activities to be incorporated into future plans;
- Directs agencies to provide incident and breach information to the AST and the Cybercrime Office within Florida Department of Law Enforcement; and
- Directs agencies to provide cyber security training to employees within 30 days of employment.

The bill revises the seven member AST Technology Advisory Council to require at least one member appointed by the Governor to be a cybersecurity expert.

The bill has no fiscal impact to state funds.

The bill is effective July 1, 2016.

II. Present Situation:

Agency for State Technology

The AST was created on July 1, 2014.[1] The executive director of the AST is appointed by the Governor and confirmed by the Senate. The duties and responsibilities include:[2]

- Developing and publishing information technology (IT) policy for management of the state's IT resources.
- Establishing and publishing IT architecture standards.
- Establishing project management and oversight standards with which state agencies must comply when implementing IT projects.
- Performing project oversight on all state IT projects with total costs of $10 million or more.
- Identifying opportunities for standardization and consolidation of IT services that support common business functions and operations.
- Establishing best practices for procurement of IT products in collaboration with DMS.
- Participating with the DMS in evaluating, conducting and negotiating competitive solicitations for state term contracts for IT commodities, consultant services, or staff augmentation contractual services.
- Collaborating with the DMS in IT resource acquisition planning.
- Developing standards for IT reports and updates.
- Upon request, assisting state agencies in development of IT related legislative budget requests.
- Conducting annual assessments of state agencies to determine compliance with IT standards and guidelines developed by the AST.
- Providing operational management and oversight of the state data center.
- Recommending other IT services that should be designed, delivered, and managed as enterprise IT services.
- Recommending additional consolidations of agency data centers or computing facilities into the state data center.
- In consultation with state agencies, proposing a methodology for identifying and collecting current and planned IT expenditure data at the state agency level.
- Performing project oversight on any cabinet agency IT project that has a total project cost of $25 million or more and impacts one or more other agencies.
- Consulting with departments regarding risks and other effects for IT projects implemented by an agency that must be connected to or accommodated by an IT system administered by a cabinet agency.

[1] Chapter 2014-221, Laws of Florida.
[2] Section 282.0051, F.S.

- Reporting annually to the Governor, the President of the Senate, and the Speaker of the House of Representatives regarding state IT standards or policies that conflict with federal regulations or requirements.

Technology Advisory Council

The Technology Advisory Council,[3] consisting of seven members, is established within the AST: four members of the council are appointed by the Governor, two of which must be from the private sector. The President of the Senate and the Speaker of the House of Representatives each appoint one member of the council. The Attorney General, the Commissioner of Agriculture and Consumer Services, and the Chief Financial Officer jointly appoint one member by agreement of a majority of these officers.

The Technology Advisory Council considers and makes recommendations to the Executive Director on such matters as enterprise information technology policies, standards, services, and architecture.[4] The council may also identify and recommend opportunities for the establishment of public-private partnerships when considering technology infrastructure and services in order to accelerate project delivery and provide a source of new or increased project funding.[5]
The Executive Director consults with the council with regard to executing the duties and responsibilities of the agency related to statewide information technology strategic planning and policy.[6]

Cybercrime Office, Florida Department of Law Enforcement

The Cybercrime Office within the Florida Department of Law Enforcement (FDLE) was established in 2011 with the functions and personnel of the Department of Legal Affairs Cybercrime Office transferred to FDLE.[7] A cybercrime office has existed within FDLE since 1998.[8]

Some of the Cybercrime Office duties include:
- Monitoring state information technology resources and providing analysis on information technology security incidents, threats, and breaches;
- Investigating violations of state law pertaining to information technology security incidents and assisting in incident response and recovery;
- Providing security awareness training and information to state agency employees concerning cybersecurity, online sexual exploitation of children, and security risks, and the responsibility of employees to comply with policies, standards, guidelines, and operating procedures adopted by the AST; and

[3] Section 20.61(3), F.S.
[4] Section 20.61(3)(a), F.S.
[5] *Id*.
[6] Section 20.61(3)(b), F.S.
[7] Chapter 2011-132, Laws of Florida.
[8] Analysis for HB 5401 by the House Appropriations Committee (July 6, 2011)(copy on file with the Governmental Oversight and Accountability Committee). .

- Consulting with the AST in the adoption of rules relating to the information technology security provisions.[9]

III. Effect of Proposed Changes:

Section 1 amends s. 20.61, F.S., to revise the membership of the Technology Advisory Council and requires that at least one of the four members appointed by the Governor be a cybersecurity expert.

Section 2 amends s. 282.318, F.S., to require the AST to establish standards and processes consistent with best practices for both information technology security and cybersecurity and to adopt rules that mitigate risks.

Specifically, this section requires the AST to:

- Develop and publish guidelines and processes relating to information technology security to be provided to state agencies for the completion of risk assessments that may be completed by a private sector vendor;
- Describe the responsibilities of the agency computer security incident response teams;
- Establish information technology security incident reporting processes including the procedure for notification to the AST and Cybercrime Office of the Florida Department of Law Enforcement (FDLE). The process must provide for a tiered reporting framework based on the level of severity of the incident;
- Incorporate information learned through detection and response activities into agency response plans; and
- Provide annual training to the state agencies' information security managers and incident response team members collaborating with the Cybercrime Office of the FDLE.

This section also requires state agency heads to:

- Establish a computer security incident response team, consulting with the AST and the Cybercrime Office of the FDLE, to respond to suspected information technology security incidents and the timeframe for convening a team to determine an appropriate response to comply with information technology guidelines established by AST;
- Provide the state agencies' comprehensive risk assessment may be completed by a private sector vendor;
- Specify mobile devices and print environments as information technology resources that will be included in the comprehensive risk assessment;
- Implement risk assessment remediation plans recommended by AST;
- Provide all state agency employees with information technology security and cybersecurity awareness education and training within 30 days after commencing employment;
- Direct all state agencies' information technology incidents and breaches be notified and reported to the AST and the Cybercrime Office of the FDLE; and
- Comply with information technology guidelines established by AST.

Section 3 provides an effective date of July 1, 2016.

[9] Section 943.0415, F.S.

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 Agency for State Technology can handle the additional duties within existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.61 and 282.318.

IX. Additional Information:

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

CS by Appropriations on March 1, 2016:
The committee substitute:

- Removes the appropriation in the bill.

- Removes all provisions for Agency for State Technology (AST) to coordinate with the Florida Center for Cyber Security.
- Removes the requirement for state agencies' risk assessments be conducted by a private sector vendor subject to appropriations.
- Removes requirement for AST Technology Council to coordinate with Board of Governors on revision to STEM Unified plan.
- Removes provision for AST to establish a STEM internship program.
- Removes requirement for privileged users, senior executives, third party stakeholders and security personnel to be educated on their roles to attain an appropriate level of cyber security literacy.

B. Amendments:

None.

By the Committee on Governmental Oversight and Accountability

585-02231-16 20167050__

A bill to be entitled

An act relating to information technology security; amending s. 20.61, F.S.; revising the membership of the Technology Advisory Council to include a cybersecurity expert; requiring the council, in coordination with the Florida Center for Cybersecurity, to identify and recommend STEM training opportunities; amending s. 282.318, F.S.; revising duties of the Agency for State Technology; providing for administration of a third-party risk assessment; providing for the establishment of computer security incident response teams within state agencies; establishing procedures for reporting information technology security incidents; providing for continuously updated agency incident response plans; providing for information technology security and cybersecurity awareness training; providing for the establishment of a collaborative STEM program for cybersecurity workforce development; establishing computer security incident response team responsibilities; requiring each state agency head to conduct a third-party administered risk assessment; establishing notification procedures and reporting timelines for an information technology security incident or breach; amending s. 1001.03, F.S.; revising entities directed to adopt a unified state plan for K-20 STEM education to include the Technology Advisory Council; amending s. 1004.444, F.S.; requiring the Florida Center for Cybersecurity to coordinate with the Technology Advisory Council; providing appropriations; providing an effective date.

585-02231-16 20167050__

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

Section 1. Subsection (3) of section 20.61, Florida Statutes, is amended to read:

20.61 Agency for State Technology.—The Agency for State Technology is created within the Department of Management Services. The agency is a separate budget program and is not subject to control, supervision, or direction by the Department of Management Services, including, but not limited to, purchasing, transactions involving real or personal property, personnel, or budgetary matters.

(3) The Technology Advisory Council, consisting of seven members, is established within the Agency for State Technology and shall be maintained pursuant to s. 20.052. Four members ~~of the council~~ shall be appointed by the Governor, two of whom must be from the private sector and one of whom must be a cybersecurity expert. The President of the Senate and the Speaker of the House of Representatives shall each appoint one member ~~of the council~~. The Attorney General, the Commissioner of Agriculture ~~and Consumer Services~~, and the Chief Financial Officer shall jointly appoint one member by agreement of a majority of these officers. Upon initial establishment of the council, two of the Governor's appointments shall be for 2-year terms. Thereafter, all appointments shall be for 4-year terms.

(a) The council shall consider and make recommendations to the executive director on such matters as enterprise information technology policies, standards, services, and architecture. The council may also identify and recommend opportunities for the establishment of public-private partnerships when considering

technology infrastructure and services in order to accelerate project delivery and provide a source of new or increased project funding.

(b) The executive director shall consult with the council with regard to executing the duties and responsibilities of the agency related to statewide information technology strategic planning and policy.

(c) The council shall coordinate with the Florida Center for Cybersecurity to identify and recommend opportunities for establishing cutting-edge educational and training programs in science, technology, engineering, and mathematics (STEM) for students, consistent with the unified state plan adopted pursuant to s. 1001.03(17); increasing the cybersecurity workforce in the state; and preparing cybersecurity professionals to possess a wide range of expertise.

(d) ~~(c)~~ The council shall be governed by the Code of Ethics for Public Officers and Employees as set forth in part III of chapter 112, and each member must file a statement of financial interests pursuant to s. 112.3145.

Section 2. Section 282.318, Florida Statutes, is amended to read:

282.318 Security of data and information technology.—

(1) This section may be cited as the "Information Technology Security Act."

(2) As used in this section, the term "state agency" has the same meaning as provided in s. 282.0041, except that the term includes the Department of Legal Affairs, the Department of Agriculture and Consumer Services, and the Department of Financial Services.

(3) The Agency for State Technology is responsible for establishing standards and processes consistent with generally accepted best practices for information technology security and cybersecurity and adopting rules that safeguard an agency's data, information, and information technology resources to ensure availability, confidentiality, and integrity and to mitigate risks. The agency shall also:

(a) Develop, and annually update by February 1, a statewide information technology security strategic plan that includes security goals and objectives for the strategic issues of information technology security policy, risk management, training, incident management, and disaster recovery planning.

(b) Develop and publish for use by state agencies an information technology security framework that, at a minimum, includes guidelines and processes for:

1. Establishing asset management procedures to ensure that an agency's information technology resources are identified and managed consistent with their relative importance to the agency's business objectives.

2. Using a standard risk assessment methodology that includes the identification of an agency's priorities, constraints, risk tolerances, and assumptions necessary to support operational risk decisions.

3. Completing comprehensive risk assessments and information technology security audits and submitting completed assessments and audits to the Agency for State Technology.

4. Completing risk assessments administered by a third party and submitting completed assessments to the Agency for State Technology.

5.~~4.~~ Identifying protection procedures to manage the protection of an agency's information, data, and information technology resources.

6.~~5.~~ Establishing procedures for accessing information and data to ensure the confidentiality, integrity, and availability of such information and data.

7.~~6.~~ Detecting threats through proactive monitoring of events, continuous security monitoring, and defined detection processes.

8.~~7.~~ Establishing a computer security incident response team to respond to suspected ~~Responding to~~ information technology security incidents, including breaches of personal information containing confidential or exempt data. An agency's computer security incident response team must convene as soon as practicable upon notice of a suspected security incident and shall determine the appropriate response.

9.~~8.~~ Recovering information and data in response to an information technology security incident. The recovery may include recommended improvements to the agency processes, policies, or guidelines.

10. Establishing an information technology security incident reporting process, which must include a procedure for notification of the Agency for State Technology and the Cybercrime Office of the Department of Law Enforcement. The notification procedure must provide for tiered reporting timeframes, with incidents of critical impact reported immediately upon discovery, incidents of high impact reported within 4 hours of discovery, and incidents of low impact reported within 5 business days of discovery.

11. Incorporating lessons learned through detection and response activities into agency incident response plans to continuously improve organizational response activities.

12.~~9.~~ Developing agency strategic and operational information technology security plans required pursuant to this section.

13.~~10.~~ Establishing the managerial, operational, and technical safeguards for protecting state government data and information technology resources that align with the state agency risk management strategy and that protect the confidentiality, integrity, and availability of information and data.

14. Providing all agency employees with information technology security and cybersecurity awareness education and training within 30 days after commencing employment.

(c) Assist state agencies in complying with this section.

(d) In collaboration with the Cybercrime Office of the Department of Law Enforcement, provide training that must include training on cybersecurity threats, trends, and best practices for state agency information security managers and computer security incident response team members at least annually.

(e) Annually review the strategic and operational information technology security plans of executive branch agencies.

(f) Develop and establish a cutting-edge internship or work-study program in science, technology, engineering, and mathematics (STEM), which will produce a more skilled cybersecurity workforce in the state. The program must be a

collaborative effort involving negotiations between the Agency for State Technology, relevant Agency for State Technology partners, and the Florida Center for Cybersecurity.

(4) Each state agency head shall, at a minimum:

(a) Designate an information security manager to administer the information technology security program of the state agency. This designation must be provided annually in writing to the Agency for State Technology by January 1. A state agency's information security manager, for purposes of these information security duties, shall report directly to the agency head.

1. The information security manager shall establish a computer security incident response team to respond to a suspected computer security incident.

2. Computer security incident response team members shall convene as soon as practicable upon notice of a suspected security incident.

3. Computer security incident response team members shall determine the appropriate response for a suspected computer security incident. An appropriate response includes taking action to prevent expansion or recurrence of an incident, mitigating the effects of an incident, and eradicating an incident. Newly identified risks must be mitigated or documented as an accepted risk by computer security incident response team members.

(b) Submit to the Agency for State Technology annually by July 31, the state agency's strategic and operational information technology security plans developed pursuant to rules and guidelines established by the Agency for State Technology.

1. The state agency strategic information technology security plan must cover a 3-year period and, at a minimum, define security goals, intermediate objectives, and projected agency costs for the strategic issues of agency information security policy, risk management, security training, security incident response, and disaster recovery. The plan must be based on the statewide information technology security strategic plan created by the Agency for State Technology and include performance metrics that can be objectively measured to reflect the status of the state agency's progress in meeting security goals and objectives identified in the agency's strategic information security plan.

2. The state agency operational information technology security plan must include a progress report that objectively measures progress made towards the prior operational information technology security plan and a project plan that includes activities, timelines, and deliverables for security objectives that the state agency will implement during the current fiscal year.

(c) Conduct, and update every 3 years, a comprehensive risk assessment to determine the security threats to the data, information, and information technology resources of the agency. The risk assessment must comply with the risk assessment methodology developed by the Agency for State Technology and is confidential and exempt from s. 119.07(1), except that such information shall be available to the Auditor General, the Agency for State Technology, the Cybercrime Office of the Department of Law Enforcement, and, for state agencies under the jurisdiction of the Governor, the Chief Inspector General.

(d) Subject to annual legislative appropriation, conduct a risk assessment that must be administered by a third party consistent with the guidelines and processes prescribed by the Agency for State Technology. An initial risk assessment must be completed by July 31, 2017. Additional risk assessments shall be completed periodically consistent with the guidelines and processes prescribed by the Agency for State Technology.

(e) ~~(d)~~ Develop, and periodically update, written internal policies and procedures, which include procedures for reporting information technology security incidents and breaches to the Cybercrime Office of the Department of Law Enforcement and the Agency for State Technology. Procedures for reporting information technology security incidents and breaches must include notification procedures and reporting timeframes. Such policies and procedures must be consistent with the rules, guidelines, and processes established by the Agency for State Technology to ensure the security of the data, information, and information technology resources of the agency. The internal policies and procedures that, if disclosed, could facilitate the unauthorized modification, disclosure, or destruction of data or information technology resources are confidential information and exempt from s. 119.07(1), except that such information shall be available to the Auditor General, the Cybercrime Office of the Department of Law Enforcement, the Agency for State Technology, and, for state agencies under the jurisdiction of the Governor, the Chief Inspector General.

(f) ~~(e)~~ Implement managerial, operational, and technical safeguards established by the Agency for State Technology to address identified risks to the data, information, and

information technology resources of the agency.

(g) ~~(f)~~ Ensure that periodic internal audits and evaluations of the agency's information technology security program for the data, information, and information technology resources of the agency are conducted. The results of such audits and evaluations are confidential information and exempt from s. 119.07(1), except that such information shall be available to the Auditor General, the Cybercrime Office of the Department of Law Enforcement, the Agency for State Technology, and, for agencies under the jurisdiction of the Governor, the Chief Inspector General.

(h) ~~(g)~~ Include appropriate information technology security requirements in the written specifications for the solicitation of information technology and information technology resources and services, which are consistent with the rules and guidelines established by the Agency for State Technology in collaboration with the Department of Management Services.

(i) ~~(h)~~ Provide information technology security and cybersecurity awareness training to all state agency employees in the first 30 days after commencing employment concerning information technology security risks and the responsibility of employees to comply with policies, standards, guidelines, and operating procedures adopted by the state agency to attain an appropriate level of cyber literacy and reduce those risks. The training may be provided in collaboration with the Cybercrime Office of the Department of Law Enforcement. Agencies shall ensure that privileged users, third-party stakeholders, senior executives, and physical and information security personnel understand their roles and responsibilities.

(j) In collaboration with the Cybercrime Office of the Department of Law Enforcement, provide training on cybersecurity threats, trends, and best practices to computer security incident response team members at least annually.

(k)~~(i)~~ Develop a process for detecting, reporting, and responding to threats, breaches, or information technology security incidents that are consistent with the security rules, guidelines, and processes established by the Agency for State Technology.

1. All information technology security incidents and breaches must be reported to the Agency for State Technology. Procedures for reporting information technology security incidents and breaches must include notification procedures.

2. For information technology security breaches, state agencies shall provide notice in accordance with s. 501.171.

(l) Improve organizational response activities by incorporating lessons learned from current and previous detection and response activities into response plans.

(5) The Agency for State Technology shall adopt rules relating to information technology security and to administer this section.

Section 3. Subsection (17) of section 1001.03, Florida Statutes, is amended to read:

1001.03 Specific powers of State Board of Education.—

(17) UNIFIED STATE PLAN FOR SCIENCE, TECHNOLOGY, ENGINEERING, AND MATHEMATICS (STEM).—The State Board of Education, in consultation with the Board of Governors, the Technology Advisory Council, and the Department of Economic Opportunity, shall adopt a unified state plan to improve K-20

STEM education and prepare students for high-skill, high-wage, and high-demand employment in STEM and STEM-related fields.

Section 4. Section 1004.444, Florida Statutes, is amended to read:

1004.444 Florida Center for Cybersecurity.—

(1) The Florida Center for Cybersecurity is established within the University of South Florida.

(2) The goals of the center are to:

(a) Position Florida as the national leader in cybersecurity and its related workforce through education, research, and community engagement. The center shall coordinate with the Technology Advisory Council in pursuit of this goal.

(b) Assist in the creation of jobs in the state's cybersecurity industry and enhance the existing cybersecurity workforce. The center shall coordinate with the Technology Advisory Council in pursuit of this goal.

(c) Act as a cooperative facilitator for state business and higher education communities to share cybersecurity knowledge, resources, and training. The center shall coordinate with the Technology Advisory Council in pursuit of this goal.

(d) Seek out partnerships with major military installations to assist, when possible, in homeland cybersecurity defense initiatives.

(e) Attract cybersecurity companies to the state with an emphasis on defense, finance, health care, transportation, and utility sectors.

Section 5. For the 2016-2017 fiscal year, the sums of $650,000 in nonrecurring funds and $50,000 in recurring funds are appropriated from the General Revenue Fund to the Agency for

State Technology to conduct training exercises in coordination with the Florida National Guard.

Section 6. For the 2016-2017 fiscal year, the sum of $12 million is appropriated from the General Revenue Fund to the Agency for State Technology for the purpose of implementing this act.

Section 7. This act shall take effect July 1, 2016.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Governmental Oversight and Accountability, *Chair*
Judiciary, *Vice Chair*
Appropriations
Appropriations Subcommittee on Education
Children, Families, and Elder Affairs
Commerce and Tourism

SENATOR JEREMY RING
29th District

February 11, 2016

Senator Tom Lee, Chair
Committee on Appropriations
201 The Capitol
404 South Monroe Street
Tallahassee, FL 32399

Dear Chairman Lee,

I am writing to respectfully request your cooperation in placing Senate Bill 7050, relating to Information Technology Security, on the Committee on Appropriations agenda at your earliest convenience. I would greatly appreciate the opportunity to discuss the bill at greater length before your committee.

Thank you in advance for your assistance. As always, please do not hesitate to contact me with any questions or comments you may have.

Very Truly Yours,

Jeremy Ring

Jeremy Ring
Senator District 29

cc: Cindy Kynoch, Staff Director
Alicia Weiss, Committee Administrative Assistant

REPLY TO:
❒ 5790 Margate Boulevard, Margate, Florida 33063 (954) 917-1392 FAX: (954) 917-1394
❒ 405 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5029

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

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

3 / 1 /2016
Meeting Date

Topic _____ Bill Number 70.50 *(if applicable)*

Name BRIAN PITTS Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

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

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

Speaking: ☑ For ☐ Against ☑ Information

Representing JUSTICE-2-JESUS

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

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

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

S-001 (10/20/11)

Duplicate

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/16
Meeting Date

SB 7050
Bill Number (if applicable)

Topic Information Technology

Amendment Barcode (if applicable)

Name Chuck Cliburn

Job Title

Address 516 N. Adams St
Street

Phone 224-7173

Tallahassee FL 32301
City *State* *Zip*

Email chuck@newcapitollc.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Associated Industries of Florida

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-1-16
Meeting Date

7050
Bill Number (if applicable)

Topic Information Technology Services

Amendment Barcode (if applicable)

Name JAMES TAYLOR

Job Title Executive Director

Address 115 Park Ave.
Street

Phone 407 718-2780

Tally FL
City *State* *Zip*

Email

Speaking: ☑ For ☐ Against ☐ Information

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

Representing FLORIDA TECHNOLOGY COUNCIL

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL:	SB 7072
INTRODUCER:	Regulated Industries Committee
SUBJECT:	Gaming
DATE:	February 29, 2016
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Kraemer/Oxamendi	Caldwell		**RI Submitted as Committee Bill**
1.	Fournier/Davis	Kynoch	AP	**Pre-meeting**

I. Summary:

SB 7072 revises gaming laws, including ch. 24, F.S., on State Lotteries, ch. 550, F.S., on Pari-mutuel Wagering, ch. 551, F.S., on Slot Machines, and s. 849.086, F.S., on authorized cardrooms.

The bill revises ch. 24, F.S., regarding State Lotteries to allow limited use of "point-of-sale terminals" for the sale of lottery tickets or games. The bill authorizes the Department of the Lottery (department), approved vendors, and approved retailers to use point-of-sale terminals to facilitate sales of lottery tickets or games, provided that the purchaser is verified to be at least 18 years of age. A point-of-sale terminal may not reveal winning numbers, dispense lottery winnings, or be used to redeem a winning ticket. The department is required to adopt rules that limit the dollar amount of lottery tickets purchased, create a process to enable a customer to restrict or prevent his or her own access to lottery tickets or games, and ensure that the program does not breach the exclusivity provisions of any Indian gaming compact to which the state is a party. (*See* Lines 248-518.)

The bill revises ch. 550, F.S., regarding Pari-mutuel Wagering, to allow a greyhound racing permitholder, jai alai permitholder, harness racing permitholder, and quarter horse racing permitholder to determine, on an annual basis, whether it will offer live racing or games at its pari-mutuel facility, but continue to operate its cardroom or slot machine facility. Ending the requirement for the offering of live racing or games, but continuing to offer slot machines or cardrooms is known as "decoupling."

The bill prohibits the issuance of new pari-mutuel permits after July 1, 2016, and relocation of permits is no longer allowed. All inactive (dormant) pari-mutuel permits are revoked. The Division of Pari-Mutuel Wagering (division) in the Department of Business and Professional Regulation (DBPR) must also revoke any permit to conduct pari-mutuel wagering if a permitholder has not conducted live events within the 24 months preceding the effective date of the bill, excluding certain limited thoroughbred racing permits. A permit that is revoked for failure to conduct live events within the 24 months preceding the effective date of the bill may not be reissued. (*See* Lines 519-827.)

The bill reduces the tax rate on slot machine revenue to 25 percent from 35 percent. (*See* Lines 2291-2292.) The bill reduces the tax payable on handle by greyhound racing permitholders from 5.5 percent to 1.28 percent. The bill deletes tax exemptions available to greyhound racing permitholders of $360,000 or $500,000, and deletes the authorization that allows transfers of tax exemptions or other credits among greyhound permitholders with the approval of the division. The bill deletes the breaks tax payable by greyhound racing permitholders. (*See* Lines 918-1107.)

The number of hours that a slot machine gaming area may be open on weekdays is extended, from 18 hours to 24 hours, which matches the operating hours on weekends. Complimentary alcoholic beverages may be served to slot machine players. The bill provides that a slot machine licensee may allow automatic teller machines (ATMs) or similar devices designed to provide credit or dispense cash, to be located in the gaming area of a slot machine facility. (*See* Lines 2336-2356.)

The bill provides that a designated player game is not a banking game, and that a designated player is the player in the dealer position who pays winning players and collects from losing players. The bill defines a designated player game to mean "a game in which the players compare their cards only to the cards of the designated player or to a combination of cards held by the designated player and cards common and available for play by all players." (*See* 2382-2420.)

All cardroom operators may offer designated player games. A cardroom operator may not serve as a designated player, but may collect a rake as posted at the table. When there are multiple designated players at a table, the dealer button must be rotated clockwise after each hand. A designated player may not pay an opposing player who holds a lower ranked hand.

The bill defines a designated player game as a banking game if certain elements exist, such as a requirement that a designated player cover all wagers posted by opposing players, the dealer button is not offered for rotation, the cardroom or other licensee receives compensation above the posted fee from any player to serve as a designated player; or if the designated player is required to pay the wager of an opposing player with a lower ranked hand. (*See* Lines 2513-2546.)

The bill establishes a permit reduction program, in which the division is authorized to purchase and cancel active pari-mutuel permits. Funding for the program, which may not exceed $20 million, is generated by revenue share payments made by the Seminole Tribe of Florida after

October 31, 2015. The division must cancel a permit purchased through the program. This provision expires July 1, 2018, unless reenacted. (*See* Lines 1398-1435.)

The bill establishes a thoroughbred purse supplement program, effective July 1, 2018. The program is created to maintain an active and viable live thoroughbred racing, owning, and breeding industry in Florida. Funding for the program is generated by revenue share payments made by the Seminole Tribe of Florida under the Gaming Compact and received by the State after July 1, 2018. The funding for the purse supplement program is $20 million annually. (*See* Lines 1436-1489.)

The bill requires greyhound track veterinarians to prepare and sign detailed reports under oath, on a form adopted by the division of all injuries to racing greyhounds that occur while the greyhounds are on a racetrack. If an injury occurs at a location other than a racetrack or during transport, then the injury report must be prepared and signed under oath by a greyhound owner, trainer, or kennel operator who has knowledge of the injury. The requirement to report injuries to racing greyhounds does not apply to injuries to a service animal, personal pet, or greyhound that has been adopted as a pet.

Reporting is required within seven days after the date the injury occurred or is believed to have occurred. The reports are public records that must be maintained for seven years by the division. False statements in an injury report or the failure to report an injury subjects licensees of the department to disciplinary action under pari-mutuel, regulatory, and professional practice laws. (*See* Lines 1490-1543.)

The bill revises criteria relating to relocation of permits between counties, intertrack wagering, simulcast wagering, and limited intertrack wagering. (*See* Lines 1544-1893.)

The bill redefines the term "eligible facility" to specify the facilities that are eligible to conduct slot machine gaming as the seven pari-mutuel facilities in Miami-Dade and Broward that existed when the State Constitution was amended and slot machines in the county were approved by referendum, and any licensed pari-mutuel facility, if slot machines in the county are approved by voters in a countywide referendum, and if the facility conducted a full schedule of live racing for two consecutive years immediately preceding its application. (*See* Lines 1894-1945.)

The bill disqualifies permitholders from receiving a slot machine license, if a permitholder includes, or previously included, an ultimate equitable owner whose permit was voluntarily or involuntarily surrendered, suspended, or revoked in the 10 years before the application for a slot machine license. (*See* Lines 1946-1964.)

It appears the bill revises criteria for all slot machine licenses, by deleting the requirement that live racing be conducted by a pari-mutuel permitholder in order to maintain eligibility for the slot machine license. The bill also allows a permit to be relocated, with the live racing conducted at a leased facility of a limited thoroughbred permitholder. The bill allows relocation of the permit without a referendum. (*See* Lines 1965-1982 and Lines 1659-1666.)

Any slot machine licensee (which includes greyhound racing permitholders, jai alai permitholders, harness racing permitholders, and quarter horse racing permitholders) that is not

running a full schedule of live racing under its pari-mutuel permit must contribute to a thoroughbred purse pool, which remains effective through July 1, 2036. The purse pool is for the benefit of slot machine licensees that conduct at least 160 days of live thoroughbred racing. There is a dollar-for-dollar credit for payments made to a horsemen's association under a binding written agreement. The requirement for a thoroughbred racing permitholder to have a horsemen's agreement governing the payment of purses on live racing does not apply to a summer thoroughbred racing permitholder. (*See* Lines 1983-2019.)

The bill deletes the requirement that a quarter horse racing permitholder must have a horsemen's agreement governing the payment of purses on live quarter horse races. (*See* Lines 2020-2032.) The bill allows issuance of an additional slot machine license in a county as defined in s. 125.011, F.S., for the purpose of enhancing live pari-mutuel activity. Any pari-mutuel permitholder in that county that is not a slot machine licensee may apply for the license, upon payment of a $2 million nonrefundable application fee. If there is more than one applicant, the license will be awarded by the division to the applicant that receives the highest score based on specified criteria. The bill does not specify the relative value or points that are attributable to the selection criteria.

The division must complete its evaluations at least 120 days after the submission of applications and notice its intent to award the license within that time. The time frames in the Administrative Procedure Act do not apply. Any protest of the intent to award the license will be heard by the Division of Administrative Hearings, and any appeal of a license denial must be made to the First District Court of Appeal. The division is authorized to adopt emergency rules, based on a legislative finding that such emergency rulemaking power is necessary for the preservation of the rights and welfare of the people in order to provide additional funds to benefit the public. The division is exempted from existing law requiring publication in writing at the time of, or prior to, its action, the specific facts and reasons for finding an immediate danger to the public health, safety, or welfare, and its reasons for concluding that the procedure used is fair under the circumstances. The emergency rules may be effective for longer than 90 days and may be renewed. The bill provides the emergency rules will remain in effect until replaced by other emergency rules or by rules adopted pursuant to the Administrative Procedure Act. (*See* Lines 2127-2242.)

The bill authorizes house banked blackjack table games, with a maximum of 25 such tables at each facility, at eight facilities in Miami-Dade and Broward counties where the operation of slot machines is authorized. (*See* Lines 2242-2262.)

The bill also expands the hours a cardroom may be operated to 24 hours daily, (previously 8 hours Monday through Friday and 24 hours on Saturday and Sunday), which conforms to the hours that a slot machine gaming area may be open. (*See* Lines 2489-2494.)

The bill provides that the provisions of the bill are not severable; if the bill or any of its provisions are determined to be unconstitutional, or the applicability thereof to any person or circumstance is held invalid, all provisions or applications of the bill are invalid, and the bill is considered never to have become law. (*See* Lines 2646-2652.)

The bill states the requirements for SB 7072 to become effective. Sections 1, 2, and 3 of the bill respecting point-of-sale terminals are effective upon SB 7072 becoming law. (*See* Lines 248, 280, and 298.) In addition, the bill requires the enactment of SB 7074, respecting the Gaming Compact between the Seminole Tribe of Florida and the State of Florida, or similar legislation ratifying the Gaming Compact between the Seminole Tribe of Florida and the State of Florida executed by the Governor and the Seminole Tribe of Florida on December 7, 2015 (the Gaming Compact). (*See* Lines 2653-2660.)

In addition, the bill requires approval of the Gaming Compact by the United States Department of the Interior (Department of the Interior) as required under the Indian Gaming Regulatory Act of 1988. With the exclusion of Sections 1, 2, and 3 of the bill, which are effective upon the bill becoming law, the remaining provisions of SB 7072 will be effective upon the date of publication of approval of the Gaming Compact by the Department of the Interior in the Federal Register. (*See* Lines 2658-2664.)

The bill has an indeterminate fiscal impact (see Section V, Fiscal Impact Statement).

II. Present Situation:

The Florida Lottery (department)

Lotteries, other than the types of pari-mutuel pools authorized by law as of the effective date of the Florida Constitution,[1] are prohibited in Florida by s. 7, Art. X of the State Constitution. However, s. 15 of Article X of the State Constitution (1968) allows lotteries to be operated by the state. Section 24.102(2), F.S., provides:

- The net proceeds of lottery games shall be used to support improvements in public education;
- Lottery operations shall be undertaken as an entrepreneurial business enterprise; and
- The department shall be accountable through audits, financial disclosure, open meetings, and public records laws.

The department operates the state lottery to maximize revenues "consonant with the dignity of the state and the welfare of its citizens,"[2] for the benefit of public education.[3] The department contracts with retailers (e.g., supermarkets, convenience stores, gas stations, and newsstands) to provide adequate and convenient availability of lottery tickets.[4] Retailers receive commissions of five percent of the ticket price, one percent of the prize value for redeeming winning tickets, and bonus and performance incentive payments.[5] Retailers are eligible to receive bonuses for selling select winning tickets and performance incentive payments.[6]

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[1] The Constitution of the State of Florida was revised in 1968 and ratified by the electorate on November 5, 1968. *See* Preamble to the Constitution of the State of Florida.
[2] *See* s. 24.104, F.S.
[3] *See* s. 24.121(2), F.S.
[4] *See* s. 24.105(17), F.S.
[5] *See Lottery Transfers Have Recovered; Options Remain to Enhance Transfers*, Report No. 14-06, Office of Program Policy Analysis and Gov't Accountability, Florida Legislature, (January 2014), (hereinafter referred to as *OPPAGA Report 14-06*) *available at* http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1406rpt.pdf page 2 (last visited Feb. 19, 2016).
[6] *See Lottery Transfers Continue to Increase; Options Remain to Enhance Transfers and Increase Efficiency*, Report No. 15- 03, Office of Program Policy Analysis and Gov't Accountability, Florida Legislature (Jan. 2015), (hereinafter referred to

The department selects retailers based on financial responsibility, integrity, reputation, accessibility, convenience, security of the location, and estimated sales volume, with special consideration for small businesses.[7] Retailers must be at least 18 years old, and the sale of lottery tickets must occur as part of an ongoing retail business. There is a general prohibition against contracting with a retailer with a felony criminal history.[8] The authority to act as a retailer for lottery sales may not be transferred.[9] Retailer contracts may be suspended or terminated for: (1) violating lottery laws and regulations; (2) committing any act that undermines public confidence in the lottery; (3) improper accounting for lottery tickets, revenues, or prizes; or (4) insufficient ticket sales. Every retailer contract must provide for a payment of liquidated damages for any contract breach by the retailer.[10]

Retailers may not extend credit or lend money to a person to purchase a lottery ticket; however, this prohibition does not include the use of a credit or charge card or other instrument issued by a bank, savings association, credit union, charge card company, or by a retailer (for installment sales of goods), provided that the lottery ticket purchase is in addition to the purchase of other goods and services with a cost of not less than $20.[11]

Section 24.115, F.S., authorizes the department to establish by rule a system to verify and pay winning lottery tickets:[12]

- Any lottery retailer, as well as any lottery department office, may redeem a winning ticket valued at less than $600.[13] Payments less than $50 are generally paid by a retailer in cash, depending on store policy or local ordinance. Higher amounts may be paid by cash, check, or money order at no cost to the winner.
- Only a lottery department office may redeem a winning ticket valued at $600 or more.[14] Winning tickets are paid at the claimant's option in a combination of cash, check, or lottery tickets (with a limitation of $200 payable in cash).

Prizes must be claimed within certain time limits, depending on the type of game played. Instant lottery tickets (e.g., scratch-off tickets), must be redeemed within 60 days after the end of that lottery game.[15] Other lottery tickets (e.g., tickets for drawings) must be redeemed within 180 days after the drawing or the end of the lottery game in which the prize was won.

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as *OPPAGA Report 15-03*) *available at* http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1503rpt.pdf (last visited Feb. 19, 2016), page 1 (footnote 3).

[7] *See* Section 24.112(2), F.S., which also includes a statement of legislative intent that retailer selections be based on business considerations and public convenience, without regard to political affiliation.

[8] Section 24.112(3)(c), F.S.

[9] Section 24.112(4), F.S.

[10] Section 24.112(10), F.S.

[11] Section 24.118(1), F.S.

[12] *See* Rule 53ER13-31, F.A.C.

[13] The winner has the option of presenting a winning ticket in person to any lottery retailer, any of the nine lottery district offices, or to lottery headquarters in Tallahassee.

[14] Mega Millions® and Powerball® prizes up to $1 million may be claimed at any lottery district office. All other prizes greater than $250,000 must be claimed at lottery headquarters.

[15] *See* s. 24.115(1)(f), F.S.

If a valid claim is not timely made, 80 percent of the unclaimed prize amount is deposited in the Educational Enhancement Trust Fund,[16] and the remainder may be used for future prizes or special prize promotions.[17]

Section 24.105(9)(a), F.S., authorizes the department to adopt rules governing the types of lottery games to be conducted, including lottery terminals or devices that "may be operated solely by the player without the assistance of the retailer."[18]

In November 2013, the department introduced full service vending machines (FSVMs) in retail stores across the state, and has estimated that it earned more than $29 million from the use of player-activated FSVMs in Fiscal Year 2012-2013.[19] In its most recent Financial Audit,[20] the department stated when 500 FSVMs were installed at its top scratch-off ticket sales locations, allowing both terminal and scratch-off tickets to be sold, total FSVMs sales were over $248 million.

The Seminole Gaming Compact

On April 7, 2010, the Governor and the Seminole Tribe of Florida (Seminole Tribe) executed a compact governing gambling (Gaming Compact) at the Seminole Tribe's seven tribal facilities in Florida.[21] The Gaming Compact authorizes the Seminole Tribe to conduct Class III gaming.[22] It

[16] Section 24.115(2(a), F.S., provides that such funds may be used, subject to legislative appropriation, to match private contributions received under specified post-secondary matching grant programs.
[17] *See* s. 24.115(2)(b), F.S.
[18] Prior to 1996, there was no provision for player-activated lottery terminals or devices. Section 4 of ch. 96-341, L.O.F., authorized such machines, subject to restrictions that they be: (1) designed solely for dispensing of instant lottery tickets; (2) activated by coin or currency; (3) in the direct line of sight of on-duty retail employees; (4) capable of being electronically deactivated for 5 minutes or more; and (5) incapable of redeeming winning tickets, though they may dispense change. Chapter 2012-130, Laws of Fla., moved the restrictions on player-activated machines from s. 24.105(9)(a)4., F.S., to s. 24.112(15), F.S. As amended, the law (1) authorizes lottery vending machines to dispense "online lottery tickets, instant lottery tickets, or both," and (2) prohibits use of mechanical reels or video depictions of slot machine or casino game themes or titles (but does not prohibit use of casino game themes or titles on lottery tickets, signage, or advertising displays on the vending machines).
[19] *OPPAGA Report 14-06, supra* note 5, at 2.
[20] *See Financial Audit of the Department of the Lottery, for the Fiscal Years Ended June 30, 2014, and 2013*, Report No. 2015-092, State of Florida Auditor General (January 2015), at page 4 (2015 Financial Audit) *available at* http://www.myflorida.com/audgen/pages/pdf_files/2015-092.pdf (last visited Feb. 19, 2016).
[21] The Seminole Tribe has three gaming facilities in Broward County (The Seminole Indian Casinos at Coconut Creek and Hollywood, and the Seminole Hard Rock Hotel & Casino-Hollywood), and gaming facilities in Collier County (Seminole Indian Casino-Immokalee), Glades County (Seminole Indian Casino-Brighton), Hendry County (Seminole Indian Casino-Big Cypress), and Hillsborough County (Seminole Hard Rock Hotel & Casino-Tampa). The *Gaming Compact Between the Seminole Tribe of Florida and the State of Florida* was approved by the U.S. Department of the Interior effective July 6, 2010, 75 Fed. Reg. 38833. *Available at http://www.myfloridalicense.com/dbpr/pmw/documents/2010_Compact-Signed1.pdf* (last visited Feb. 19, 2016). Gambling on Indian lands is regulated by the Indian Gaming Regulatory Act of 1988 (IGRA), Pub. L. 100-497, 102 Stat. 2467, codified at 18 U.S.C. ss. 1166-1168 and 25 U.S.C. s. 2701, *et seq.*
[22] The Indian Gaming Regulatory Act of 1988 divides gaming into three classes: **Class I** means social games for minimal value or traditional forms of Indian gaming engaged in by individuals for tribal ceremonies or celebrations. **Class II** includes bingo and pull-tabs, lotto, punch boards, tip jars, instant bingo, other games similar to bingo, and certain non-banked card games if not explicitly prohibited by the laws of the state and if played in conformity with state law. **Class III** includes all forms of gaming that are not Class I or Class II, such as house-banked card games, casino games such as craps and roulette, electronic or electromechanical facsimiles of games of chance, slot machines, and pari-mutuel wagering.

was ratified by the Legislature, with an effective date of July 6, 2010.[23] The Gaming Compact has a 20-year term.

The Gaming Compact provides that in exchange for the its exclusive right to offer slot machine gaming outside of Miami-Dade and Broward counties and banked card games at five of its seven[24] casinos, the Seminole Tribe will make revenue sharing payments to the state. The state's share increases incrementally from 12 percent for the first $2 billion in annual net win, to 25 percent for annual net win greater than $4.5 billion. In Fiscal Year 2013-2014, the Seminole Tribe paid $237 million.[25]

The Gaming Compact specifically acknowledges operation by the Florida Lottery of the types of lottery games authorized under ch. 24, F.S., on February 1, 2010, and it specifically excludes from such authorized games any "player-activated or operated machine or device other than a lottery vending machine."[26] The Gaming Compact also includes language about not using a lottery vending machine to redeem winning tickets, which is consistent with similar language in s. 24.112(15)(c), F.S.[27]

The Gaming Compact provides that any expanded gaming (beyond what is specifically acknowledged) relieves the Seminole Tribe of its obligations to make substantial revenue sharing payments.[28]

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[23] *See* Ch. 2010-29, Laws of Fla.

[24] *See* the executed Gaming Compact *available at* http://www.myfloridalicense.com/dbpr/pmw/documents/2010_Compact-Signed1.pdf (last visited Feb. 19, 2016). The Gaming Compact provides that banking or banked card games may not be offered at the Brighton or Big Cypress facilities unless and until the state allows any other person or entity to offer those games, as set forth in paragraph F.2. of Part III of the Gaming Compact, at page 4. In addition, in paragraph B of Part XVI, at page 49, the period of authorization to conduct table games is five years. A mediation process is being pursued by the Seminole Tribe and Governor Scott on this and other issues. *Available at* http://miami.cbslocal.com/2015/08/25/state-seminoles-headed-into-mediation-over-blackjack/ (last visited Feb. 19, 2016).

[25] *See* the Executive Summary and Conference results from the Revenue Estimating Conference (July 14, 2015 and Aug. 11, 2015) *available at* http://edr.state.fl.us/Content/conferences/Indian-gaming/IndianGamingSummary.pdf and http://edr.state.fl.us/Content/conferences/Indian-gaming/IndianGamingResults.pdf (last visited Feb. 19, 2016).

[26] In particular, the Gaming Compact acknowledges: "operation by the Florida Department of Lottery of those types of lottery games authorized under chapter 24, Florida Statutes, on February 1, 2010, but not including (i) any player-activated or operated machine or device other than a lottery vending machine or (ii) any banked or banking card or table game." The Gaming Compact further excludes: (iii) more than ten lottery vending machines at any facility or location or (iv) any lottery vending machine that dispenses electronic instant tickets at any licensed pari-mutuel location. *See* subparagraph 8 of paragraph B of Part XII of Gaming Compact at page 42. The Gaming Compact describes three types of lottery vending machines, none of which may allow a player to redeem a ticket: (1) a machine to dispense pre-printed paper instant lottery tickets (e.g., scratch-off tickets); (2) a machine to dispense pre-determined electronic instant lottery tickets and reveal the outcome; or (3) a machine to dispense paper lottery tickets with numbers selected by the player or randomly by the machine, with the winning number selected in a drawing by the department. *See* paragraph R of Part III of Gaming Compact at page 10.

[27] Section 24.112(15)(c), F.S., provides that a vending machine that dispenses a lottery ticket "may dispense change to a purchaser but may not be used to redeem any type of winning lottery ticket."

[28] *See* last sentence in paragraph B of Part XII of Gaming Compact at page 43.

Pari-Mutuel Wagering Permitholders

Generally, in 2014[29] there were 39 pari-mutuel permitholders with operating licenses in Florida, operating at 12 greyhound tracks, six jai alai frontons, five quarter horse tracks, three thoroughbred tracks, and one harness track.[30] One jai alai permitholder voluntarily relinquished its permit in October 2015.[31]

Of the 20 greyhound racing permitholders with operating licenses during Fiscal Year 2014-2015, three permitholders conducted races at leased facilities.[32] Five pari-mutuel facilities have two permits operating at those locations.[33] One greyhound racing permitholder's operating license was suspended late in 2014,[34] so there are now 19 greyhound racing permitholders with operating licenses.[35] There are 12 permitholders that do not have operating licenses for Fiscal Year 2014-2015: two greyhound,[36] three jai alai,[37] one limited thoroughbred,[38] and six quarter horse.[39]

Regulation by Division of Pari-Mutuel Wagering

Pari-mutuel wagering is regulated by the Division of Pari-Mutuel Wagering (division) in the Department of Business and Professional Regulation (DBPR). The division has regulatory

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[29] The Division of Pari-Mutuel Wagering in the Department of Business & Professional Regulation has not yet issued its 84th Annual Report for Fiscal Year 2014-2015. *Available at* http://www.myfloridalicense.com/dbpr/pmw/PMW-Publications.html (last visited Feb. 19, 2016).

[30] *See* Pari-Mutuel Wagering Permitholders With 2014-2015 Operating Licenses map *available at* http://www.myfloridalicense.com/dbpr/pmw/documents/MAP-Permitholders--WITH--2015-2016-OperatingLicenses.pdf (last visited Feb. 19, 2016).

[31] *See* the Stipulation and Consent Order *available at* http://www.floridagamingwatch.com/wp-content/uploads/Hamilton-Jai-Alai-Consent-Order.pdf (last visited Feb. 19, 2016).

[32] According to information in the latest available 2013-2014 Annual Report from the Division of Pari-Mutuel Wagering, both Jacksonville Kennel Club and Bayard Raceways (St. Johns Greyhound Park) conduct races at Orange Park Kennel Club; H&T Gaming conducts racing at Mardi Gras; Palm Beach Greyhound Racing conducts racing at Palm Beach Kennel Club; Tampa Greyhound conducts races at St. Petersburg Kennel Club (Derby Lane); West Volusia Racing conducts races at Daytona Beach Kennel Club; Dania Summer Ja Alai conducts games at Dania Jai Alai; Tropical Park conducts races at Calder Race Course, *available at* http://www.myfloridalicense.com/dbpr/pmw/documents/AnnualReports/AnnualReport-2013-2014--83rd--20150114.pdf, at pp. 24 - 35 (last visited Feb. 19, 2016).

[33] The division indicated that H & T Gaming @ Mardi Gras and Mardi Gras operate at a facility in Hallandale Beach, Daytona Beach Kennel Club and West Volusia Racing-Daytona operate at a facility in Daytona Beach, Palm Beach Kennel Club and License Acquisitions-Palm Beach operate at a facility in West Palm Beach, Miami Jai Alai and Summer Jai Alai operate at a facility in Miami, and Sanford-Orlando Kennel Club and Penn Sanford at SOKC operate at a facility in Longwood.

[34] *See* http://www.myfloridalicense.com/dbpr/pmw/documents/CurrentPermitholdersList.pdf (last visited Feb. 19, 2016) for a list of current permitholders and their licensing status.

[35] Information about permitholders for Fiscal Years 2013-2014, 2014-2015, and 2015-2016 *available at* http://www.myfloridalicense.com/dbpr/pmw/track.html (last visited Feb. 19, 2016).

[36] North American Racing Association (Key West) and Jefferson County Kennel Club (Monticello).

[37] Tampa Jai-Alai, Gadsden Jai-alai (Chattahoochee), and Kings Court Key (Florida City).

[38] Under s. 550.3345, F.S., during Fiscal Year 2010-2011 only, holders of quarter horse racing permits were allowed to convert their permits to a thoroughbred racing permit, conditioned upon specific use of racing revenues for enhancement of thoroughbred purses and awards, promotion of the thoroughbred horse industry, and the care of retired thoroughbred horses. Two conversions occurred, Gulfstream Park Thoroughbred After Racing Program (GPTARP) (Hallandale, Broward County), and Ocala Thoroughbred Racing (Marion County).

[39] Pompano Park Racing (Pompano Beach), Tampa Bay Downs (Oldsmar), ELH Jefferson (Jefferson County), DeBary Real Estate Holdings (Volusia County), St. Johns Racing (St. Johns County), and North Florida Racing (Jacksonville).

oversight of permitted and licensed pari-mutuel wagering facilities, cardrooms located at pari-mutuel facilities, and slot machines at pari-mutuel facilities located in Miami-Dade and Broward counties. According to the division, there were 19 license suspensions, and $80,950 in fines assessed for violations of all pari-mutuel statutes and rules in Fiscal Year 2013-2014.[40]

A "performance" is a minimum of eight consecutive live races.[41] At least three live performances must be held at a track each week.[42] When a permitholder conducts at least three live performances in a week,[43] it must pay purses (cash prizes to participants) on wagers accepted at the track on certain greyhound races run at other tracks (in Florida or elsewhere).[44] In order to receive an operating license, permitholders must have conducted a full schedule of live racing during the preceding year.[45]

Current law provides complex requirements for the calculation of a "full schedule of live racing or games:"

- For a greyhound or jai alai permitholder, . . .at least 100 live evening or matinee performances during the preceding year;
- For a permitholder who has a converted permit . . . at least 100 live evening and matinee wagering performances during either of the two preceding years;
- For a jai alai permitholder who does not operate slot machines . . ., who has conducted at least 100 live performances per year for at least 10 years after December 31, 1992, and whose handle on live jai alai games . . . has been less than $4 million per state fiscal year for at least two consecutive years after June 30, 1992, . . . at least 40 live evening or matinee performances during the preceding year;
- For a jai alai permitholder who operates slot machines . . ., at least 150 performances during the preceding year;
- For a harness permitholder, the conduct of at least 100 live regular wagering performances during the preceding year;
- For a quarter horse permitholder at its facility unless an alternative schedule of at least 20 live regular wagering performances is agreed upon by the permitholder and either the Florida Quarter Horse Racing Association or the horsemen's association representing the majority of the quarter horse owners and trainers at the facility and filed with the division along with its annual date application, in the Fiscal Year 2010-2011, . . . at least 20 regular wagering performances, in Fiscal Year 2011-2012 and Fiscal Year 2012-2013, . . . at least 30 live regular wagering performances, and for every fiscal year after Fiscal Year 2012-2013, . . . at least 40 live regular wagering performances;
- For a quarter horse permitholder leasing another licensed racetrack, the conduct of 160 events at the leased facility; and
- For a thoroughbred permitholder, the conduct of at least 40 live regular wagering performances during the preceding year.

[40] *See supra* note 7, at page 3.
[41] Section 550.002(25), F.S.
[42] Section 550.002(11), F.S.
[43] The performances may be during the day or in the evenings, as set forth in the schedule that is part of the operating license issued by the division.
[44] Section 550.09514(2)(c), F.S.
[45] Section 550.002(11), F.S. In accordance with s. 550.002(38), F.S., a full schedule of live racing is calculated from July 1 to June 30, which is the state fiscal year.

For a permitholder restricted by statute to certain operating periods within the year when other similar permitholders are authorized to operate throughout the year, the specified number of live performances which constitute a full schedule of live racing or games are calculated pro rata based on the authorized operating period and the full calendar year, and the resulting number of live performances is the full schedule of live games for such permitholder and all other permitholders of the same class within 100 air miles of such permitholder. A live performance must consist of no fewer than eight races or games conducted live for each of a minimum of three performances each week at the permitholder's licensed facility under a single admission charge.

If a permitholder does not conduct all of the performances specified in its operating license, the division may determine whether to fine the permitholder or suspend[46] the license,[47] unless the failure is due to certain events beyond the permitholder's control.[48] Financial hardship itself is not an acceptable basis to avoid a fine or suspension.[49]

Types of Handle (Funds Bet by Players)

Section 550.002(13), F.S., defines handle as the aggregate contributions to pari-mutuel pools. There are four types of handle detailed in annual reports[50] of the division:

- Live on track, from live races or games at the track/fronton;
- Simulcast, from live races or games originating out-of-state and broadcast to a Florida track or fronton;
- Intertrack, from a Florida track or fronton (acting as host) broadcasting live races or games to other Florida tracks or frontons; and
- Intertrack simulcast, from rebroadcasting of simulcast signals received by a Florida track or fronton to other Florida tracks or frontons.

Taxes on Handle

Exemptions

As provided in s. 550.09514(1), F.S., all greyhound racing permitholders that conduct a full schedule of live racing in a year are eligible for tax exemptions in the form of a credit that directly reduces their state taxes, in the following amounts:

- $500,000 annually to each permitholder that conducted a full schedule of live racing in 1995, and "are closest to another state that authorizes greyhound pari-mutuel wagering." These requirements qualify three greyhound racing permitholders (Washington County Kennel Club (Ebro), Pensacola Greyhound, and Jefferson County Kennel Club (Monticello); and
- $360,000 annually to each of the other greyhound racing permitholders.

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[46] After Jefferson County Kennel Club failed to conduct scheduled performances, its operating license was suspended September 22, 2014 under a consent order. *Available at* http://www.myfloridalicense.com/dbpr/pmw/PMW-PermitholderOperatingLicenses--2014-2015.html (last visited Feb. 19, 2016).
[47] Section 550.01215(4), F.S.
[48] *Id*.
[49] *Id*.
[50] *See* http://www.myfloridalicense.com/dbpr/pmw/documents/AnnualReports/AnnualReport-2013-2014--83rd--20150114.pdf , at 2 (last visited Feb. 19, 2016).

If a permitholder cannot use its full tax exemption amount, then it may transfer the unused portion of the exemption to another permitholder that has acted as a host track by accepting intertrack wagering.[51] The transfer may occur only once per state fiscal year, and there must be a dollar-for-dollar payment (no discount) by the host track.

Tax Exemption Credit for Daily License Fees

Each permitholder receives a tax credit based on the number of live races conducted in the previous year multiplied by the daily license fee.[52] This works out to a 100 percent refund of daily license fees for every live race conducted. The daily license credit may also be transferred for payment in full by a host track to a transferring permitholder.

Tax Exemption Credit for Escheated Winnings

Section 550.1645, F.S., provides that after one year, the winnings from all unclaimed pari-mutuel tickets become property of the state, and permitholders must pay the unclaimed (escheated) winnings to the state. The funds are deposited into the State School Fund and are used for the maintenance of public free schools. Section 550.1647, F.S., provides that permitholders who pay escheated winnings to the state are entitled to a 100 percent credit equal to the escheated winnings payment, to be credited in the next fiscal year against greyhound racing taxes; however, the permitholder must pay an amount equal to 10 percent of the escheat credit to qualified greyhound adoption programs.

Tax Rates on Wagering Handle

The stated tax rates on greyhound racing handle (i.e., on live on track, simulcast, intertrack, and intertrack simulcast handle as described above) vary considerably. Section 550.0951(3), F.S., specifies rates of 5.5 percent, 7.6 percent, 3.9 percent, and 0.5 percent of handle that depend on the type of wager (and the location of the tracks involved in any intertrack wagering).

Current law provides that intertrack wagering is taxed at the rate of 7.1 percent if the host track is a jai alai fronton. The rate drops significantly to a rate of 0.5 percent (one-half of a percent) if: (1) both the host and guest tracks are thoroughbred permitholders, or (2) a guest track is located more than 25 miles away from the host track and within 25 miles of a thoroughbred permitholder currently conducting live racing.

Greyhound Permitholders and Cardroom Licenses

Section 849.086, F.S., provides that a licensed pari-mutuel permitholder that holds a valid pari-mutuel permit and license to conduct a full schedule of greyhound performances may obtain a cardroom license. Eleven of the twelve currently operating greyhound racing locations have cardrooms.[53] As a result of the so-called "90 percent rule," the required minimum of live

[51] Section 550.0951(1)(b), F.S.
[52] Section 550.0951(1)(a), F.S.
[53] Section 849.086(5)(a), F.S., provides that an initial cardroom license may be issued to a permitholder only after its facilities are in place and it has conducted its first day of live racing or games. If more than one permitholder is operating at a facility, each permitholder must have applied for a license to conduct a full schedule of live racing. *See* s. 849.086(5)(b), F.S. Renewal of a cardroom license requires that in its annual pari-mutuel license application, the permitholder must request to

performances varies among greyhound permitholders (e.g., in Fiscal Year 2012-2013, the number of performances ranged from 104 to 395), as shown below:

Greyhound Racing Permitholder	Location (City and County)	Performances FY 2012-13	90 Percent Rule*	Full Schedule
H & T Gaming @ Mardi Gras	Hallandale Beach (Broward)	104	100	100
Mardi Gras	Hallandale Beach (Broward)	110	100	100
Flagler Greyhound (Magic City)	Miami (Miami-Dade)	166	163	100
Naples-Ft. Myers	Bonita Springs (Lee)	395	394	100
Jacksonville Kennel Club (bestbet)	Jacksonville (Duval)	112	100	100
Orange Park Kennel Club	Orange Park (Clay)	112	100	100
Greyhound Racing Permitholder	Location (City and County)	Performances FY 2012-13	90 Percent Rule*	Full Schedule
Bayard Raceways (St. Johns)	Orange Park (Clay)	191	100	100
Daytona Bch Kennel Club	Daytona Beach (Volusia)	224	100	100
West Volusia Racing-Daytona	Daytona Beach (Volusia)	189	100	100
Palm Beach Kennel Club	West Palm Beach (Palm Beach)	349	100	100
License Acquisitions-Palm Beach	West Palm Beach (Palm Beach)	116	100	100
Sanford-Orlando Kennel Club	Longwood (Seminole)	178	N/A	N/A
Penn Sanford @SOKC	Longwood (Seminole)	156	N/A	N/A
Tampa Greyhound	Tampa (Hillsborough)	207	100	100
Jefferson County Kennel Club	Monticello (Jefferson)	104	217	100
Pensacola Kennel Club	Pensacola (Escambia)	159	160	100
St. Petersburg Kennel Club	St. Petersburg (Pinellas)	207	100	100
Sarasota Kennel Club	Sarasota (Sarasota)	190	188	100
Washington County Kennel Club	Ebro (Washington)	173	167	100
Melbourne Greyhound Park	Melbourne (Brevard)	104	93	93

Section 849.086(13), F.S., provides that at least four percent of a greyhound permitholder's gross cardroom receipts be used to supplement greyhound purses.

Intertrack Wagering & Simulcast Wagering

Section 550.615(2), F.S., allows any permitholder that has conducted a full schedule of live racing in the preceding year to receive broadcasts and accept wagers on any type of pari-mutuel race or game conducted by other licensed pari-mutuel permitholders in the state. This type of wagering is defined as "intertrack wagering."[54]

Wagering on a simulcast event occurs when a wager is placed on: (1) a live race or game that is broadcast outside the state from an in-state location, or (2) a live race or game that occurs outside the state but is broadcast to a permitholder in the state.[55]

conduct at least 90 percent of the performances conducted either (1) in the year in which its first cardroom license was issued, or (2) in the state fiscal year immediately prior to the application if a full schedule of live racing was conducted.

[54] Section 550.002(17), F.S.

[55] Section 550.002(32), F.S.

Slot Machine Gaming and Cardrooms

Chapter 551, F.S., authorizes slot machine gaming at the location of certain licensed pari-mutuel locations in Miami-Dade County or Broward County and provides for state regulation.[56] Chapter 849, F.S., authorizes cardrooms at certain pari-mutuel facilities.[57] A license to offer pari-mutuel wagering, slot machine gaming, or a cardroom at a pari-mutuel facility is a privilege granted by the state.[58]

Gaming Compact with the Seminole Tribe of Florida

The current gaming compact with the Seminole Tribe dated April 7, 2010 (the 2010 Gaming Compact)[59] provides that it is not a crime for a person to participate in raffles, drawings, slot machine gaming, or banked card games (e.g., blackjack or baccarat) at a tribal facility operating under the 2010 Gaming Compact.[60]

The 2010 Gaming Compact also provides for revenue-sharing payments from the Seminole Tribe to the state. For its exclusive authority during a five-year period[61] to offer banked card games on tribal lands at five locations, and to offer slot machine gaming during the 20-year term of the

[56] *See* ch. 551, F.S., relating to the regulation of slot machine gaming at pari-mutuel locations.
[57] Section 849.086, F.S. Section 849.086(2)(c), F.S., defines "cardroom" to mean a facility where authorized card games are played for money or anything of value and to which the public is invited to participate in such games and charges a fee for participation by the operator of such facility.
[58] *See* s. 550.1625(1), F.S., "…legalized pari-mutuel betting at dog tracks is a privilege and is an operation that requires strict supervision and regulation in the best interests of the state." *See also Solimena v. State*, 402 So.2d 1240, 1247 (Fla. 3d DCA 1981), review denied, 412 So.2d 470, which states "Florida courts have consistently emphasized the special nature of legalized racing, describing it as a privilege rather than as a vested right," citing *State ex rel. Mason v. Rose*, 122 Fla. 413, 165 So. 347 (1936).
[59] The 2010 Gaming Compact was executed by the Governor and the Seminole Tribe on April 7, 2010, ratified by the Legislature, effective April 28, 2010, and approved by U.S. Secretary of the Interior, pursuant to the Indian Gaming Regulatory Act of 1988, on June 24, 2010. It took effect when published in the Federal Register on July 6, 2010. The 20-year term of the 2010 Gaming Compact expires July 31, 2030, unless renewed. Section 285.710(1)(f), F.S., designates the Division of Pari-mutuel Wagering of the Department of Business and Professional Regulation as the "state compliance agency" having authority to carry out the state's oversight responsibilities under the 2010 Gaming Compact *available at* http://www.flsenate.gov/. . . RI/Links/Gaming Compact between The Seminole Tribe of Florida and the State of Florida.pdf (last visited Feb. 19, 2016).
[60] *See* s. 285.710, F.S., especially subsections (3), (13), and (14). The seven tribal locations where gaming is authorized by the 2010 Gaming Compact are: (1) Seminole Hard Rock Hotel & Casino—Hollywood (Broward); (2) Seminole Indian Casino—Coconut Creek (Broward); (3) Seminole Indian Casino—Hollywood (Broward); (4) Seminole Hard Rock Hotel & Casino—Tampa (Hillsborough); (5) Seminole Indian Casino—Immokalee (Collier); (6) Seminole Indian Casino—Brighton (Glades); and (7) Seminole Indian Casino—Big Cypress (Hendry). Banked card games are not authorized at the Brighton and Big Cypress casinos.
[61] While the exclusive authorization to conduct banked card games expired July 31, 2015, and has not been renewed, according to staff at the department and the Legislature's Office of Economic and Demographic Research, the Seminole Tribe has continued to transmit monthly payments to the state that include estimated table games revenue. The Seminole Tribe and the State of Florida are parties to litigation regarding the offering of table games by the Seminole Tribe after July 31, 2015. Those parties have negotiated a proposed gaming compact dated December 7, 2015 (the 2015 Gaming Compact), that the Governor, as the designated state officer responsible for negotiating and executing tribal-state gaming compacts with federally recognized Indian tribes, has transmitted to the President of the Senate and the Speaker of the House of Representatives for consideration, as required by s. 285.712, F.S. To be effective, the proposed 2015 Gaming Compact must be ratified by the Senate and by the House, by a majority vote of the members present. *See* s. 285.712(3), F.S.

2010 Gaming Compact outside Miami-Dade and Broward Counties, the Seminole Tribe pays the State of Florida a share of "net win" (approximately $240 million per year).[62]

Except for those locations authorized pursuant to the 2010 Gaming Compact, free-standing, commercial casinos are not authorized, and gaming activity, other than what is expressly authorized, is illegal.

Other Authorized Activities

Chapter 849, F.S., also authorizes, with conditions, penny-ante games,[63] bingo,[64] charitable drawings, game promotions (sweepstakes),[65] bowling tournaments, and amusement games and machines.[66]

Care of Racing Greyhounds

The division, by administrative rule adopted pursuant to s. 550.2415(12), F.S., requires notification of the death of a racing greyhound while in training or during a race on the grounds of a greyhound track or kennel compound.[67] The track must notify the division, within 18 hours, of the deceased animal's location, where the death occurred, and how to reach the kennel operator, trainer and the person making the report. Haulers or drivers who transport racing animals must be licensed, and greyhound trainers of record are responsible for physically inspecting the animals in their care for sores, cuts, abrasions, muzzle burns, fleas, and ticks.[68] If an animal is injured and later dies or is euthanized, the division may conduct a postmortem examination.[69]

III. Effect of Proposed Changes:

Sale of Lottery Tickets at Point-of-Sale Terminals

Sections 1, 2, and 3 of the bill regarding sales of lottery tickets at point-of-sale terminals take effect upon the bill becoming a law.

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[62] Subject to the outcome of the pending litigation between the state and the Seminole Tribe respecting continuation of the authorization to offer tables games, the 2010 Gaming Compact provides if (1) authorization for banked card games is not extended beyond July 31, 2015, or (2) the Legislature authorizes Class III (casino-style) games in Broward or Miami-Dade County other than at the eight existing state-licensed pari-mutuel locations, then the "net win" for revenue sharing will exclude amounts from the Seminole Tribe's facilities in Broward County (i.e., payments will be reduced by approximately $120 million per year). If the Legislature authorizes new Class III (casino-style) games outside Broward and Miami-Dade Counties, then all revenue sharing under the 2010 Gaming Compact is discontinued.
[63] Section 849.085, F.S.
[64] Section 849.0931, F.S.
[65] Section 849.094, F.S., authorizes game promotions in connection with the sale of consumer products or services.
[66] Section 849.161, F.S.
[67] *See* Rule 61D-2.023(3)(k), F.A.C., which became effective May 21, 2013. According to the department, 192 reports of greyhound deaths were filed with the division between May 31, 2013 and December 31, 2014.
[68] *See* Rules 61D-2.023(4) and (6), F.A.C.
[69] Section 550.2415(9), F.S. also provides that postmortem examinations may be made of any animal that dies while housed at a permitted racetrack, association compound, or licensed kennel or farm.

Section 1 amends s. 24.103, F.S., to add the term "point-of sale terminal." A point-of-sale terminal is another type of lottery vending machine for the sale of lottery tickets at retail locations under certain conditions. Payments for lottery tickets at a point-of-sale terminal may be paid by credit card, debit card, or other similar charge cards. The electronic device must be supported by networks that enable verification, payment, transfer of funds, and logging of transactions.

Section 2 amends s. 24.105, F.S., and authorizes the Department of the Lottery (department) to create a program and adopt rules for the purchase of lottery tickets at point-of-sale terminals by persons who are at least 18 years old. A point-of-sale terminal could have multiple uses (e.g., purchase of lottery tickets incidental to the purchase of other retail goods or services), while current lottery vending machines dispense lottery tickets only. Rules adopted by the department for the program must limit the dollar amount of lottery tickets purchased, create a process to enable a customer to restrict or prevent his or her own access to lottery tickets or games, and ensure that the program does not breach the exclusivity provisions of any Indian gaming compact to which the state is a party.

Section 3 amends s. 24.112, F.S., to provide that point-of-sale terminals may be used by the department, approved vendors, and approved retailers to facilitate the sale of lottery tickets or games. The bill tracks the following requirements stated in the proposed 2015 Gaming Compact[70] for lottery vending machines, providing that a point-of-sale terminal:

- Must dispense a paper lottery ticket with numbers selected by the player or randomly by the machine;
- Does not reveal the winning numbers (which are selected at a later time and a different location, through a drawing held by the Florida Lottery);
- May not make use of mechanical reels or video depictions of slot machine or casino game themes or titles; and
- May not be used to redeem winning tickets.

The bill also provides that the device must recognize a valid driver license or other process to verify that the purchaser is at least 18 years of age. It must be in compliance with all department requirements for lottery sales, and the platform must be certified by the department.

Pari-mutuel Permitholders

Ending Live Racing or Games (Decoupling)

Section 4 amends s. 550.002, F.S., relating to requirements for live racing. The bill allows a greyhound racing permitholder, jai alai permitholder, harness racing permitholder, and quarter horse racing permitholder to determine, on an annual basis, whether it will offer live racing or games (live performances) at its pari-mutuel facility while it continues to operate its slots machines or cardroom. Ending the requirement for the offering of live performances but continuing to offer slot machines or cardrooms is known as "decoupling."

[70] *See* the proposed 2015 Gaming Compact, Comparison Chart and transmittal letter from Governor Scott *available at* http://www.flsenate.gov/PublishedContent/Committees/2014-2016/RI/Links/2015_Gaming_Compact,_Chart,_and_Letter_from_Governor_Scott.pdf (last visited Feb. 19, 2016).

The bill deletes outdated references to converted greyhound permits and partial-year racing dates.

The bill reduces the minimum number of required live performances from 100 to 58 for summer jai alai permitholders who do not operate slot machines or meet other financial requirements. The bill maintains the requirement in current law that a jai alai permitholder that operates slot machines in its pari-mutuel facility must conduct at least 150 performances.

Section 5 amends s. 550.01215, F.S., regarding operating license applications (applications) required to be filed annually with the Division of Pari-mutuel Wagering (division) in the Department of Business and Professional Regulation (DBPR) by pari-mutuel permitholders for a license to conduct pari-mutuel wagering during the next fiscal year (July 1 through June 30). The bill amends this section to require the filing of an application by all greyhound racing permitholders, jai alai permitholders, harness racing permitholders, and quarter horse racing permitholders that accept intertrack and simulcast wagering, including permitholders that do not conduct live performances. Such permitholders, if authorized to conduct slot machine gaming, will not be required to conduct live performances, and their slot machine license will not be conditioned upon the conduct of live performances.

The bill requires permitholders that accept wagers on broadcast events to disclose the dates of all those events in their application.

The bill provides that certain greyhound racing permitholders[71] may specify that they do not intend to conduct live racing, or that they intend to conduct less than a full schedule of live racing, in the next state fiscal year. Further, a greyhound racing permitholder may receive an operating license to conduct pari-mutuel wagering activities at another permitholder's greyhound racing facility pursuant to s. 550.475, F.S., which requires that the permitholders be located within a 35-mile radius of each other.

The bill allows the division to approve changes in racing dates for Fiscal Year 2016-2017, if the requests from a greyhound racing permitholder is received before August 31, 2016.

The bill states the requirements for a summer jai alai permitholder to operate a jai alai fronton only for the summer season each year, for dates selected by the permitholder (between May 1 and November 30). All taxes, rules, and provisions of ch. 550, F.S., which apply to winter jai alai permitholders apply to summer jai alai permitholders. Winter and summer jai alai permitholders may not operate on the same days or in competition with each other, but the facilities of a winter jai alai permitholder may be leased for the operation of a summer meet.

The bill deletes a provision in s. 550.01215(6), F.S., that allows a permit that was converted from a jai alai permit to a greyhound racing permit, to convert back to a jai alai permit, but only if greyhound racing was never conducted, or the permitholder has not conducted greyhound racing for 12 consecutive months.

[71] Only those greyhound racing permitholders that conducted a full schedule of live racing for a period of at least 10 consecutive state fiscal years after the state Fiscal Year 1996-1997, or that converted a permit to a permit to conduct greyhound racing after that state fiscal year, are authorized to file an application in this manner. *See* Lines 613-623 of the bill, amending s. 550.01215(1) to add subsection (b).

Section 6 amends s. 550.0251, F.S., concerning the required content of the annual report from the division to the Governor, Senate, and House of Representatives. The annual report must include, at a minimum:

- Recent events in the gaming industry, including pending litigation; pending permitholder, facility, cardroom, slot, or operating license applications; and new and pending rules;
- Actions of the department relating to the implementation and administration of ch. 550, F.S.;
- The state revenues and expenses associated with each form of authorized gaming; revenues and expenses associated with pari-mutuel wagering must be further delineated by the class of license;
- The performance of each pari-mutuel wagering licensee, cardroom licensee, and slot machine licensee;
- A summary of disciplinary actions taken by the department; and
- Any suggestions to more effectively achieve the purposes of ch. 550, F.S.

Section 7 amends s. 550.054, F.S., respecting applications for permits to conduct pari-mutuel wagering.[72] The bill provides for revocation of permits, unless a failure to obtain an operating license was the direct result of fire, strike, war, or other disaster or event beyond the permitholder's control. The division must revoke a permit if the permitholder:

- Has not obtained an operating license for a period of more than 24 consecutive months after June 30, 2012; or
- Fails to make payments for taxes due on handle for more than 24 months.

The bill provides that a new pari-mutuel permit may not be approved or issued after July 1, 2016, and a revoked permit is void and may not be reissued.

The bill allows the division to place a permit into inactive status for a period of 12 months for good cause and renew inactive status for a period of up to 12 months, but a permit may not be inactive for a period of more than 24 consecutive months. Entities with inactive permits are not eligible for licensure for pari-mutuel wagering, slot machines, or cardrooms.

The bill provides that a pari-mutuel license may not be transferred or reissued so as to change the location of a pari-mutuel facility, cardroom, or slot machine facility. The bill removes provisions allowing for the transfer of a thoroughbred permit to another racetrack and allowing conversion of a jai alai permit to a greyhound racing permit.

The bill limits the relocation of a pari-mutuel facility, cardroom, or slot machine facility. However, the bill allows a greyhound racing permit that was converted from a jai alai to be relocated to another location, if the application is received by July 31, 2018, and if the new location is:

- In the same county;
- Within a 30-mile radius of the original location; and
- Approved under the zoning regulations of the affected county or municipality.

[72] Applications by permitholders for operating licenses are addressed in Section 2 of the bill.

Section 8 repeals s. 550.0555, F.S., relating to the procedures for relocating a greyhound racing permit.

Section 9 repeals s. 550.0745, F.S., relating to the procedure to convert a pari-mutuel permit to a summer jai alai permit.

Section 10 amends s. 550.0951, F.S., respecting the payment of daily license fee and taxes. The bill deletes the tax exemption specified in s. 550.09514(1), F.S., of $360,000 or $500,000 for each greyhound racing permitholder, and deletes other tax credits. The bill deletes the authorization in current law that allows transfers of the tax exemption or other credits among greyhound permitholders, and the requirement that such transfers be approved by the division.

The bill reduces the tax on handle for greyhound racing to 1.28 percent from 5.5 percent. (It appears that the tax on handle at Line 958 on page 54 of the bill should also be reduced to 1.28 percent to conform the bill to this reduction.) A tax of 0.5 percent is imposed if the host and guest tracks are thoroughbred racing permitholders, or if the guest track is located outside the market area of a host track that is not a greyhound racing track and within the market of a thoroughbred racing permitholder currently conducting a live meet.

Section 11 amends s. 550.09511, F.S., to make conforming references.

Section 12 amends s. 550.09512, F.S., respecting harness horse racing, by requiring the division to revoke the permit of a harness horse racing permitholder that does not pay tax that is due on handle for live harness racing performances for a full schedule of live races for more than 24 consecutive months, unless the failure to operate and pay tax was the direct result of fire, strike, war, or other disaster or event beyond the permitholder's control. The revoked permit is void and may not be reissued. The bill removes a provision allowing reissuance of a harness horse permit that has been revoked for nonpayment of taxes (i.e., has escheated to the state).

Section 13 amends s. 550.09514, F.S., respecting greyhound racing taxes and purse requirements. The bill removes tax credits of $360,000 and $500,000 that are available to permitholders. The bill requires greyhound racing permitholders that conduct live racing during a fiscal year to pay an additional purse amount annually of $60 for each live race conducted in the preceding fiscal year. The bill removes fees equal to 75 percent of the daily license fees. Purses must be disbursed weekly during the permitholder's race meet. The bill clarifies that the tax rate on handle for intertrack wagering is provided in ch. 2000-354, s. 6, L.O.F.

Section 14 amends s. 550.09515, F.S., respecting thoroughbred racing taxes. The bill requires the division to revoke the permit of a thoroughbred racing permitholder that does not pay tax that is due on handle for live thoroughbred horse performances for a full schedule of live races for more than 24 consecutive months, unless the failure to operate and pay tax was the direct result of fire, strike, war, or other disaster or event beyond the permitholder's control. A revoked permit is void and may not be reissued. The bill deletes a provision that allows a thoroughbred horse permit to be reissued after the permit has been revoked for nonpayment of taxes, i.e., the permit has escheated to the state.

Section 15 amends s. 550.1625, F.S., respecting greyhound racing taxes by removing a reference to a greyhound racing permitholder paying the breaks[73] tax.

Section 16 repeals s. 550.1647, F.S., respecting any unclaimed, uncashed, or abandoned pari-mutuel tickets which have remained in the custody of a greyhound racing permitholder.

Section 17 amends s. 550.1648, F.S., respecting greyhound racing adoptions, and requires as a condition of adoption, that a bona fide organization must provide sterilization of greyhounds by a licensed veterinarian before relinquishing custody of the greyhound to the adopter. The fee for sterilization may be included in the cost of adoption.

Section 18 creates s. 550.1752, F.S., establishing a pari-mutuel permit reduction program. The program is created to authorize the division to purchase and cancel active pari-mutuel permits. Funding for the program is generated by revenue share payments made by the Seminole Tribe of Florida (Seminole Tribe) under the Gaming Compact and received by the State after October 31, 2015. Payments funding the program are calculated on a monthly basis until the division determines sufficient funds are available, but the funding limit for the program is $20 million.

A pari-mutuel permitholder may not submit an offer to sell unless it is actively conducting racing or jai-alai as required and satisfies all applicable requirements for the permit. Sufficient moneys must be available before the purchase may be made. The division may adopt rules to implement the program.

The value of the permit must be based upon the valuation of fair market value by one or more independent appraisers selected by the division. The value may not include the value of real estate or personal property. The division may establish a value for the permit that is lower than the amount determined by the independent appraiser, but may not establish a higher value.

The division must accept the offer or offers that best use the available funding, however, the division may also accept offers that it determines are the most likely to reduce the incidence of gaming in Florida. The division must cancel a permit purchased through the program. This provision expires July 1, 2018, unless reenacted.

Section 19 amends s. 550.1752, to establish a thoroughbred purse supplement program, effective July 1, 2018. The program is created to maintain an active and viable live thoroughbred racing, owning, and breeding industry in Florida. A reenactment of the permit reduction program (created by the bill in **Section 18** above) that is effective after July 1, 2018 may create multiple demands on the funding source for each program. There is no provision for expiration of the thoroughbred supplement purse program.

Funding for the program is generated by revenue share payments made by the Seminole Tribe under the Gaming Compact and received by the State after July 1, 2018. Payments funding the program are calculated on a monthly basis until the division determines sufficient funds are

[73] Section 550.002(1), F.S.,, defines "breaks" to mean "the portion of a pari-mutuel pool which is computed by rounding down to the nearest multiple of 10 cents and is not distributed to the contributors or withheld by the permitholder as takeout."

available. The funding for the purse supplement program is $20 million annually. The division may adopt rules to implement the program.

The division must distribute the funds on a pro rata basis based upon the number of live race days to be conducted by each thoroughbred permitholder pursuant to its annual racing license. If a permitholder fails to conduct a race day, then the allocated funds associated with that day must be returned to the division, so that it may reapportion the allocation of funds.

Section 20 creates s. 550.2416, F.S., to require the reporting of racing greyhound injuries. The bill requires greyhound track veterinarians to prepare and sign detailed reports under oath, on a form adopted by the division, of all injuries to racing greyhounds that occur while the greyhounds are on a racetrack.

If the injury of a racing greyhound occurs at a location other than a racetrack, or during transportation, the injury report must state the location where the injury occurred and the circumstances. A report for such an injury must be prepared and signed under oath by a greyhound owner, trainer, or kennel operator who has knowledge of the injury.

Reporting is required within seven days after the date the injury occurred or is believed to have occurred. The reports are public records that must be maintained for seven years by the division.

The bill requires reporting of the following information about an injury:
- Specific identification of the injured greyhound (name, tattoos, microchip information), with contact information for the greyhound's owner, trainer, and kennel operator; and
- The type and location of the injury, its cause, and estimated recovery time.

Further, if the injury occurs during a race, an injury report must state:
- The name of the racetrack and the time injury occurred;
- The distance, grade, race, and post position of the injured greyhound; and
- The weather and track conditions at the time of the injury.

False statements in an injury report or the failure to report an injury subjects licensees of the DBPR to disciplinary action under pari-mutuel, regulatory, and professional practice laws. Racing greyhound injury reports must be sworn to under penalty of perjury.[74] False statements in an injury report by a veterinarian, owner, trainer, or kennel operator may result in discipline of that licensee by the division as permitted by the provisions of ch. 550, F.S., (Pari-mutuel Wagering, ch. 455, F.S., (Business and Professional Regulation: General Provisions) or ch. 474, F.S., (Veterinary Medical Practice).

The requirement to report injuries to racing greyhounds does not apply to injuries to a service animal, personal pet, or greyhound that has been adopted as a pet.

Section 21 amends s. 550.26165, F.S., respecting breeders' awards to conform cross-references.

[74] Section 837.012, F.S., provides that makers of false statements under oath in regard to any material matter (such as those made in an injury reporting form) which he or she does not believe to be true, are guilty of a first degree misdemeanor and may be sentenced to a term of imprisonment up to one year and required to pay a fine not to exceed $1,000.

Section 22 amends s. 550.3345, F.S., regarding the issuance of limited thoroughbred racing permits (through conversion from a quarter horse permit as allowed by ch. 2010-29, L.O.F.). The bill removes obsolete language. The bill retains existing law that allows for relocation of the permit,[75] and allows relocation to another county without a referendum, if the permit "is situated in such a manner that it is located in more than one county."

Such relocation remains subject to the requirement in s. 550.3345(2)(d), F.S., that the relocation be approved under zoning and land use regulations in the new county or municipality. The bill prohibits the transfer of a limited thoroughbred racing permit to another person or entity.

Section 23 amends s. 550.3551, F.S., regarding transmission of racing and jai alai information, to remove an outdated reference and to remove a reference to live racing requirements for intertrack wagering by harness horse permitholders.

Section 24 amends s. 550.375, F.S., regarding the operation of certain harness horse race tracks, by conforming a cross-reference.

Section 25 amends s. 550.475, F.S., to prohibit permitholders from leasing facilities from a permitholder that is not conducting a full schedule of live racing. When a permitholder chooses to end live racing at a pari-mutuel facility, any permitholder leasing that facility may no longer lease it, and must move its racing or games to another facility that is conducting a full schedule of live racing.[76]

Section 26 deletes s. 550.5251(1), F.S., which requires thoroughbred permitholders to annually file applications to conduct race meetings that specify the number and dates of all performances that the permitholder intends to conduct.

Section 27 of the bill amends s. 550.615, F.S., respecting intertrack wagering, as to which tracks or frontons may receive broadcasts of any type of race or game, and accept wagering on them. The bill provides that only tracks that have conducted a full schedule of live racing for at least five consecutive years since 2010, may receive such broadcasts.

The bill deletes ss. 550.615(6) and (7), F.S., which limits intertrack wagering where there are three or more horserace permitholders within 25 miles of each other, and requiring the consent of a permitholder where there are only two permits (greyhound racing and jai alai) in the county.

The bill provides that a greyhound racing permitholder that accepts intertrack wagers on live greyhound signals is not required to obtain written consent from any operating greyhound racing permitholder within its market area.

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[75] *See* s. 550.3345(2)(d), F.S.

[76] According to information in the latest available Fiscal Year 2013-2014 Annual Report from the Division of Pari-Mutuel Wagering, both Jacksonville Kennel Club and Bayard Raceways (St. Johns Greyhound Park) conduct races at Orange Park Kennel Club; H&T Gaming conducts racing at Mardi Gras; Palm Beach Greyhound Racing conducts racing at Palm Beach Kennel Club; Tampa Greyhound conducts races at St. Petersburg Kennel Club (Derby Lane); West Volusia Racing conducts races at Daytona Beach Kennel Club; Dania Summer Ja Alai conducts games at Dania Jai Alai; Tropical Park conducts races at Calder Race Course. *Available at* http://www.myfloridalicense.com/dbpr/pmw/documents/AnnualReports/AnnualReport-2013-2014--83rd--20150114.pdf, at pp. 24-35 (last visited Feb. 19, 2016).

Section 28 removes provisions in s. 550.6308, F.S., respecting the limited intertrack wagering license, and reduces the required number of days of sales to eight days from fifteen days. The bill removes the requirement to conduct at least one day of nonwagering thoroughbred racing with a $250,000 purse per year for two consecutive years.

The bill removes certain restrictions and requirements[77] for intertrack wagering, including the requirements that intertrack wagering must be conducted:

- For up to 21 days in connection with sales;
- Between November 1 and May 8;
- Only with the consent of other permitholders that run live racing in the county, between May 9 and October 31; and
- During the weekend of the Kentucky Derby, the Preakness, the Belmont, and a Breeders' Cup Meet conducted after May 8 and before November 1.

The bill removes the restriction that intertrack wagering must be conducted by the limited intertrack license permitholder only on thoroughbred racing, unless the consent of all thoroughbred, jai alai, and greyhound racing permitholders in the same county is obtained.

The bill removes the purse pool requirement imposed on the limited intertrack license permitholder at the rate of 2.5 percent for its intertrack wagering on greyhound or jai alai.

Section 29 amends s. 551.101, F.S., to allow eligible slot machine facilities to conduct slot machine gaming pursuant to a permit or as otherwise authorized by law. The bill deletes provisions that refers to the eligibility requirements for a slot machine license under the state constitution.

Section 30 amends the definition of "eligible facility" in s. 551.102, F.S., to specify that facilities that are eligible to conduct slot machine gaming include the following:

- The seven pari-mutuel facilities in Miami-Dade and Broward that existed when the State Constitution was amended and slot machines in the county were approved by referendum, and
- A licensed pari-mutuel facility, if slot machines in the county are approved by voters in a countywide referendum, and if the facility conducted a full schedule of live racing for two consecutive years immediately preceding its application.

The section also makes conforming changes.

Section 31 amends s. 551.104, F.S., to disqualify permitholders from receiving a slot machine license, if a permitholder includes, or previously included, an ultimate equitable owner whose permit was voluntarily or involuntarily surrendered, suspended, or revoked by the division within 10 years before the date of the permitholder's application for a slot machine license.

It appears the bill revises criteria for all slot machine licenses, by deleting the requirement that live racing be conducted by a pari-mutuel permitholder in order to maintain eligibility for the slot machine license. The bill also allows a permit to be relocated, with the live racing conducted at a

[77] *See* s. 550.6308(1)(a), (b), (c), and (d), F.S.

leased facility of a limited thoroughbred permitholder pursuant to s. 550.3345, F.S. *See* **Section 22** regarding relocation of the limited thoroughbred permit without a referendum.

If the slot machine licensee is not running a full schedule of live racing under its pari-mutuel permit, then it must contribute to a purse pool. In accordance with s. 550.3345, F.S., (**Section 32** of the bill), this purse pool is effective through July 1, 2036 (the term of the proposed 2015 Gaming Compact).

The purse pool (the lesser of $2 million or 3 percent of the permitholder's prior fiscal year slots revenue) is for the benefit of slot machine licensees that conduct at least 160 days of live thoroughbred racing. There is a dollar-for-dollar credit for payments made to a horsemen's association under a binding written agreement entered into by the permitholder pursuant to s. 551.104(10), F.S. The requirement in existing law for a thoroughbred racing permitholder to have a horsemen's agreement governing the payment of purses on live thoroughbred racing does not apply to a summer thoroughbred racing permitholder.

The bill deletes the requirement that a quarter horse racing permitholder must have a horsemen's agreement governing the payment of purses on live quarter horse races.

Section 32 provides that, effective July 1, 2036, s. 551.104, F.S., is amended to remove the thoroughbred purse pool created in s. 551.104, F.S., in **Section 31** of the bill.

Section 33 creates s. 551.1042, F.S., to prohibit the transfer or relocation of slot machine licenses.

Section 34 creates s. 551.1043, F.S., to provide an additional slot machine license in a county as defined in s. 125.011,[78] to be awarded by the division for the purpose of enhancing live pari-mutuel activity.

The bill provides a legislative finding, that it is in the state's interest to provide a limited opportunity for the establishment of an additional slot machine license to a pari-mutuel permitholder located within a county as defined in s. 125.011, F.S. Any pari-mutuel permitholder in that county that is not a slot machine licensee may apply for the license, upon payment of a $2 million nonrefundable application fee.

The fee must be used by the division and the Department of Law Enforcement for investigations, the regulation of slot machine gaming, and the enforcement of slot machine gaming under ch. 551, F.S. In the event of a successful award of the license to a licensee, the fee will be credited against the license fee required by s. 551.106, F.S. It appears the reference is to the initial license fee; s. 551.106, F.S., addresses both the fee payable upon application for the initial license and the fee due on each anniversary date of issuance of the initial license.

If there is more than one applicant, the license will be awarded by the division to the applicant that receives the highest score based on:

[78] Currently, the only county that meets the definition in s. 125.011, F.S., is Miami-Dade County.

- The amount of slot machine revenues to be dedicated to the enhancement of pari-mutuel purses; breeder's, stallion, and special racing or player awards to be awarded to pari-mutuel activities conducted pursuant to ch. 550, F.S.;
- The amount of slot machine revenues to be dedicated to the general promotion of the state's pari-mutuel industry;
- The amount of slot machine revenues to be dedicated to care provided in this state to injured or retired animals, jockeys, or jai alai players;
- The amount by which the proposed slot machine facility will increase tourism, generate jobs, provide revenue to the local economy, and provide revenue to the state. The applicant and its partners shall document their previous experience in constructing premier facilities with high-quality amenities which complement a local tourism industry;
- The financial history of the applicant and its partners in making capital investments in slot machine gaming and pari-mutuel facilities and its bona fide plan for future community involvement and financial investment;
- The history of investment by the applicant and its partners in the communities in which its previous developments have been located;
- The ability to purchase and maintain a surety bond in an amount established by the division to represent the projected annual revenues generated by the proposed slot machine facility;
- The ability to demonstrate the financial wherewithal to adequately capitalize, develop, construct, maintain, and operate a proposed slot machine facility. The applicant must demonstrate the ability to commit not less than $100 million for hard costs related to construction and development of the facility, exclusive of the purchase price and costs associated with the acquisition of real property and any impact fees. The applicant must also demonstrate the ability to meet any projected secured and unsecured debt obligations and to complete construction within two years after receiving the award of the slot machine license;
- The ability to implement a program to train and employ residents of South Florida to work at the facility and contract with local business owners for goods and services; and
- The ability to generate, with its partners, substantial gross gaming revenue following the award of gaming licenses through a competitive bidding process.

The division must also award additional points for proposed projects located within 0.5 miles of two forms of public transportation and located in a designated community redevelopment area or district.

The bill does not specify the relative value or points that are attributable to the selection criteria. The division must complete its evaluations at least 120 days after the submission of applications and notice its intent to award the license within that time. The time frames in the Administrative Procedure Act do not apply.[79]

Within 30 days after the submission of an application, the division must issue, if necessary, requests for additional information or any notices of deficiency to applicants. Applicants must respond within 15 days, and failure to timely and sufficiently respond or to correct identified deficiencies is grounds for denial of an application.

[79] Section 120.60(1), F.S., provides that a license application must be approved or denied within 90 days of a completed application, or the application will be deemed approved.

Any protest of the intent to award the license will be heard by the Division of Administrative Hearings, which shall conduct an administrative hearing before an administrative law judge at least 30 days after the notice of intent to award. The administrative law judge must issue a proposed recommended order at least 30 days after the completion of the final hearing, and the division must issue a final order at least 15 days after receipt of the proposed recommended order.

Any appeal of a license denial must be made to the First District Court of Appeal and must be accompanied by the posting of a supersedeas bond in an amount determined by the division to be equal to the amount of projected annual slot machine revenue to be generated by the successful licensee.

The division is authorized to adopt emergency rules, based on a legislative finding that such emergency rulemaking power is necessary for the preservation of the rights and welfare of the people in order to provide additional funds to benefit the public.

There is a further legislative finding that the unique nature of the competitive award of the license requires that the DBPR[80] respond as quickly as is practicable to implement s. 551.1043, F.S. In adopting the emergency rules, the division is exempted from the requirements of s. 120.54(4)(a), F.S., including publication in writing at the time of, or prior to, its action, the specific facts and reasons for finding an immediate danger to the public health, safety, or welfare, and its reasons for concluding that the procedure used is fair under the circumstances. Emergency rules adopted under this section are exempted from s. 120.54(4)(c), F.S., that generally provides that emergency rules may not be effective for longer than 90 days and may not be renewed. The emergency rules will remain in effect until replaced by other emergency rules or by rules adopted pursuant to the Administrative Procedure Act.

Section 35 creates s. 551.1044, F.S., to authorize house banked blackjack table games, with a maximum of 25 such tables at each facility, at:

- The facilities in Miami-Dade and Broward counties that are eligible under the slot machines constitutional amendment where live racing or games were conducted during calendar years 2002 and 2003; and
- The facilities located in a county defined under s. 125.011, F.S., where a full schedule of live horse racing has been conducted for two consecutive years.

Wagers may not exceed $100 for each initial two card wager. Subsequent wagers on splits or double downs are allowed, but may not exceed the initial two card wager. Single side bets of not more than $5 are also allowed. The bill does not provide for taxation of these games.

Section 36 amends s. 551.106, F.S., to remove obsolete language relative to the slot machine license fee for Fiscal Year 2010-2011. The bill also reduces the tax on slot machine revenues from 35 percent to 25 percent.

Section 37 amends s. 551.108, F.S., regarding prohibited relationships, to address contracts between slot machine licensees and a manufacturer or distributor. Section 551.108, F.S.,

[80] Perhaps "division" is intended, as the division is referenced elsewhere.

currently prohibits contracts that provide for revenue sharing calculated on a percentage of slot machine revenues. The bill exempts contracts related to a progressive system used in conjunction with slot machines to include a revenue sharing provision.

Section 38 amends s. 551.114, F.S., to revise the requirement for slot machine licensees to display pari-mutuel races or games and offer the ability to engage in wagering on live, intertrack, and simulcast races conducted or offered to patrons. The requirement is conditioned upon whether the races or games "are available" to the licensee. The term "are available" is not defined.

The bill revises a limitation on the location of slot machine gaming areas, and allows a gaming area to be located anywhere within the property described in the licensee's pari-mutuel permit. Existing law requires that a gaming area be located within the live gaming facility or in an existing building that is contiguous and connected to the facility.

Section 39 amends s. 551.116, F.S., to extend the number of hours that a slot machine gaming area may be open on weekdays, from 18 hours to 24 hours, which matches the authorized operating hours on weekends.

Section 40 amends s. 551.121, F.S., to allow complimentary or reduced-costs alcoholic beverages to be served to a person playing a slot machine. The bill provides that a slot machine licensee may allow automatic teller machines (ATMs) or similar devices designed to provide credit or dispense cash, to be located in the gaming area.

Section 41 amends s. 849.086, F.S., regarding the operation of cardrooms. The bill also revises the hours of operation to 24 hours daily, (previously 8 hours Monday through Friday and 24 hours on Saturday and Sunday), which conforms to the hours that a slot machine gaming area may be open pursuant to s. 551.116, F.S. as amended by **Section 39** of the bill. The bill removes the ability of a permitholder to amend a renewal application for a cardroom.

The bill deletes the 90 percent rule in existing law mandating the minimum number of races that must be conducted by a permitholder. This appears to decouple thoroughbred racing permitholders as well as greyhound racing permitholders, jai alai permitholders, harness racing permitholders, and quarter horse racing permitholders.

The bill provides that a designated player game is not a banking game, and that a designated player is the player in the dealer position seated at a traditional player position who pays winning players and collects from losing players.

The bill defines a designated player game to mean "a game in which the players compare their cards only to the cards of the designated player or to a combination of cards held by the designated player and cards common and available for play by all players."

Regarding the designated player games, the bill provides that:

- All cardroom operators may offer designated player games;
- The cardroom operator may not serve as a designated player, but may collect a rake as posted at the table;

- If there are multiple designated players at a table, the dealer button must be rotated clockwise after each hand; and
- A cardroom operator may not allow a designated player to pay an opposing player who holds a lower ranked hand.

The bill modifies s. 849.086(13), F.S., regarding prohibited activities to address banking game issues and provide that a designated player game shall be deemed a banking game if any of the following elements apply:

- Any designated player is required by the rules of a game or by the rules of a cardroom to cover all wagers posted by opposing players;
- The dealer button remains in a fixed position without being offered for rotation;
- The cardroom, or any cardroom licensee, contracts with or receives compensation other than a posted table rake from any player to participate in any game to serve as a designated player; or
- In any designated player game in which the designated player possesses a higher ranked hand, the designated player is required to pay on an opposing player's wager who holds a lower ranked hand.

Section 42 provides that the division must revoke any permit to conduct pari-mutuel wagering if a permitholder has not conducted live events within the 24 months preceding the effective date of the bill, unless the permit is a limited thoroughbred racing permit that was issued under s. 550.3345, F.S. A permit revoked for failure to conduct live events within the 24 months preceding the effective date of the bill may not be reissued.

Section 43 provides that the provisions of the bill are not severable. If the bill or any of its provisions are determined to be unconstitutional, or the applicability thereof to any person or circumstance is held invalid:

- All other provisions or applications of the provisions of the bill are invalid; and
- The bill is considered never to have become law.

Section 44 states that SB 7072 becomes effective if SB 7074, respecting the Gaming Compact between the Seminole Tribe of Florida and the State of Florida, or similar legislation ratifying the Gaming Compact between the Seminole Tribe of Florida and the State of Florida executed by the Governor and the Seminole Tribe of Florida on December 7, 2015 (the 2015 Gaming Compact) becomes law.

In addition, the bill requires approval of the 2015 Gaming Compact by the United States Department of the Interior (Department of the Interior) as required under the Indian Gaming Regulatory Act of 1988. Sections 1, 2, and 3 of SB 7072 will be effective upon becoming law, and the remaining sections of the bill will be effective upon the date of publication of the approval of the Gaming Compact by the Department of the Interior in the Federal Register.

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:

Since SB 7072 is contingent upon ratification of the 2015 Gaming Compact between the Seminole Tribe of Florida (Seminole Tribe) and the State of Florida by SB 7074 or similar legislation, and SB 7074 requires the Compact to be amended, the fiscal impact of SB 7072 is indeterminate.

The Revenue Estimating Conference has estimated the impacts of individual elements of the bill, as shown below:

SB 7072 Fiscal Impacts			
Assuming 2015 Gaming Compact Payments are not amended			
All impacts are compared to current estimates including 2010 Compact revenues			
Issue	FY 2016-17 Impact ($ millions)	Recurring Impact (5th year) ($ millions)	Affected Fund*
Ratification of 2015 Gaming Compact	170.9	248.7	GR
Slot Machine Tax Rate Reduction	(55.8)	(59.2)	EETF
New Slot Machine Facilities in Referendum Counties	0.0	82.1	EETF
New Slot Machine Facilities in Miami-Dade County	0.0	3.3	EETF
Slot Machine License Fees	0.0	14.0	PMWTF
Miami-Dade Application Fee for New Slot Machine Facility	2.0	0.0	PMWTF
Diverted Sales Tax	0.0	(20.1)	GR
Thoroughbred Purse Supplement	(20.0)	(20.0)	GR
Pari-mutuel Decoupling	2.1	2.6	PMWTF
Escheated Tickets Loss	0.0	(0.3)	SSTF
Point-of-Sale Lottery Terminals	**	**	EETF
House Banked Blackjack	(**)	(**)	PMWTF
Deactivated Permits	(**)	(**)	PMWTF
Construction-Related Sales Tax	**	**	GR
*GR = General Revenue Fund, EETF = Educational Enhancement Trust Fund, PMWTF = Pari-mutuel Wagering Trust Fund, SSTF = State School Trust Fund			
** = positive indeterminate			
(**) = negative indeterminate			

B. Private Sector Impact:

The bill creates additional gambling opportunities for Floridians and visitors. It allows certain pari-mutuel permitholders to add slot machines and creates another slot machine facility in Miami-Dade County. By allowing pari-mutuel permitholders to decouple their live games and races from card rooms and slot machine operations the bill may adversely affect employees and businesses that support live games and racing. The Thoroughbred Purse supplement, however, will benefit the thoroughbred racing industry in the state.

C. Government Sector Impact:

The Division of Pari-mutuel Wagering (division) must implement the provisions of the bill, and adopt forms and procedures for the pari-mutuel permit reduction program, and for the issuance of additional slot machine licenses in Miami-Dade and Palm Beach counties.

Recordkeeping and producing documents in response to public records requests for injury reports on racing greyhounds, as it relates to Section 20 of the bill, will have an indeterminate impact on the workload of the division, depending on the number of injury reports that are filed. The Department of Business and Professional Regulation (DBPR) estimated the fiscal impact of similar provisions during the 2015 Session. Estimates provided include a negative fiscal impact on state funds in Fiscal Year 2014-2015 from a low of $60,727, if it collects reports and serves as a repository (one additional staff), to a high of $425,163 if it reviews the reports, assesses the accuracy of reports, investigates false statements, and pursues administrative action (five additional staff and three additional vehicles).[81] Also, according to the DBPR, updates to the DBPR's computer system, Versa: Regulation and OnBase, to add a new pseudo-license to track injured greyhounds and any other possible modifications to Versa: Online, will be made with existing DBPR resources.

VI. Technical Deficiencies:

Section 18 creates s. 550.1752, F.S., to establish a pari-mutuel permit reduction program. The program is created to authorize the division to purchase and cancel active pari-mutuel permits. Funding for the program is generated by revenue share payments made by the Seminole Tribe of Florida under the Gaming Compact and received by the State after October 31, 2015. The funding limit for the program is $20 million, and the provision expires July 1, 2018, unless reenacted. The thoroughbred purse supplement program is created effective July 1, 2018 (*see* Section 19). It appears that ending the pari-mutuel permit reduction program at the end of the fiscal year, i.e., on June 30, 2018, would prevent overlap of the two programs and reduce associated accounting expenses. Further, any reenactment of the permit reduction program after July 1, 2018, appears to create multiple demands on the funding source for these programs.

VII. Related Issues:

Section 35 creates s. 551.1044, F.S., to authorize house banked blackjack table games. It does not appear that there are any provisions in the bill to tax revenue from house banked blackjack table games as slot machine revenue under ch. 551, F.S., or as cardroom gross receipts pursuant to s. 849.086(13)(a), F.S.

The bill requires the enactment of SB 7074, respecting the Gaming Compact between the Seminole Tribe of Florida (Seminole Tribe) and the State of Florida, or similar legislation ratifying the Gaming Compact between the Seminole Tribe and the State of Florida executed by the Governor and the Seminole Tribe on December 7, 2015 (the 2015 Gaming Compact).

[81] Department of Business and Professional Regulation, *Senate Bill 2 Fiscal Analysis* (Jan. 15, 2015) (on file with Senate Committee on Regulated Industries).

The bill includes provisions for slot machines in any county in which slot machines are approved by voters in a countywide referendum, and if the pari-mutuel facility conducted a full schedule of live racing for two consecutive years immediately preceding its application. The bill provides for issuance of an additional slot machine license in a county as defined in s. 125.011, F.S. The bill includes provisions for games that are not addressed in the 2010 Gaming Compact or the proposed 2015 Gaming Compact. These provisions may affect revenue-sharing payments by the Seminole Tribe upon becoming law.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 24.103, 24.105, 24.112, 550.002, 550.01215, 550.0251, 550.054, 550.0951, 550.09511, 550.09512, 550.09514, 550.09515, 550.1625, 550.1648, 550.1752, 550.26165, 550.3345, 550.3551, 550.375, 550.475, 550.5251, 550.615, 550.6308, 551.101, 551.102, 551.104, 551.106, 551.108, 551.114, 551.116, 551.121, and 849.086.

This bill creates the following sections of the Florida Statutes: 550.1752, 550.2416, 551.1042, 551.1043, and 551.1044.

This bill repeals the following sections of the Florida Statutes: 550.0555, 550.0745, and 550.1647.

The bill creates two undesignated sections of law.

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 the Committee on Regulated Industries

580-03741A-16 20167072__

A bill to be entitled

An act relating to gaming; amending s. 24.103, F.S.; defining the term "point-of-sale terminal"; amending s. 24.105, F.S.; authorizing the Department of the Lottery to create a program that authorizes certain persons to purchase a ticket or game at a point-of-sale terminal; authorizing the department to adopt rules; providing requirements for the rules; amending s. 24.112, F.S.; authorizing the department, a retailer operating from one or more locations, or a vendor approved by the department to use a point-of-sale terminal to sell a lottery ticket or game; requiring a point-of-sale terminal to perform certain functions; specifying that the point-of-sale terminal may not reveal winning numbers; prohibiting a point-of-sale terminal from including or making use of video reels or mechanical reels or other video depictions of slot machine or casino game themes or titles for game play; prohibiting a point-of-sale terminal from being used to redeem a winning ticket; amending s. 550.002, F.S.; redefining the term "full schedule of live racing or games"; amending s. 550.01215, F.S.; revising provisions for applications for pari-mutuel operating licenses; authorizing a greyhound racing permitholder to specify certain intentions on its application; authorizing a greyhound racing permitholder to receive an operating license to conduct pari-mutuel wagering activities at another permitholder's greyhound racing facility; limiting the number of pari-mutuel wagering operating licenses that may be issued each year; authorizing the Division of Pari-mutuel Wagering of the Department of Business and

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Professional Regulation to approve changes in racing dates for permitholders under certain circumstances; providing requirements for licensure of certain jai alai permitholders; deleting a provision for conversion of certain converted permits to jai alai permits; amending s. 550.0251, F.S.; requiring the division to annually report to the Governor and the Legislature; specifying requirements for the content of the report; amending s. 550.054, F.S.; requiring the division to revoke a pari-mutuel wagering operating permit under certain circumstances; prohibiting issuance or approval of new pari-mutuel permits after a specified date; authorizing a permitholder to apply to the division to place a permit in inactive status; revising provisions that prohibit transfer or assignment of a pari-mutuel permit; prohibiting transfer or assignment of a pari-mutuel permit or license under certain conditions; prohibiting relocation of a pari-mutuel facility, cardroom, or slot machine facility or conversion of pari-mutuel permits to a different class; providing for approval of the relocation of such permits; deleting provisions for certain converted permits; repealing s. 550.0555, F.S., relating to the relocation of greyhound racing permits; repealing s. 550.0745, F.S., relating to the conversion of pari-mutuel permits to summer jai alai permits; amending s. 550.0951, F.S.; deleting provisions for certain credits for a greyhound racing permitholder; revising

the tax on handle for live greyhound racing and intertrack wagering if the host track is a greyhound racing track; requiring a tax on handle and fees for video race licensees; specifying how fees may be used by the department and the Department of Law Enforcement; amending s. 550.09511, F.S.; conforming a cross-reference; amending s. 550.09512, F.S.; providing for the revocation of certain harness horse racing permits; specifying that a revoked permit may not be reissued; amending s. 550.09514, F.S.; deleting certain provisions that prohibit tax on handle until a specified amount of tax savings have resulted; revising purse requirements of a greyhound racing permitholder that conducts live racing; amending s. 550.09515, F.S.; providing for the revocation of certain thoroughbred racing permits; specifying that a revoked permit may not be reissued; amending s. 550.1625, F.S.; deleting the requirement that a greyhound racing permitholder pay the breaks tax; repealing s. 550.1647, F.S., relating to unclaimed tickets and breaks held by greyhound racing permitholders; amending s. 550.1648, F.S.; revising requirements for a greyhound racing permitholder to provide a greyhound adoption booth at its facility; requiring sterilization of greyhounds before adoption; authorizing the fee for such sterilization to be included in the cost of adoption; defining the term "bona fide organization that promotes or encourages the adoption of greyhounds"; creating s. 550.1752,

F.S.; creating the permit reduction program within the division; providing a purpose for the program; providing for funding for the program up to a specified maximum amount; requiring the division to purchase pari-mutuel permits from permitholders under certain circumstances; requiring that permitholders who wish to make an offer to sell meet certain requirements; requiring the division to adopt a certain form by rule; requiring that the division establish the value of a pari-mutuel permit based on the valuation of one or more independent appraisers; authorizing the division to establish a value that is lower than the valuation of the independent appraiser; requiring the division to accept the offers that best utilize available funding; requiring the division to cancel permits that it purchases through the program; providing for expiration of the program; renaming the permit reduction program as the thoroughbred purse supplement program; revising the purpose of the program; deleting provisions requiring the division to purchase pari-mutuel permits; revising the form the division shall adopt by rule; requiring the division to apportion purse supplement funds in a certain manner; requiring a thoroughbred permitholder to return any unused portion of a purse supplement fund under certain circumstances; and authorizing rulemaking, as of a specified date; creating s. 550.2416, F.S.; requiring injuries to racing greyhounds to be reported within a certain timeframe

on a form adopted by the division; requiring such form to be completed and signed under oath or affirmation by certain individuals; providing penalties; specifying information that must be included on the form; requiring the division to maintain the forms as public records for a specified time; specifying disciplinary action that may be taken against a licensee of the Department of Business and Professional Regulation who makes false statements on an injury form or who fails to report an injury; exempting injuries to certain animals from reporting requirements; requiring the division to adopt rules; amending s. 550.26165, F.S.; conforming a cross-reference; amending s. 550.3345, F.S.; deleting obsolete provisions; revising requirements for a permit previously converted from a quarter horse racing permit to a limited thoroughbred racing permit; amending s. 550.3551, F.S.; deleting a provision that limits the number of out-of-state races on which wagers are accepted by a greyhound racing permitholder; deleting a provision prohibiting a permitholder from conducting fewer than eight live races or games under certain circumstances; deleting a provision requiring certain permitholders to conduct a full schedule of live racing to receive certain full-card broadcasts and accept certain wagers; amending s. 550.375, F.S.; conforming a cross-reference; amending s. 550.475, F.S.; prohibiting a permitholder from leasing from certain pari-mutuel permitholders;

amending s. 550.5251, F.S., deleting a provision relating to requirements for thoroughbred permitholders; amending s. 550.615, F.S.; revising eligibility requirements for certain pari-mutuel facilities to qualify to receive certain broadcasts; providing that certain greyhound racing permitholders are not required to obtain certain written consent; deleting requirements to conduct intertrack wagering between certain permitholders; deleting a provision prohibiting certain intertrack wagering in certain counties; specifying conditions under which greyhound racing permitholders may accept wagers; amending s. 550.6308, F.S.; revising the number of days of thoroughbred horse sales required for an applicant to obtain a limited intertrack wagering license; revising eligibility requirements for such licenses; revising requirements for such wagering; deleting provisions requiring a licensee to make certain payments to the daily pari-mutuel pool; amending s. 551.101, F.S.; revising the facilities that may possess slot machines and conduct slot machine gaming; deleting certain provisions requiring a countywide referendum to approve slot machines at certain facilities; amending s. 551.102, F.S.; revising definitions; amending s. 551.104, F.S.; prohibiting the division from issuing a slot machine license to certain pari-mutuel permitholders; revising conditions of licensure and to maintain authority to conduct slot machine gaming; exempting a summer thoroughbred racing permitholder

from certain purse requirements; providing applicability; deleting a provision prohibiting the division from issuing or renewing a license for an applicant holding a permit under ch. 550, F.S., under certain circumstances; deleting a provision requiring certain slot machine licensees to remit a certain amount for the payment of purses on live races, as of a certain date; conforming provisions to changes made by the act; creating s. 551.1042, F.S.; prohibiting the transfer of a slot machine license or relocation of a slot machine facility; creating s. 551.1043, F.S.; providing legislative findings; authorizing an additional slot machine license to be awarded and renewed annually to a pari-mutuel permitholder located in a certain county; authorizing certain pari-mutuel permitholders to apply for such a license; providing an application fee; requiring the deposit of the fee in the Pari-mutuel Wagering Trust Fund; requiring the division to award the license to the applicant that bests meets the selection criteria; providing selection criteria; requiring the division to complete a certain evaluation by a specified date; specifying grounds for denial of an application; providing that certain protests be forwarded to the Division of Administrative Hearings; providing requirements for appeals; authorizing the division to adopt certain emergency rules; creating s. 551.1044, F.S.; authorizing blackjack table games at certain pari-mutuel facilities; specifying limits on wagers;

amending s. 551.106, F.S.; deleting obsolete provisions; revising the tax rate on slot machine revenues under certain conditions; amending s. 551.108, F.S.; providing applicability; amending s. 551.114, F.S.; revising the areas where a designated slot machine gaming area may be located; amending s. 551.116, F.S.; deleting a restriction on the number of hours per day that slot machine gaming areas may be open; amending s. 551.121, F.S.; authorizing the serving of complimentary or reduced-cost alcoholic beverages to a person playing a slot machine; authorizing the location of an automated teller machine or similar device within designated slot machine gaming areas; amending s. 849.086, F.S.; amending legislative intent; revising definitions; deleting certain license renewal requirements; deleting provisions relating to restrictions of hours of operation; authorizing certain cardroom operators to offer certain designated player games; requiring the designated player to be licensed; prohibiting cardroom operators from serving as the designated player in a game and from having a financial interest in a designated player; authorizing a cardroom operator to collect a rake, subject to certain requirements; requiring the dealer button to be rotated under certain circumstances; prohibiting a cardroom operator from allowing a designated player to pay an opposing player under certain circumstances; providing elements of a designated player game;

revising requirements for a cardroom license to be issued or renewed; requiring a certain written agreement with a thoroughbred permitholder; providing contract requirements for the agreement; conforming provisions to changes made by the act; directing the division to revoke certain pari-mutuel permits; specifying that the revoked permits may not be reissued; providing for severability; providing a contingent effective date.

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

Section 1. Effective upon becoming a law, section 24.103, Florida Statutes, is reordered and amended to read:

24.103 Definitions.—As used in this act, the term:

(1) "Department" means the Department of the Lottery.

(6) ~~(2)~~ "Secretary" means the secretary of the department.

(3) "Person" means any individual, firm, association, joint adventure, partnership, estate, trust, syndicate, fiduciary, corporation, or other group or combination and includes an ~~shall include any~~ agency or political subdivision of the state.

(4) "Point-of-sale terminal" means an electronic device used to process credit card, debit card, or other similar charge card payments at retail locations which is supported by networks that enable verification, payment, transfer of funds, and logging of transactions.

(2) ~~(4)~~ "Major procurement" means a procurement for a contract for the printing of tickets for use in any lottery game, consultation services for the startup of the lottery, any

goods or services involving the official recording for lottery game play purposes of a player's selections in any lottery game involving player selections, any goods or services involving the receiving of a player's selection directly from a player in any lottery game involving player selections, any goods or services involving the drawing, determination, or generation of winners in any lottery game, the security report services provided for in this act, or any goods and services relating to marketing and promotion which exceed a value of $25,000.

(5) "Retailer" means a person who sells lottery tickets on behalf of the department pursuant to a contract.

(7) ~~(6)~~ "Vendor" means a person who provides or proposes to provide goods or services to the department, but does not include an employee of the department, a retailer, or a state agency.

Section 2. Effective upon becoming a law, present subsections (19) and (20) of section 24.105, Florida Statutes, are redesignated as subsections (20) and (21), respectively, and a new subsection (19) is added to that section, to read:

24.105 Powers and duties of department.—The department shall:

(19) Have the authority to create a program that allows a person who is at least 18 years of age to purchase a lottery ticket or game at a point-of-sale terminal. The department may adopt rules to administer the program. Such rules shall include, but are not limited to, the following:

(a) Limiting the dollar amount of lottery tickets or games that a person may purchase at point-of-sale terminals;

(b) Creating a process to enable a customer to restrict or

prevent his or her own access to lottery tickets or games; and

(c) Ensuring that the program is administered in a manner that does not breach the exclusivity provisions of any Indian gaming compact to which this state is a party.

Section 3. Effective upon becoming a law, section 24.112, Florida Statutes, is amended to read:

24.112 Retailers of lottery tickets; ~~authorization of~~ vending machines; point-of-sale terminals ~~to dispense lottery tickets~~.—

(1) The department shall adopt ~~promulgate~~ rules specifying the terms and conditions for contracting with retailers who will best serve the public interest and promote the sale of lottery tickets.

(2) In the selection of retailers, the department shall consider factors such as financial responsibility, integrity, reputation, accessibility of the place of business or activity to the public, security of the premises, the sufficiency of existing retailers to serve the public convenience, and the projected volume of the sales for the lottery game involved. In the consideration of these factors, the department may require the information it deems necessary of any person applying for authority to act as a retailer. However, the department may not establish a limitation upon the number of retailers and shall make every effort to allow small business participation as retailers. It is the intent of the Legislature that retailer selections be based on business considerations and the public convenience and that retailers be selected without regard to political affiliation.

(3) The department may ~~shall~~ not contract with any person

as a retailer who:

(a) Is less than 18 years of age.

(b) Is engaged exclusively in the business of selling lottery tickets; however, this paragraph may ~~shall~~ not preclude the department from selling lottery tickets.

(c) Has been convicted of, or entered a plea of guilty or nolo contendere to, a felony committed in the preceding 10 years, regardless of adjudication, unless the department determines that:

1. The person has been pardoned or the person's civil rights have been restored;

2. Subsequent to such conviction or entry of plea the person has engaged in the kind of law-abiding commerce and good citizenship that would reflect well upon the integrity of the lottery; or

3. If the person is a firm, association, partnership, trust, corporation, or other entity, the person has terminated its relationship with the individual whose actions directly contributed to the person's conviction or entry of plea.

(4) The department shall issue a certificate of authority to each person with whom it contracts as a retailer for purposes of display pursuant to subsection (6). The issuance of the certificate may ~~shall~~ not confer upon the retailer any right apart from that specifically granted in the contract. The authority to act as a retailer may ~~shall~~ not be assignable or transferable.

(5) A ~~Any~~ contract executed by the department pursuant to this section shall specify the reasons for any suspension or termination of the contract by the department, including, but

not limited to:

(a) Commission of a violation of this act or rule adopted pursuant thereto.

(b) Failure to accurately account for lottery tickets, revenues, or prizes as required by the department.

(c) Commission of any fraud, deceit, or misrepresentation.

(d) Insufficient sale of tickets.

(e) Conduct prejudicial to public confidence in the lottery.

(f) Any material change in any matter considered by the department in executing the contract with the retailer.

(6) Each ~~Every~~ retailer shall post and keep conspicuously displayed in a location on the premises accessible to the public its certificate of authority and, with respect to each game, a statement supplied by the department of the estimated odds of winning a ~~some~~ prize for the game.

(7) A ~~No~~ contract with a retailer may not ~~shall~~ authorize the sale of lottery tickets at more than one location, and a retailer may sell lottery tickets only at the location stated on the certificate of authority.

(8) With respect to any retailer whose rental payments for premises are contractually computed, in whole or in part, on the basis of a percentage of retail sales, and where such computation of retail sales is not explicitly defined to include sales of tickets in a state-operated lottery, the compensation received by the retailer from the department shall be deemed to be the amount of the retail sale for the purposes of such contractual compensation.

(9)(a) The department may require each ~~every~~ retailer to

post an appropriate bond as determined by the department, using an insurance company acceptable to the department, in an amount not to exceed twice the average lottery ticket sales of the retailer for the period within which the retailer is required to remit lottery funds to the department. For the first 90 days of sales of a new retailer, the amount of the bond may not exceed twice the average estimated lottery ticket sales for the period within which the retailer is required to remit lottery funds to the department. This paragraph does ~~shall~~ not apply to lottery tickets that ~~which~~ are prepaid by the retailer.

(b) In lieu of such bond, the department may purchase blanket bonds covering all or selected retailers or may allow a retailer to deposit and maintain with the Chief Financial Officer securities that are interest bearing or accruing and that, with the exception of those specified in subparagraphs 1. and 2., are rated in one of the four highest classifications by an established nationally recognized investment rating service. Securities eligible under this paragraph shall be limited to:

1. Certificates of deposit issued by solvent banks or savings associations organized and existing under the laws of this state or under the laws of the United States and having their principal place of business in this state.

2. United States bonds, notes, and bills for which the full faith and credit of the government of the United States is pledged for the payment of principal and interest.

3. General obligation bonds and notes of any political subdivision of the state.

4. Corporate bonds of any corporation that is not an affiliate or subsidiary of the depositor.

Such securities shall be held in trust and shall have at all times a market value at least equal to an amount required by the department.

(10) Each ~~Every~~ contract entered into by the department pursuant to this section shall contain a provision for payment of liquidated damages to the department for any breach of contract by the retailer.

(11) The department shall establish procedures by which each retailer shall account for all tickets sold by the retailer and account for all funds received by the retailer from such sales. The contract with each retailer shall include provisions relating to the sale of tickets, payment of moneys to the department, reports, service charges, and interest and penalties, if necessary, as the department shall deem appropriate.

(12) ~~No~~ Payment by a retailer to the department for tickets may not ~~shall~~ be in cash. All such payments shall be in the form of a check, bank draft, electronic fund transfer, or other financial instrument authorized by the secretary.

(13) Each retailer shall provide accessibility for disabled persons on habitable grade levels. This subsection does not apply to a retail location that ~~which~~ has an entrance door threshold more than 12 inches above ground level. As used in ~~herein and for purposes of~~ this subsection ~~only~~, the term "accessibility for disabled persons on habitable grade levels" means that retailers shall provide ramps, platforms, aisles and pathway widths, turnaround areas, and parking spaces to the extent these are required for the retailer's premises by the

particular jurisdiction where the retailer is located. Accessibility shall be required to only one point of sale of lottery tickets for each lottery retailer location. The requirements of this subsection shall be deemed to have been met if, in lieu of the foregoing, disabled persons can purchase tickets from the retail location by means of a drive-up window, provided the hours of access at the drive-up window are not less than those provided at any other entrance at that lottery retailer location. Inspections for compliance with this subsection shall be performed by those enforcement authorities responsible for enforcement pursuant to s. 553.80 in accordance with procedures established by those authorities. Those enforcement authorities shall provide to the Department of the Lottery a certification of noncompliance for any lottery retailer not meeting such requirements.

(14) The secretary may, after filing with the Department of State his or her manual signature certified by the secretary under oath, execute or cause to be executed contracts between the department and retailers by means of engraving, imprinting, stamping, or other facsimile signature.

(15) A vending machine may be used to dispense online lottery tickets, instant lottery tickets, or both online and instant lottery tickets.

(a) The vending machine must:

1. Dispense a lottery ticket after a purchaser inserts a coin or currency in the machine.

2. Be capable of being electronically deactivated for a period of 5 minutes or more.

3. Be designed to prevent its use for any purpose other

than dispensing a lottery ticket.

(b) In order to be authorized to use a vending machine to dispense lottery tickets, a retailer must:

1. Locate the vending machine in the retailer's direct line of sight to ensure that purchases are only made by persons at least 18 years of age.

2. Ensure that at least one employee is on duty when the vending machine is available for use. However, if the retailer has previously violated s. 24.1055, at least two employees must be on duty when the vending machine is available for use.

(c) A vending machine that dispenses a lottery ticket may dispense change to a purchaser but may not be used to redeem any type of winning lottery ticket.

(d) The vending machine, or any machine or device linked to the vending machine, may not include or make use of video reels or mechanical reels or other video depictions of slot machine or casino game themes or titles for game play. This does not preclude the use of casino game themes or titles on such tickets or signage or advertising displays on the machines.

(16) The department, a retailer operating from one or more locations, or a vendor approved by the department may use a point-of-sale terminal to facilitate the sale of a lottery ticket or game.

(a) A point-of-sale terminal must:

1. Dispense a paper lottery ticket with numbers selected by the purchaser or selected randomly by the machine after the purchaser uses a credit card, debit card, or other similar charge card issued by a bank, savings association, credit union, or charge card company or issued by a retailer pursuant to part

II of chapter 520 for payment;

2. Recognize a valid driver license or use another age verification process approved by the department to ensure that only persons at least 18 years of age may purchase a lottery ticket or game;

3. Process a lottery transaction through a platform that is certified or otherwise approved by the department; and

4. Be in compliance with all applicable department requirements related to the lottery ticket or game offered for sale.

(b) A point-of-sale terminal does not reveal winning numbers, which are selected at a subsequent time and different location through a drawing by the state lottery.

(c) A point-of-sale terminal, or any machine or device linked to the point-of-sale terminal, may not include or make use of video reels or mechanical reels or other video depictions of slot machine or casino game themes or titles for game play. This does not preclude the use of casino game themes or titles on a lottery ticket or game or on the signage or advertising displays on the terminal.

(d) A point-of-sale terminal may not be used to redeem a winning ticket.

Section 4. Subsection (11) of section 550.002, Florida Statutes, is amended to read:

550.002 Definitions.—As used in this chapter, the term:

(11)(a) "Full schedule of live racing or games" means:~~,~~

1. For a greyhound racing permitholder or jai alai permitholder, the conduct of a combination of at least 100 live ~~evening or matinee~~ performances during the preceding year.~~; for~~

~~a permitholder who has a converted permit or filed an application on or before June 1, 1990, for a converted permit, the conduct of a combination of at least 100 live evening and matinee wagering performances during either of the 2 preceding years;~~

2. For a jai alai permitholder that ~~who~~ does not possess a ~~operate~~ slot machine license ~~machines~~ in its pari-mutuel facility, ~~who~~ has conducted at least 100 live performances per year for at least 10 years after December 31, 1992, and has had ~~whose~~ handle on live jai alai games conducted at its pari-mutuel facility which was ~~has been~~ less than $4 million per state fiscal year for at least 2 consecutive years after June 30, 1992, the conduct of ~~a combination of~~ at least 40 live ~~evening or matinee~~ performances during the preceding year.~~;~~

3. For a jai alai permitholder that possess a ~~who operates~~ slot machine license ~~machines~~ in its pari-mutuel facility, the conduct of ~~a combination of~~ at least 150 performances during the preceding year.~~;~~

4. For a summer jai alai permitholder that does not possess a slot machine license, the conduct of at least 58 live performances during the preceding year, unless the permitholder meets the requirements of subparagraph 2.

5. For a harness horse racing permitholder, the conduct of at least 100 live regular wagering performances during the preceding year.~~;~~

6. For a quarter horse racing permitholder at its facility, unless an alternative schedule of at least 20 live regular wagering performances each year is agreed upon by the permitholder and either the Florida Quarter Horse Racing

Association or the horsemen ~~horsemen's~~ association representing the majority of the quarter horse owners and trainers at the facility and filed ~~with the division along~~ with its annual operating license ~~date~~ application:~~;~~

a. In the 2010-2011 fiscal year, the conduct of at least 20 regular wagering performances.~~;~~

b. In the 2011-2012 and 2012-2013 fiscal years, the conduct of at least 30 live regular wagering performances.~~; and~~

c. For every fiscal year after the 2012-2013 fiscal year, the conduct of at least 40 live regular wagering performances.~~;~~

7. For a quarter horse racing permitholder leasing another licensed racetrack, the conduct of 160 events at the leased facility during the preceding year.~~; and~~

8. For a thoroughbred racing permitholder, the conduct of at least 40 live regular wagering performances during the preceding year.

(b) ~~For a permitholder which is restricted by statute to certain operating periods within the year when other members of its same class of permit are authorized to operate throughout the year, the specified number of live performances which constitute a full schedule of live racing or games shall be adjusted pro rata in accordance with the relationship between its authorized operating period and the full calendar year and the resulting specified number of live performances shall constitute the full schedule of live games for such permitholder and all other permitholders of the same class within 100 air miles of such permitholder.~~ A live performance must consist of no fewer than eight races or games conducted live for each of a minimum of three performances each week at the permitholder's

licensed facility under a single admission charge.

Section 5. Subsections (1), (3), and (6) of section 550.01215, Florida Statutes, are amended to read:

550.01215 License application; periods of operation; bond, conversion of permit.—

(1) Each permitholder shall annually, during the period between December 15 and January 4, file in writing with the division its application for an operating ~~a~~ license to conduct pari-mutuel wagering during the next fiscal year, including intertrack and simulcast race wagering for greyhound racing permitholders, jai alai permitholders, harness horse racing permitholders, and quarter horse racing permitholders that do not ~~to~~ conduct live performances ~~during the next state fiscal year~~. Each application for live performances must ~~shall~~ specify the number, dates, and starting times of all live performances that ~~which~~ the permitholder intends to conduct. It must ~~shall~~ also specify which performances will be conducted as charity or scholarship performances.

(a) ~~In addition,~~ Each application for an operating ~~a~~ license also must ~~shall~~ include:~~,~~

1. For each permitholder, whether the permitholder intends to accept wagers on broadcast events.

2. For each permitholder that elects ~~which elects~~ to operate a cardroom, the dates and periods of operation the permitholder intends to operate the cardroom. ~~or,~~

3. For each thoroughbred racing permitholder that ~~which~~ elects to receive or rebroadcast out-of-state races after 7 p.m., the dates for all performances which the permitholder intends to conduct.

(b) A greyhound racing permitholder that conducted a full schedule of live racing for a period of at least 10 consecutive state fiscal years after the 1996-1997 state fiscal year, or that converted its permit to a permit to conduct greyhound racing after the 1996-1997 state fiscal year, may specify in its application for an operating license that it does not intend to conduct live racing, or that it intends to conduct less than a full schedule of live racing, in the next state fiscal year. A greyhound racing permitholder may receive an operating license to conduct pari-mutuel wagering activities at another permitholder's greyhound racing facility pursuant to s. 550.475.

(c) Permitholders may ~~shall be entitled to~~ amend their applications through February 28.

(3) The division shall issue each license no later than March 15. Each permitholder shall operate all performances at the date and time specified on its license. The division shall have the authority to approve minor changes in racing dates after a license has been issued. The division may approve changes in racing dates after a license has been issued when there is no objection from any operating permitholder located within 50 miles of the permitholder requesting the changes in operating dates. In the event of an objection, the division shall approve or disapprove the change in operating dates based upon the impact on operating permitholders located within 50 miles of the permitholder requesting the change in operating dates. In making the determination to change racing dates, the division shall take into consideration the impact of such changes on state revenues. Notwithstanding any other provision of law, and for the 2016-2017 fiscal year only, the division may

approve changes in racing dates for permitholders if the request for such changes is received before August 31, 2016.

(6) A summer jai alai permitholder may apply for an operating license to operate a jai alai fronton only during the summer season beginning May 1 and ending November 30 of each year on such dates as may be selected by the permitholder. Such permitholder is subject to the same taxes, rules, and provisions of this chapter which apply to the operation of winter jai alai frontons. A summer jai alai permitholder is not eligible for licensure to conduct a cardroom or operate a slot machine facility. A summer jai alai permitholder and a winter jai alai permitholder may not operate on the same days or in competition with each other. This subsection does not prevent a summer jai alai licensee from leasing the facilities of a winter jai alai licensee for the operation of a summer meet ~~Any permit which was converted from a jai alai permit to a greyhound permit may be converted to a jai alai permit at any time if the permitholder never conducted greyhound racing or if the permitholder has not conducted greyhound racing for a period of 12 consecutive months~~.

Section 6. Subsection (1) of section 550.0251, Florida Statutes, is amended to read:

550.0251 The powers and duties of the Division of Pari-mutuel Wagering of the Department of Business and Professional Regulation.—The division shall administer this chapter and regulate the pari-mutuel industry under this chapter and the rules adopted pursuant thereto, and:

(1) The division shall make an annual report for the prior fiscal year to the Governor, the President of the Senate, and

the Speaker of the House of Representatives. The report shall include, at a minimum:

(a) Recent events in the gaming industry, including pending litigation involving permitholders; pending permitholder, facility, cardroom, slot, or operating license applications; and new and pending rules.

(b) Actions of the department relating to the implementation and administration of this chapter, and chapters 551 and 849.

(c) The state revenues and expenses associated with each form of authorized gaming. Revenues and expenses associated with pari-mutuel wagering must be further delineated by the class of license.

(d) The performance of each pari-mutuel wagering licensee, cardroom licensee, and slot machine licensee.

(e) A summary of disciplinary actions taken by the department.

(f) Any suggestions to more effectively achieve ~~showing its own actions, receipts derived under the provisions of this chapter, the practical effects of the application of this chapter, and any suggestions it may approve for the more effectual accomplishments of~~ the purposes of this chapter.

Section 7. Paragraph (b) of subsection (9) of section 550.054, Florida Statutes, is amended, paragraphs (c) through (g) are added to that subsection, and paragraph (a) of subsection (11) and subsections (13) and (14) of that section are amended, to read:

550.054 Application for permit to conduct pari-mutuel wagering.—

(9)

(b) The division may revoke or suspend any permit or license issued under this chapter upon a ~~the~~ willful violation by the permitholder or licensee ~~of any provision~~ of this chapter, chapter 551, chapter 849, or rules ~~of any rule~~ adopted pursuant thereto ~~under this chapter~~. With the exception of the revocation of permits required in paragraphs (c), (d), (f), and (g), ~~In lieu of suspending or revoking a permit or license,~~ the division may, in lieu of suspending or revoking a permit or license, impose a civil penalty against the permitholder or licensee for a violation of this chapter, chapter 551, chapter 849, or rules adopted pursuant thereto ~~any rule adopted by the division~~. The penalty so imposed may not exceed $1,000 for each count or separate offense. All penalties imposed and collected must be deposited with the Chief Financial Officer to the credit of the General Revenue Fund.

(c) Unless a failure to obtain an operating license and to operate was the direct result of fire, strike, war, or other disaster or event beyond the permitholder's control, the division shall revoke the permit of any permitholder that has not obtained an operating license in accordance with s. 550.01215 for a period of more than 24 consecutive months after June 30, 2012. The division shall revoke the permit upon adequate notice to the permitholder. Financial hardship to the permitholder does not, in and of itself, constitute just cause for failure to operate.

(d) The division shall revoke the permit of any permitholder that fails to make payments that are due pursuant to s. 550.0951 for more than 24 consecutive months unless such

failure to pay the tax due on handle was the direct result of fire, strike, war, or other disaster or event beyond the permitholder's control. Financial hardship to the permitholder does not, in and of itself, constitute just cause for failure to pay tax on handle.

(e) Notwithstanding any other provision of law, a new permit to conduct pari-mutuel wagering may not be approved or issued after July 1, 2016.

(f) A permit revoked under this subsection is void and may not be reissued.

(g) A permitholder may apply to the division to place the permit into inactive status for a period of 12 months pursuant to the rules adopted under this chapter. The division, upon good cause shown by the permitholder, may renew inactive status for a period of up to 12 months, but a permit may not be in inactive status for a period of more than 24 consecutive months. Holders of permits in inactive status are not eligible for licensure for pari-mutuel wagering, slot machines, or cardrooms.

(11)(a) A permit granted under this chapter may not be transferred or assigned except upon written approval by the division pursuant to s. 550.1815~~, except that the holder of any permit that has been converted to a jai alai permit may lease or build anywhere within the county in which its permit is located~~.

(13)~~(a)~~ Notwithstanding any provision ~~provisions~~ of this chapter or chapter 551, a pari-mutuel ~~no thoroughbred horse racing~~ permit or license issued under this chapter or chapter 551 may not ~~shall~~ be transferred~~,~~ or reissued when such reissuance is in the nature of a transfer so as to permit or authorize a licensee to change the location of a pari-mutuel

facility, cardroom, or slot machine facility. ~~thoroughbred horse racetrack except upon proof in such form as the division may prescribe that a referendum election has been held:~~

~~1. If the proposed new location is within the same county as the already licensed location, in the county where the licensee desires to conduct the race meeting and that a majority of the electors voting on that question in such election voted in favor of the transfer of such license.~~

~~2. If the proposed new location is not within the same county as the already licensed location, in the county where the licensee desires to conduct the race meeting and in the county where the licensee is already licensed to conduct the race meeting and that a majority of the electors voting on that question in each such election voted in favor of the transfer of such license.~~

~~(b) Each referendum held under the provisions of this subsection shall be held in accordance with the electoral procedures for ratification of permits, as provided in s. 550.0651. The expense of each such referendum shall be borne by the licensee requesting the transfer.~~

(14)(a) Notwithstanding any other provision of law, a pari-mutuel facility, cardroom, or slot machine facility may not be relocated except as provided in paragraph (b), and a pari-mutuel permit may not be converted to another class of permit. ~~Any holder of a permit to conduct jai alai may apply to the division to convert such permit to a permit to conduct greyhound racing in lieu of jai alai if:~~

~~1. Such permit is located in a county in which the division has issued only two pari-mutuel permits pursuant to this~~

~~section;~~

~~2. Such permit was not previously converted from any other class of permit; and~~

~~3. The holder of the permit has not conducted jai alai games during a period of 10 years immediately preceding his or her application for conversion under this subsection.~~

(b) Upon application from the holder of a permit to conduct greyhound racing which was converted from a permit to conduct jai alai pursuant to former s. 550.054(14), Florida Statutes 2014, as created by s. 6, chapter 2009-170, Laws of Florida, the division may approve the relocation of such permit to another location within a 30-mile radius of the location fixed in the permit if the application is received by July 31, 2018, the new location is within the same county, and the new location is approved under the zoning regulations of the county or municipality in which the permit is located ~~The division, upon application from the holder of a jai alai permit meeting all conditions of this section, shall convert the permit and shall issue to the permitholder a permit to conduct greyhound racing~~. ~~A permitholder of a permit converted under this section shall be required to apply for and conduct a full schedule of live racing each fiscal year to be eligible for any tax credit provided by this chapter. The holder of a permit converted pursuant to this subsection or any holder of a permit to conduct greyhound racing located in a county in which it is the only permit issued pursuant to this section who operates at a leased facility pursuant to s. 550.475 may move the location for which the permit has been issued to another location within a 30-mile radius of the location fixed in the permit issued in that~~

~~county, provided the move does not cross the county boundary and such location is approved under the zoning regulations of the county or municipality in which the permit is located, and upon such relocation may use the permit for the conduct of pari-mutuel wagering and the operation of a cardroom. The provisions of s. 550.6305(9)(d) and (f) shall apply to any permit converted under this subsection and shall continue to apply to any permit which was previously included under and subject to such provisions before a conversion pursuant to this section occurred.~~

Section 8. Section 550.0555, Florida Statutes, is repealed.

Section 9. Section 550.0745, Florida Statutes, is repealed.

Section 10. Section 550.0951, Florida Statutes, is amended to read:

550.0951 Payment of daily license fee and taxes; penalties.—

(1)~~(a)~~ DAILY LICENSE FEE.—Each person engaged in the business of conducting race meetings or jai alai games under this chapter, hereinafter referred to as the "permitholder," "licensee," or "permittee," shall pay ~~to the division, for the use of the division,~~ a daily license fee on each live or simulcast pari-mutuel event of $100 for each horserace, ~~and~~ $80 for each greyhound race, ~~dograce~~ and $40 for each jai alai game, any of which is conducted at a racetrack or fronton licensed under this chapter. A ~~In addition to the tax exemption specified in s. 550.09514(1) of $360,000 or $500,000 per greyhound permitholder per state fiscal year, each greyhound permitholder shall receive in the current state fiscal year a tax credit equal to the number of live greyhound races conducted in the~~

~~previous state fiscal year times the daily license fee specified for each dograce in this subsection applicable for the previous state fiscal year. This tax credit and the exemption in s. 550.09514(1) shall be applicable to any tax imposed by this chapter or the daily license fees imposed by this chapter except during any charity or scholarship performances conducted pursuant to s. 550.0351. Each~~ permitholder may not be required to ~~shall~~ pay daily license fees in excess of ~~not to exceed~~ $500 per day on any simulcast races or games on which such permitholder accepts wagers, regardless of the number of out-of-state events taken or the number of out-of-state locations from which such events are taken. This license fee shall be deposited with the Chief Financial Officer to the credit of the Pari-mutuel Wagering Trust Fund.

~~(b) Each permitholder that cannot utilize the full amount of the exemption of $360,000 or $500,000 provided in s. 550.09514(1) or the daily license fee credit provided in this section may, after notifying the division in writing, elect once per state fiscal year on a form provided by the division to transfer such exemption or credit or any portion thereof to any greyhound permitholder which acts as a host track to such permitholder for the purpose of intertrack wagering. Once an election to transfer such exemption or credit is filed with the division, it shall not be rescinded. The division shall disapprove the transfer when the amount of the exemption or credit or portion thereof is unavailable to the transferring permitholder or when the permitholder who is entitled to transfer the exemption or credit or who is entitled to receive the exemption or credit owes taxes to the state pursuant to a~~

~~deficiency letter or administrative complaint issued by the division. Upon approval of the transfer by the division, the transferred tax exemption or credit shall be effective for the first performance of the next payment period as specified in subsection (5). The exemption or credit transferred to such host track may be applied by such host track against any taxes imposed by this chapter or daily license fees imposed by this chapter. The greyhound permitholder host track to which such exemption or credit is transferred shall reimburse such permitholder the exact monetary value of such transferred exemption or credit as actually applied against the taxes and daily license fees of the host track. The division shall ensure that all transfers of exemption or credit are made in accordance with this subsection and shall have the authority to adopt rules to ensure the implementation of this section.~~

(2) ADMISSION TAX.—

(a) An admission tax equal to 15 percent of the admission charge for entrance to the permitholder's facility and grandstand area, or 10 cents, whichever is greater, is imposed on each person attending a horserace, greyhound race ~~dograce~~, or jai alai game. The permitholder is ~~shall be~~ responsible for collecting the admission tax.

(b) The ~~No~~ admission tax imposed under this chapter and ~~or~~ chapter 212 may not ~~shall~~ be imposed on any free passes or complimentary cards issued to persons for which there is no cost to the person for admission to pari-mutuel events.

(c) A permitholder may issue tax-free passes to its officers, officials, and employees and to ~~or~~ other persons actually engaged in working at the racetrack, including

accredited media ~~press~~ representatives such as reporters and editors, and may also issue tax-free passes to other permitholders for the use of their officers and officials. The permitholder shall file with the division a list of all persons to whom tax-free passes are issued under this paragraph.

(3) TAX ON HANDLE.—Each permitholder shall pay a tax on contributions to pari-mutuel pools, the aggregate of which is hereinafter referred to as "handle," on races or games conducted by the permitholder. The tax is imposed daily and is based on the total contributions to all pari-mutuel pools conducted during the daily performance. If a permitholder conducts more than one performance daily, the tax is imposed on each performance separately.

(a) The tax on handle for quarter horse racing is 1.0 percent of the handle.

(b)1. The tax on handle for greyhound racing ~~dogracing~~ is 1.28 ~~5.5~~ percent of the handle~~, except that for live charity performances held pursuant to s. 550.0351, and for intertrack wagering on such charity performances at a guest greyhound track within the market area of the host, the tax is 7.6 percent of the handle~~.

2. The tax on handle for jai alai is 7.1 percent of the handle.

(c)1. The tax on handle for intertrack wagering is:

a. If the host track is a horse track, 2.0 percent of the handle.

b. If the host track is a harness horse racetrack ~~track~~, 3.3 percent of the handle.

c. If the host track is a greyhound racing ~~harness~~ track,

1.28 ~~5.5~~ percent of the handle, to be remitted by the guest track. ~~if the host track is a dog track, and~~

d. If the host track is a jai alai fronton, 7.1 percent of the handle ~~if the host track is a jai alai fronton~~.

e. ~~The tax on handle for intertrack wagering is 0.5 percent~~ If the host track and the guest track are thoroughbred racing permitholders or if the guest track is located outside the market area of a ~~the~~ host track that is not a greyhound racing track and within the market area of a thoroughbred racing permitholder currently conducting a live race meet, 0.5 percent of the handle.

f. ~~The tax on handle~~ For intertrack wagering on rebroadcasts of simulcast thoroughbred horseraces, ~~is~~ 2.4 percent of the handle and ~~1.5 percent of the handle~~ for intertrack wagering on rebroadcasts of simulcast harness horseraces, 1.5 percent of the handle.

2. The tax shall be deposited into the Pari-mutuel Wagering Trust Fund.

3.~~2.~~ The tax on handle for intertrack wagers accepted by any greyhound racing ~~dog~~ track located in an area of the state in which there are only three permitholders, all of which are greyhound racing permitholders, located in three contiguous counties, from any greyhound racing permitholder also located within such area or any greyhound racing ~~dog~~ track or jai alai fronton located as specified in s. 550.615(7) ~~s. 550.615(6) or (9)~~, on races or games received from any jai alai ~~the same class of~~ permitholder located within the same market area is 3.9 percent of the handle if the host facility is a greyhound racing permitholder. ~~and,~~ If the host facility is a jai alai

permitholder, the tax is ~~rate shall be~~ 6.1 percent of the handle until ~~except that it shall be 2.3 percent on handle at~~ such time as the total tax on intertrack handle paid to the division by the permitholder during the current state fiscal year exceeds the total ~~tax on intertrack handle~~ paid to the division by the permitholder during the 1992-1993 state fiscal year, in which case the tax is 2.3 percent of the handle.

(d) Notwithstanding any other provision of this chapter, in order to protect the Florida jai alai industry, effective July 1, 2000, a jai alai permitholder may not be taxed on live handle at a rate higher than 2 percent.

(4) BREAKS TAX.—Effective October 1, 1996, each permitholder conducting jai alai performances shall pay a tax equal to the breaks. As used in this subsection, the term "breaks" means the money that remains in each pari-mutuel pool after funds are ~~The "breaks" represents that portion of each pari-mutuel pool which is not~~ redistributed to ~~the~~ contributors and commissions are ~~or~~ withheld by the permitholder ~~as commission~~.

(5) PAYMENT AND DISPOSITION OF FEES AND TAXES.—Payments imposed by this section shall be paid to the division. The division shall deposit such payments ~~these sums~~ with the Chief Financial Officer, to the credit of the Pari-mutuel Wagering Trust Fund, hereby established. The permitholder shall remit to the division payment for the daily license fee, the admission tax, the tax on handle, and the breaks tax. Such payments must ~~shall~~ be remitted by 3 p.m. on Wednesday of each week for taxes imposed and collected for the preceding week ending on Sunday. Beginning on July 1, 2012, such payments must ~~shall~~ be remitted

by 3 p.m. on the 5th day of each calendar month for taxes imposed and collected for the preceding calendar month. If the 5th day of the calendar month falls on a weekend, payments must ~~shall~~ be remitted by 3 p.m. the first Monday following the weekend. Permitholders shall file a report under oath by the 5th day of each calendar month for all taxes remitted during the preceding calendar month. Such payments must ~~shall~~ be accompanied by a report under oath showing the total of all admissions, the pari-mutuel wagering activities for the preceding calendar month, and any ~~such~~ other information ~~as may be~~ prescribed by the division.

(6) PENALTIES.—

(a) The failure of any permitholder to make payments as prescribed in subsection (6) ~~(5)~~ is a violation of this section, and the ~~permitholder may be subjected by the~~ division may impose ~~to~~ a civil penalty against the permitholder of up to $1,000 for each day the tax payment is not remitted. All penalties imposed and collected shall be deposited in the General Revenue Fund. If a permitholder fails to pay penalties imposed by order of the division under this subsection, the division may suspend or revoke the license of the permitholder, cancel the permit of the permitholder, or deny issuance of any further license or permit to the permitholder.

(b) In addition to the civil penalty prescribed in paragraph (a), any willful or wanton failure by any permitholder to make payments of the daily license fee, admission tax, tax on handle, or breaks tax constitutes sufficient grounds for the division to suspend or revoke the license of the permitholder, to cancel the permit of the permitholder, or to deny issuance of

any further license or permit to the permitholder.

Section 11. Paragraph (e) of subsection (2) of section 550.09511, Florida Statutes, is amended to read:

550.09511 Jai alai taxes; abandoned interest in a permit for nonpayment of taxes.—

(2) Notwithstanding the provisions of s. 550.0951(3)(b), wagering on live jai alai performances shall be subject to the following taxes:

(e) The payment of taxes pursuant to paragraphs (b), (c), and (d) shall be calculated and commence beginning the day in which the permitholder is first entitled to the reduced rate specified in this section and the report of taxes required by s. 550.0951(6) ~~s. 550.0951(5)~~ is submitted to the division.

Section 12. Section 550.09512, Florida Statutes, is amended to read:

550.09512 Harness horse racing taxes; abandoned interest in a permit for nonpayment of taxes.—

(1) Pari-mutuel wagering at harness horse racetracks in this state is an important business enterprise, and taxes derived therefrom constitute a part of the tax structure which funds operation of the state. Harness horse racing permitholders should pay their fair share of these taxes to the state. This business interest should not be taxed to such an extent as to cause any racetrack which is operated under sound business principles to be forced out of business. Due to the need to protect the public health, safety, and welfare, the gaming laws of the state provide for the harness horse racing industry to be highly regulated and taxed. The state recognizes that there exist identifiable differences between harness horse racing

permitholders based upon their ability to operate under such regulation and tax system.

(2)(a) The tax on handle for live harness horse racing performances is 0.5 percent of handle per performance.

(b) For purposes of this section, the term "handle" shall have the same meaning as in s. 550.0951, and shall not include handle from intertrack wagering.

(3)~~(a)~~ The division shall revoke the permit of a harness horse racing permitholder that ~~who~~ does not pay the tax due on handle for live harness horse racing performances for a full schedule of live races for more than 24 consecutive months ~~during any 2 consecutive state fiscal years shall be void and shall escheat to and become the property of the state~~ unless such failure to operate and pay tax on handle was the direct result of fire, strike, war, or other disaster or event beyond the ability of the permitholder to control. Financial hardship to the permitholder does ~~shall~~ not, in and of itself, constitute just cause for failure to operate and pay tax on handle. A permit revoked under this subsection is void and may not be reissued.

~~(b) In order to maximize the tax revenues to the state, the division shall reissue an escheated harness horse permit to a qualified applicant pursuant to the provisions of this chapter as for the issuance of an initial permit. However, the provisions of this chapter relating to referendum requirements for a pari-mutuel permit shall not apply to the reissuance of an escheated harness horse permit. As specified in the application and upon approval by the division of an application for the permit, the new permitholder shall be authorized to operate a~~

~~harness horse facility anywhere in the same county in which the escheated permit was authorized to be operated, notwithstanding the provisions of s. 550.054(2) relating to mileage limitations.~~

(4) In the event that a court of competent jurisdiction determines any of the provisions of this section to be unconstitutional, it is the intent of the Legislature that the provisions contained in this section shall be null and void and that the provisions of s. 550.0951 shall apply to all harness horse racing permitholders beginning on the date of such judicial determination. To this end, the Legislature declares that it would not have enacted any of the provisions of this section individually and, to that end, expressly finds them not to be severable.

Section 13. Section 550.09514, Florida Statutes, is amended to read:

550.09514 Greyhound racing ~~dogracing~~ taxes; purse requirements.—

~~(1) Wagering on greyhound racing is subject to a tax on handle for live greyhound racing as specified in s. 550.0951(3). However, each permitholder shall pay no tax on handle until such time as this subsection has resulted in a tax savings per state fiscal year of $360,000. Thereafter, each permitholder shall pay the tax as specified in s. 550.0951(3) on all handle for the remainder of the permitholder's current race meet. For the three permitholders that conducted a full schedule of live racing in 1995, and are closest to another state that authorizes greyhound pari-mutuel wagering, the maximum tax savings per state fiscal year shall be $500,000. The provisions of this subsection relating to tax exemptions shall not apply to any charity or~~

~~scholarship performances conducted pursuant to s. 550.0351.~~

(1)~~(2)~~(a) The division shall determine for each greyhound racing permitholder the annual purse percentage rate of live handle for the state fiscal year 1993-1994 by dividing total purses paid on live handle by the permitholder, exclusive of payments made from outside sources, during the 1993-1994 state fiscal year by the permitholder's live handle for the 1993-1994 state fiscal year. A greyhound racing ~~Each~~ permitholder conducting live racing during a fiscal year shall pay as purses for such live races conducted during its current race meet a percentage of its live handle not less than the percentage determined under this paragraph, exclusive of payments made by outside sources, for its 1993-1994 state fiscal year.

(b) Except as otherwise set forth herein, in addition to the minimum purse percentage required by paragraph (a), each greyhound racing permitholder conducting live racing during a fiscal year shall pay as purses an annual amount of $60 for each live race conducted ~~equal to 75 percent of the daily license fees paid~~ by the greyhound racing ~~each~~ permitholder in ~~for~~ the preceding ~~1994-1995~~ fiscal year. These ~~This purse supplement shall be disbursed weekly during the permitholder's race meet in an amount determined by dividing the annual purse supplement by the number of performances approved for the permitholder pursuant to its annual license and multiplying that amount by the number of performances conducted each week. For the greyhound permitholders in the county where there are two greyhound permitholders located as specified in s. 550.615(6), such permitholders shall pay in the aggregate an amount equal to 75 percent of the daily license fees paid by such permitholders~~

~~for the 1994-1995 fiscal year. These permitholders shall be jointly and severally liable for such purse payments. The additional~~ purses ~~provided by this paragraph~~ must be used exclusively for purses other than stakes and must be disbursed weekly during the permitholder's race meet. The division shall conduct audits necessary to ensure compliance with this section.

(c)1. Each greyhound racing permitholder, when conducting at least three live performances during any week, shall pay purses in that week on wagers it accepts as a guest track on intertrack and simulcast greyhound races at the same rate as it pays on live races. Each greyhound racing permitholder, when conducting at least three live performances during any week, shall pay purses in that week, at the same rate as it pays on live races, on wagers accepted on greyhound races at a guest track that ~~which~~ is not conducting live racing and is located within the same market area as the greyhound racing permitholder conducting at least three live performances during any week.

2. Each host greyhound racing permitholder shall pay purses on its simulcast and intertrack broadcasts of greyhound races to guest facilities that are located outside its market area in an amount equal to one quarter of an amount determined by subtracting the transmission costs of sending the simulcast or intertrack broadcasts from an amount determined by adding the fees received for greyhound simulcast races plus 3 percent of the greyhound intertrack handle at guest facilities that are located outside the market area of the host and that paid contractual fees to the host for such broadcasts of greyhound races.

(d) The division shall require sufficient documentation

from each greyhound racing permitholder regarding purses paid on live racing to assure that the annual purse percentage rates paid by each greyhound racing permitholder conducting ~~on the~~ live races are not reduced below those paid during the 1993-1994 state fiscal year. The division shall require sufficient documentation from each greyhound racing permitholder to assure that the purses paid by each permitholder on the greyhound intertrack and simulcast broadcasts are in compliance with the requirements of paragraph (c).

(e) In addition to the purse requirements of paragraphs (a)-(c), each greyhound racing permitholder conducting live races shall pay as purses an amount equal to one-third of the amount of the tax reduction on live and simulcast handle applicable to such permitholder as a result of the reductions in tax rates provided by s. 6, chapter 2000-354, Laws of Florida ~~this act through the amendments to s. 550.0951(3)~~. With respect to intertrack wagering when the host and guest tracks are greyhound racing permitholders not within the same market area, an amount equal to the tax reduction applicable to the guest track handle as a result of the reduction in tax rate provided by s. 6, chapter 2000-354, Laws of Florida, ~~this act through the amendment to s. 550.0951(3)~~ shall be distributed to the guest track, one-third of which amount shall be paid as purses at the guest track. However, if the guest track is a greyhound racing permitholder within the market area of the host or if the guest track is not a greyhound racing permitholder, an amount equal to such tax reduction applicable to the guest track handle shall be retained by the host track, one-third of which amount shall be paid as purses at the host track. These purse funds shall be

disbursed in the week received if the permitholder conducts at least one live performance during that week. If the permitholder does not conduct at least one live performance during the week in which the purse funds are received, the purse funds shall be disbursed weekly during the permitholder's next race meet in an amount determined by dividing the purse amount by the number of performances approved for the permitholder pursuant to its annual license, and multiplying that amount by the number of performances conducted each week. The division shall conduct audits necessary to ensure compliance with this paragraph.

(f) Each greyhound racing permitholder conducting live racing shall, during the permitholder's race meet, supply kennel operators and the Division of Pari-Mutuel Wagering with a weekly report showing purses paid on live greyhound races and all greyhound intertrack and simulcast broadcasts, including both as a guest and a host together with the handle or commission calculations on which such purses were paid and the transmission costs of sending the simulcast or intertrack broadcasts, so that the kennel operators may determine statutory and contractual compliance.

(g) Each greyhound racing permitholder conducting live racing shall make direct payment of purses to the greyhound owners who have filed with such permitholder appropriate federal taxpayer identification information based on the percentage amount agreed upon between the kennel operator and the greyhound owner.

(h) At the request of a majority of kennel operators under contract with a greyhound racing permitholder conducting live racing, the permitholder shall make deductions from purses paid

to each kennel operator electing such deduction and shall make a direct payment of such deductions to the local association of greyhound kennel operators formed by a majority of kennel operators under contract with the permitholder. The amount of the deduction shall be at least 1 percent of purses, as determined by the local association of greyhound kennel operators. ~~No~~ Deductions may not be taken pursuant to this paragraph without a kennel operator's specific approval before or after the effective date of this act.

(2)~~(3)~~ For the purpose of this section, the term "live handle" means the handle from wagers placed at the permitholder's establishment on the live greyhound races conducted at the permitholder's establishment.

Section 14. Section 550.09515, Florida Statutes, is amended to read:

550.09515 Thoroughbred racing ~~horse~~ taxes; abandoned interest in a permit for nonpayment of taxes.—

(1) Pari-mutuel wagering at thoroughbred horse racetracks in this state is an important business enterprise, and taxes derived therefrom constitute a part of the tax structure which funds operation of the state. Thoroughbred horse permitholders should pay their fair share of these taxes to the state. This business interest should not be taxed to such an extent as to cause any racetrack which is operated under sound business principles to be forced out of business. Due to the need to protect the public health, safety, and welfare, the gaming laws of the state provide for the thoroughbred horse industry to be highly regulated and taxed. The state recognizes that there exist identifiable differences between thoroughbred horse

permitholders based upon their ability to operate under such regulation and tax system and at different periods during the year.

(2)(a) The tax on handle for live thoroughbred horserace performances shall be 0.5 percent.

(b) For purposes of this section, the term "handle" shall have the same meaning as in s. 550.0951, and shall not include handle from intertrack wagering.

(3)~~(a)~~ The division shall revoke the permit of a thoroughbred racing ~~horse~~ permitholder that ~~who~~ does not pay the tax due on handle for live thoroughbred horse performances for a full schedule of live races for more than 24 consecutive months ~~during any 2 consecutive state fiscal years shall be void and shall escheat to and become the property of the state~~ unless such failure to operate and pay tax on handle was the direct result of fire, strike, war, or other disaster or event beyond the ability of the permitholder to control. Financial hardship to the permitholder does ~~shall~~ not, in and of itself, constitute just cause for failure to operate and pay tax on handle. A permit revoked under this subsection is void and may not be reissued.

~~(b) In order to maximize the tax revenues to the state, the division shall reissue an escheated thoroughbred horse permit to a qualified applicant pursuant to the provisions of this chapter as for the issuance of an initial permit. However, the provisions of this chapter relating to referendum requirements for a pari-mutuel permit shall not apply to the reissuance of an escheated thoroughbred horse permit. As specified in the application and upon approval by the division of an application~~

~~for the permit, the new permitholder shall be authorized to operate a thoroughbred horse facility anywhere in the same county in which the escheated permit was authorized to be operated, notwithstanding the provisions of s. 550.054(2) relating to mileage limitations.~~

(4) In the event that a court of competent jurisdiction determines any of the provisions of this section to be unconstitutional, it is the intent of the Legislature that the provisions contained in this section shall be null and void and that the provisions of s. 550.0951 shall apply to all thoroughbred racing ~~horse~~ permitholders beginning on the date of such judicial determination. To this end, the Legislature declares that it would not have enacted any of the provisions of this section individually and, to that end, expressly finds them not to be severable.

(5) Notwithstanding the provisions of s. 550.0951(3)(c), the tax on handle for intertrack wagering on rebroadcasts of simulcast horseraces is 2.4 percent of the handle; provided however, that if the guest track is a thoroughbred track located more than 35 miles from the host track, the host track shall pay a tax of .5 percent of the handle, and additionally the host track shall pay to the guest track 1.9 percent of the handle to be used by the guest track solely for purses. The tax shall be deposited into the Pari-mutuel Wagering Trust Fund.

(6) A credit equal to the amount of contributions made by a thoroughbred racing permitholder during the taxable year directly to the Jockeys' Guild or its health and welfare fund to be used to provide health and welfare benefits for active, disabled, and retired Florida jockeys and their dependents

pursuant to reasonable rules of eligibility established by the Jockeys' Guild is allowed against taxes on live handle due for a taxable year under this section. A thoroughbred racing permitholder may not receive a credit greater than an amount equal to 1 percent of its paid taxes for the previous taxable year.

(7) If a thoroughbred racing permitholder fails to operate all performances on its 2001-2002 license, failure to pay tax on handle for a full schedule of live races for those performances in the 2001-2002 fiscal year does not constitute failure to pay taxes on handle for a full schedule of live races in a fiscal year for the purposes of subsection (3). This subsection may not be construed as forgiving a thoroughbred racing permitholder from paying taxes on performances conducted at its facility pursuant to its 2001-2002 license other than for failure to operate all performances on its 2001-2002 license. This subsection expires July 1, 2003.

Section 15. Section 550.1625, Florida Statutes, is amended to read:

550.1625 Greyhound racing ~~dogracing~~; taxes.—

(1) The operation of a greyhound racing ~~dog~~ track and legalized pari-mutuel betting at greyhound racing ~~dog~~ tracks in this state is a privilege and is an operation that requires strict supervision and regulation in the best interests of the state. Pari-mutuel wagering at greyhound racing ~~dog~~ tracks in this state is a substantial business, and taxes derived therefrom constitute part of the tax structures of the state and the counties. The operators of greyhound racing ~~dog~~ tracks should pay their fair share of taxes to the state; at the same

time, this substantial business interest should not be taxed to such an extent as to cause a track that is operated under sound business principles to be forced out of business.

(2) A permitholder that conducts a greyhound race ~~dograce~~ meet under this chapter must pay the daily license fee, the admission tax, ~~the breaks tax,~~ and the tax on pari-mutuel handle as provided in s. 550.0951 and is subject to all penalties and sanctions provided in s. 550.0951(7) ~~s. 550.0951(6)~~.

Section 16. Section 550.1647, Florida Statutes, is repealed.

Section 17. Section 550.1648, Florida Statutes, is amended to read:

550.1648 Greyhound adoptions.—

~~(1)~~ A greyhound racing ~~Each dogracing~~ permitholder that conducts live racing at ~~operating~~ a greyhound racing ~~dogracing~~ facility in this state shall provide for a greyhound adoption booth to be located at the facility.

(1)(a) The greyhound adoption booth must be operated on weekends by personnel or volunteers from a bona fide organization that promotes or encourages the adoption of greyhounds ~~pursuant to s. 550.1647~~. Such bona fide organization, as a condition of adoption, must provide sterilization of greyhounds by a licensed veterinarian before relinquishing custody of the greyhound to the adopter. The fee for sterilization may be included in the cost of adoption. As used in this section, the term "weekend" includes the hours during which live greyhound racing is conducted on Friday, Saturday, or Sunday, and the term "bona fide organization that promotes or encourages the adoption of greyhounds" means an organization

that provides evidence of compliance with chapter 496 and possesses a valid exemption from federal taxation issued by the Internal Revenue Service. Information pamphlets and application forms shall be provided to the public upon request.

(b) ~~In addition,~~ The kennel operator or owner shall notify the permitholder that a greyhound is available for adoption and the permitholder shall provide information concerning the adoption of a greyhound in each race program and shall post adoption information at conspicuous locations throughout the greyhound racing ~~dogracing~~ facility. Any greyhound that is participating in a race and that will be available for future adoption must be noted in the race program. The permitholder shall allow greyhounds to be walked through the track facility to publicize the greyhound adoption program.

(2) In addition to the charity days authorized under s. 550.0351, a greyhound racing permitholder may fund the greyhound adoption program by holding a charity racing day designated as "Greyhound Adopt-A-Pet Day." All profits derived from the operation of the charity day must be placed into a fund used to support activities at the racing facility which promote the adoption of greyhounds. The division may adopt rules for administering the fund. ~~Proceeds from the charity day authorized in this subsection may not be used as a source of funds for the purposes set forth in s. 550.1647.~~

(3)(a) Upon a violation of this section by a permitholder or licensee, the division may impose a penalty as provided in s. 550.0251(10) and require the permitholder to take corrective action.

(b) A penalty imposed under s. 550.0251(10) does not

exclude a prosecution for cruelty to animals or for any other criminal act.

Section 18. Section 550.1752, Florida Statutes, is created to read:

550.1752 Permit reduction program.—

(1) The permit reduction program is created in the Division of Pari-mutuel Wagering for the purpose of purchasing and cancelling active pari-mutuel permits. The program shall be funded from revenue share payments made by the Seminole Tribe of Florida under the compact ratified by s. 285.710(3) and received by the state after October 31, 2015. Compact payments payable for the program shall be calculated on a monthly basis until such time as the division determines that sufficient funds are available to fund the program. The total funding allocated to the program may not exceed $20 million.

(2) The division shall purchase pari-mutuel permits from pari-mutuel permitholders when sufficient moneys are available for such purchases. A pari-mutuel permitholder may not submit an offer to sell a permit unless it is actively conducting pari-mutuel racing or jai alai as required by law and satisfies all applicable requirements for the permit. The division shall adopt by rule the form to be used by a pari-mutuel permitholder for an offer to sell a permit and shall establish a schedule for the consideration of offers.

(3) The division shall establish the value of a pari-mutuel permit based upon the valuation of one or more independent appraisers selected by the division. The valuation of a permit must be based on the permit's fair market value and may not include the value of the real estate or personal property. The

division may establish a value for the permit that is lower than the amount determined by an independent appraiser but may not establish a higher value.

(4) The division must accept the offer or offers that best utilize available funding; however, the division may also accept the offers that it determines are most likely to reduce the incidence of gaming in this state.

(5) The division shall cancel any permit purchased under this section.

(6) This section shall expire on July 1, 2018, unless reenacted by the Legislature.

Section 19. Effective July 1, 2018, section 550.1752, Florida Statutes, as amended by this act, is amended to read:

550.1752 Thoroughbred purse supplement ~~Permit reduction~~ program.—

(1) The thoroughbred purse supplement ~~permit reduction~~ program is created in the Division of Pari-mutuel Wagering for the purpose of maintaining an active and viable live thoroughbred racing, owning, and breeding industry in the state ~~purchasing and cancelling active pari-mutuel permits~~. The program shall be funded from revenue share payments made by the Seminole Tribe of Florida under the compact ratified by s. 285.710(3) and received by the state after July 1, 2018 ~~October 31, 2015~~. Compact payments payable for the program shall be calculated on a monthly basis until such time as the division determines that sufficient funds are available to fund the program. The total annual funding allocated to the program is ~~may not exceed~~ $20 million.

(2) ~~The division shall purchase pari-mutuel permits from~~

~~pari-mutuel permitholders when sufficient moneys are available for such purchases. A pari-mutuel permitholder may not submit an offer to sell a permit unless it is actively conducting pari-mutuel racing or jai alai as required by law and satisfies all applicable requirements for the permit.~~ The division shall adopt by rule the form to be used by a pari-mutuel permitholder for applying to receive purse assistance from the program to be used to supplement purses for its live racing meet ~~an offer to sell a permit and shall establish a schedule for the consideration of offers~~.

(3) The division shall distribute the purse supplement funds on a pro rata basis based upon the number of live race days to be conducted by each thoroughbred permitholder pursuant to its annual racing license ~~establish the value of a pari-mutuel permit based upon the valuation of one or more independent appraisers selected by the division~~. ~~The valuation of a permit must be based on the permit's fair market value and may not include the value of the real estate or personal property. The division may establish a value for the permit that is lower than the amount determined by an independent appraiser but may not establish a higher value.~~

(4) If a thoroughbred permitholder fails to conduct a live race day, the thoroughbred permitholder must return the unused purse supplement fund allocated for that day, and the division shall reapportion the allocation of purse supplement funds to the remaining race days to be conducted during the state fiscal year by that thoroughbred permitholder ~~The division must accept the offer or offers that best utilize available funding; however, the division may also accept the offers that it~~

~~determines are most likely to reduce the incidence of gaming in this state~~.

(5) The division may adopt rules necessary to implement this section ~~shall cancel any permit purchased under this section~~.

~~(6) This section shall expire on July 1, 2018, unless reenacted by the Legislature.~~

Section 20. Section 550.2416, Florida Statutes, is created to read:

550.2416 Reporting of racing greyhound injuries.—

(1) An injury to a racing greyhound which occurs while the greyhound is located in this state must be reported on a form adopted by the division within 7 days after the date on which the injury occurred or is believed to have occurred. The division may adopt rules defining the term "injury."

(2) The form shall be completed and signed under oath or affirmation by the:

(a) Racetrack veterinarian or director of racing, if the injury occurred at the racetrack facility; or

(b) Owner, trainer, or kennel operator who had knowledge of the injury, if the injury occurred at a location other than the racetrack facility, including during transportation.

(3) The division may fine, suspend, or revoke the license of any individual who knowingly violates this section.

(4) The form must include the following:

(a) The greyhound's registered name, right-ear and left-ear tattoo numbers, and, if any, the microchip manufacturer and number.

(b) The name, business address, and telephone number of the

greyhound owner, the trainer, and the kennel operator.

(c) The color, weight, and sex of the greyhound.

(d) The specific type and bodily location of the injury, the cause of the injury, and the estimated recovery time from the injury.

(e) If the injury occurred when the greyhound was racing:

1. The racetrack where the injury occurred;

2. The distance, grade, race, and post position of the greyhound when the injury occurred; and

3. The weather conditions, time, and track conditions when the injury occurred.

(f) If the injury occurred when the greyhound was not racing:

1. The location where the injury occurred, including, but not limited to, a kennel, a training facility, or a transportation vehicle; and

2. The circumstances surrounding the injury.

(g) Other information that the division determines is necessary to identify injuries to racing greyhounds in this state.

(5) An injury form created pursuant to this section must be maintained as a public record by the division for at least 7 years after the date it was received.

(6) A licensee of the department who knowingly makes a false statement concerning an injury or fails to report an injury is subject to disciplinary action under this chapter or chapters 455 and 474.

(7) This section does not apply to injuries to a service animal, personal pet, or greyhound that has been adopted as a

pet.

(8) The division shall adopt rules to implement this section.

Section 21. Subsection (1) of section 550.26165, Florida Statutes, is amended to read:

550.26165 Breeders' awards.—

(1) The purpose of this section is to encourage the agricultural activity of breeding and training racehorses in this state. Moneys dedicated in this chapter for use as breeders' awards and stallion awards are to be used for awards to breeders of registered Florida-bred horses winning horseraces and for similar awards to the owners of stallions who sired Florida-bred horses winning stakes races, if the stallions are registered as Florida stallions standing in this state. Such awards shall be given at a uniform rate to all winners of the awards, may ~~shall~~ not be greater than 20 percent of the announced gross purse, and may ~~shall~~ not be less than 15 percent of the announced gross purse if funds are available. In addition, at least ~~no less than~~ 17 percent, but not ~~nor~~ more than 40 percent, as determined by the Florida Thoroughbred Breeders' Association, of the moneys dedicated in this chapter for use as breeders' awards and stallion awards for thoroughbreds shall be returned pro rata to the permitholders that generated the moneys for special racing awards to be distributed by the permitholders to owners of thoroughbred horses participating in prescribed thoroughbred stakes races, nonstakes races, or both, all in accordance with a written agreement establishing the rate, procedure, and eligibility requirements for such awards entered into by the permitholder,

the Florida Thoroughbred Breeders' Association, and the Florida Horsemen's Benevolent and Protective Association, Inc., except that the plan for the distribution by any permitholder located in the area described in s. 550.615(7) ~~s. 550.615(9)~~ shall be agreed upon by that permitholder, the Florida Thoroughbred Breeders' Association, and the association representing a majority of the thoroughbred racehorse owners and trainers at that location. Awards for thoroughbred races are to be paid through the Florida Thoroughbred Breeders' Association, and awards for standardbred races are to be paid through the Florida Standardbred Breeders and Owners Association. Among other sources specified in this chapter, moneys for thoroughbred breeders' awards will come from the 0.955 percent of handle for thoroughbred races conducted, received, broadcast, or simulcast under this chapter as provided in s. 550.2625(3). The moneys for quarter horse and harness breeders' awards will come from the breaks and uncashed tickets on live quarter horse and harness horse racing performances and 1 percent of handle on intertrack wagering. The funds for these breeders' awards shall be paid to the respective breeders' associations by the permitholders conducting the races.

Section 22. Section 550.3345, Florida Statutes, is amended to read:

550.3345 ~~Conversion of quarter horse permit to a~~ Limited thoroughbred racing permit.—

(1) In recognition of the important and long-standing economic contribution of the thoroughbred horse breeding industry to this state and the state's vested interest in promoting the continued viability of this agricultural activity,

the state intends to provide a limited opportunity for the conduct of live thoroughbred horse racing with the net revenues from such racing dedicated to the enhancement of thoroughbred purses and breeders', stallion, and special racing awards under this chapter; the general promotion of the thoroughbred horse breeding industry; and the care in this state of thoroughbred horses retired from racing.

(2) A limited thoroughbred racing permit previously converted from ~~Notwithstanding any other provision of law, the holder of~~ a quarter horse racing permit pursuant to chapter 2010-29, Laws of Florida, ~~issued under s. 550.334~~ may only be held by~~, within 1 year after the effective date of this section, apply to the division for a transfer of the quarter horse racing permit to~~ a not-for-profit corporation formed under state law to serve the purposes of the state as provided in subsection (1). The board of directors of the not-for-profit corporation must be composed ~~comprised~~ of 11 members, 4 of whom shall be designated by the applicant, 4 of whom shall be designated by the Florida Thoroughbred Breeders' Association, and 3 of whom shall be designated by the other 8 directors, with at least 1 of these 3 members being an authorized representative of another thoroughbred racing permitholder in this state. A limited thoroughbred racing ~~The not-for-profit corporation shall submit an application to the division for review and approval of the transfer in accordance with s. 550.054. Upon approval of the transfer by the division, and notwithstanding any other provision of law to the contrary, the not-for-profit corporation may, within 1 year after its receipt of the permit, request that the division convert the quarter horse racing permit to a permit~~

~~authorizing the holder to conduct pari-mutuel wagering meets of thoroughbred racing. Neither the transfer of the quarter horse racing permit nor its conversion to a limited thoroughbred permit shall be subject to the mileage limitation or the ratification election as set forth under s. 550.054(2) or s. 550.0651. Upon receipt of the request for such conversion, the division shall timely issue a converted permit. The converted~~ permit and the not-for-profit corporation are ~~shall be~~ subject to the following requirements:

(a) All net revenues derived by the not-for-profit corporation under the thoroughbred ~~horse~~ racing permit, after the funding of operating expenses and capital improvements, shall be dedicated to the enhancement of thoroughbred purses and breeders', stallion, and special racing awards under this chapter; the general promotion of the thoroughbred horse breeding industry; and the care in this state of thoroughbred horses retired from racing.

(b) From December 1 through April 30, ~~no~~ live thoroughbred racing may not be conducted under the permit on any day during which another thoroughbred racing permitholder is conducting live thoroughbred racing within 125 air miles of the not-for-profit corporation's pari-mutuel facility unless the other thoroughbred racing permitholder gives its written consent.

(c) After ~~the conversion of the quarter horse racing permit and~~ the issuance of its initial license to conduct pari-mutuel wagering meets of thoroughbred racing, the not-for-profit corporation shall annually apply to the division for a license pursuant to s. 550.5251.

(d) Racing under the permit may take place only at the

location for which the original quarter horse racing permit was issued, which may be leased by the not-for-profit corporation for that purpose; however, the not-for-profit corporation may, without the conduct of any ratification election pursuant to s. 550.054(13) or s. 550.0651, move the location of the permit to another location in the same county or counties, if a permit is situated in such a manner that it is located in more than one county, provided that such relocation is approved under the zoning and land use regulations of the applicable county or municipality.

(e) A limited thoroughbred racing ~~No~~ permit may not be transferred ~~converted under this section is eligible for transfer~~ to another person or entity.

(3) Unless otherwise provided in this section, ~~after conversion,~~ the permit and the not-for-profit corporation shall be treated under the laws of this state as a thoroughbred racing permit and as a thoroughbred racing permitholder, respectively, with the exception of ss. 550.054(9)(c) and (d) and ~~s.~~ 550.09515(3).

Section 23. Subsection (6) of section 550.3551, Florida Statutes, is amended to read:

550.3551 Transmission of racing and jai alai information; commingling of pari-mutuel pools.—

(6)(a) ~~A maximum of 20 percent of the total number of races on which wagers are accepted by a greyhound permitholder not located as specified in s. 550.615(6) may be received from locations outside this state. A permitholder may not conduct fewer than eight live races or games on any authorized race day except as provided in this subsection.~~ A thoroughbred racing

permitholder may not conduct fewer than eight live races on any race day without the written approval of the Florida Thoroughbred Breeders' Association and the Florida Horsemen's Benevolent and Protective Association, Inc., unless it is determined by the department that another entity represents a majority of the thoroughbred racehorse owners and trainers in the state. A harness horse racing permitholder may conduct fewer than eight live races on any authorized race day, except that such permitholder must conduct a full schedule of live racing during its race meet consisting of at least eight live races per authorized race day for at least 100 days. ~~Any harness horse permitholder that during the preceding racing season conducted a full schedule of live racing may, at any time during its current race meet, receive full-card broadcasts of harness horse races conducted at harness racetracks outside this state at the harness track of the permitholder and accept wagers on such harness races.~~ With specific authorization from the division for special racing events, a permitholder may conduct fewer than eight live races or games when the permitholder also broadcasts out-of-state races or games. The division may not grant more than two such exceptions a year for a permitholder in any 12-month period, and those two exceptions may not be consecutive.

(b) Notwithstanding any other provision of this chapter, any harness horse racing permitholder accepting broadcasts of out-of-state harness horse races when such permitholder is not conducting live races must make the out-of-state signal available to all permitholders eligible to conduct intertrack wagering and shall pay to guest tracks located as specified in s. ~~ss. 550.615(6) and~~ 550.6305(9)(d) 50 percent of the net

proceeds after taxes and fees to the out-of-state host track on harness horse race wagers which they accept. A harness horse racing permitholder shall be required to pay into its purse account 50 percent of the net income retained by the permitholder on account of wagering on the out-of-state broadcasts received pursuant to this subsection. Nine-tenths of a percent of all harness horse race wagering proceeds on the broadcasts received pursuant to this subsection shall be paid to the Florida Standardbred Breeders and Owners Association under the provisions of s. 550.2625(4) for the purposes provided therein.

Section 24. Subsection (4) of section 550.375, Florida Statutes, is amended to read:

550.375 Operation of certain harness tracks.—

(4) The permitholder conducting a harness horse race meet must pay the daily license fee, the admission tax, the tax on breaks, and the tax on pari-mutuel handle provided in s. 550.0951 and is subject to all penalties and sanctions provided in s. 550.0951(7) ~~s. 550.0951(6)~~.

Section 25. Section 550.475, Florida Statutes, is amended to read:

550.475 Lease of pari-mutuel facilities by pari-mutuel permitholders.—Holders of valid pari-mutuel permits for the conduct of any jai alai games, dogracing, or thoroughbred and standardbred horse racing in this state are entitled to lease any and all of their facilities to any other holder of a same class, valid pari-mutuel permit for jai alai games, dogracing, or thoroughbred or standardbred horse racing, when they are located within a 35-mile radius of each other, ~~,~~ and such lessee

is entitled to a permit and license to operate its race meet or jai alai games at the leased premises. A permitholder may not lease facilities from a pari-mutuel permitholder that is not conducting a full schedule of live racing.

Section 26. Subsection (1) of section 550.5251, Florida Statutes, is amended, and present subsections (2) and (3) of that section are redesignated as subsections (1) and (2), respectively, to read:

550.5251 Florida thoroughbred racing; certain permits; operating days.—

~~(1) Each thoroughbred permitholder shall annually, during the period commencing December 15 of each year and ending January 4 of the following year, file in writing with the division its application to conduct one or more thoroughbred racing meetings during the thoroughbred racing season commencing on the following July 1. Each application shall specify the number and dates of all performances that the permitholder intends to conduct during that thoroughbred racing season. On or before March 15 of each year, the division shall issue a license authorizing each permitholder to conduct performances on the dates specified in its application. Up to February 28 of each year, each permitholder may request and shall be granted changes in its authorized performances; but thereafter, as a condition precedent to the validity of its license and its right to retain its permit, each permitholder must operate the full number of days authorized on each of the dates set forth in its license.~~

Section 27. Subsections (2), (4), (6), and (7) of section 550.615, Florida Statutes, are amended, present subsections (8), (9), and (10) of that section are redesignated as subsections

(6), (7), and (8), respectively, present subsection (9) of that section is amended, and a new subsection (9) is added to that section, to read:

550.615 Intertrack wagering.—

(2) A ~~Any~~ track or fronton licensed under this chapter which has conducted a full schedule of live racing for at least 5 consecutive calendar years since 2010 ~~in the preceding year conducted a full schedule of live racing~~ is qualified to, at any time, receive broadcasts of any class of pari-mutuel race or game and accept wagers on such races or games conducted by any class of permitholders licensed under this chapter.

(4) An ~~In no event shall any~~ intertrack wager may not be accepted on the same class of live races or games of any permitholder without the written consent of such operating permitholders conducting the same class of live races or games if the guest track is within the market area of such operating permitholder. A greyhound racing permitholder licensed under this chapter which accepts intertrack wagers on live greyhound signals is not required to obtain the written consent required by this subsection from any operating greyhound racing permitholder within its market area.

~~(6) Notwithstanding the provisions of subsection (3), in any area of the state where there are three or more horserace permitholders within 25 miles of each other, intertrack wagering between permitholders in said area of the state shall only be authorized under the following conditions: Any permitholder, other than a thoroughbred permitholder, may accept intertrack wagers on races or games conducted live by a permitholder of the same class or any harness permitholder located within such area~~

~~and any harness permitholder may accept wagers on games conducted live by any jai alai permitholder located within its market area and from a jai alai permitholder located within the area specified in this subsection when no jai alai permitholder located within its market area is conducting live jai alai performances; any greyhound or jai alai permitholder may receive broadcasts of and accept wagers on any permitholder of the other class provided that a permitholder, other than the host track, of such other class is not operating a contemporaneous live performance within the market area.~~

~~(7) In any county of the state where there are only two permits, one for dogracing and one for jai alai, no intertrack wager may be taken during the period of time when a permitholder is not licensed to conduct live races or games without the written consent of the other permitholder that is conducting live races or games. However, if neither permitholder is conducting live races or games, either permitholder may accept intertrack wagers on horseraces or on the same class of races or games, or on both horseraces and the same class of races or games as is authorized by its permit.~~

(7) ~~(9)~~ In any two contiguous counties of the state in which there are located only four active permits, one for thoroughbred horse racing, two for greyhound racing ~~dogracing~~, and one for jai alai games, an ~~no~~ intertrack wager may not be accepted on the same class of live races or games of any permitholder without the written consent of such operating permitholders conducting the same class of live races or games if the guest track is within the market area of such operating permitholder.

(9) A greyhound racing permitholder that is eligible to

receive broadcasts pursuant to subsection (2) and is operating pursuant to a current year operating license that specifies that no live performances will be conducted may accept wagers on live races conducted at out-of-state greyhound tracks only on the days when the permitholder receives all live races that any greyhound host track in this state makes available.

Section 28. Subsections (1), (4), and (5) of section 550.6308, Florida Statutes, are amended to read:

550.6308 Limited intertrack wagering license.—In recognition of the economic importance of the thoroughbred breeding industry to this state, its positive impact on tourism, and of the importance of a permanent thoroughbred sales facility as a key focal point for the activities of the industry, a limited license to conduct intertrack wagering is established to ensure the continued viability and public interest in thoroughbred breeding in Florida.

(1) Upon application to the division on or before January 31 of each year, any person that is licensed to conduct public sales of thoroughbred horses pursuant to s. 535.01 and~~,~~ that has conducted at least 8 ~~15~~ days of thoroughbred horse sales at a permanent sales facility in this state for at least 3 consecutive years~~, and that has conducted at least 1 day of nonwagering thoroughbred racing in this state, with a purse structure of at least $250,000 per year for 2 consecutive years~~ before such application~~,~~ shall be issued a license, subject to the conditions set forth in this section, to conduct intertrack wagering at such a permanent sales facility ~~during the following periods:~~

~~(a) Up to 21 days in connection with thoroughbred sales;~~

~~(b) Between November 1 and May 8;~~

~~(c) Between May 9 and October 31 at such times and on such days as any thoroughbred, jai alai, or a greyhound permitholder in the same county is not conducting live performances; provided that any such permitholder may waive this requirement, in whole or in part, and allow the licensee under this section to conduct intertrack wagering during one or more of the permitholder's live performances; and~~

~~(d) During the weekend of the Kentucky Derby, the Preakness, the Belmont, and a Breeders' Cup Meet that is conducted before November 1 and after May 8~~.

Only ~~No more than~~ one such license may be issued, and no such license may be issued for a facility located within 50 miles of any for-profit thoroughbred permitholder's track.

~~(4) Intertrack wagering under this section may be conducted only on thoroughbred horse racing, except that intertrack wagering may be conducted on any class of pari-mutuel race or game conducted by any class of permitholders licensed under this chapter if all thoroughbred, jai alai, and greyhound permitholders in the same county as the licensee under this section give their consent.~~

(4)~~(5)~~ The licensee shall be considered a guest track under this chapter. ~~The licensee shall pay 2.5 percent of the total contributions to the daily pari-mutuel pool on wagers accepted at the licensee's facility on greyhound races or jai alai games to the thoroughbred permitholder that is conducting live races for purses to be paid during its current racing meet. If more than one thoroughbred permitholder is conducting live races on a~~

~~day during which the licensee is conducting intertrack wagering on greyhound races or jai alai games, the licensee shall allocate these funds between the operating thoroughbred permitholders on a pro rata basis based on the total live handle at the operating permitholders' facilities.~~

Section 29. Section 551.101, Florida Statutes, is amended to read:

551.101 Slot machine gaming authorized.—A ~~Any~~ licensed eligible ~~pari-mutuel~~ facility ~~located in Miami-Dade County or Broward County existing at the time of adoption of s. 23, Art. X of the State Constitution that has conducted live racing or games during calendar years 2002 and 2003~~ may possess slot machines and conduct slot machine gaming at the location where the pari-mutuel permitholder is authorized to conduct pari-mutuel wagering activities pursuant to such permitholder's valid pari-mutuel permit or as otherwise authorized by law ~~provided that a majority of voters in a countywide referendum have approved slot machines at such facility in the respective county~~. Notwithstanding any other ~~provision of~~ law, it is not a crime for a person to participate in slot machine gaming at a pari-mutuel facility licensed to possess slot machines and conduct slot machine gaming or to participate in slot machine gaming described in this chapter.

Section 30. Subsections (4), (10), and (11) of section 551.102, Florida Statutes, are amended to read:

551.102 Definitions.—As used in this chapter, the term:

(4) "Eligible facility" means a ~~any~~ licensed pari-mutuel facility located in Miami-Dade County or Broward County existing at the time of adoption of s. 23, Art. X of the State

Constitution which ~~that has~~ conducted live racing or games during calendar years 2002 and 2003 and has been approved by a majority of voters in a countywide referendum to have slot machines at such facility in the respective county~~; any licensed pari-mutuel facility located within a county as defined in s. 125.011, provided such facility has conducted live racing for 2 consecutive calendar years immediately preceding its application for a slot machine license, pays the required license fee, and meets the other requirements of this chapter;~~ or any licensed pari-mutuel facility in any ~~other~~ county in which a majority of voters have approved slot machines ~~at such facilities~~ in a countywide referendum, if such facility ~~held pursuant to a statutory or constitutional authorization after the effective date of this section in the respective county, provided such facility~~ has conducted a full schedule of live racing for 2 consecutive calendar years immediately preceding its application for a slot machine license, pays the required license ~~licensed~~ fee, and meets the other requirements of this chapter.

(10) "Slot machine license" means a license issued by the division authorizing a pari-mutuel permitholder to place and operate slot machines as provided in ~~by s. 23, Art. X of the State Constitution, the provisions of~~ this chapter~~,~~ and by division rule ~~rules~~.

(11) "Slot machine licensee" means a pari-mutuel permitholder that ~~who~~ holds a license issued by the division pursuant to this chapter which ~~that~~ authorizes such person to possess a slot machine ~~within facilities specified in s. 23, Art. X of the State Constitution~~ and allows slot machine gaming.

Section 31. Subsections (1) and (2), paragraph (c) of

subsection (4), and paragraphs (a) and (c) of subsection (10) of section 551.104, Florida Statutes, are amended to read:

551.104 License to conduct slot machine gaming.—

(1) Upon application, ~~and~~ a finding by the division, after investigation, that the application is complete and that the applicant is qualified, and payment of the initial license fee, the division may issue a license to conduct slot machine gaming in the designated slot machine gaming area of the eligible facility. Once licensed, slot machine gaming may be conducted subject to ~~the requirements of~~ this chapter and rules adopted pursuant thereto. The division may not issue a slot machine license to any pari-mutuel permitholder that includes, or previously included within its ownership group, an ultimate equitable owner that was also an ultimate equitable owner of a pari-mutuel permitholder whose permit was voluntarily or involuntarily surrendered, suspended, or revoked by the division within 10 years before the date of permitholder's filing of an application for a slot machine license.

(2) An application may be approved by the division only after the voters of the county where the applicant's eligible facility is located have authorized by referendum slot machines within pari-mutuel facilities in that county ~~as specified in s. 23, Art. X of the State Constitution~~.

(4) As a condition of licensure and to maintain continued authority for the conduct of slot machine gaming, the slot machine licensee shall:

(c)1. If conducting live racing or games, conduct no fewer than a full schedule of live racing or games as defined in s. 550.002(11). A permitholder's responsibility to conduct a full

schedule ~~such number~~ of live races or games shall be reduced by the number of races or games that could not be conducted due to the direct result of fire, war, hurricane, or other disaster or event beyond the control of the permitholder. The races or games may be conducted at the facility of the slot machine licensee or at another pari-mutuel facility leased pursuant to s. 550.3345; or

2. If not licensed to conduct a full schedule of live racing or games, remit for the payment of purses on live races an amount equal to the lesser of $2 million or 3 percent of its slot machine revenues from the previous state fiscal year to a slot machine licensee licensed to conduct not fewer than 160 days of thoroughbred racing. If no slot machine licensee is licensed for at least 160 days of live thoroughbred racing, no payments for purses are required. A slot machine licensee that meets the requirements of subsection (10) shall receive a dollar-for-dollar credit to be applied toward the payments required under this subparagraph which are made pursuant to the binding agreement after the effective date of this act.

(10)(a)~~1.~~ A ~~No~~ slot machine license or renewal thereof may not ~~shall~~ be issued to an applicant holding a permit under chapter 550 to conduct pari-mutuel wagering meets of thoroughbred racing unless the applicant has on file with the division a binding written agreement between the applicant and the Florida Horsemen's Benevolent and Protective Association, Inc., governing the payment of purses on live thoroughbred races conducted at the licensee's pari-mutuel facility. In addition, a ~~no~~ slot machine license or renewal thereof may not ~~shall~~ be issued to such an applicant unless the applicant has on file

with the division a binding written agreement between the applicant and the Florida Thoroughbred Breeders' Association, Inc., governing the payment of breeders', stallion, and special racing awards on live thoroughbred races conducted at the licensee's pari-mutuel facility. The agreement governing purses and the agreement governing awards may direct the payment of such purses and awards from revenues generated by any wagering or gaming the applicant is authorized to conduct under Florida law. All purses and awards are ~~shall be~~ subject to the terms of chapter 550. All sums for breeders', stallion, and special racing awards shall be remitted monthly to the Florida Thoroughbred Breeders' Association, Inc., for the payment of awards subject to the administrative fee authorized in s. 550.2625(3). This paragraph does not apply to a summer thoroughbred racing permitholder.

~~2. No slot machine license or renewal thereof shall be issued to an applicant holding a permit under chapter 550 to conduct pari-mutuel wagering meets of quarter horse racing unless the applicant has on file with the division a binding written agreement between the applicant and the Florida Quarter Horse Racing Association or the association representing a majority of the horse owners and trainers at the applicant's eligible facility, governing the payment of purses on live quarter horse races conducted at the licensee's pari-mutuel facility. The agreement governing purses may direct the payment of such purses from revenues generated by any wagering or gaming the applicant is authorized to conduct under Florida law. All purses shall be subject to the terms of chapter 550.~~

(c)1. If an agreement required under paragraph (a) cannot

be reached prior to the initial issuance of the slot machine license, either party may request arbitration or, in the case of a renewal, if an agreement required under paragraph (a) is not in place 120 days prior to the scheduled expiration date of the slot machine license, the applicant shall immediately ask the American Arbitration Association to furnish a list of 11 arbitrators, each of whom shall have at least 5 years of commercial arbitration experience and no financial interest in or prior relationship with any of the parties or their affiliated or related entities or principals. Each required party to the agreement shall select a single arbitrator from the list provided by the American Arbitration Association within 10 days of receipt, and the individuals so selected shall choose one additional arbitrator from the list within the next 10 days.

2. If an agreement required under paragraph (a) is not in place 60 days after the request under subparagraph 1. in the case of an initial slot machine license or, in the case of a renewal, 60 days prior to the scheduled expiration date of the slot machine license, the matter shall be immediately submitted to mandatory binding arbitration to resolve the disagreement between the parties. The three arbitrators selected pursuant to subparagraph 1. shall constitute the panel that shall arbitrate the dispute between the parties pursuant to the American Arbitration Association Commercial Arbitration Rules and chapter 682.

3. At the conclusion of the proceedings, which shall be no later than 90 days after the request under subparagraph 1. in the case of an initial slot machine license or, in the case of a renewal, 30 days prior to the scheduled expiration date of the

slot machine license, the arbitration panel shall present to the parties a proposed agreement that the majority of the panel believes equitably balances the rights, interests, obligations, and reasonable expectations of the parties. The parties shall immediately enter into such agreement, which shall satisfy the requirements of paragraph (a) and permit issuance of the pending annual slot machine license or renewal. The agreement produced by the arbitration panel under this subparagraph shall be effective until the last day of the license or renewal period or until the parties enter into a different agreement. Each party shall pay its respective costs of arbitration and shall pay one-half of the costs of the arbitration panel, unless the parties otherwise agree. If the agreement produced by the arbitration panel under this subparagraph remains in place 120 days prior to the scheduled issuance of the next annual license renewal, then the arbitration process established in this paragraph will begin again.

4. In the event that ~~neither of~~ the agreements required under subparagraph (a)1. ~~or the agreement required under subparagraph (a)2.~~ are in place by the deadlines established in this paragraph, arbitration regarding each agreement will proceed independently, with separate lists of arbitrators, arbitration panels, arbitration proceedings, and resulting agreements.

5. With respect to the agreements required under paragraph (a) governing the payment of purses, the arbitration and resulting agreement called for under this paragraph shall be limited to the payment of purses from slot machine revenues only.

Section 32. Effective July 1, 2036, paragraph (c) of subsection (4) of section 551.104, Florida Statutes, as amended by this act, is amended to read:

551.104 License to conduct slot machine gaming.—

(4) As a condition of licensure and to maintain continued authority for the conduct of slot machine gaming, the slot machine licensee shall:

(c) ~~1.~~ If conducting live racing or games, conduct no fewer than a full schedule of live racing or games as defined in s. 550.002(11). A permitholder's responsibility to conduct a full schedule of live races or games shall be reduced by the number of races or games that could not be conducted due to the direct result of fire, war, hurricane, or other disaster or event beyond the control of the permitholder. The races or games may be conducted at the facility of the slot machine licensee or at another pari-mutuel facility leased pursuant to s. 550.3345. ~~; or~~

~~2. If not licensed to conduct a full schedule of live racing or games, remit for the payment of purses on live races an amount equal to the lesser of $2 million or 3 percent of its slot machine revenues from the previous state fiscal year to a slot machine licensee licensed to conduct not fewer than 160 days of thoroughbred racing. If no slot machine licensee is licensed for at least 160 days of live thoroughbred racing, no payments for purses are required. A slot machine licensee that meets the requirements of subsection (10) shall receive a dollar-for-dollar credit to be applied toward the payments required under this subparagraph which are made pursuant to the binding agreement after the effective date of this act.~~

Section 33. Section 551.1042, Florida Statutes, is created

to read:

551.1042 Transfer or relocation of slot machine license prohibited.—A slot machine license issued under this chapter may not be transferred or reissued when such reissuance is in the nature of a transfer so as to permit or authorize a licensee to change the location of a slot machine facility.

Section 34. Section 551.1043, Florida Statutes, is created to read:

551.1043 Slot machine license to enhance live pari-mutuel activity.—In recognition of the important and long-standing economic contribution of the pari-mutuel industry to this state and the state's vested interest in the revenue generated therefrom and in the interest of promoting the continued viability of the important statewide agricultural activities that the industry supports, the Legislature finds that it is in the state's interest to provide a limited opportunity for the establishment of an additional slot machine license to be awarded and renewed annually to a pari-mutuel permitholder located within a county as defined in s. 125.011.

(1)(a) Within 120 days after the effective date of this act, any pari-mutuel permitholder that is located in a county as defined in s. 125.011 and that is not a slot machine licensee may apply to the division pursuant to s. 551.104 for the slot machine license created by this section.

(b) The application shall be accompanied by a license application fee of $2 million, which is nonrefundable. The license application fee shall be deposited into the Pari-mutuel Wagering Trust Fund of the Department of Business and Professional Regulation to be used by the division and the

Department of Law Enforcement for investigations, the regulation of slot machine gaming, and the enforcement of slot machine gaming under this chapter. In the event of a successful award, the application fee shall be credited toward the license fee required by s. 551.106.

(2) If there is more than one applicant for the new slot machine license, the division shall award the license to the applicant that receives the highest score based on the following criteria:

(a) The amount of slot machine revenues to be dedicated to the enhancement of pari-mutuel purses; breeder's, stallion, and special racing or player awards to be awarded to pari-mutuel activities conducted pursuant to chapter 550;

(b) The amount of slot machine revenues to be dedicated to the general promotion of the state's pari-mutuel industry;

(c) The amount of slot machine revenues to be dedicated to care provided in this state to injured or retired animals, jockeys, or jai alai players;

(d) The amount by which the proposed slot machine facility will increase tourism, generate jobs, provide revenue to the local economy, and provide revenue to the state. The applicant and its partners shall document their previous experience in constructing premier facilities with high-quality amenities which complement a local tourism industry;

(e) The financial history of the applicant and its partners in making capital investments in slot machine gaming and pari-mutuel facilities and its bona fide plan for future community involvement and financial investment;

(f) The history of investment by the applicant and its

partners in the communities in which its previous developments have been located;

(g) The ability to purchase and maintain a surety bond in an amount established by the division to represent the projected annual revenues generated by the proposed slot machine facility;

(h) The ability to demonstrate the financial wherewithal to adequately capitalize, develop, construct, maintain, and operate a proposed slot machine facility. The applicant must demonstrate the ability to commit not less than $100 million for hard costs related to construction and development of the facility, exclusive of the purchase price and costs associated with the acquisition of real property and any impact fees. The applicant must also demonstrate the ability to meet any projected secured and unsecured debt obligations and to complete construction within 2 years after receiving the award of the slot machine license;

(i) The ability to implement a program to train and employ residents of South Florida to work at the facility and contract with local business owners for goods and services; and

(j) The ability to generate, with its partners, substantial gross gaming revenue following the award of gaming licenses through a competitive bidding process.

The division shall award additional points in the evaluation of the applications for proposed projects located within 0.5 miles of two forms of public transportation and located in a designated community redevelopment area or district.

(3)(a) Notwithstanding the timeframes established in s. 120.60, the division shall complete its evaluations at least 120

days after the submission of applications and shall notice its intent to award the license within that timeframe. Within 30 days after the submission of an application, the division shall issue, if necessary, requests for additional information or any notices of deficiency to the applicant, who must respond within 15 days. Failure to timely and sufficiently respond to such requests or to correct identified deficiencies is grounds for denial of the application.

(b) Any protest of the intent to award the license shall be forwarded to the Division of Administrative Hearings, which shall conduct an administrative hearing on the matter before an administrative law judge at least 30 days after the notice of intent to award. The administrative law judge shall issue a proposed recommended order at least 30 days after the completion of the final hearing. The division shall issue a final order at least 15 days after receipt of the proposed recommended order.

(c) Any appeal of a license denial shall be made to the First District Court of Appeal and must be accompanied by the posting of a supersedeas bond in an amount determined by the division to be equal to the amount of projected annual slot machine revenue to be generated by the successful licensee.

(4) The division is authorized to adopt emergency rules pursuant to s. 120.54 to implement this section. The Legislature finds that such emergency rulemaking power is necessary for the preservation of the rights and welfare of the people in order to provide additional funds to benefit the public. The Legislature further finds that the unique nature of the competitive award of the slot machine license under this section requires that the department respond as quickly as is practicable to implement

this section. Therefore, in adopting such emergency rules, the division is exempt from s. 120.54(4)(a). Emergency rules adopted under this section are exempt from s. 120.54(4)(c) and shall remain in effect until replaced by other emergency rules or by rules adopted pursuant to chapter 120.

Section 35. Section 551.1044, Florida Statutes, is created to read:

551.1044 House banked blackjack table games authorized.—

(1) The pari-mutuel permitholder of each of the following pari-mutuel wagering facilities may operate up to 25 house banked blackjack table games at the permitholder's facility:

(a) A licensed pari-mutuel facility where live racing or games were conducted during calendar years 2002 and 2003, located in Miami-Dade County or Broward County, and authorized for slot machine licensure pursuant to s. 23, Art. X of the State Constitution; and

(b) A licensed pari-mutuel facility where a full schedule of live horseracing has been conducted for 2 consecutive calendar years immediately preceding its application for a slot machine license and located within a county as defined in s. 125.011.

(2) Wagers on authorized house banked blackjack table games may not exceed $100 for each initial two card wager. Subsequent wagers on splits or double downs are allowed but may not exceed the initial two card wager. Single side bets of not more than $5 are also allowed.

Section 36. Subsection (1) and paragraph (a) of subsection (2) of section 551.106, Florida Statutes, are amended to read:

551.106 License fee; tax rate; penalties.—

(1) LICENSE FEE.—

~~(a)~~ Upon submission of the initial application for a slot machine license and annually thereafter, on the anniversary date of the issuance of the initial license, the licensee must pay to the division a nonrefundable license fee of ~~$3 million for the succeeding 12 months of licensure. In the 2010-2011 fiscal year, the licensee must pay the division a nonrefundable license fee of $2.5 million for the succeeding 12 months of licensure. In the 2011-2012 fiscal year and for every fiscal year thereafter, the licensee must pay the division a nonrefundable license fee of~~ $2 million for the succeeding 12 months of licensure. The license fee shall be deposited into the Pari-mutuel Wagering Trust Fund of the Department of Business and Professional Regulation to be used by the division and the Department of Law Enforcement for investigations, regulation of slot machine gaming, and enforcement of slot machine gaming provisions under this chapter. These payments shall be accounted for separately from taxes or fees paid pursuant to the provisions of chapter 550.

~~(b) Prior to January 1, 2007, the division shall evaluate the license fee and shall make recommendations to the President of the Senate and the Speaker of the House of Representatives regarding the optimum level of slot machine license fees in order to adequately support the slot machine regulatory program.~~

(2) TAX ON SLOT MACHINE REVENUES.—

(a) The tax rate on slot machine revenues at each facility shall be 25 ~~35~~ percent. If, during any state fiscal year, the aggregate amount of tax paid to the state by all slot machine licensees in Broward and Miami-Dade Counties is less than the

aggregate amount of tax paid to the state by all slot machine licensees in the 2008-2009 fiscal year, each slot machine licensee shall pay to the state within 45 days after the end of the state fiscal year a surcharge equal to its pro rata share of an amount equal to the difference between the aggregate amount of tax paid to the state by all slot machine licensees in the 2008-2009 fiscal year and the amount of tax paid during the fiscal year. Each licensee's pro rata share shall be an amount determined by dividing the number 1 by the number of facilities licensed to operate slot machines during the applicable fiscal year, regardless of whether the facility is operating such machines.

Section 37. Subsection (2) of section 551.108, Florida Statutes, is amended to read:

551.108 Prohibited relationships.—

(2) A manufacturer or distributor of slot machines may not enter into any contract with a slot machine licensee that provides for any revenue sharing of any kind or nature that is directly or indirectly calculated on the basis of a percentage of slot machine revenues. Any maneuver, shift, or device whereby this subsection is violated is a violation of this chapter and renders any such agreement void. This subsection does not apply to contracts related to a progressive system used in conjunction with slot machines.

Section 38. Subsections (2) and (4) of section 551.114, Florida Statutes, are amended to read:

551.114 Slot machine gaming areas.—

(2) If such races or games are available to the slot machine licensee, the slot machine licensee shall display pari-

mutuel races or games within the designated slot machine gaming areas and offer patrons within the designated slot machine gaming areas the ability to engage in pari-mutuel wagering on any live, intertrack, and simulcast races conducted or offered to patrons of the licensed facility.

(4) Designated slot machine gaming areas shall ~~may~~ be located anywhere within the property described in a slot machine licensee's pari-mutuel permit ~~within the current live gaming facility or in an existing building that must be contiguous and connected to the live gaming facility~~. ~~If a designated slot machine gaming area is to be located in a building that is to be constructed, that new building must be contiguous and connected to the live gaming facility.~~

Section 39. Section 551.116, Florida Statutes, is amended to read:

551.116 Days and hours of operation.—Slot machine gaming areas may be open 24 hours per day, 7 days a week ~~daily~~ throughout the year. ~~The slot machine gaming areas may be open a cumulative amount of 18 hours per day on Monday through Friday and 24 hours per day on Saturday and Sunday and on those holidays specified in s. 110.117(1).~~

Section 40. Subsections (1) and (3) of section 551.121, Florida Statutes, are amended to read:

551.121 Prohibited activities and devices; exceptions.—

(1) Complimentary or reduced-cost alcoholic beverages may ~~not~~ be served to a person ~~persons~~ playing a slot machine. ~~Alcoholic beverages served to persons playing a slot machine shall cost at least the same amount as alcoholic beverages served to the general public at a bar within the facility.~~

(3) A slot machine licensee may ~~not~~ allow any automated teller machine or similar device designed to provide credit or dispense cash to be located within the designated slot machine gaming areas of a facility of a slot machine licensee.

Section 41. Present subsections (9) through (17) of section 849.086, Florida Statutes, are redesignated as subsections (10) through (18), respectively, a new subsection (9) is added to that section, and subsections (1) and (2), paragraph (b) of subsection (5), paragraphs (a), (b), and (c) of subsection (7), paragraphs (a) and (b) of subsection (8), present subsection (12), paragraphs (d) and (h) of present subsection (13), and present subsection (17) of section 849.086, Florida Statutes, are amended, to read:

849.086 Cardrooms authorized.—

(1) LEGISLATIVE INTENT.—It is the intent of the Legislature to provide additional entertainment choices for the residents of and visitors to the state, promote tourism in the state, provide revenues to support the continuation of live pari-mutuel activity, and provide additional state revenues through the authorization of the playing of certain games in the state at facilities known as cardrooms which are to be located at licensed pari-mutuel facilities. To ensure the public confidence in the integrity of authorized cardroom operations, this act is designed to strictly regulate the facilities, persons, and procedures related to cardroom operations. Furthermore, the Legislature finds that authorized games of cards and dominoes ~~as herein defined~~ are considered to be pari-mutuel style games and not casino gaming because the participants play against each other instead of against the house.

(2) DEFINITIONS.—As used in this section:

(a) "Authorized game" means a game or series of card and domino games that ~~of poker or dominoes which~~ are played in conformance with this section ~~a nonbanking manner~~.

(b) "Banking game" means a game in which the house is a participant in the game, taking on players, paying winners, and collecting from losers ~~or in which the cardroom establishes a bank against which participants play~~. A designated player game is not a banking game.

(c) "Cardroom" means a facility where authorized games are played for money or anything of value and to which the public is invited to participate in such games and charged a fee for participation by the operator of such facility. Authorized games and cardrooms do not constitute casino gaming operations if conducted at an eligible facility.

(d) "Cardroom management company" means any individual not an employee of the cardroom operator, any proprietorship, partnership, corporation, or other entity that enters into an agreement with a cardroom operator to manage, operate, or otherwise control the daily operation of a cardroom.

(e) "Cardroom distributor" means any business that distributes cardroom paraphernalia such as card tables, betting chips, chip holders, dominoes, dominoes tables, drop boxes, banking supplies, playing cards, card shufflers, and other associated equipment to authorized cardrooms.

(f) "Cardroom operator" means a licensed pari-mutuel permitholder that ~~which~~ holds a valid permit and license issued by the division pursuant to chapter 550 and which also holds a valid cardroom license issued by the division pursuant to this

section which authorizes such person to operate a cardroom and to conduct authorized games in such cardroom.

(g) "Designated player" means the player identified as the player in the dealer position and seated at a traditional player position in a designated player game and who pays winning players and collects from losing players.

(h) "Designated player game" means a game in which the players compare their cards only to the cards of the designated player or to a combination of cards held by the designated player and cards common and available for play by all players.

(i) ~~(g)~~ "Division" means the Division of Pari-mutuel Wagering of the Department of Business and Professional Regulation.

(j) ~~(h)~~ "Dominoes" means a game of dominoes typically played with a set of 28 flat rectangular blocks, called "bones," which are marked on one side and divided into two equal parts, with zero to six dots, called "pips," in each part. The term also includes larger sets of blocks that contain a correspondingly higher number of pips. The term also means the set of blocks used to play the game.

(k) ~~(i)~~ "Gross receipts" means the total amount of money received by a cardroom from any person for participation in authorized games.

(l) ~~(j)~~ "House" means the cardroom operator and all employees of the cardroom operator.

(m) ~~(k)~~ "Net proceeds" means the total amount of gross receipts received by a cardroom operator from cardroom operations less direct operating expenses related to cardroom operations, including labor costs, admission taxes only if a

separate admission fee is charged for entry to the cardroom facility, gross receipts taxes imposed on cardroom operators by this section, the annual cardroom license fees imposed by this section on each table operated at a cardroom, and reasonable promotional costs excluding officer and director compensation, interest on capital debt, legal fees, real estate taxes, bad debts, contributions or donations, or overhead and depreciation expenses not directly related to the operation of the cardrooms.

(n) ~~(l)~~ "Rake" means a set fee or percentage of the pot assessed by a cardroom operator for providing the services of a dealer, table, or location for playing the authorized game.

(o) ~~(m)~~ "Tournament" means a series of games that have more than one betting round involving one or more tables and where the winners or others receive a prize or cash award.

(5) LICENSE REQUIRED; APPLICATION; FEES.—No person may operate a cardroom in this state unless such person holds a valid cardroom license issued pursuant to this section.

(b) After the initial cardroom license is granted, the application for the annual license renewal shall be made in conjunction with the applicant's annual application for its pari-mutuel license. ~~If a permitholder has operated a cardroom during any of the 3 previous fiscal years and fails to include a renewal request for the operation of the cardroom in its annual application for license renewal, the permitholder may amend its annual application to include operation of the cardroom. In order for a cardroom license to be renewed the applicant must have requested, as part of its pari-mutuel annual license application, to conduct at least 90 percent of the total number of live performances conducted by such permitholder during either the state fiscal year in which its initial cardroom license was issued or the state fiscal year immediately prior thereto if the permitholder ran at least a full schedule of live racing or games in the prior year. If the application is for a harness permitholder cardroom, the applicant must have requested authorization to conduct a minimum of 140 live performances during the state fiscal year immediately prior thereto. If more than one permitholder is operating at a facility, each permitholder must have applied for a license to conduct a full schedule of live racing.~~

(7) CONDITIONS FOR OPERATING A CARDROOM.—

(a) A cardroom may be operated only at the location specified on the cardroom license issued by the division, and such location may only be the location at which the pari-mutuel permitholder is authorized to conduct pari-mutuel wagering activities pursuant to such permitholder's valid pari-mutuel permit or as otherwise authorized by law. ~~Cardroom operations may not be allowed beyond the hours provided in paragraph (b) regardless of the number of cardroom licenses issued for permitholders operating at the pari-mutuel facility.~~

(b) Any cardroom operator may operate a cardroom at the pari-mutuel facility daily throughout the year, if the permitholder meets the requirements under paragraph (5)(b). The cardroom may be open ~~a cumulative amount of 18 hours per day on Monday through Friday and~~ 24 hours per day ~~on Saturday and Sunday and on the holidays specified in s. 110.117(1)~~.

(c) For authorized games of poker or dominoes at a cardroom, a cardroom operator must at all times employ and provide a nonplaying live dealer at ~~for~~ each table on which the

authorized ~~card~~ games ~~which traditionally use a dealer~~ are conducted ~~at the cardroom~~. Such dealers may not have a participatory interest in any game other than the dealing of cards and may not have an interest in the outcome of the game. The providing of such dealers by a licensee does not constitute the conducting of a banking game by the cardroom operator.

(8) METHOD OF WAGERS; LIMITATION.—

(a) ~~No~~ Wagering may not be conducted using money or other negotiable currency. Games may only be played utilizing a wagering system whereby all players' money is first converted by the house to tokens or chips that may ~~which shall~~ be used for wagering only at that specific cardroom.

(b) For authorized games of poker or dominoes, the cardroom operator may limit the amount wagered in any game or series of games.

(9) DESIGNATED PLAYER GAMES AUTHORIZED.—

(a) A cardroom operator may offer designated player games consisting of players making wagers against the designated player. The designated player must be licensed pursuant to paragraph (6)(b).

(b) A cardroom operator may not serve as a designated player in any game. The cardroom operator may not have a financial interest in a designated player in any game. A cardroom operator may collect a rake in accordance with the rake structure posted at the table.

(c) If there are multiple designated players at a table, the dealer button shall be rotated in a clockwise rotation after each hand.

(d) A cardroom operator may not allow a designated player

to pay an opposing player who holds a lower ranked hand.

(13)~~(12)~~ PROHIBITED ACTIVITIES.—

(a) A ~~No~~ person licensed to operate a cardroom may not conduct any banking game or any game not specifically authorized by this section. For purposes of this section, a designated player game shall be deemed a banking game if any of the following elements apply:

1. Any designated player is required by the rules of a game or by the rules of a cardroom to cover all wagers posted by opposing players;

2. The dealer button remains in a fixed position without being offered for rotation;

3. The cardroom, or any cardroom licensee, contracts with or receives compensation other than a posted table rake from any player to participate in any game to serve as a designated player; or

4. In any designated player game in which the designated player possesses a higher ranked hand, the designated player is required to pay on an opposing player's wager who holds a lower ranked hand.

(b) A ~~No~~ person who is younger than ~~under~~ 18 years of age may not be permitted to hold a cardroom or employee license~~,~~ or to engage in any game conducted therein.

(c) With the exception of mechanical card shufflers, ~~No~~ electronic or mechanical devices~~, except mechanical card shufflers,~~ may not be used to conduct any authorized game in a cardroom.

(d) ~~No~~ Cards, game components, or game implements may not be used in playing an authorized game unless they have ~~such has~~

been furnished or provided to the players by the cardroom operator.

(14) ~~(13)~~ TAXES AND OTHER PAYMENTS.—

(d)1. Each ~~greyhound and jai alai~~ permitholder that operates a cardroom facility shall use at least 4 percent of such permitholder's cardroom monthly gross receipts to supplement ~~greyhound~~ purses or jai alai prize money, respectively, during the permitholder's next ensuing pari-mutuel meet.

2. A cardroom license or renewal thereof may not be issued to a permitholder conducting less than a full schedule of live racing or games unless the applicant has on file with the division a binding written contract with a thoroughbred permitholder that is licensed to conduct live racing and that does not possess a slot machine license. This contract must provide that the permitholder will pay an amount equal to 4 percent of its monthly cardroom gross receipts to the thoroughbred permitholder conducting the live racing for use as purses during the current or ensuing live racing meet of the thoroughbred permitholder. If there is not a thoroughbred permitholder that does not possess a slot machine license, no payments for purses are required, and the cardroom licensee shall retain such funds for its use. ~~Each thoroughbred and harness horse racing permitholder that operates a cardroom facility shall use at least 50 percent of such permitholder's cardroom monthly net proceeds as follows: 47 percent to supplement purses and 3 percent to supplement breeders' awards during the permitholder's next ensuing racing meet.~~

~~3. No cardroom license or renewal thereof shall be issued~~

~~to an applicant holding a permit under chapter 550 to conduct pari-mutuel wagering meets of quarter horse racing unless the applicant has on file with the division a binding written agreement between the applicant and the Florida Quarter Horse Racing Association or the association representing a majority of the horse owners and trainers at the applicant's eligible facility, governing the payment of purses on live quarter horse races conducted at the licensee's pari-mutuel facility. The agreement governing purses may direct the payment of such purses from revenues generated by any wagering or gaming the applicant is authorized to conduct under Florida law. All purses shall be subject to the terms of chapter 550.~~

(h) One-quarter of the moneys deposited into the Pari-mutuel Wagering Trust Fund pursuant to paragraph (g) shall, by October 1 of each year, be distributed to the local government that approved the cardroom under subsection (17) ~~subsection (16)~~; however, if two or more pari-mutuel racetracks are located within the same incorporated municipality, the cardroom funds shall be distributed to the municipality. If a pari-mutuel facility is situated in such a manner that it is located in more than one county, the site of the cardroom facility shall determine the location for purposes of disbursement of tax revenues under this paragraph. The division shall, by September 1 of each year, determine: the amount of taxes deposited into the Pari-mutuel Wagering Trust Fund pursuant to this section from each cardroom licensee; the location by county of each cardroom; whether the cardroom is located in the unincorporated area of the county or within an incorporated municipality; and, the total amount to be distributed to each eligible county and

municipality.

(18)~~(17)~~ CHANGE OF LOCATION; REFERENDUM.—

~~(a)~~ Notwithstanding ~~any provisions of~~ this section, a ~~no~~ cardroom gaming license issued under this section may not ~~shall~~ be transferred, or reissued when such reissuance is in the nature of a transfer, so as to permit or authorize a licensee to change the location of the cardroom ~~except upon proof in such form as the division may prescribe that a referendum election has been held:~~

~~1. If the proposed new location is within the same county as the already licensed location, in the county where the licensee desires to conduct cardroom gaming and that a majority of the electors voting on the question in such election voted in favor of the transfer of such license. However, the division shall transfer, without requirement of a referendum election, the cardroom license of any permitholder that relocated its permit pursuant to s. 550.0555.~~

~~2. If the proposed new location is not within the same county as the already licensed location, in the county where the licensee desires to conduct cardroom gaming and that a majority of the electors voting on that question in each such election voted in favor of the transfer of such license.~~

~~(b) The expense of each referendum held under the provisions of this subsection shall be borne by the licensee requesting the transfer.~~

Section 42. The Division of Pari-mutuel Wagering of the Department of Business and Professional Regulation shall revoke any permit to conduct pari-mutuel wagering if a permitholder has not conducted live events within the 24 months preceding the

effective date of this act, unless the permit was issued under s. 550.3345, Florida Statutes. A permit revoked under this section may not be reissued.

Section 43. The provisions of this act are not severable. If this act or any portion of this act is determined to be unconstitutional or the applicability thereof to any person or circumstance is held invalid:

(1) Such determination shall render all other provisions or applications of this act invalid; and

(2) This act is deemed never to have become law.

Section 44. This act shall take effect only if Senate Proposed Bill 7074, 2016 Regular Session, or similar legislation becomes law ratifying the Gaming Compact between the Seminole Tribe of Florida and the State of Florida executed by the Governor and the Seminole Tribe of Florida on December 7, 2015, under the Indian Gaming Regulatory Act of 1988, and only if such compact is approved or deemed approved, and not voided by the United States Department of the Interior, and except as otherwise expressly provided and except for this section, which shall take effect upon this act becoming a law, this act shall take effect on the date that the approved compact is published in the Federal Register.

The Florida Senate

Committee Agenda Request

To: Senator Tom Lee, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: February 22, 2016

I respectfully request that **Senate Bill #7072 and 7074**, relating to Gaming and Gaming Compact Between the Seminole Tribe of Florida and the State of Florida, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

Senator Rob Bradley
Florida Senate, District 7

File signed original with committee office

S-020 (03/2004)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/16
Meeting Date

7072
Bill Number (if applicable)

Topic GAMING

Amendment Barcode (if applicable)

Name LANCE PIERCE

Job Title ASST. DIRECTOR OF STATE LEGISLATIVE AFFAIRS

Address 315 S. CALHOUN ST
Street

Phone 228-4068

TALLAHASSEE FL 32301
City *State* *Zip*

Email

Speaking: ☐ For ☒ Against ☐ Information

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

Representing FLORIDA FARM BUREAU

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-1-16
Meeting Date

7072
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Gaming

Name Antonio Jefferson

Job Title City Manager

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Street

Phone 850-856-5257

Gretna FL 32332
City *State* *Zip*

Email ajefferson@ngretnaca

Speaking: ☑ For ☐ Against ☐ Information

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

Representing City of Gretna

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)

3-1-16
Meeting Date

7072
Bill Number (if applicable)

Topic Gaming

Amendment Barcode (if applicable)

Name ~~Antonia~~ Brenda Holt

Job Title Chairperson

Address 17 E. Jefferson St
Street

Phone

Quincy FL 32351
City *State* *Zip*

Email

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Gadsden County Board of Commissioner

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)

3/1/16
Meeting Date

7072
Bill Number (if applicable)

Topic GAMING

Amendment Barcode (if applicable)

Name DOUG RUSSELL

Job Title

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City *State* *Zip*

Phone 850-445-0206

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing INT'L JAI ALAI PLAYERS ASSN.

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)

3/1/16
Meeting Date

7072
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Gaming

Name Melanie Bostick

Job Title

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Street

Tallahassee
City *State* *Zip*

Phone 850-841-1726

Email office@libertypartners.fl.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing No Casinos

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:	SB 7074
INTRODUCER:	Regulated Industries Committee
SUBJECT:	Gaming Compact Between the Seminole Tribe of Florida and the State of Florida
DATE:	February 29, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Oxamendi/Kraemer	Caldwell		**RI Submitted as Committee Bill**
1.	Fournier	Kynoch	AP	**Pre-meeting**

I. Summary:

SB 7074 provides that the Gaming Compact (compact) between the Seminole Tribe of Florida (Tribe) and the State of Florida, executed by the Tribe and the Governor on December 7, 2015, is deemed ratified and approved if the compact is amended to include a provision that fantasy contests in accordance with sections 546.11 through 546.20, Florida Statutes, are an authorized activity by the compact and do not impact the agreement's revenue-sharing payments. Sections 546.11 through 546.20, Florida Statutes, are created in CS/SB 832 to provide for the licensing and regulation of operators of fantasy contests.

The compact permits the Tribe to conduct banked or banking card games at all seven of its facilities. It also permits the Tribe to conduct, at all of its facilities, dice games, such as craps and sic-bo, and wheel games, such as roulette and big six.

The compact provides for revenue-sharing payments from the Tribe to the state. For the first seven years, the compact provides a $3 billion payment guarantee. The compact provides specific amounts for the payments during each month of the first seven years, and then the payments will be based on a varying percentage rate that depends on the amount of net win.

The compact provides that, if banked card games are authorized in Broward and Miami-Dade counties the revenue share payments cease until gaming activities are no longer authorized. However, the Legislature can add blackjack at the pari-mutuel facilities in Miami-Dade and Broward, subject to some limitations, without an impact on the compact. After the first seven years, if the Tribe's net win from all table games in Broward County is less than its net win from banked card games in Broward County during the current fiscal year, the Tribe may waive its exclusivity to allow up to 15 blackjack tables with $15 bet limits for the existing permitholders in Broward and Miami-Dade Counties.

The compact also provides that, if Class III gaming is authorized at locations in Miami-Dade or Broward counties at other than existing pari-mutuels, the payments will cease. However, there

would be no effect on payments if the Legislature permits one additional pari-mutuel location in Miami-Dade County and one additional pari-mutuel location in Palm Beach County with each additional facility permitted to phase in, during a three year period, 750 slot machines and 750 video racing terminals with a $5 bet limit.

The compact provides that the Legislature may take the following additional actions without violating exclusivity and affecting exclusivity payments:

- Lowering the tax rate for pari-mutuel facilities to 25 percent of slot machine revenue;
- Expanding the hours of operation for pari-mutuel facilities;
- Permitting automated teller machines (ATM's) to be placed on the slot machine gaming floor;
- Allowing permitholders to convert or modify the pari-mutuel permit to allow the operation of a different type of pari-mutuel activity;
- Decoupling pari-mutual facilities by removing the requirement that permitholders must conduct performances of live races or games in order to conduct other authorized gaming activities, such as cardrooms or slot machines;
- Using payments received under the compact to fund a purse pool to be allocated to pari-mutuel permitholders;
- Authorizing one additional slot machine license in Miami-Dade County and one additional slot machine license in Palm Beach County;
- Authorizing the use of video racing terminals at the additional slot machine licensees' facilities in Miami-Dade and Broward Counties;
- Authorizing blackjack for the existing pari-mutuel permitholders in Broward and Miami-Dade Counties with up to 15 blackjack tables per facility and $15 bet limits per table; and
- Permitting pari-mutuel permitholders that are not licensed to operate slot machines to offer "designated player" games with some restrictions.

The bill provides that this act shall take effect upon becoming law if SB 7072 or similar legislation is adopted in the same legislative session, or an extension thereof, and becomes a law.

The compact would become effective after it is approved by the U.S. Department of the Interior, as required under the Indian Gaming Regulatory Act of 1988, and notice of the approval is published in the Federal Register.

Since the bill requires the compact to be amended by an agreement between the Governor and the Tribe, and the amended compact must be approved by the U.S. Secretary of the Interior, whether the level of payments from the Tribe to the State is greater than the level under the 2010 Indian Gaming Compact is unknown and the bill's fiscal impact is indeterminate.

II. Present Situation:

Gambling in Florida

In general, gambling is illegal in Florida.[1] Chapter 849, F.S., prohibits keeping a gambling house,[2] running a lottery,[3] or the manufacture, sale, lease, play, or possession of slot machines.[4]

Article X, s. 7 of the 1968 Florida Constitution provides, "Lotteries, other than the types of pari-mutuel pools authorized by law as of the effective date of this constitution, are hereby prohibited in this state."[5]

Article X, s. 15 of the Florida Constitution (adopted by the voters in 1986) provides for state operated lotteries:

> Lotteries may be operated by the state….On the effective date of this amendment, the lotteries shall be known as the Florida Education Lotteries. Net proceeds derived from the lotteries shall be deposited to a state trust fund, to be designated The State Education Lotteries Trust Fund, to be appropriated by the Legislature. The schedule may be amended by general law.

Section 24.102, F.S., creates the Department of the Lottery and states the Legislature's intent that it be self-supporting and revenue-producing and function as an entrepreneurial business enterprise.[6]Chapter 550, F.S., authorizes pari-mutuel wagering at licensed tracks and frontons and provides for state regulation.[7] Chapter 849, F.S., authorizes cardrooms at certain pari-mutuel facilities.[8] A license to offer pari-mutuel wagering, slot machine gambling, or a cardroom at a pari-mutuel facility is a privilege granted by the state.[9]

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[1] Section 849.08, F.S.
[2] Section 849.01, F.S.
[3] Section 849.09, F.S.
[4] Section 849.16, F.S., defines slot machines for purposes of ch. 849, F.S. Section 849.15(2), F.S., provides an exemption to the transportation of slot machines for the facilities that are authorized to conduct slot machine gaming under ch. 551, F.S.
[5] The pari-mutuel pools that were authorized by law on the effective date of the Florida Constitution, as revised in 1968, include horseracing, greyhound racing, and jai alai games. The revision was ratified by the electorate on November 5, 1968.
[6] Chapter 24, F.S., was enacted by ch. 87-65, L.O.F., to establish the state lottery. Section 24.102, F.S., provides the legislative purpose and intent in regard to the lottery.
[7] *See* ch. 550, F.S., relating to the regulation of pari-mutuel activities.
[8] Section 849.086(2)(c), F.S., defines "cardroom" to mean a facility where authorized card games are played for money or anything of value and to which the public is invited to participate in such games and charges a fee for participation by the operator of such facility.
[9] *See* s. 550.1625(1), F.S., "…legalized pari-mutuel betting at dog tracks is a privilege and is an operation that requires strict supervision and regulation in the best interests of the state." *See also Solimena v. State,* 402 So.2d 1240, 1247 (Fla. 3d DCA 1981), review denied, 412 So.2d 470, which states "Florida courts have consistently emphasized the special nature of legalized racing, describing it as a privilege rather than as a vested right", citing *State ex rel. Mason v. Rose,* 122 Fla. 413, 165 So. 347 (1936).

Chapter 849, F.S., also authorizes, with conditions, penny-ante games,[10] bingo,[11] charitable drawings, game promotions (sweepstakes),[12] bowling tournaments, and amusement games and machines.[13]

Article X, s. 23 of the Florida Constitution (adopted by the voters in 2004) provides for slot machines in Miami-Dade and Broward Counties:

> After voter approval of this constitutional amendment, the governing bodies of Miami-Dade and Broward Counties each may hold a county-wide referendum in their respective counties on whether to authorize slot machines within existing, licensed pari-mutuel facilities (thoroughbred and harness racing, greyhound racing, and jai-alai) that have conducted live racing or games in that county during each of the last two calendar years before the effective date of this amendment. If the voters of such county approve the referendum question by majority vote, slot machines shall be authorized in such pari-mutuel facilities. If the voters of such county by majority vote disapprove the referendum question, slot machines shall not be so authorized, and the question shall not be presented in another referendum in that county for at least two years.

Both Miami-Dade and Broward Counties held referenda elections on March 8, 2005. The electors approved slot machines at the pari-mutuel facilities in Broward County. Under the provisions of Article X, s. 23 of the Florida Constitution, four pari-mutuel facilities are eligible to conduct slot machine gaming in Broward County:

- Gulfstream Park Racing Association, a thoroughbred permitholder;
- The Isle Casino and Racing at Pompano Park, a harness racing permitholder;
- Dania Jai Alai, a jai alai permitholder; and
- Mardi Gras Race Track and Gaming Center, a greyhound permitholder.

On January 29, 2008, a referendum approving slot machines in Miami-Dade County was approved. Under the provisions of Article X, s. 23 of the Florida Constitution, three pari-mutuel facilities are eligible to conduct slot machine gaming in Miami-Dade County:

- Miami Jai-Alai, a jai-alai permitholder;
- Flagler Greyhound Track, a greyhound permitholder; and,
- Calder Race Course, a thoroughbred permitholder.

Chapter 551, F.S., implements Article X, s. 23 of the Florida Constitution. The division is charged with regulating the operation of slot machines in the affected counties.

Section 551.102(4), F.S., defines the term "eligible facility" to permit slot machine gaming at pari-mutuel facilities that are not included in the authorization in Article X, s. 23 of the Florida Constitution. The other eligible facilities include:

[10] Section 849.085, F.S.
[11] Section 849.0931, F.S.
[12] Section 849.094, F.S., authorizes game promotions in connection with the sale of consumer products or services.
[13] Section 849.161, F.S.

- Any licensed pari-mutuel facility located within a county as defined in s. 125.011, F.S.,[14] provided such facility:
  - Has conducted live racing for two consecutive calendar years immediately preceding its application for a slot machine license;
  - Pays the required license fee; and
  - Meets the other requirements of this chapter; or
- Any licensed pari-mutuel facility in any other county in which a majority of the voters have approved slot machines at such facilities in a countywide referendum held pursuant to a statutory or constitutional authorization after the effective date of this section provided the facility has conducted a full schedule of live racing for two consecutive calendar years immediately preceding its application for a slot machine license, pays the required licensed fee, and complies with the other specified statutory requirements.

Under the definition of "eligible facility" in s. 551.102(4), F.S., Hialeah Park Racing and Casino is also eligible to conduct slot machine gaming.

The Indian Gaming Regulatory Act (IGRA)

In 1988, Congress enacted the Indian Gaming Regulatory Act or "IGRA."[15] The Act divides gaming into three classes:

- "Class I gaming" means social games for minimal value or traditional forms of Indian gaming engaged in by individuals for tribal ceremonies or celebrations.[16]
- "Class II gaming" includes bingo and pull-tabs, lotto, punch boards, tip jars, instant bingo, and other games similar to bingo.[17] Class II gaming may also include certain non-banked card games if permitted by state law or not explicitly prohibited by the laws of the state but the card games must be played in conformity with the laws of the state. [18] A tribe may conduct Class II gaming if:
  - The state in which the tribe is located permits such gaming for any purpose by any person, organization, or entity; and
  - The governing body of the tribe adopts a gaming ordinance which is approved by the Chairman of the National Indian Gaming Commission.[19]
- "Class III gaming" includes all forms of gaming that are not Class I or Class II, such as house-banked card games, casino games such as craps and roulette, electronic or electromechanical facsimiles of games of chance, and pari-mutuel wagering.[20]

[14] As defined in s. 125.011(1), F.S., "county" means any county operating under a home rule charter adopted pursuant to ss. 10, 11, and 24, Art. VIII of the Constitution of 1885, as preserved by Art. VIII, s. 6(e) of the Constitution of 1968, which means that Miami-Dade, Hillsborough and Monroe Counties could potentially meet this statutory definition but only Miami-Dade County has adopted a home-rule charter.
[15] Pub. Law No. 100-497, 100th Cong. (Oct. 17, 1988) 102 Stat. 2467, codified at 18 U.S.C. ss. 1166-1168 and 25 U.S.C. s. 2701 *et seq*.
[16] 25 U.S.C. s. 2703(6).
[17] 25 U.S.C. s. 2703(7).
[18] 25 U.S.C. s. 2703(7)(A)(ii).
[19] 25 U.S.C. s. 2710(b)(1).
[20] 25 U.S.C. s. 2703(8).

Regulation under IGRA is dependent upon the type of gaming involved. Class I gaming is left to the tribes.[21] Class II gaming is regulated by the tribe with oversight by the National Indian Gaming Commission.[22] Class III gaming permits a regulatory role for the state by providing for a tribal-state compact.[23]

IGRA provides that certain conditions must be met before an Indian tribe may lawfully conduct Class III gaming. First, the particular form of Class III gaming that the tribe wishes to conduct must be permitted in the state in which the tribe is located. Second, the tribe must have adopted a tribal gaming ordinance that has been approved by the Indian Gaming Commission or its chairman. Third, the tribe and the state must have negotiated a compact that has been approved by the Secretary of the U.S. Department of the Interior and is in effect.[24]

Compact Authorization

Section 285.712, F.S., authorizes the Governor to enter into an Indian Gaming compact with the federally recognized Indian tribes within the State of Florida for the purpose of authorizing Class III gaming on the Indian lands.

Section 285.710(3), F.S., ratifies and approves the Gaming Compact between the Seminole Indian Tribe of Florida (Tribe) and the State of Florida that was executed by the Governor and the Tribe April 7, 2010.

Section 285.710(7), F.S., designates the Division of Pari-mutuel Wagering (division) within the Department of Business and Professional Regulation as the agency with the authority to monitor the Tribe's compliance with the compact.

Section 285.710(9), F.S., provides that money received by the state from the compact is to be deposited into the General Revenue Fund. It also provides for the distribution of three percent of the amount paid by the Tribe must be distributed to the specified local governments. The percentage of the local share distributed to the specified counties and municipalities is based on the net win per facility in each county and municipality.

Gaming Compact with the Seminole Tribe of Florida

The current gaming compact with the Seminole Tribe of Florida (Tribe) dated April 7, 2010 (the 2010 gaming compact)[25] authorizes the Tribe to conduct slot machine gaming at seven facilities

[21] 25 U.S.C. s. 2710(a)(1).
[22] 25 U.S.C. s. 2710(a)(2).
[23] 25 U.S.C. s. 2710(d).
[24] 25 U.S.C. s. 2710(d).
[25] The 2010 gaming compact was executed by the Governor and the Seminole Tribe on April 7, 2010, ratified by the Legislature, effective April 28, 2010, and approved by U.S. Secretary of the Interior, pursuant to the Indian Gaming Regulatory Act of 1988, on June 24, 2010. It took effect when published in the Federal Register on July 6, 2010. The 20-year term of the 2010 gaming compact expires July 31, 2030, unless renewed. Section 285.710(1)(f), F.S., designates the Division of Pari-mutuel Wagering of the Department of Business and Professional Regulation as the "state compliance agency" having authority to carry out the state's oversight responsibilities under the 2010 gaming compact *available at* http://www.flsenate.gov/PublishedContent/Committees/2014-2016/RI/Links/Gaming_Compact_between_The_Seminole_Tribe_of_Florida_and_the_State_of_Florida.pdf (last visited Feb. 8, 2016).

located in Broward, Collier, Glades, Hendry, and Hillsborough Counties. The compact authorizes banked card games, including blackjack, chemin de fer, and baccarat, but only at the five tribal casinos in Broward County, Collier County, and Hillsborough County.[26] The 2010 gaming compact also provides for revenue sharing payments from the Seminole Tribe to the state. For its exclusive authority during a five-year period[27] to offer banked card games on tribal lands at five locations, and to offer slot machine gaming during the 20-year term of the 2010 gaming compact, outside Miami-Dade and Broward Counties, the Seminole Tribe pays the State of Florida a share of "net win" (approximately $240 million per year).[28]

On December 7, 2015, the Governor executed a gaming compact with the Tribe with a new 20-year term. The compact authorizes the Tribe to conduct slot machine gaming at the same seven facilities. The compact permits the Tribe to offer live table games, such as craps and roulette, at all seven facilities. It also authorizes banked card games, including blackjack, chemin de fer, and baccarat, at all seven facilities.

The compact also provides for revenue sharing payments from the Tribe to the state. For the first seven-year period (Guarantee Period), the compact provides a $3 billion payment guarantee. The compact provides specific amounts for the payments (Guaranteed Payments) during each year of the Guarantee Period. After the Guarantee Period, the Tribes payments will be based on a varying percentage rate that depends on the amount of net win (Revenue Share Payments).

The compact must be approved and ratified by the Legislature. The compact must then be approved by the U.S. Department of the Interior, as required under the Indian Gaming Regulatory Act of 1988, and notice of the approval published in the Federal Register.[29]

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[26] *See* s. 285.710(10), F.S. The seven tribal locations where gaming is authorized by the 2010 gaming compact are: (1) Seminole Hard Rock Hotel & Casino—Hollywood (Broward); (2) Seminole Indian Casino—Coconut Creek (Broward); (3) Seminole Indian Casino—Hollywood (Broward); (4) Seminole Hard Rock Hotel & Casino—Tampa (Hillsborough); (5) Seminole Indian Casino—Immokalee (Collier); (6) Seminole Indian Casino—Brighton (Glades); and (7) Seminole Indian Casino—Big Cypress (Hendry). Banked card games are not authorized at the Brighton and Big Cypress casinos.

[27] While the exclusive authorization to conduct banked card games expired July 31, 2015, and has not been renewed, according to staff at the department and the Legislature's Office of Economic and Demographic Research, the Seminole Tribe has continued to transmit monthly payments to the state that include estimated table games revenue. The Seminole Tribe and the State of Florida are parties to litigation regarding the offering of table games by the Seminole Tribe after July 31, 2015. Those parties have negotiated a proposed gaming compact dated December 7, 2015 (the 2015 gaming compact), that the Governor, as the designated state officer responsible for negotiating and executing tribal-state gaming compacts with federally recognized Indian tribes, has transmitted to the President of the Senate and the Speaker of the House of Representatives for consideration, as required by s. 285.712, F.S. To be effective, the proposed 2015 gaming compact must be ratified by the Senate and by the House, by a majority vote of the members present. *See* s. 285.712(3), F.S.

[28] Subject to the outcome of the pending litigation between the state and the Seminole Tribe respecting continuation of the authorization to offer tables games, the 2010 gaming compact provides if (1) authorization for banked card games is not extended beyond July 31, 2015, or (2) the Legislature authorizes Class III (casino-style) games in Broward or Miami-Dade County other than at the eight existing state-licensed pari-mutuel locations, then the "net win" for revenue sharing will exclude amounts from the Seminole Tribe's facilities in Broward County (i.e., payments will be reduced by approximately $120 million per year). If the Legislature authorizes new Class III (casino-style) games outside Broward and Miami-Dade Counties, then all revenue sharing under the 2010 gaming compact is discontinued.

[29] 25 U.S.C. s. 2710(d)(8)

Compact Comparison

The following table reflects the similarities and differences between the current 2010 Gaming Compact and the 2015 Gaming Compact:

	2015 Compact	**2010 Gaming Compact**
Guaranteed Payments	Seven-year Guarantee Period of $3 billion. (Starts 7/1/17) 1- $325 million 2- $350 million 3- $375 million 4- $425 million 5- $475 million 6- $500 million 7- $550 million The compact has a "true-up" at the end of the Guarantee Period in which the Tribe will pay more if the applicable revenue share percentages result in an amount greater than the guarantee.	Five-year guarantee of $1 billion. 1- $150 million 2- $150 million 3- $233 million 4- $233 million 5- $234 million $1 billion guarantee.
Revenue Share Percentages	$0-2B: 13 percent; $2-3B: 17.5 percent; $3.5-4B: 20 percent; $4-4.5B: 22.5 percent; and $4.5B+: 25 percent.	$0-2B: 12 percent; $2-3B: 15 percent; $3-3.5B: 17.5 percent; $3.5-4B: 20 percent; $4-4.5B: 22.5 percent; and $4.5B+: 25 percent.
Economic Recession	If there is an economic recession during the seven-year Guarantee Period, the Tribe may for only one revenue share cycle pay based on Revenue Share percentages instead of the guarantee amount. However, at the end of that year's Revenue Share Cycle, the Tribe must remit 50 percent of the difference between the percentage payment and Guarantee and pay the remaining amount during the following Revenue Sharing Cycle.	Not applicable.

	2015 Compact	**2010 Gaming Compact**
Authorized Games (Covered Games)	At all seven facilities without exception: 1. Slot Machines; 2. Banked card games, including blackjack; 3. Raffles and drawings; 4. Any new game authorized for any person except banked card games authorized for another Indian Tribe; and 5. Live Table Games, including craps and roulette.	At all seven facilities except for banked card games: 1. Slot Machines; 2. Banked Card Games, including blackjack (at all facilities except Big Cypress & Brighton) for the first five years of the compact 3. Raffles and Drawings; 4. Any new game authorized for any person except banked card games authorized for another Indian Tribe.
Caps on the Number of Authorized Games	The Tribe may average 3,500 slot machines for each of the seven facilities but may not have more than 6,000 slot machines in a facility. The Tribe may average 150 banked or banking card games and live table games for each of the seven facilities but may not have more than 300 banked or banking card games and live table games at a facility.	Requires the conversion of all Class II bingo video terminals to Class III slot machines, but does not place limits on the number of slot machines or banked or banking card games.
Exclusivity Given to the Tribe in Exchange for Revenue Share Payments	<u>Statewide:</u> 1. Banked card games; and 2. Live Table Games. <u>Outside Miami-Dade/Broward</u>: Slot Machines	<u>Statewide:</u> Banked Card Games. <u>Outside Miami-Dade/Broward:</u> Slot Machines
Change in Facilities	The Tribe may expand or replace existing facilities and expressly places limits on additional gaming positions at the Tribe's facilities.	The Tribe may expand or replace existing facilities, and does not limit gaming positions at the Tribe's facilities.
State Oversight	State Compliance Agency is allowed 16 hours for inspections over the course of two days per facility, per month. Total inspection time is capped at 1,600 hours annually. The Tribe is required to pay an annual oversight payment of $400,000, which may be increased for inflation.	State Compliance Agency is allowed 10 hours for inspection over the course of two days per facility, per month. The total inspection time is capped at 1,200 hours annually. The Tribe is required to pay and annual oversight payment of $250,000, which may be increased for inflation.

	2015 Compact	2010 Gaming Compact
Exclusivity Violation: If Banked Games are Authorized in Broward and Miami-Dade Counties	Revenue Share Payments cease until gaming activities are no longer authorized. However, the Legislature can add blackjack at the Pari-mutuels in Miami-Dade and Broward, subject to some limitations, without an impact on the compact. After the Guarantee Period, if the Tribe's net win from all table games in Broward County is less than its net win from banked card games in Broward County during the current fiscal year, the Tribe may waive its exclusivity to allow up to 15 blackjack tables with $15 bet limits for the existing permitholders in Broward and Miami-Dade Counties.	If the Tribe's annual net win from Broward facilities for the 12 months after the authorization is less than net win from preceding 12 months, the guaranteed minimum payments cease, and the revenue share payments are calculated by reducing net win from the Broward facilities by 50 percent. The Revenue Share Payments may resume without any reduction when the net win for the Broward facilities is greater that when the banked card games were offered.
Exclusivity Violation: If Class III Gaming is authorized at locations in Miami-Dade or Broward at other than existing pari-mutuels	The Guaranteed Minimum Payments will cease, and all Revenue Share Payments cease. However, there would be no effect on payments, if the Legislature permits one additional pari-mutuel location in Miami-Dade with 750 Slot machines and 750 Video Racing Terminals that have a $5 bet limit phased in over a three year period with no effect on the compact.	Guaranteed Minimum Payments cease, but the Revenue Share Payments are calculated by excluding the net win from the Broward facilities.
Exclusivity Violation: If Class III Gaming is authorized at locations outside of Miami-Dade or Broward	The Guaranteed Minimum Payments will cease, and all Revenue Share Payments cease. However, there would be no effect on payment if the Legislature permits one additional pari-mutuel location in Palm Beach County with 750 Slot machines and 750 Video Racing Terminals that have a $5 bet limit phased in over three year period with no effect on the compact.	All payments under the compact cease.

	2015 Compact	2010 Gaming Compact
Exclusivity Violation: If Internet Gaming is Authorized	The Guaranteed Minimum Payments cease, but the Revenue Share Payments continue. If the Tribe offers internet gaming to players in Florida, then the Guaranteed Payments will continue.	If the Tribe's net win from all its facilities drops by more than 5 percent below the net win from the previous year, the Guaranteed Payments cease, but the Revenue Share Payments continue If Tribe offers internet gaming then Guaranteed Minimum Payments continue.
Compulsive Gambling	The Tribe must make an annual $1,750,000 donation to the Florida Council on Compulsive Gambling and maintain a voluntary exclusion list.	The Tribe must will make an annual $250,000 donation per facility ($1,750,000 total) to the Florida Council on Compulsive Gambling and maintain a voluntary exclusion list.

The proposed compact provides that the Legislature may take the following additional actions without violating exclusivity and affecting exclusivity payments:

- Lowering the tax rate for pari-mutuels to 25 percent of slot machine revenue;
- Expanding the hours of operation for pari-mutuel facilities;[30]
- Permitting automated teller machines (ATM's) to be placed on the slot machine gaming floor of pari-mutuel slot machine licensees;[31]
- Permitting permitholders to convert or modify the pari-mutuel permit to allow the operation of a different type of pari-mutuel activity;
- Decoupling pari-mutuel facilities by removing the requirement that permitholders must conduct performances of live races or games in order to conduct other authorized gaming activities, such as cardrooms or slot machines;
- Using payments received under the compact to fund a purse pool to be allocated to pari-mutuel permitholders;
- Authorizing one additional slot machine license in Miami-Dade County and one additional slot machine license in Palm Beach County;
- Authorizing the use of video racing terminals[32] at the additional slot machine licensees in Miami-Dade and Broward Counties;

[30] Section 551.116, F.S., provides that the slot machine gaming areas may be open daily throughout the year, and may be open a cumulative amount of 18 hours per day on Monday through Friday and 24 hours per day on Saturday and Sunday and on holidays.

[31] Section 551.121(3), prohibits automated teller machines or similar devices that are designed to provide credit or dispense cash to be located within the designated slot machine gaming areas of a facility of a slot machine licensee.

[32] Part III, section KK. of the 2015 Compact defines the term to mean "an individual race terminal linked to a central server as part of a network-based video game, where the terminals allow pari-mutuel wagering by players on the results of previously conducted horse races, but only if the game is certified in advance by an independent testing laboratory licensed or contracted by the Division of Pari-Mutuel Wagering as complying with all of the" requirement specified in the compact. The compact's requirements include that the race must have been recorded in the United States after January 1, 2005, the video must show at least the final eight seconds of the race, the terminal may contain no more than one player position for placing wagers, the terminal may not dispense coins, currency, or tokens, and no additional element of chance may be present.

- Authorizing blackjack for the existing pari-mutuels in Broward and Miami-Dade counties with up to 15 blackjack tables per facility and $15 bet limits per table; and
- Permitting pari-mutuel facilities that are not licensed to operate slot machines to offer "designated player" [33] games with some restrictions.[34]

III. Effect of Proposed Changes:

The bill provides that the gaming compact between the Seminole Tribe of Florida and the State of Florida executed by the Tribe and the Governor on December 7, 2015, is deemed ratified and approved if the compact is amended to include a provision that fantasy contests in accordance with ss. 546.11 through 546.20, F.S., are an authorized activity by the compact and do not impact the agreement's revenue-sharing payments. Sections 546.11 through 546.20, F.S., are created in CS/SB 832 to provide for the licensing and regulation of operators of fantasy contests.

The bill provides that the ratified and approved 2015 Gaming Compact supersedes the 2010 Gaming Compact.

The bill also amends s. 285.710(13), F.S., to remove the provision that limits the Tribe to conducting banked or banking card games at its Broward, Collier, and Hillsborough County facilities. It also provide that the Tribe may conduct the following games at all of its facilities:

- Dice games, such as craps and sic-bo; and
- Wheel games, such as roulette and big six.

The bill provides that this act shall take effect upon becoming law if SB 7072 or similar legislation being adopted in the same legislative session, or an extension thereof, and becoming a law.

The 2015 Compact would become effective after it is approved by the U.S. Department of the Interior and notice of the approval is published in the Federal Register.[35]

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

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[33] Part III, section J. of the proposed 2015 Compact defines a "Designated Player Games" to mean "games consisting of at least three cards in which players compare their cards only to those cards of the player in the dealer position, who also pays winners and collects from losers."

[34] The restrictions for designated player games include a $25 limit on wagers, the designated player must occupy a playing position at the table, each player in the game must be offered a participation in a clockwise rotation to be the designated player, a player may not be the designated player for more than 30 consecutive hands and must play at least two hands as a non-designated player before resuming to play as the designated player. The designated player is not required to cover more than 10 times the minimum posted bet during any one game. Slot machine licensees and licensees who offer video racing terminals may not offer designated player games.

[35] 25 U.S.C. s. 2710(d)(8)

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:

Since SB 7074 requires the compact to be amended by an agreement between the Governor and the Tribe, and the amended compact must be approved by the U.S. Secretary of the Interior, whether the level of payments from the Tribe to the State is greater than the level under the 2010 Indian Gaming Compact is unknown.

C. Government Sector Impact:

Since the bill requires the compact to be amended by an agreement between the Governor and the Tribe, and the amended compact must be approved by the U.S. Secretary of the Interior, whether the level of payments from the Tribe to the State is greater than the level under the 2010 Indian Gaming Compact is unknown.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill is linked to SB 7072 by providing that the bill shall take effect upon becoming law if SB 7072 or similar legislation is adopted in the same legislative session, or an extension thereof, and becoming a law.

SB 7072 is linked to this bill by providing that SB 7072 only becomes effective when it, or similar legislation ratifying the gaming compact between the Seminole Tribe of Florida and the State of Florida executed by the Governor and the Seminole Tribe of Florida on December 7, 2015, is enacted. In addition, SB 7072 requires approval of the compact by the U.S. Department of the Interior. SB 7072 will be effective when notice of the approval by the Department of the Interior is published in the Federal Register.

The bill references statutory provisions that are not in current law and are created in another bill. The bill provides that the gaming compact is deemed ratified and approved if the compact is amended to include a provision that fantasy contests in accordance with ss. 546.11 through 546.20, F.S., are authorized activity by the compact and do not impact the agreement's revenue-

sharing payments. Sections 546.11 through 546.20, F.S., are created in CS/SB 832 to provide for the licensing and regulation of operators of fantasy contests.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 285.710 and 285.712.

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 the Committee on Regulated Industries

580-03739-16 20167074__

A bill to be entitled

An act relating to the Gaming Compact between the Seminole Tribe of Florida and the State of Florida; amending s. 285.710, F.S.; superseding the Gaming Compact; ratifying and approving a specified compact executed by the Governor and the Tribe contingent upon the adoption of a specified amendment to the compact; directing the Governor to cooperate with the Tribe in seeking approval of the amended compact from the United States Secretary of the Interior; specifying the provision that must be adopted by amendment to the compact before it may be deemed ratified and approved; expanding the games authorized to be conducted and the counties in which such games may be offered; amending s. 285.712, F.S.; correcting a citation; providing a contingent effective date.

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

Section 1. Paragraph (a) of subsection (1) and subsections (3) and (13) of section 285.710, Florida Statutes, are amended to read:

285.710 Compact authorization.—

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

(a) "Compact" means the Gaming Compact between the Seminole Tribe of Florida and the State of Florida~~, executed on April 7, 2010~~.

(3)(a) A ~~The~~ Gaming Compact between the Seminole Tribe of Florida and the State of Florida, executed by the Governor and the Tribe on April 7, 2010, was ~~is~~ ratified and approved by chapter 2010-29, Laws of Florida. ~~The Governor shall cooperate with the Tribe in seeking approval of the compact from the~~

580-03739-16 20167074__

~~United States Secretary of the Interior.~~

(b) The Gaming Compact between the Seminole Tribe of Florida and the State of Florida, which was executed by the Governor and the Tribe on December 7, 2015, shall be deemed ratified and approved if it is amended by an agreement between the Governor and the Tribe to incorporate the terms specified in paragraph (c). The amended Gaming Compact supersedes the Gaming Compact ratified and approved by chapter 2010-29, Laws of Florida. The Governor shall cooperate with the Tribe in seeking approval of the amended Gaming Compact from the United States Secretary of the Interior.

(c) The December 7, 2015, Gaming Compact must include a provision that fantasy contests conducted in accordance with ss. 546.11-546.20 are an authorized activity by the compact and do not impact the agreement's revenue-sharing payments.

(13) For the purpose of satisfying the requirement in 25 U.S.C. s. 2710(d)(1)(B) that the gaming activities authorized under an Indian gaming compact must be permitted in the state for any purpose by any person, organization, or entity, the following class III games or other games specified in this section are hereby authorized to be conducted by the Tribe pursuant to the compact:

(a) Slot machines, as defined in s. 551.102(8).

(b) Banking or banked card games, including baccarat, chemin de fer, and blackjack or 21 ~~at the tribal facilities in Broward County, Collier County, and Hillsborough County~~.

(c) Dice games, such as craps and sic-bo.

(d) Wheel games, such as roulette and big six.

(e)~~(c)~~ Raffles and drawings.

Section 2. Subsection (4) of section 285.712, Florida Statutes, is amended to read:

285.712 Tribal-state gaming compacts.—

(4) Upon receipt of an act ratifying a tribal-state compact, the Secretary of State shall forward a copy of the executed compact and the ratifying act to the United States Secretary of the Interior for his or her review and approval, in accordance with 25 U.S.C. s. 2710(d)(8) ~~s. 2710(8)(d)~~.

Section 3. This act shall take effect upon becoming a law, if SB 7072 or similar legislation is adopted in the same legislative session or an extension thereof and becomes a law.

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

The Florida Senate

Committee Agenda Request

To: Senator Tom Lee, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: February 22, 2016

I respectfully request that **Senate Bill #7072 and 7074**, relating to Gaming and Gaming Compact Between the Seminole Tribe of Florida and the State of Florida, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

Senator Rob Bradley
Florida Senate, District 7

File signed original with committee office

S-020 (03/2004)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3 / 1 /2016
Meeting Date

Topic _____ Bill Number 7074 *(if applicable)*

Name BRIAN PITTS Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

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

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

Speaking: ☐ For ☐ Against ☑ Information

Representing JUSTICE-2-JESUS

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

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

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

S-001 (10/20/11)

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:	HB 7099, 2nd Eng.
INTRODUCER:	Finance and Tax Committee; and Representative Gaetz and others
SUBJECT:	Taxation
DATE:	February 29, 2016
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Diez-Arguelles	Kynoch	AP	**Pre-meeting**

I. Summary:

HB 7099 provides for a wide range of tax reductions and modifications designed to directly impact both households and businesses, and to improve tax administration. The bill:

- Makes changes to allowable and required uses of tourist development taxes;
- Provides that a note or mortgage made on behalf of a housing finance authority is exempt from documentary stamp tax;
- Allows for at least five percent of community redevelopment agency revenues be spent on youth centers in certain circumstances;
- Expands the counties for which the Department of Revenue must pay for aerial photographs used for property tax purposes;
- Clarifies that for a limited period, economic development property tax exemptions can be granted in areas which were designated enterprise zones as of December 30, 2015;
- Allows a midyear transfer of the disabled veteran homestead property tax exemption;
- Expands the homestead exemption available for the surviving spouses of totally and permanently disabled veterans;
- Creates a 50 percent property tax discount on certain property used for affordable housing;
- Provides that documentary stamp tax revenue is pledged and made first available to pay debt service on bonds authorized before July 1, 2017;
- Equalization of the tax rates on apple and pear cider;
- Provides a permanent reduction of the state sales tax rate on rental of commercial real estate from six percent to five percent, beginning January 1, 2017, with an additional one percentage point reduction (to four percent) in calendar year 2018 only;
- Provides new, extended or expanded sales tax exemptions for machinery and equipment used in manufacturing;
- Provides expanded sales tax exemption for machinery and equipment used for agricultural postharvest activities;
- Provides expanded sales tax exemption for machinery and equipment used for metals recycling;
- Provides an exemption for sales at school book fairs for one year;

- Provides an exemption for sales of college textbooks and instructional materials for one year;
- Provides an exemption from sales tax for building materials, pest control, and rental of tangible personal property used in new construction in rural areas of opportunity;
- Provides an exemption from sales tax for certain equipment, electricity and building materials used by certain new or expanding Florida datacenters;
- Provides an exemption from sales tax for sales of food and drink by military veterans service organizations to their members;
- Provides an exemption from sales tax for certain resales of admissions for three years;
- Clarifies requirements for the current exemption on sales of aircraft that will be registered in a foreign jurisdiction;
- Provides a ten-day "back-to-school" sales tax holiday for clothing, footwear, school supplies, and computers;
- Provides a one-day "technology" sales tax holiday on sales of computers and related accessories;
- Provides a one-day "small business" sales tax holiday, for sales by certain small businesses;
- Provides a one-day "hunting and fishing" sales tax holiday for certain hunting firearms, ammunition, camping tents, and fishing supplies;
- Temporarily increases the total corporate income tax credits available for voluntary brownfields clean-up;
- Temporarily increases the total corporate income tax credits for research and development;
- Extends by one year the corporate income tax credits for renewable energy technology and production;
- Adopts the Internal Revenue Code as in effect on January 1, 2016, for purposes of corporate income tax, but decouples from certain federal bonus depreciation provisions;
- Makes changes to certain corporate income tax filing dates to conform to federal filing date changes;
- Effective July 1, 2019, eliminates a current exemption from the aviation fuel tax and reduces the aviation fuel tax rate;
- Clarifies the administration of the tax on other tobacco products and adds "wraps" to the list of products subject to tax; and
- Replaces the current tax calculation on liquor and tobacco sold on cruise ships located within Florida territorial waters with a simpler, revenue neutral calculation.

The total of $991.7 million in tax reductions proposed by the bill is the sum of the recurring impacts, reflecting the annual value of permanent tax cuts when fully implemented, and the nonrecurring impacts that reflect temporary tax reductions. The bill also includes nonrecurring General Revenue appropriations of $762,154.

II. Present Situation:

The present situation for each issue is described in the Effect of Proposed Changes section below.

III. Effect of Proposed Changes:

Section 1

Present Situation

Section 125.0104, F.S., authorizes five taxes on transient rental transactions (e.g. bookings at hotels). Depending on a county's eligibility to levy, the maximum allowable tax rate varies from four to six percent. One of the levies requires voter approval, others may be authorized by vote of the county's governing authority or referendum approval. The revenues generated by the tax may be used in various ways to promote tourism, including capital construction of tourism-related facilities. The authorized uses of each local option tax vary according to the particular levy.

The tourist development tax ("1 to 2 Percent Tax") may be levied at the rate of one or two percent. All 67 counties are eligible to levy this tax, and currently 62 levy this tax – all at two percent. Calhoun, Hardee, Lafayette, Liberty and Union counties do not levy any tourist development taxes. Revenue from this tax may be bonded to finance certain facilities and projects, including financing revenue bonds. This tax may only be levied after the ordinance is approved by a majority of voters in a referendum.

An additional tourist development tax of one percent ("Additional one Percent Tax") may be levied by counties who have previously levied a tourist development tax at the one or two percent rate for at least three years. Currently 45 counties levy this tax. Revenue from this tax may be bonded to finance certain facilities and projects, but may not be used to service debt or refinance facilities receiving funding from a previously levied tourist development tax unless approved by an extraordinary vote of the governing board. This tax may be levied by either extraordinary vote of the county governing board or by approval by a majority of voters in a referendum.

The other taxes authorized by this section include the professional sports franchise facility tax, the additional professional sports franchise facility tax, and the high tourism impact tax. These taxes are applied to the same transactions as the tourist development taxes.

The 1 to 2 Percent Tax and the Additional 1 Percent taxes can be used to fund a wide variety of tourist-related facilities including convention centers, stadiums, aquariums, museums, zoos, tourist information centers and bureaus, and beach facilities and maintenance. Additionally, all five taxes authorized by this section may be used to promote and advertise tourism in this state nationally and internationally. If revenues are expended for an activity, service, venue, or event it must have attraction of tourists as one of its main purposes, as evidenced by promotion of the activity, service, venue, or event to tourists. Because of the statutory location and phrasing of this requirement, it may allow for broad interpretation of allowable expenditures.

Prior to levying the tourist development tax, the county must establish a nine member tourist development council. The council's responsibilities include advising the governing body of the county on effective use of tourist development tax revenues, proposing a plan for the use of such revenues, reviewing expenditures of the revenues and reporting any suspected unauthorized expenditures to the county governing board and the Department of Revenue.

Proposed Change

The bill requires that a minimum of 35 percent of tourist development tax revenues which are left over after making required bond payments be used to fund promotion and advertising of tourism in the state. It also allows, in coastal counties only, up to 10 percent of remaining tourist development tax revenues to be used to fund additional emergency medical and law enforcement services that are required as a result of tourism, as long as such funds are not used to supplant pre-existing expenditures on such services.

The bill adds a requirement that a written application must be submitted to the governing body of the county in order to propose an expenditure of tourist development tax revenues. Each governing body is allowed to determine the requirements for the application, but it must including a description of the proposed expenditure and estimate of the cost at a minimum. The bill requires that a return on investment analysis or cost-benefit analysis must be performed before a county may make any expenditure of tourist development tax revenues in excess of $100,000. The analysis must be performed by an individual who has prior experience with input-output modelling, cost-benefit analysis or the application of economic multipliers such as the Regional Input-Output Modelling System created by the Bureau of Economic Analysis within the United States Department of Commerce. The cost of the analysis is to be paid from the tourist development tax revenues.

The bill creates an additional means of enforcing the allowed uses of tourist development tax. Any remitter of the tax, or any organization representing multiple remitters of the tax, in an action filed pursuant to ch. 120, F.S., (The Administrative Procedure Act), may challenge a county's decision to devote such tax revenues to a particular use or uses that the challenger claims is contrary to uses allowed by law. During the pendency of the administrative proceeding and any resulting appeals, no tourist development tax revenues may be used to fund the challenged use or uses. No deference is to be afforded the county's interpretation of statute. A prevailing remitter or remitter organization shall be awarded the reasonable costs of the action plus reasonable attorney's fees.

Section 2

Present Situation

Each county in Florida may create by ordinance a Housing Finance Authority (HFA) of the county to carry out the powers granted by the Florida Housing Finance Authority Law.[1] An HFA is composed of not less than five uncompensated members appointed by the governing body of the county.[2] The powers of a HFA are vested in the members and include the power to loan funds to persons purchasing homes and to developers engaged in qualifying housing developments. HFAs may also issue revenue bonds and refunding bonds in order to finance activities allowed under statute. Persons are eligible for loans if their annual income does not exceed 80 percent of the median income for the county. The sale price on new or existing single-family homes shall not exceed 90 percent of the median area purchase price in the area.[3]

[1] Section 159.604, F.S.
[2] Section 159.605, F.S.
[3] Section 159.608, F.S.

Section 159.621, F.S., provides that the following are exempt from all taxation:

- Bonds issued by a housing finance authority pursuant to Part IV of ch. 159, F.S.;
- All notes, mortgages, security agreements, letters of credit, or other instruments that arise out of, or are given to secure, the repayment of bonds issued in connection with the financing of any housing development under this part; and
- Interest thereon and the income therefrom.

The exemption is not applicable to any tax imposed by ch. 220, F.S., on interest, income or profits on debt obligations owned by corporations.

Proposed Change

The bill exempts from taxation any note or mortgage given with respect to a loan made by or on behalf of a housing finance authority pursuant to s. 159.608(8), F.S. It also adds that the exemption shall not apply to any deed granted in connection with property financed pursuant to Part IV of Chapter 159, F.S. The bill also requires certain documentation be recorded with the mortgages, affirming the exempt circumstances.

Sections 3

Present Situation

The Community Redevelopment Act of 1969, ch. 163, Part II, F.S. (Act), was enacted to provide a mechanism to revitalize slum and blighted areas "which constitute a serious and growing menace, injurious to the public health, safety, morals, and welfare of the residents of the state." The Act authorizes each local government to establish one Community Redevelopment Agency (CRA) to revitalize designated slum and blighted areas upon a "finding of necessity" and a further finding of a "need for a CRA to carry out community redevelopment." During the last two decades, municipalities, and to a lesser extent counties, have increasingly relied upon CRAs as a mechanism for community redevelopment.

CRAs are funded primarily through tax increment financing (TIF). As property tax values in the redevelopment area rise above property values in the base year the redevelopment area was created, increment revenues are generated by applying the current millage rate levied by each taxing authority in the area to the increase in value. Each non-exempt taxing authority that levies taxes on property within a community redevelopment area must annually appropriate the amount of increment revenues to the CRA trust fund. Expenditures are made pursuant to a community redevelopment plan approved by the governing body of the general purpose government that created the agency. Section 163.387(6), F.S., provides a list of allowable uses for funds from the Redevelopment Trust Fund, including administrative expenses, planning expenses, the purchase of real property, payment of bonds and other debt, redevelopment expenses, relocation of residents affected by redevelopment, development of affordable housing, and community policing expenses.

Proposed Change

The bill authorizes CRAs to expend funds to support youth centers. The bill requires any CRA that chooses to expend funds to support youth centers and serves an area where at least 50 percent of children aged 18 and younger live below the poverty line to spend at least five percent

of Redevelopment Trust Fund revenues annually to support youth centers, if a youth center has submitted a written request for such support and the expenditure does not materially impair any bonds outstanding as of March 11, 2016. "Youth center" is defined as a facility owned and operated by a government entity or a corporation not for profit registered pursuant to ch. 617, F.S., the primary purpose of which is to provide educational programs, after school activities, counseling, and other services to children aged five to 18 years, and which has operated for a period no less than two years prior to requesting support from the community redevelopment agency. The term does not include public or private schools, child care facilities as defined in s. 402.302, F.S., or private prekindergarten providers as defined in s. 1002.51, F.S., but does include indoor recreational facilities as defined in s. 402.302, F.S., which are owned and operated by a government entity or corporation not for profit registered pursuant to ch. 617, F.S.

Section 4

Present Situation

Under Florida law, local property appraisers are responsible for developing the assessment (tax) roll within their jurisdiction.[4] Property appraisers are required to physically inspect property in their jurisdiction at least once every five years, but they may use "image technology" in lieu of physical inspection to ensure that the tax roll meets all the requirements of law.[5] The DOR must establish minimum standards for the use of image technology consistent with standards developed by professionally recognized sources for mass appraisal of real property.[6]

The DOR coordinates the capture and distribution of ortho-imagery[7] of approximately one-third of the state each year according to the provisions of ch. 195.022, F.S. The counties rely on the use of aerial photography for discovery, location, and identification of property characteristics. In order to meet the statutory obligation of providing these photographs for the counties, the DOR contracts for aerial photography services for the counties each year. At least once every three years, or upon request of any property appraiser, the DOR must furnish aerial photographs and nonproperty ownership maps to the property appraisers to ensure that all real property within the state is properly listed on the roll.[8]

The DOR will pay for the cost of all photographs and maps to counties with populations less than 25,000; however, photographs and maps for counties with populations greater than 25,000 must be paid for at the property appraiser's expense.[9]

Prior to 2009, the cost of the photographs and maps was paid for by the DOR. In 2008, the DOR's financial responsibility to provide the photos and maps was limited to counties with a population of less than 25,000.[10] From 2009 to 2014, the Legislature provided funding for aerial

[4] Sections 193.023(1) and 193.114, F.S.
[5] Section 193.023(2), F.S.
[6] *Id.*
[7] According to the DOR, an "orthophoto" is a photographic copy, prepared from a perspective photograph, in which displacements of images due to tilt and relief have been removed. *See* Department of Revenue, Aerial Photography Contract, *available at* http://dor.myflorida.com/dor/property/gis/ (last visited Feb. 27, 2016).
[8] Section 195.022, F.S.
[9] *Id.*
[10] Chapter 2008-138, Laws of Fla. (HB 5061)

photography for counties with a population of less than 50,000 via specific proviso language in the General Appropriations Act.

Proposed Change

The bill amends s. 195.022, F.S., to change the county population threshold that determines the governmental entity responsible for payment for aerial photographs and maps. Under the bill, the DOR will pay for photographs and maps furnished to counties that meet the population thresholds of a rural community in s. 288.0656(2)(e), F.S. For counties that do not meet those population thresholds, the DOR will furnish the items at the property appraiser's expense.

Section 288.0656(2)(e), F.S., states that "rural community" means a county with a population of 75,000 or fewer or a county that has a population of 125,000 or fewer and is contiguous to a county with a population of 75,000 or fewer.

Sections 5 and 7

Disabled Veteran Exemption Transfer

Present Situation

The ad valorem tax is an annual tax levied by counties, cities, school districts, and some special districts based on the value of real and tangible personal property as of January 1 of each year.[11]

Article VII, section 6 of the Florida Constitution provides that every person who owns real estate with legal and equitable title and maintains their permanent residence, or the permanent residence of their dependent upon such real estate, is eligible for a homestead tax exemption.[12]

Article VII, section 3(b) of the Florida Constitution provides for exemption from property taxes for persons who are totally and permanently disabled. The Legislature implemented this provision through various property tax exemptions in ch. 196, F.S., including s. 196.081(1)-(3), F.S.[13] These subsections provide a full exemption from ad valorem taxes on property that is owned and used as a homestead by an honorably discharged veteran with a service-connected total and permanent disability and is a permanent Florida resident on January 1 of the tax year for which the exemption is being claimed or in which the veteran died.[14]

Eligibility for all homestead exemptions, including the exemption in s. 196.081, F.S., is measured on January 1 of the applicable tax year.[15] If a property that received an exemption is sold after January 1, the exemption remains the property for the remainder of the year. In the

[11] Section 192.001(12), F.S., defines "real property" as land, buildings, fixtures, and all other improvements to land. The terms "land," "real estate," "realty," and "real property" may be used interchangeably. Section 192.001(11)(d), F.S., defines "tangible personal property" as all goods, chattels, and other articles of value (but does not include the vehicular items enumerated in article VII, section 1(b) of the Florida Constitution and elsewhere defined) capable of manual possession and whose chief value is intrinsic to the article itself.
[12] An additional homestead exemption applies to homesteads that have an assessed value greater than $50,000 and up to $75,000, excluding school district levies.
[13] Chapter 2012-193, Laws of Fla.
[14] Section 196.081(1), F.S.
[15] Section 196.011(1)(a), F.S.; *See also* s. 196.031(1)(a), F.S.

subsequent year, any exemption will be based on the new owner's qualification on January 1 of that year.

Proposed Change

The bill provides that a veteran who received the s. 196.081, F.S., exemption but moves his or her homestead to another property after January 1 of the following year, may transfer the exemption to the new property if:

- The new property is owned and used as a homestead;
- The veteran files with the property appraiser an application for exemption of the new property within 30 days of acquisition of the new property, but no later than the 25th day following the mailing by the property appraiser of the TRIM notice, and
- The application must list and describe both the previous homestead and the new property, and certify under oath that the veteran:
  - Is otherwise qualified to receive the exemption under s. 196.031, F.S.;
  - Holds legal title to the new property; and
  - Intends to use the new property as his or her homestead.

The qualification deadline for all homestead exemptions, except applications for exemption under this proposal, will remain January 1.

If the exemption is granted on the new homestead, the previous homestead may not receive the exemption in that tax year, unless the subsequent owner of the previous homestead is qualified to receive the exemption.

Exemptions for Surviving Spouses of Veterans

Present Situation

Totally and Permanently Disabled Veterans/Surviving Spouses

Article VII, section 3(b) of the Florida Constitution authorizes the Legislature by general law to provide, in part, a property tax exemption in an amount not less than $500 for every widow or widower, and for persons who are permanently disabled. The Legislature implemented this provision through s. 196.081(1)-(3), F.S. These subsections currently provide a full exemption from ad valorem taxes on property that is owned and used as a homestead by an honorably discharged veteran with a service-connected total and permanent disability and is a permanent Florida resident on January 1 of the tax year for which the exemption is being claimed or in which the veteran died.[16] This exemption may be carried over to the benefit of the veteran's surviving spouse.[17] If the deceased veteran does not meet these criteria, the surviving spouse is not eligible for the carry-over of the homestead tax exemption.

If the surviving spouse sells the property, an exemption equal to the amount of the most recent exemption may be transferred to the new primary residence if the surviving spouse remains unmarried.[18]

[16] Section 196.081(1), F.S.
[17] Section 196.081(2) and (3), F.S.
[18] Section 196.081(3), F.S.

Veterans Who Died from Service-connected Causes While on Active duty/Surviving Spouses

Article VII, section 6(f) of the Florida Constitution authorizes the Legislature to provide ad valorem tax relief to the surviving spouse of a veteran who died from service-connected causes while on active duty as a member of the United States Armed Forces. The Legislature implemented this provision through s. 196.081(4), F.S.

This subsection provides a full property tax exemption on property that is owned and used as a homestead by the surviving spouse of veteran who died from service-connected causes while on active duty and was a permanent Florida resident on January 1 of the tax year for which the veteran died.[19] If the surviving spouse does not meet these criteria, the surviving spouse is not eligible to receive the homestead tax exemption.

If the surviving spouse sells the property, an exemption equal to the amount of the most recent exemption may be transferred to the new primary residence if the surviving spouse remains unmarried.[20]

While current law allows the surviving spouse of a disabled veteran to transfer the veteran's disability exemption to a new property if they are moving within Florida, such transfer is not available to a surviving spouse who is coming from another state. If a surviving spouse owned a permanent residence in another state and was receiving an exemption or similar benefit based on their veteran spouse's disability, he or she could not transfer that benefit to a new Florida residence. However, a similarly situated surviving spouse who was moving within Florida would be able to transfer his or her benefit.

Proposed Change

The bill amends s. 196.081(4), F.S., to allow the surviving spouse of a veteran who died from service-connected causes while on active duty to receive property tax relief in this state, regardless of the veteran's state of residence on January 1 of the year in which the veteran died.

The bill amends s. 196.081, F.S., to allow the surviving spouse of a veteran who had a service-related total and permanent disability at the time of death to receive property tax relief in this state, if at the time of the veteran's death, the veteran or the veteran's spouse owned the veteran's homestead property in another state and such property would have qualified as a homestead in Florida if located in this state on January 1 of the year the veteran died. To qualify for the tax exemption, after the veteran's death, the unremarried surviving spouse must hold the legal or beneficial title to homestead property in this state and permanently reside on the property[21] as of January 1 of the tax year for which the exemption is being claimed. The tax exemption may be transferred to a new residence, in an amount not to exceed the amount granted from the most recent ad valorem tax roll, as long as it is used as the surviving spouse's primary residence and he or she does not remarry.

[19] Section 196.081(4), F.S.
[20] Section 196.081(4)(b), F.S.
[21] *See* s. 196.031, F.S.

Sections 6, 9, and 43

Present Situation

Section 196.1995, F.S., allows cities and counties to grant up to a 100-percent exemption from city or county ad valorem taxation for improvements to real property and tangible personal property for a new business or expansion of an existing business. Initially, the city or county calls for a referendum within its total jurisdiction to determine whether the jurisdiction may grant economic development ad valorem exemptions under s. 3, Art. VII of the State Constitution. The referendum can take one of two forms, as selected by the local government conducting the referendum. It can either authorize the city or county to grant such exemptions anywhere within its jurisdiction, or only in areas designated as enterprise zones or brownfield areas. Once the referendum measure is approved, specific exemptions are effectuated by enactment of an ordinance. To qualify for the exemption, the improvements must be made or the tangible personal property added after approval by motion or resolution of the local governing body, subject to ordinance adoption, or on or after the adoption of the ordinance. Businesses seeking to take advantage of the exemption must file a written application with the city or county in the year the exemption is desired to take effect to request the adoption of the ordinance and provide supporting information. Once granted, the exemptions remain in effect for up to 10 years with respect to any particular facility, regardless of any change in the authority of the county or municipality to grant such exemption.

Section 196.012, F.S., provides definitions for use in the above exemption. "New business" may include any business or organization located in an enterprise zone or brownfield area that first begins operation there. "Expansion of an existing business" includes any business or organization located in an enterprise zone or brownfield area that increases operations there.

The enterprise zone program expired on December 31, 2015, causing some uncertainty about whether the exemption can be granted to a business in an expired enterprise zone area if the city or county began the process of seeking authorization prior to December 31, 2015, or if exemptions have already been granted within 10 years of the expiration of the enterprise zone program.

Proposed Change

The bill modifies the definitions of "new business" and "expansion of an existing business" and clarifies that the exemption may be granted to a new or expanding business located in an area which was designated as an enterprise zone as of December 30, 2015, but not a brownfield area, only if the new or expanding business was approved by motion or resolution of the local governing body, subject to ordinance adoption, or by ordinance prior to December 31, 2015. The bill also clarifies that exemptions already granted prior to expiration of the enterprise zone program may continue for up to 10 years regardless of expiration of the enterprise zone program. The bill makes these changes remedial and apply retroactively to December 31, 2015.

Section 8

Present Situation

The Florida Constitution requires that all property be assessed at just value for ad valorem tax purposes,[22] and it provides for specified assessment limitations, property classifications and exemptions.[23] Such exemptions include, but are not limited to, exemptions for such portions of property used predominately for educational, literary, scientific, religious or charitable purposes.[24]

In 1999,[25] the Legislature authorized a property tax exemption for property owned by certain exempt entities which provide affordable housing under the charitable purposes exemption. The property must be owned entirely by a not for profit corporation, used to provide affordable housing through any state housing program under ch. 420, F.S., and serving low-income and very-low-income persons.[26] In order to qualify for the exemption, the property must comply with ss. 196.195, F.S., for determining non-profit status of the property owner and s. 196.196, F.S., for determining exempt status of the use of the property.

In determining whether an applicant is a nonprofit or profit-making venture, s. 196.195, F.S., outlines the statutory criteria that a property appraiser must consider. The applicant must show that "no part of the subject property, or the proceeds of the sale, lease, or other disposition thereof, will inure to the benefit of its members, directors, or officers or any person or firm operating for profit or for a nonexempt purpose."[27]

In determining whether the use of a property qualifies as charitable, s. 196.196, F.S., requires the property appraiser to consider the nature and extent of the qualifying activity compared to other activities performed by the organization owning the property, and the availability of the property for use by other qualifying entities.[28]

Proposed Change

The bill provides that certain property used to provide affordable housing will be considered a charitable purpose and qualify for a 50-percent property tax discount, notwithstanding the requirements of ss. 196.195 and 196.196, F.S.
In order to qualify for the discount, the property must:

- Be used to provide affordable housing to natural persons or families meeting the extremely low, very low, or low-income limits specified in s. 420.0004, F.S.;
- Be in a multifamily project in which at least 70 units are providing affordable housing to the above group, and which is subject to an agreement with the Florida Housing Finance

[22] FLA. CONST., art. VII, s. 4.
[23] FLA. CONST., art. VII, ss. 3, 4, and 6.
[24] FLA. CONST., art. VII, s. 3.
[25] Chapter 99-378, s. 15, Laws of Fla., (creating s. 196.1978, F.S.)
[26] The not for profit corporation must qualify as charitable under s. 501(c)(3) of the Internal Revenue Code and other federal regulations. *See* 26 U.S.C. § 501(c)(3) ("charitable purposes" include relief of the poor, the distressed or the underprivileged, the advancement of religion, and lessening the burdens of government).
[27] Section 196.195(3), F.S.
[28] Section 196.196(1)(a)-(b), F.S.

Corporation to provide affordable housing to the above group, recorded in the official records of the county in which the property is located.

The discount will begin in the sixteenth year of the term of the agreement on those portions of the affordable housing property that provide the housing as described above. The discount will terminate when the property is no longer serving extremely low, very low, or low-income persons pursuant to the recorded agreement. The discount is applied to taxable value prior to tax rolls being reported to taxing authorities and tax rates being set in the annual local government budgeting process.

Section 10

Present Situation

All documentary stamp tax revenues, except those which are transferred to the Land Acquisition Trust Fund in compliance with the Florida Constitution, are subject to an eight percent service charge,[29] which is transferred to the General Revenue Fund.[30] Additionally, the Department of Revenue is permitted to deduct the amount necessary to pay for the cost it incurs in collecting the revenues (typically around $9.8 million per year).

Section 201.15, F.S., provides, however, that all documentary stamp tax revenues collected, including the amounts which otherwise would make up the General Revenue service charge and the cost of collection, are pledged to pay debt service on bonds issued pursuant to ss. 215.618 and 215.619, F.S., or any other bonds issued on parity with such bonds. In the event that documentary stamp tax revenues are insufficient to pay for debt service, the cost of collection, and the General Revenue service charge, the funds which would make up the service charge and cost of collection are transferred as necessary to pay debt service. These provisions apply to bonds authorized before January 1, 2015, and secured by revenues collected pursuant to s. 201.15, F.S.

Proposed Change

The bill provides that the funds which would otherwise be used for the General Revenue surcharge and cost of collection shall be made available under certain circumstances for payment of debt service on bonds authorized before January 1, 2017, instead of on bonds authorized before January 1, 2015, as under current law.

[29] Section 201.15, F.S.
[30] Section 215.20(1), F.S.

Sections 11 and 12

Aviation Fuel, Kerosene, and Aviation Gasoline Taxes

Present Situation

Florida law imposes an excise tax of 6.9 cents on every gallon of aviation fuel sold in the state or brought into the state for use and a tax of 6.9 cents on each gallon of kerosene and aviation gasoline sold or brought into the state for use in an aircraft.[31]

Florida law defines aviation fuel, kerosene, and aviation gasoline as follows:

- Aviation fuel means "fuel for use in aircraft, and includes aviation gasoline and aviation turbine fuels and kerosene, as determined by the American Society for Testing Materials specifications D-910 or D-1655 or current specifications."[32]
- Kerosene means "all aviation turbine fuels and any distillate known as diesel #1, K-1, or any product suitable for use as a substitute for kerosene not taxed as a diesel fuel under ch. 206, Part II, F.S. Any kerosene meeting the definition of diesel under s. 206.86(1) is taxed under ch. 206, Part II, F.S."[33] When kerosene is used for aviation fuel, it is awarded the same tax treatment as aviation fuel.[34]
- Aviation gasoline means "any motor fuel blended or produced specifically for use in aircraft which has been dyed in accordance with federal regulations. Aviation gasoline does not include any such fuel used in any manner other than being placed in the storage tank of an aircraft."[35]

Florida Aviation Fuel Tax Exemption

Florida law also provides for a refund or credit of the aviation fuel tax paid as follows:

Any licensed wholesaler or terminal supplier that delivers aviation fuel to an air carrier offering transcontinental jet service and that, after January 1, 1996, increases the air carrier's Florida workforce by more than 1000 percent and by 250 or more full-time equivalent employee positions may receive a credit or refund as the ultimate vendor of the aviation fuel for the 6.9 cents excise tax previously paid.[36]

Any employees that existed before January 1, 1996, are not counted toward reaching the employment threshold, and the wholesaler or terminal supplier can only receive the credit or refund if the air carrier has no facility for fueling highway vehicles from the tank in which the aviation fuel is stored.[37] Further, if before July 1, 2001, the number of full-time equivalent employee positions created or added to the air carrier's Florida workforce fell below the

[31] *See* section 206.9825, F.S. (The administration of kerosene taxes and aviation gasoline taxes differ from aviation fuel. 206.9825(2)-(3), F.S.)
[32] Section 206.9815, F.S.
[33] *Id.*
[34] *See* s. 206.9825, F.S.
[35] Section 206.9815, F.S.
[36] *Id.*
[37] *Id.*

additional 250, the exemption granted would cease to apply as long as the number of employees remains below the additional 250.[38]

Accordingly, any air carrier offering transcontinental jet service that is able to meet the employment and other criteria described above, is exempt from paying aviation fuel tax.[39] Such qualifying air carriers can purchase aviation fuel from a wholesaler or terminal supplier without having to pay the wholesaler or terminal supplier tax on the fuel.[40] The wholesaler or terminal supplier, in turn, receives a credit or refund on the tax amount that it would otherwise have passed along to the air carrier as a result of its tax payment due on the sale of the fuel or tax amount previously paid.[41]

The Legislature first established the aviation fuel tax credit in 1996[42] to attract new airlines to Florida. The provisions of the original fuel tax credit expired on July 1, 2001; however, following the events of September 11, 2001, the 2002 Legislature decided to reenact the tax credit policy and did so without providing for an expiration date.[43]

The following chart illustrates data relating to the aviation fuel tax from June 2013 through July 2014.[44] The shaded lines have been added to show the carriers that currently do not pay tax; the amount due column shows what they would have paid if their purchases had not been exempt.

[38] *Id.*
[39] *Id.*
[40] *Id.*
[41] *See* s. 206.9825(1)(a), F.S.
[42] Chapter 96-323, s. 21, Laws of Fla.
[43] Chapter 2002-2, s. 5, Laws of Fla.
[44] The Department of Revenue provided the data in this chart to the House Economic Development and Tourism Subcommittee via e-mail on November 24, 2015 (which e-mail is on file with House staff). The data does not include sales from fixed based operators or jobbers to commercial air carriers, fuel sold for export, or bulk sales in the terminal. Further, all returns have not been processed through June 2015, and sales reported on unworked returns are not included. Lastly, tax due does not include reduction due to collection allowance.

Sales of Aviation Fuel to Commercial Air Carriers (2014/2015)			
Carrier	**Sum of Gallons**	**% of Total Sales**	**Tax Due (Includes Tax Exempt Disbursements)**
American Airlines	298,649,092	33.42%	$20,606,787.35
Delta Airlines, Inc.	129,635,299	14.51%	$8,944,835.63
JetBlue Airways	113,293,136	12.68%	$7,817,226.38
Southwest Airlines	108,026,647	12.09%	$7,453,838.64
Continental Airlines, Inc.	72,505,569	8.11%	$5,002,884.26
Allegiant Air LLC	49,966,012	5.59%	$3,447,654.83
Spirit Airlines, Inc.	41,414,492	4.63%	$2,857,599.95
US Airways, Inc.	34,688,081	3.88%	$2,393,477.59
Federal Express	18,187,079	2.04%	$1,254,908.45
Frontier Airlines	5,568,293	0.62%	$384,212.22
Silver Airways Corp.	3,984,321	0.45%	$274,918.15
DHL Express (USA)	3,578,371	0.40%	$246,907.60
Virgin America, Inc.	3,425,117	0.38%	$236,333.07
National Jets, Inc.	3,096,216	0.35%	$213,638.90
United Parcel	2,725,184	0.30%	$188,037.70
Envoy Air, Inc.	1,675,693	0.19%	$115,622.82
AirTran Airways, Inc.	1,398,434	0.16%	$96,491.95
Miami Air	1,038,493	0.12%	$71,656.02
United Airlines, Inc.	343,751	0.04%	$23,718.82
Atlas Air, Inc.	298,737	0.03%	$20,612.85
ABX Air, Inc.	69,280	0.01%	$4,780.32
TEM Enterprises, Inc.	57,719	0.01%	$3,982.61
AmeriJet	53,518	0.01%	$3,692.74
Presidential	14,277	0.00%	$985.11
Reva, Inc.	10,337	0.00%	$713.25
Professional	5,018	0.00%	$346.24
Grand Total	**893,708,166**	**100.00%**	**$61,665,863.45**

Proposed Change

First, the bill amends s. 206.9825, F.S., limiting carriers that qualify for the aviation fuel tax exemption to those that increased their Florida workforce by more than 1000 percent and by 250 or more full-time equivalent employee positions between January 1, 1996 and July 1, 2016.

Beginning July 1, 2019, the bill repeals the aviation fuel tax exemption altogether and reduces the aviation fuel, kerosene, and aviation gasoline tax rates from 6.9 cents per gallon to 4.27 cents per gallon. The combination of the exemption repeal and tax rate cut is expected to be neutral with respect to total aviation fuel tax collections on a recurring basis.

The bill provides an effective date of July 1, 2016. However, as stated above, the removal of the aviation fuel tax exemption and reduction in tax rates would not be effective until July 1, 2019.

Sections 13, 31 and 33

Present Situation

Cruise Lines must pay beverage tax and cigarette tax for products sold to passengers while in Florida – i.e. while the ship is in port and while the ship is in Florida waters.

Section 565.02, F.S., establishes requirements for licensing and selling alcoholic beverages for passenger vessels engaged exclusively in foreign commerce which have a cabin-berth capacity for at least 75 passengers. Passenger vessels may sell alcoholic beverages for consumption on board only:

- During a period not in excess of 24 hours prior to departure while the vessel is moored at a dock or wharf in a port in Florida; and
- At any time while the vessel is located in Florida territorial waters and is in transit to or from international waters.

The permittee must pay to the state an excise tax for beverages sold pursuant to this section, if such excise tax has not previously been paid, in an amount equal to the tax which would be required to be paid on such sales by a licensed manufacturer or distributor.

The Department of Business & Professional Regulation (DBPR) has promulgated a rule applying this taxation framework to the sale of tobacco.[45]

Two percent of excise taxes on alcoholic beverages are deposited into the Alcoholic Beverage and Tobacco Trust Fund to fund the Department of Division of Alcoholic Beverage and Tobacco's operations. The remainder of the revenues are deposited into the General Revenue Fund.[46] Revenues collected from the surcharge on cigarettes are deposited into the Health Care Trust Fund in the Agency for Health Care Administration,[47] and are subject to an eight percent General Revenue surcharge.[48] After deducting the eight percent General Revenue surcharge and depositing 0.9 percent into the Alcoholic Beverage and Tobacco Trust Fund, remaining revenues collected from the excise tax on cigarettes are distributed as follows[49]:

- 2.9 percent to the Revenue Sharing Trust Fund for Counties;
- 29.3 percent to the Public Medical Assistance Trust Fund;
- 4.04 percent to the H. Lee Moffitt Cancer Center and Research Institute;

[45] Rule 61A-10.010, F.A.C.
[46] Section 561.121, F.S.
[47] Section 210.011, F.S.
[48] Section 215.20, F.S.
[49] Section 210.20, F.S.

- 1 percent to the Biomedical Research Trust Fund; and
- The remainder to the General Revenue Fund.

After deduction of the General Revenue Service Charge, revenues collected from the surcharge on other tobacco products are deposited into the Health Care Trust Fund.[50] The tax on other tobacco products is deposited into the General Revenue Fund.[51]

Proposed Change

The bill replaces the beverage and tobacco taxes that cruise lines currently pay with a new tax based on ship capacity and the number of times a ship embarks from Florida rather than volume of alcohol or tobacco sold in port.

Specifically, the excise tax due will be an amount equal to a base rate multiplied by the permittee's quarterly capacity during the calendar quarter. The base rate will be calculated by DBPR based on data provided by permit holders, and will be an amount equal to total alcoholic beverage and tobacco-related taxes and surcharges paid by all permit holders between January 1 and December 31, 2015, divided by the sum of the annual capacities of all permitted vessels. Annual capacity is an amount equal to the number of lower berths on a vessel multiplied by the number of embarkations of that vessel during a calendar year. The quarterly capacity is an amount equal to the number of lower berths on a vessel multiplied by the number of embarkations of that vessel during a calendar quarter. A lower berth is a bed which is:

- Affixed to a vessel;
- Not located above another bed in the same cabin; and
- Located in a cabin not in use by employees.

An embarkation is an instance where a vessel departs from a port in Florida.

The new tax will be paid quarterly by each permit holder, less any tax already paid by a licensed manufacturer or distributor pursuant to the Beverage Law or tobacco tax statutes. Each permit holder must report the annual capacity for each of its vessels to the DBPR by August 1, 2016. The department must calculate the base rate by September 1, 2016, and report it to each permit holder.

The revenues from the replacement tax will be distributed in the same manner as taxes on alcoholic beverages under current law.

Sections 14 and 34

Present Situation

Other Tobacco Products (OTP) are defined in s. 210.25(11), F.S., and include items such as pipe tobacco, chewing tobacco, hookah tobacco, and dipping tobacco. Wholesale sales price is defined in s. 210.25(13), F.S., as the established price for which a manufacturer sells a tobacco product to a distributor, exclusive of any diminution by volume or other discounts.

[50] Section 210.276, F.S.
[51] Section 210.70, F.S.

On several occasions in recent years, the department has been faced with litigation regarding the definition of wholesale sales price. For example, the wholesale sales price for the same product can vary depending on if an American manufacturer or an overseas manufacturer is selling the product to a distributor because the Federal Excise Tax is paid at different times during the process. The wholesale sales price for the transaction with the American manufacturer includes Federal Excise Tax, whereas the wholesale sales price for the overseas manufacturer does not.[52]

The OTP tax is 25 percent of the wholesale sales price and is deposited to General Revenue (GR). The OTP Surcharge is 60 percent of the wholesale sales price and is deposited to the Health Care Trust Fund, after deducting the eight percent GR Service Charge.

Proposed Change

The bill amends s. 210.25, F.S., to clarify the definitions related to tobacco products other than cigarettes and cigars. In effect, the bill codifies the division's current administration of these laws with respect to domestically-manufactured products, and provides that the wholesale sales price for imported products must include the federal excise tax regardless of who first paid that excise tax.

The bill amends the definition of "tobacco products" to definitively include loose tobacco and all other kinds and forms of products, including wraps, made in whole or in part from tobacco leaves for use in chewing or sniffing.

The bill redefines "wholesale sales price" as the total amount paid by the distributor to obtain tobacco products. It is defined as the sum of:

- The full price paid by the distributor to acquire the tobacco products, including charges by the seller for the cost of materials, cost of labor and service, charge for transportation and delivery, the federal excise tax, and any other charge, even if the charge is listed as a separate item on the invoice paid by the distributor, exclusive of any diminution by volume or other discounts, including a discount extended to a distributor by an affiliate; and
- The federal excise tax paid by the distributor on the tobacco products, if the excise tax is not included in the full price under paragraph (a).

The bill defines "affiliate" to mean "a manufacturer or other person that directly or indirectly, through one or more intermediaries, controls or is controlled by a distributor or that is under common control with a distributor." This will ensure that the price on which the excise tax is based is not diminished by a discount resulting from an affiliation between the distributor and another entity.

Sections 15

Present Situation

Since 1969, Florida has imposed a sales tax on the total rent charged under a commercial lease of real property.[53] Sales tax is due at the rate of six percent on the total rent paid for the right to use

[52] *Micjo, Inc. v. Dep't of Bus. & Prof'l Regulation, Div. of Alcoholic Beverages & Tobacco*, 78 So. 3d 124 (Fla. Dist. Ct. App. 2012).
[53] Ch. 1969-222, Laws of Fla.

or occupy commercial real property and county sales surtax can also be levied on total rent.[54] If the tenant makes payments such as mortgage, ad valorem taxes, or insurance on behalf of the property owner, such payments are also classified as rent and are subject to the tax.

Commercial real property includes land, buildings, office or retail space, convention or meeting rooms, airport tie-downs, and parking and docking spaces. It may also involve the granting of a license to use real property for placement of vending, amusement, or newspaper machines. However, there are numerous commercial rentals that are not subject to sales tax, including:

- Rentals of real property assessed as agricultural;
- Rentals to nonprofit organizations that hold a current Florida consumer's certificate of exemption;
- Rentals to federal, state, county, or city government agencies;
- Properties used exclusively as dwelling units; and
- Public streets or roads used for transportation purposes.

Florida is the only state to charge sales tax on commercial rentals of real property. The Legislature's Office of Economic and Demographic Research reviewed and issued a report on the commercial rent tax in 2014.[55]

Proposed Change

The bill reduces the commercial rent tax from six percent to five percent, effective January 1, 2017, and further reduces the tax rate to four percent for a one-year period, beginning January 1, 2018, and ending December 31, 2018.

Section 16

Present Situation

Section 212.04, F.S., governs the state sales tax on admissions. Sales tax is levied at the rate of six percent of sales price or the actual value received from admissions. Admissions are defined as the net sum of money after deduction of any federal taxes for admitting a person or vehicle or persons to any:

- Place of amusement, sport, or recreation including, but not limited to, theaters, shows, exhibitions, games, races;
- Place where charge is made by way of sale of tickets, gate charges, and similar fees or charges;
- Receipts of anything of value measured on an admission or entrance or length of stay or seat box accommodations in any place where there is any exhibition, amusement, sport, or recreation; and
- All dues and fees paid to private clubs and membership clubs providing recreational or physical fitness facilities, including, but not limited to, golf, tennis, swimming, yachting, boating, athletic, exercise, and fitness facilities.

[54] Section 212.031, F.S., and Rule 12A-1.070, F.A.C.
[55] Office of Economic and Demographic Research, *available at* Economic Impact: Sales Tax on the Rental of Real Property (Nov. 15, 2014) (last visited Feb. 16, 2016).

Several exceptions and exemptions exist, such as:

- Memberships for physical fitness facilities owned or operated by any hospital;
- Admissions to athletic or other events sponsored by a school;
- Fees or charges imposed by certain not-for-profits;
- Events sponsored by a governmental entity, nonprofit sports authority, or nonprofit sports commission under certain circumstances;
- Certain admissions to professional sports championship games;
- Entry fees for freshwater fishing tournaments;
- Participation or entry fees charged to participants in a game, race, or other sport or recreational event if spectators are charged a taxable admission to such event;
- Admissions to any postseason collegiate football game sanctioned by the National Collegiate Athletic Association; and
- Admissions to or membership fees for gun clubs.

Generally speaking, sales of tangible personal property made for resale are exempt from sales tax.[56] This treatment does not apply to sales of taxable admissions.[57]

Proposed Change

The bill provides an exemption for certain resales of admissions to a purchaser that is eligible for an exemption from sales tax. The bill allows a person who has purchased a taxable admission and resells that admission to an entity with a valid exemption certificate from DOR to seek a refund or credit of the tax paid on its initial purchase of the admission from the vendor of the initial sale. The vendor may then seek a refund or credit of the tax from DOR. This exemption is scheduled to repeal on July 1, 2019.

Section 17

Present Situation

Generally speaking, sales of tangible personal property for export are not subject to tax in Florida. The legal rules governing taxability in the context of an export of tangible personal property can be complex, as can be the documentation requirements. Rule 12-1.007(10)(d)1., F.A.C., provides that:

> Aircraft being exported under their own power to a destination outside the continental limits of the United States are subject to tax, unless the purchaser furnishes the dealer a duly signed and validated United States Customs declaration, showing the departure of the aircraft from the continental United States and the canceled United States registry of said aircraft. The burden of obtaining the evidential matter to establish the exemption rests with the selling dealer, who must retain the proper documentation to support the exemption.

Other provisions of Florida law may be implicated in this type of transaction.

[56] *See* the definition of "retail sale" in s. 212.02(14), F.S. S*ee* s. 212.07, F.S.
[57] Section 212.04(1)(c), F.S.

Proposed Change

The bill clarifies the requirements for the exemption from tax on certain sales of aircraft that will be registered in a foreign jurisdiction. The bill specifies that an exemption applies on the purchase of an aircraft in Florida for aircraft that will be registered in a foreign jurisdiction, if:

- Application for the aircraft's registration is properly filed with a civil airworthiness authority of a foreign jurisdiction within 10 days from the date of purchase;
- The purchaser removes the aircraft from Florida to a foreign jurisdiction within 10 days from the date the aircraft is registered by the applicable foreign airworthiness authority; and
- The aircraft is operated in Florida solely for the removal from the state to a foreign jurisdiction.

Section 18

Rural Areas of Opportunity

Present Situation

Florida's Rural Economic Development Initiative (REDI), housed within DEO, is a multi-agency endeavor that coordinates the efforts of regional, state, and federal agencies to address the issues that affect the fiscal, economic and community viability of the state's economically distressed rural communities. REDI works with local governments, community-based organizations, and private entities that have an interest in the growth and development of these communities to find ways to balance environmental and growth management issues with local needs and economic development. A number of agencies and organizations are directed to designate a staff person to serve as REDI representatives.[58]

A Rural Area of Opportunity (RAO) is a rural community, or a region comprised of rural communities, designated by the Governor, that has been adversely affected by an extraordinary economic event, a natural disaster, or severe or chronic distress. The area may also be classified as a RAO if it presents a unique economic development opportunity of regional impact.[59]

The Governor may designate up to three RAO areas for five-year periods upon recommendation by REDI. This allows these areas to receive priority assignments for REDI, and allows the Governor, acting through REDI, to waive certain criteria or requirements of any economic development incentives.[60] Currently, there are three designated RAO areas:

- North West RAO – Calhoun, Franklin, Gadsden, Gulf, Holmes, Jackson, Liberty, Wakulla and Washington Counties, and the City of Freeport in Walton County.
- South Central RAO – DeSoto, Glades, Hardee, Hendry, Highlands and Okeechobee Counties, the Cities of Pahokee, Belle Glade and South Bay in Palm Beach County, and a portion of the Immokalee area in Collier County.
- North Central RAO – Baker, Bradford, Columbia, Dixie, Gilchrist, Hamilton, Jefferson, Lafayette, Levy, Madison, Putnam, Suwannee, Taylor and Union Counties.

[58] Section 288.0656(6)(a), F.S.
[59] Section 288.0656(2)(d), F.S.
[60] Section 288.0656(7)(1), F.S.

Sales and use tax are currently levied on the purchase of building materials, pest control services, and the rental of tangible personal property used in the construction of improvements to real property in Rural Areas of Economic Opportunity. The tax is collected at a state rate of six percent and a local rate which varies from zero percent to 1.5 percent depending on the county.

Proposed Change

The bill creates an exemption from sales and use tax for the purchase of building materials, pest control services, and the rental of tangible personal property used in new construction in Rural Areas of Opportunity. The exemption is provided in the form of a refund of taxes paid, and is capped at $10,000 per parcel. The bill provides for a procedure by which taxpayers submit an application to REDI. Within 10 days of receipt of a completed application, REDI must review the application and, if it meets the requirements of the bill, certify to DOR that a refund is to be issued.

Datacenters

Present Situation

There is no current provision or program that specifically provides sales tax exemptions for purchases of equipment, electricity and building materials for datacenters.

Proposed Change

The bill establishes a program that would allow certain qualifying datacenters to apply for certification with the Department of Economic Opportunity (DEO) that one or more of the datacenter's owners, operators, users, or tenants, individually, has or will make a cumulative capital investment of at least $75,000,000 during a five-year period. Such expenditure does not include replacement of equipment that has reached its useful life, or the purchase of existing datacenters. Once certified, a business would have a sales tax exemption on the purchase of datacenter equipment, electricity for a datacenter and building materials for the construction or expansion of a datacenter.

The bill provides a process by which a business may apply for and receive certification for the sales tax exemptions described above. The bill provides definitions of "datacenter," "datacenter equipment," "qualifying datacenter," "cumulative capital investment," and "eligible costs." The bill tolls the statute of limitations on DOR's authority to audit from the time a business receives an exemption certificate until the time that DEO makes a final certification determination. The bill allows DEO to revoke a business' certification under specified circumstances and allows for the recovery of funds for which a determination is made by DOR that a certified business was not entitled to the certification.

Veterans' Organizations

Present Situation

There is a sales tax exemption for sales or leases of tangible personal property to qualified veterans' organizations and their auxiliaries when used in carrying on their customary veteran's

organization activities.[61] Veterans' organizations are defined as nationally chartered organizations which hold certain exemptions from federal income tax, including, but not limited to Florida chapters of the Paralyzed Veterans of America, Catholic War Veterans of the U.S.A., Jewish War Veterans of the U.S.A., and the Disabled American Veterans, Department of Florida, Inc.[62]

Proposed Change

The bill adds to the current sales tax exemption sales of food or drinks by qualified veterans' organizations in connection with customary veterans' organization activities to members of qualified veterans' organizations. The bill also explicitly lists the American Legion and Veterans of Foreign Wars of the United States, as qualified veterans' organizations.

Industrial Machinery and Equipment

Present Situation

Since April 30, 2014,[63] state law[64] exempts from sales and use tax purchases of industrial machinery and equipment used at a fixed location in Florida by an eligible manufacturing business that will manufacture, process, compound, or produce items of tangible personal property. The exemption also includes parts and accessories for the industrial machinery and equipment if they are purchased before the date the machinery and equipment are placed in service.

An "eligible manufacturing business" means any business whose primary business activity at the location where the industrial machinery and equipment are located is within the industries classified under manufacturing North American Industry Classification System[65] (NAICS) codes 31, 32, and 33[66]. The primary business activity of an eligible business is that activity which represents more than 50 percent of the activities conducted at the location where the industrial machinery and equipment are located. Examples of types of manufacturing establishments represented by the applicable NAICS codes include, but are not limited to, food, apparel, wood, paper, printing, chemical, pharmaceutical, plastic, rubber, metal, transportation, and furniture.

The selling dealer (vendor) is required to obtain a signed certificate from the purchaser certifying the purchaser's entitlement to the tax exemption. The signed certificate will relieve the selling dealer of any potential tax liability on nonqualifying purchases.

Also included in the exemption are mixer drums affixed to mixer trucks which are used to mix, agitate, and transport freshly mixed concrete in a plastic state for the manufacture, processing,

[61] Section 212.08(7)(n)1., F.S.
[62] Section 212.08(7)(n)2., F.S.
[63] Chapter 2013-39, Laws of Fla.
[64] Section 212.08(7)(kkk), F.S.
[65] North American Industry Classification System, NAICS Code Description *available at* http://www.naics.com/naics-code-description/?code=31 (last visited Feb. 27, 2016).
[66] NAICS codes 31-33 pertain to manufacturing businesses. A more detailed description of the specific types of businesses included in NAICS codes 31-33 *available at* http://www.naics.com/six-digit-naics/?code=3133; (last visited Feb. 27, 2016).

compounding, or production of items of tangible personal property for sale. Parts and labor required to affix a mixer drum to a mixer truck are also exempt.

The exemption expires on April 30, 2017.

Proposed Change

The bill amends s. 212.08, F.S., to make permanent the sales and use tax exemption for certain industrial machinery and equipment purchased by eligible manufacturing businesses. The bill also adds to the list of eligible manufacturing businesses, those whose primary activity at the location where the industrial machinery and equipment is located is classified under NAICS code 423930[67] (metals recyclers).

The bill also adds an exemption for certain "postharvest machinery and equipment" for eligible businesses whose primary business activity at the location where the postharvest machinery and equipment is located is within NAICS code 115114.[68] Postharvest machinery is defined as tangible personal property or other property that has a depreciable life of three years or more and that is used primarily for postharvest activities, and includes repair parts, materials and labor. The bill retains the repeal date of April 30, 2017, for the sales and use tax exemption for a mixer drum affixed to a mixer truck and the parts and labor required to affix the drum to the truck.

Sections 19 - 21

Present Situation

Florida levies a 5.5 percent corporate income tax on corporations' income earned in Florida.[69] The calculation of Florida corporate income tax starts with a corporation's federal taxable income.[70] After certain addbacks and subtractions to federal taxable income required by ch. 220, F.S., the amount of adjusted federal income attributable to Florida is determined by the application of an apportionment formula.[71] The Florida corporate income tax uses a three-factor apportionment formula consisting of property, payroll, and sales (which is double-weighted) to measure the portion of a multistate corporation's business activities attributable to Florida.[72] Income that is apportioned to Florida using this formula is then subject to the Florida income tax. The first $50,000 of net income is exempt.[73]

[67] NAICS code 423930 pertains to recyclable material merchant wholesalers. This industry comprises establishments primarily engaged in the merchant wholesale distribution of automotive scrap, industrial scrap, and other recyclable materials. A more detailed description of the specific types of businesses included in NAICS code 423930 *available at* http://www.naics.com/naics-code-description/?code=423930 (last visited Feb. 27, 2016).
[68] NAICS code 115114 pertains to establishments primarily engaged in performing services on crops, subsequent to their harvest, with the intent of preparing them for market or further processing *available at* http://www.naics.com/naics-code-description/?code=115114 (last visited Feb. 27, 2016).
[69] Section 220.11, F.S.
[70] Section 220.12, F.S.
[71] Section 220.15, F.S.
[72] Section 220.15, F.S.
[73] Section 220.14, F.S.

On December 18, 2015, the federal government passed the Consolidated Appropriations Act, 2016,[74] which contains several significant amendments to the Internal Revenue Code.

Generally, the Internal Revenue Code allows a taxpayer to deduct the cost of capital assets by deducting a portion of the cost over the useful life of the property (depreciation).[75] Additionally, the Internal Revenue Code allows a taxpayer to treat a certain amount of the cost of capital assets as a business expense that can be taken entirely in the year of purchase (expensing).[76] Prior to the Consolidated Appropriations Act, 2016, the amount that could be expensed was limited to $25,000.

Federal legislation during the past several years[77] granted accelerated depreciation deductions (bonus depreciation) and increases in the expensing limitation on a temporary basis. However, the Consolidated Appropriations Act, 2016, permanently increased the expensing limitation from $25,000 to $500,000 for property placed in service in 2015 and thereafter. In addition, the Consolidated Appropriations Act, 2016, extended for 5 years the first-year bonus depreciation amount of 50 percent of the cost of the property placed in service during 2015. The percentage is 50 percent for property placed in service during 2015, 2016, and 2017, but then phases down to 40 percent in 2018 and 30 percent in 2019.[78] The estimated impact if Florida were to accept all of these changes in its tax code for Fiscal Years 2015-2016 and 2016-2017 combined is -$396.6 million.[79]

Proposed Change

The bill updates the Florida tax code to reflect changes in the federal Internal Revenue Code enacted by Congress.

The bill adopts the permanent increase in the expensing limitation from $25,000 to $500,000. However, in order to mitigate the Fiscal Year 2016-17 impact of the accelerated federal depreciation deductions on Florida, the bill requires taxpayers, for Florida tax purposes only, to spread the effect of this deduction over seven taxable years. The bill accomplishes this by requiring taxpayers to "add-back" the bonus depreciation deduction. The taxpayer is then permitted to subtract from income one-seventh (1/7) of the "add-back" for the current taxable year and the following six taxable years. This mechanism was used to address the impacts of similar federal legislation in 2009, 2011, 2013, and 2015.[80]

[74] Pub. Law No. 114-113, Division Q, s. 143, H.R. 2029, 114th Cong. (Dec. 18, 2015).
[75] *See generally* 26 U.S.C. §§ 167 and 168.
[76] *See generally* 26 U.S.C. § 179.
[77] The Economic Stimulus Act of 2008, the American Recovery and Reinvestment Act of 2009, the Small Business Jobs Act of 2010, the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, and the American Taxpayer Relief Act of 2012.
[78] The bonus depreciation amount begins in 2019 for certain longer-lived and transportation property.
[79] Revenue Estimating Conference (Jan. 20, 2016).
[80] Chapters 2009-132, 2011-229 and 2013-40, Laws of Fla.

Sections 22 and 30

Present Situation

In 1998, the Legislature authorized the Department of Environmental Protection (DEP) to issue tax credits as an additional incentive to encourage site rehabilitation in brownfield areas and to encourage voluntary cleanup of certain other types of contaminated sites. This corporate income tax credit may be taken in the amount of 50 percent of the costs of voluntary cleanup activity that is integral to site rehabilitation at the following sites:

- A site eligible for state-funded cleanup under the Drycleaning Solvent Cleanup Program (DSCP);[81]
- A drycleaning solvent contaminated site at which the real property owner undertakes voluntary cleanup, provided that the real property owner has never been the owner or operator of the drycleaning facility; or
- A brownfield site in a designated brownfield area.[82]

Eligible tax credit applicants may receive up to $500,000 per site per year in tax credits. Due to concern that some participants in a voluntary cleanup might only conduct enough work to eliminate or minimize their exposure to third party lawsuits, the Voluntary Cleanup Tax Credit (VCTC) statute also provides a completion incentive in the form of an additional 25 percent supplemental tax credit for those applicants that completed site rehabilitation and received a Site Rehabilitation Completion Order from the DEP. This additional supplemental credit has a $500,000 cap. Businesses are also allowed a one-time application for an additional 25 percent of the total site rehabilitation costs, up to $500,000, for brownfield sites at which the land use is restricted to affordable housing. They may also submit a one-time application claiming 50 percent of the costs, up to $500,000, for removal, transportation and disposal of solid waste at a brownfield site.

Site rehabilitation tax credit applications must be complete and submitted by January 31 of each year. The total amount of tax credits for all sites that may be granted by the DEP is $5 million annually. In the event that approved tax credit applications exceed the $5 million annual authorization, the statute provides for remaining applications to roll over into the next fiscal year to receive tax credits in first come, first served order from the next year's authorization. These tax credits may be applied toward corporate income tax in Florida. The tax credits may be transferred one time, although they may succeed to a surviving or acquiring entity after merger or acquisition.

The Legislature increased the annual amount of credits that could be awarded from $5 million to $21.6 million for Fiscal Year 2015-2016.[83]

Proposed Change

The bill increases the amount of credits that may be awarded from $5 million to $10 million in Fiscal Year 2016-17.

[81] Section 376.30781, F.S.
[82] Section 220.1845, F.S.
[83] Chapter 2015-221, Laws of Fla. (HB 33-A)

Sections 23

Present Situation

In 2006,[84] the Legislature created the Florida Renewable Energy Technology Credit under s. 220.192, F.S., which was designed to encourage the development and expansion of facilities that produce renewable energy in Florida. In 2012,[85] the Legislature modified the Florida Renewable Energy Technology Credit by expanding it to include materials used in the distribution of other renewable fuels, and extending the program, in effect, through state Fiscal Year 2016-17.

Under current law, The Renewable Energy Technologies Investment Tax Credit program provides an annual corporate tax credit equal to 75 percent of all capital costs, operation and maintenance costs, and research and development costs in connection with an investment in the production, storage, and distribution of biodiesel (B10-B100), ethanol (E10-E100), and other renewable fuel in the state. Eligible costs must be incurred between July 1, 2012, and June 30, 2016, and may not exceed $1 million per state fiscal year for each taxpayer with a total limit of $10 million per state fiscal year. If the annual tax credit authorization amount is not exhausted by allocations of credits within that particular state fiscal year, any authorized but unallocated credit amounts may be used to grant credits that were earned pursuant to s. 220.193, F.S.,[86] but unallocated due to a lack of authorized funds.

The program will expire after Fiscal Year 2016-17,[87] but unused credits may be carried forward and used through tax years ending December 31, 2018.

Proposed Change

The bill extends the Florida Renewable Energy Technology Credit through Fiscal Year 2017-18. The bill sets the total amount of tax credits which may be granted for all taxpayers in state fiscal years 2016-2017 through 2017-18 at $10 million per state fiscal year. Unused credits may be carried forward and used through tax years ending December 31, 2019.

Section 24

Present Situation

In 2006,[88] the Legislature created the Florida Renewable Energy Production Credit under s. 220.193, F.S., which was designed to encourage the development and expansion of facilities that produce renewable energy in Florida. In 2012,[89] the Legislature modified the Florida Renewable Energy Production Credit for electricity produced and sold on or after January 1, 2013.

[84] Chapter 2006-230, Laws of Fla. (SB 888)
[85] Chapter 2012-117, Laws of Fla. (HB 7117)
[86] Renewable energy production tax credit.
[87] Section 220.192(1)(c), and (2), F.S.
[88] Chapter 2006-230, Laws of Fla. (SB 888)
[89] Chapter 2012-117, Laws of Fla. (HB 7117)

Under current law, the credit is available to new renewable energy facilities that were operationally placed in service after May 1, 2006,[90] or expanded renewable energy facilities that increased electrical production and sale by more than five percent over what they had produced during 2011.[91] The tax credit is based on the taxpayer's production and sale of electricity, and equals $0.01 for each kilowatt-hour of electricity produced and sold or used during a given tax year.[92]

The combined total amount of tax credits which may be granted for all taxpayers was limited to $5 million in state Fiscal Year 2012-13 and $10 million per state fiscal year in state Fiscal Years 2013-14 through 2016-17.[93] If the annual tax credit authorization amount is not exhausted by allocations of credits within that particular state fiscal year, any authorized but unallocated credit amounts may be used to grant credits that were earned pursuant to s. 220.192, F.S.,[94] but unallocated due to a lack of authorized funds.

Credits may not be granted beyond state Fiscal Year 2016-17.[95]

Proposed Change

The bill proposes to extend the Florida Renewable Energy Production Credit through state Fiscal Year 2017-18. The bill sets the combined total amount of tax credits which may be granted for all taxpayers in state fiscal years 2016-2017 through 2017-18 at $10 million per state fiscal year. The bill also adds to the list of "new facilities" that may receive the credit, certain nonpublic waste-to-energy facilities sited pursuant to ss. 403.501 – 403.518, F.S.

Section 25

Present Situation: Federal Tax Credit

The "U.S. Research and Experimentation Tax Credit" was created in 1981 as part of the Economic Recovery Tax Act, a comprehensive package of initiatives designed to boost U.S. business competitiveness and encourage investment and savings by American taxpayers during a period of economic recession.[96] For the 2012 federal tax year, 15,873 companies claimed $10.8 billion in R&D tax credits, including $168.9 million claimed via "pass-through" entities.[97] At $6.6 billion, manufacturing companies claimed the largest portion of research tax credits.[98]

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[90] Section 220.193(1)(e), F.S. The term includes a Florida renewable energy facility that has had an expansion operationally placed in service after May 1, 2006, and whose cost exceeded 50 percent of the assessed value of the facility immediately before the expansion.
[91] Section 220.193(1)(c), F.S.
[92] Section 220.193(3), F.S.
[93] Section 220.193(3)(g), F.S.
[94] Renewable energy technologies investment tax credit.
[95] Section 220.193(3)(g), F.S.
[96] *"The U.S. Research and Experimentation Tax Credit in the 1990s"* by Francisco Moris. National Science Foundation Report #NSF05-316 published July 2005, *available at* http://www.nsf.gov/statistics/infbrief/nsf05316/ and *"The Prospects for Economic Recovery,"* prepared by the Congressional Budget Office. (Published Feb. 1982). Pertinent information on pages 87-93 *available at* http://www.cbo.gov/ftpdocs/51xx/doc5135/doc03b-Part8.pdf. (last visited Feb. 27, 2016).
[97] Internal Revenue Service, Statistics of Income Division *available at* http://www.irs.gov/uac/SOI-Tax-Stats-Corporation-Research-Credit. (last visited Feb. 27, 2016).
[98] Ibid.

Florida Tax Credit

Section 220.196, F.S., authorizes an R&D tax credit against state corporate income taxes for certain businesses with qualified research expenses that received the federal credit. The tax credit is 10 percent of the difference between the current tax year's research and development expenditures in Florida and the average of R&D expenditures over the previous four tax years. However, if the business has existed fewer than four years, then the credit amount is reduced by 25 percent for each year the business or predecessor corporation did not exist.

The state tax credit taken in any taxable year may not exceed 50 percent of the company's remaining net corporate income tax liability under ch. 220, F.S., after all other credits to which the business is entitled have been applied. Any unused credits may be carried forward by the business that originally earned them for up to 5 years following the year in which the qualified research expenses were incurred.

The maximum amount of research and development credits that may be approved by the DOR during any calendar year is $9 million, except for calendar year 2016 which has a cap of $23 million. Applications may be filed with the DOR between March 20th and March 27 for qualified research expenses incurred within the preceding calendar year. If the total amount of credits applied for exceeds the annual cap, credits are distributed on a prorated basis.

During the application period beginning in 2015, when credits were distributed on a first-come first-served basis instead of prorated, the DOR received a total of 81 applications for $24 million worth of credits. Of these, 20 received full funding, one received partial funding, 59 were denied due to the cap having exceeded, and one was denied because it was a duplicate. All of the applications which received funding were filed within six minutes of the application window opening.[99]

Proposed Change

The bill increases from $9 million to $18 million the maximum amount of credits that may be approved in calendar year 2017.

Section 26 - 29

Present Situation

Under Florida law, the due dates to file tax returns related to corporate income tax are tied to the due dates of the related federal return. Florida corporations must file income tax returns on or before the first day of the 4th month following the close of the taxable year or the 15th day following the federal due date.[100]

[99] DOR Research & Development Tax Credit Allocation Report, *available at* http://dor.myflorida.com/dor/taxes/documents/rd_credit.pdf (last visited Feb. 27, 2016).
[100] Section 220.222(1), F.S. Some partnerships are also required to file informational returns. These returns are due on or before the first day of the 5th month after the close of the taxable year.

When a Florida corporation is granted an extension of time to file its federal return – usually six months – the taxpayer may file an extension of time to file its Florida return;[101] if granted, the extended Florida due date will be the 15th day after the expiration of the federal extension, or until the expiration of six months from the original due date, whichever occurs first.[102] Florida requires corporate income taxpayers to make estimated payments of tax throughout the taxable year. The taxpayer must file a declaration of estimated tax before the 1st day of the 5th month of each tax year.[103] Taxpayers then typically make estimated payments of tax before the first day of the 5th, 7th, and 10th months of the taxable year, and the final estimated payment is due before the 1st day of the next taxable year.[104] The first estimated payment – due before the first day of the 5th month of the taxable year – is timed so that it occurs after the taxpayer's tax return due date for the prior taxable year, which is the 4th month. Estimated payment rules allow the taxpayer to use the prior taxable year's tax liability to calculate the next taxable year's estimated payments.

On July 31, 2015, the federal government passed the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015.[105] This federal legislation moves the filing dates for most federal corporate income taxpayers to one month later than is currently required. A small group of corporate taxpayers (those with a taxable year ending on June 30) continue using their current filing date until 2026, at which time their filing date will also move one month later.

The federal legislation also adjusts the normal federal six-month extension for the next 10 years. Under this adjustment, calendar year corporate taxpayers (the majority of corporate taxpayers in Florida) will receive a five-month extension. Taxpayers with a taxable year ending on June 30 receive a seven-month extension. All other taxpayers continue with six-month extensions, and after 2026, all extensions will return to six months.

Proposed Change

The bill amends the due dates for Florida corporate income tax returns to correspond with the changes in due dates for the federal returns and the temporary changes in federal extension periods. The bill also extends the first estimated payment for corporate taxpayers by one month to accommodate the tax return due date change.

The changes to tax return due dates apply for taxable years beginning on or after January 1, 2016, and the changes to estimated payments apply to estimated payments for taxable years beginning on or after January 1, 2017.

[101] If a taxpayer extends the time to file its Florida return, the taxpayer must file a tentative tax return and make a tentative tax payment pursuant to s. 220.32, F.S.
[102] Section 220.222(2), F.S.
[103] Section 220.241, F.S. The time for filing a declaration is delayed for certain taxpayers. *See id.* A declaration is not required if the taxpayer reasonably expects to pay less than $2,500 or less. Section 220.24, F.S.
[104] Section 220.33(1), F.S.
[105] Pub. Law No. 114-41, H.R. 3236, 114th Cong. (July 31, 2015).

Section 32

Present Situation

Chapter 564, F.S., governs the regulation and taxation of wine and cider. Wine is defined as any beverage made from fresh fruits, berries, or grapes by natural fermentation, including sparkling wines, champagnes, vermouths, and wines fermented with brandy. Wine coolers and other similar beverages are also included.

The tax rates on wines are as follows:

- For wines, other than natural sparkling wines, cider, and malt beverages, containing between 0.5 and 17.259 percent alcohol by volume, $2.25 per gallon;
- For wines other than natural sparkling wines containing greater than 17.259 percent alcohol by volume, $3 per gallon;
- For natural sparkling wines, $3.50 per gallon;
- For ciders, which are made from the fermentation of apples and contain between 0.5 and seven percent alcohol by volume, $0.89 per gallon; and
- For wine coolers and similar beverages, $2.25 per gallon.

Proposed Change

The bill amends the definition of cider to include cider made from pears. Consequently, cider made from pears would be taxed at a rate of $0.89 per gallon as opposed to the current rate of $2.25 per gallon.

Sections 35 - 38

Present Situation

Since 1998, the Legislature has enacted 19 temporary periods (commonly called “sales tax holidays”) during which certain household items, household appliances, clothing, footwear, books, and/or school supply items were exempted from the state sales tax and county discretionary sales surtaxes.

Back-to-School Holidays

Dates	Length	TAX EXEMPTION THRESHOLDS				
		Clothing/ Footwear	**Wallets/ Bags**	**Books**	**Computers**	**School Supplies**
August 15-21, 1998	7 days	$50 or less	N/A	N/A	N/A	N/A
July 31-August 8, 1999	9 days	$100 or less	$100 or less	N/A	N/A	N/A
July 29-August 6, 2000	9 days	$100 or less	$100 or less	N/A	N/A	N/A
July 28-August 5, 2001	9 days	$50 or less	$50 or less	N/A	N/A	$10 or less
July 24-August 1, 2004	9 days	$50 or less	$50 or less	$50 or less	N/A	$10 or less
July 23-31, 2005	9 days	$50 or less	$50 or less	$50 or less	N/A	$10 or less
July 22-30, 2006	9 days	$50 or less	$50 or less	$50 or less	N/A	$10 or less
August 4-13, 2007	10 days	$50 or less	$50 or less	$50 or less	N/A	$10 or less
August 13-15, 2010	3 days	$50 or less	$50 or less	$50 or less	N/A	$10 or less
August 12-14, 2011	3 days	$75 or less	$75 or less	N/A	N/A	$15 or less
August 3-5, 2012	3 days	$75 or less	$75 or less	N/A	N/A	$15 or less
August 2-4, 2013	3 days	$75 or less	$75 or less	N/A	$750 or less	$15 or less
August 1-3, 2014	3 days	$100 or less	$100 or less	N/A	First $750 of the sales price	$15 or less
August 7 - 16, 2015	10 days	$100 or less	$100 or less	N/A	First $750 of the sales price	$15 or less

Florida has enacted a "back to school" sales tax holiday 14 times since 1998. The length of the exemption periods has varied from three to 10 days. The type and value of exempt items has also varied. Clothing and footwear have always been exempted at various thresholds, most recently $100. Books valued at $50 or less were exempted in six periods. School supplies have been included starting in 2001, with the value threshold increasing from $10 to $15. In 2013, personal computers and related accessories purchased for noncommercial home or personal use with a sales price of $750 or less were exempted. In 2014, the first $750 of the sales price of personal computers and related accessories purchased for noncommercial home or personal use were exempted. The following table describes the history of back to school sales tax holidays in Florida:

Small Business Saturday

In 2010, American Express instituted a "Small Business Saturday" incentive for their cardholders who shopped at small, independent businesses on the Saturday after "Black

Friday."[106] It is estimated that consumers spent $16.2 billion at independent retailers and restaurants on Small Business Saturday in 2015.[107]

Outdoor Recreation in Florida

According to the Florida Fish and Wildlife Conservation Commission, recreational fishing, hunting and wildlife-viewing in Florida generate an economic impact of $10.1 billion annually.[108] Florida has one of the largest public-hunting systems in the country, and there are approximately 242,000 hunters in the state.[109] Florida leads all states in economic impacts for its marine recreational fisheries,[110] and there are over two million Florida residents who are angler fisherman.[111]

Proposed Change

The bill establishes four sales tax holidays during the 2016-2017 Fiscal Year. DOR may adopt emergency rules to implement the provisions of each holiday.

Back-to-School Holiday

The bill provides for a ten-day sales tax holiday from August 5, 2016, through August 14, 2016. During the holiday, the following items that cost $100 or less are exempt from the state sales tax and county discretionary sales surtaxes:

- Clothing (defined as an "article of wearing apparel intended to be worn on or about the human body," but excluding watches, watchbands, jewelry, umbrellas, and handkerchiefs);
- Footwear (excluding skis, swim fins, roller blades, and skates);
- Wallets; and
- Bags (including handbags, backpacks, fanny packs, and diaper bags, but excluding briefcases, suitcases, and other garment bags).

The bill also exempts "school supplies" that cost $15 or less per item during the holiday.

Also exempt will be the first $750 of the sales price for personal computers and related accessories purchased for noncommercial home or personal use. This would include tablets, laptops, monitors, input devices, and non-recreational software. Cell phones, furniture and devices or software intended primarily for recreational use are not exempted.

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[106] American Express, *Small Business Saturday, available at* https://www.americanexpress.com/us/content/small-business/shop-small/about/?linknav=us-open-shopsmall-homepage-about (last visited Feb. 27, 2016).
[107] *Small Business Saturday® Results: Shoppers Provide Encouraging Start to the Holiday Shopping Season*, (Nov. 30, 2015) *available at* http://www.businesswire.com/news/home/20151130005359/en/Small-Business-Saturday%C2%AE-Results-Shoppers-Provide-Encouraging (last visited Feb. 26, 2016).
[108] Florida Fish and Wildlife Conservation Commission (FWC), Economic Impact of Outdoor Recreation, *available at* http://myfwc.com/conservation/value/outdoor-recreation (last visited Feb. 27, 2016).
[109] FWC, Overview – Fast Facts, *available at* http://myfwc.com/about/overview (last visited Feb. 27, 2016).
[110] FWC, Economic Impact of Outdoor Recreation, *available at* http://myfwc.com/conservation/value/outdoor-recreation/ (last visited Feb. 27, 2016).
[111] FWC, Overview – Fast Facts, *available at* http://myfwc.com/about/overview/(last visited Feb. 27, 2016).

Small Business Saturday Tax Holiday

The bill provides for a one day sales tax holiday on November 26, 2016. During the holiday, items priced $1,000 or less that are sold by certain "small businesses" are exempt from the state sales tax and county discretionary sales surtaxes.

The bill defines "small business" as a dealer, as defined in s. 212.06, F.S., that registered with the DOR and began operation no later than January 11, 2016, and that owed and remitted less than $200,000 in sales tax to the DOR during the one-year period ending September 30, 2016. If the business has not been in operation for a complete year as of September 30, 2016, the business may qualify if it owed and remitted less than $200,000 in sales tax from the first day of operation until September 30, 2016.

If the business is eligible to file a consolidated return (e.g., has multiple places of business), the total sales tax owed and remitted by the business' locations must be less than $200,000 during the applicable period ending September 30, 2016.

Hunting and Fishing Sales Tax Holiday

The bill provides for a one day sales tax holiday on August 20th, 2016, for certain firearms, ammunition, camping tents, and fishing supplies. During the holiday, the following items are exempt from the state sales tax and county discretionary sales surtaxes:

- Firearms (defined as rifles, shotguns, spearguns, crossbows, and bows);
- Ammunition for rifles, shotguns, spearguns, crossbows, and bows;
- Camping tents; and
- Fishing supplies (defined as non-commercial rods, reels, bait, and fishing tackle).

Technology Sales Tax Holiday

The bill provides a one-day sales tax holiday on April 22, 2017. During the holiday, the first $1,000 of the sales price of the following items is exempt from the state sales tax and county discretionary sales surtaxes:

- Personal Computers (includes electronic book readers, laptops, desktops, handhelds, tablets, cellular telephones, or tower computers); and
- "Personal computer-related accessories" (includes keyboards, mice, personal digital assistants, monitors, other peripheral devices, modems, routers, and nonrecreational software).

The "back to school," "hunting and fishing" and "technology" sales tax holidays do not apply to the following sales:

- Sales within a theme park or entertainment complex, as defined in s. 509.013(9), F.S.;
- Sales within a public lodging establishment, as defined in s. 509.013(4), F.S.; and
- Sales within an airport, as defined in s. 330.27(2), F.S.

Section 39

Present Situation

Books sold at a book fair on the premises of K through 12 schools are currently subject to sales tax.

Proposed Change

The bill creates a one-year exemption on the sale of books and other reading materials at book fairs on the premises of K through 12 schools. If the sales are made by a third-party vendor, the vendor must commit all or some of the profit from the book fair to be used for the benefit of the school.

Sections 40

Present Situation

In 2015, the Legislature created a one-year sales tax exemption[112] for textbooks, and printed and digital materials required or recommended for a course offered by a public postsecondary educational institution or a nonpublic postsecondary educational institution that is eligible to participate in the tuition assistance programs.

To obtain the tax exemption, a student must provide either a physical or an electronic copy of the following to the vendor:

- His or her student identification number; and
- Either an applicable course syllabus or list of required and recommended textbooks and instructional materials.

The vendor must maintain proper documentation, as prescribed by rule, to identify either complete transactions or the portion of a transaction which involves the sale of tax-exempted textbooks.

Proposed Change

The bill would extend the exemption on college textbooks through June 30, 2017.

Section 41

Appropriates $55,908 in nonrecurring funds for Fiscal Year 2016-2017 from the General Revenue Fund to the Department of Revenue for the purpose of implementing the changes to s. 212.031, F.S.

Section 42

Appropriates $279,857 in nonrecurring funds for Fiscal Year 2016-2017 from the General Revenue Fund to the Property Tax Oversight Program Department of Revenue for the purpose of providing aerial photographs and maps to counties that meet the increased population thresholds as required by s. 195.022, F.S., as amended by the bill. The bill provides that these funds are in addition to any funds that may be provided in the 2016-2017 General Appropriations Act for providing aerial photographs and maps to counties with a population of 50,000 or fewer.

[112] Chapter 2015-221, s. 29, Laws of Fla.

Sections 44 - 46

Present Situation

Property used predominantly for educational, literary, scientific, religious, or charitable purposes is exempt.[113] In determining whether the property is predominantly used for an exempt purpose, the property appraiser must consider the nature and extent of the qualifying activity compared to other activities performed by the organization owning the property, and the availability of the property for use by charitable or other qualifying entities.[114] Only the portions of the property used predominantly for an exempt purpose may be exempt from ad valorem taxation.

Property is also exempt when the owner has taken affirmative steps to prepare the property for exempt use. This treatment is authorized for property owned by an educational institution that is being prepared for educational use,[115] property owned by an exempt organization that is being prepared as a house of public worship,[116] and property owned by a 501(c)(3) organization that is being prepared to provide affordable housing to extremely-low, very-low, low, and moderate income persons or families.[117] This treatment is commonly referred to as "affirmative steps" treatment.

The term "affirmative steps" is defined to mean:
- Environmental or land use permitting activities,
- Creation of architectural or schematic drawings,
- Land clearing or site preparation,
- Construction or renovation activities, or
- Other similar activities that demonstrate a commitment to an exempt use.[118]

The affirmative steps treatment for affordable housing requires that the property appraiser serve the property owner with a notice of intent to record a tax lien against any property owned in the county by the property owner if the property is transferred for a purpose other than affordable housing or is not in actual use to provide affordable housing within 5 years after first being granted affirmative steps treatment.[119] Furthermore, the organization owning such property is required to pay the unpaid taxes, an additional 15 percent interest per annum, and a penalty equal to 50 percent of the taxes owed. The property owner has 30 days to pay the taxes, penalties, and interest, after which the property appraiser may file a lien against any property owned by the organization.[120] However, the property appraiser may grant an extension if the property owner can demonstrate that the owner is still taking affirmative steps.[121] If an exemption is improperly

[113] Sections 196.196(2) and 196.198, F.S. *See also* s. 196.1978, F.S. (providing that certain property used to provide affordable housing is property used for a charitable purpose).
[114] Section 196.196(1)(a)-(b), F.S.
[115] Section 196.198, F.S.
[116] Section 196.196(3), F.S. "Public worship" is defined to mean religious worship services and incidental activities such as educational activities, parking, recreation, partaking of meals, and fellowship.
[117] Section 196.196(5)(a), F.S.
[118] Sections 196.196(3),(5)(a), and 196.198, F.S.
[119] Section 196.196(5)(b), F.S.
[120] Section 196.196(5)(b), F.S.
[121] Section 196.196(5)(b)4., F.S.

granted as a result of a clerical mistake or an omission by the property appraiser, the organization improperly receiving the exemption may not be assessed a penalty or interest.[122]

Proposed Change

The bill creates s. 196.1955, F.S., to consolidate the current affirmative steps provisions into a single statute and authorize affirmative steps treatment for all exempt organizations. The bill amends the current definition of "affirmative steps" to include any activity that demonstrates a commitment to prepare the property for an exempt use. All organizations that qualify for affirmative steps treatment under current law (educational institutions, religious organizations, and 501(c)(3) organizations that provide affordable housing) continue to qualify for such treatment under the bill.

The bill provides that if property granted affirmative steps treatment is sold, transferred, or used for a nonexempt purpose or is not in actual use for an exempt purpose within five years, the property appraiser shall serve a notice of intent to record a tax lien in the public records of the county against any property in the county which is owned by the organization. Furthermore, the organization owning such property is required to pay the unpaid taxes and an additional 15 percent interest per annum.[123] The property owner has 30 days to pay the taxes and interest. The property owner may not be assessed interest if the exemption was improperly granted due to an error or omission by the property appraiser, and the property appraiser must grant an extension of the 5-year limitation, on an annual basis, if the property owner continues to take affirmative steps to prepare the property for exempt purposes.
Property that an exempt organization is preparing for use as a house of public worship is excluded from the lien provisions.[124]

The bill removes the current affirmative steps provisions in ss. 196.196 and 196.198, F.S.

Section 47

Provides a finding that the act fulfills an important state interest.

Section 48

Provides an effective date of upon becoming law, except as otherwise provided, and provides that the act takes effect July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The county/municipality mandates provision of Art. VII, section 18(b), of the Florida Constitution may apply because this bill, by expanding current ad valorem tax

[122] Section 196.196(5)(b)3., F.S.
[123] The bill does not include the assessment of penalties, which is provided for in certain circumstances under current law. *See* s. 196.196(5)(b)1., F.S.
[124] The definition of "house of public worship" is the same as in s. 196.196(3), F.S.

exemptions, reduces county and municipal government authority to raise revenue. The bill does not appear to qualify under any exemption or exception.

Additionally, the provision of Art. VII, section 18(a), of the Florida Constitution may apply because the bill, by requiring certain minimum expenditures of tourist development taxes and requiring the provision of return-on-investment or cost-benefit analysis under certain circumstances, may require counties or municipalities to expend funds. It is unclear whether or not such expenditures will be significant.

If the bill does qualify as a mandate, final passage must be approved by two-thirds of the membership of each house of the Legislature.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

HB 7099, 2nd Eng., will reduce General Revenue receipts in Fiscal Year 2016-2017 by $304.5 million, with a recurring impact of $329.6 million. The bill will reduce nonrecurring General Revenue receipts in future years by an additional $310.9 million.

HB 7099, 2nd Eng., will reduce local revenues in Fiscal Year 2016-2017 by $52.9 million, with a recurring impact of $89.9 million. The bill will reduce nonrecurring local revenues in future years by $39.2 million.

The fiscal impact is detailed in the table on the next page.

Fiscal Year 2016-17 Estimated Fiscal Impacts (millions of $)

	General Revenue		State Trust Funds		Local		Total	
Issue	**1st Yr**	**Recur.**	**1st Yr**	**Recur.**	**1st Yr**	**Recur.**	**1st Yr**	**Recur.**
Sales Tax: Business Rent/1% Permanent/2% for 1 Yr	(106.8)	(256.4)	(*)	(*)	(13.8)	(33.1)	(120.6)	(289.5)
Sales Tax: Machinery/Equipment--Manufacturing Exemption Permanent Extension	-	(59.7)	-	(*)	-	(13.4)	-	(73.1)
Sales Tax: Machinery/Equipment--Fruit & Vegetable Packinghouses	(0.8)	(0.9)	(*)	(*)	(0.2)	(0.2)	(1.0)	(1.1)
Sales Tax: Machinery/Equipment--Metal Recyclers	(1.7)	(1.7)	(*)	(*)	(0.5)	(0.5)	(2.2)	(2.2)
Sales Tax: Tax Holiday/"Back-to-School" **[Aug 5 -14]**	(55.9)	-	(*)	-	(12.9)	-	(68.8)	-
Sales Tax: Tax Holiday/Small Business **[Nov 26]**	(35.0)	-	(*)	-	(8.1)	-	(43.1)	-
Sales Tax: Tax Holiday/Technology **[April 22, 2017]**	(22.8)	-	(*)	-	(5.3)	-	(28.1)	-
Sales Tax: Tax Holiday/Hunting and Fishing **[Aug 20]**	(2.6)	-	(*)	-	(0.7)	-	(3.3)	-
Sales Tax: College Textbooks/1 Yr Extension	(33.3)	-	(*)	-	(7.6)	-	(40.9)	-
Sales Tax: Datacenters Exemption	(5.7)	(8.7)	(0.1)	(0.9)	(1.4)	(2.0)	(7.2)	(11.6)
Sales Tax: Admissions Resales (3 Yrs)	(1.5)	-	(*)	-	(0.4)	-	(1.9)	-
Sales Tax: Rural Areas of Opportunity/Bldg Materials	(3.3)	-	(*)	-	(1.3)	-	(4.6)	-
Sales Tax: School Book Fairs/1 Yr Exemption	(2.3)	-	(*)	-	(0.5)	-	(2.8)	-
Sales Tax: Veterans' Service Organizations/Food & Drink	(1.2)	(1.4)	(*)	(*)	(0.2)	(0.2)	(1.4)	(1.6)
Corp Inc Tax: Federal Code Conformance Issues	(20.0)	(1.5)	-	-	-	-	(20.0)	(1.5)
Corp Inc Tax: R&D Credits/1 Yr Increase @ 9m	(6.4)	-	-	-	-	-	(6.4)	-
Corp Inc Tax: Brownfield Credits/1 Yr Increase	(5.0)	-	-	-	-	-	(5.0)	-
Corp Inc Tax: Renewable Energy Prod Credits/ 1 Yr Extension	-	-	-	-	-	-	-	-
Corp Inc Tax: Renewable Energy Technology Credits/ 1 Yr Extension	-	-	-	-	-	-	-	-
Ad Valorem: Affordable Housing/Recorded Agreements (1)	-	-	-	-	-	(37.9)	-	(37.9)
Ad Valorem: Charitable Exemptions/Site Prep (1)	-	-	-	-	-	(0.9)	-	(0.9)
Ad Valorem: Surviving Spouse/Disabled Veterans - Residency (1)	-	-	-	-	-	(1.7)	-	(1.7)
Ad Valorem: Disabled Vets Exemption Transferability	-	-	-	-	+/-	+/-	+/-	+/-
Ad Valorem: EDATE Clarification/Enterprise Zones	-	-	-	-	(**)	(**)	(**)	(**)
Ad Valorem: Aerial Photography (Appropriation)	(0.3)	-	-	-	-	-	(0.3)	-
Aviation Fuel Tax: Exemption Elimination/Rate Cut	-	-	-	-	-	-	-	-
Bev Tax/Tobacco Tax: Cruise Line Tax Simplification	(0.1)	*	(*)	(*)	-	-	(0.1)	-
Bev Tax: Pear Cider Rate Reduction	(0.1)	(0.1)	-	-	-	-	(0.1)	(0.1)
Doc Stamp Tax: Affordable Housing-related Notes	(0.1)	(0.1)	(0.2)	(0.2)	-	-	(0.3)	(0.3)
Tobacco Tax: Other Tob Prod/Definition Clarification	0.9	0.9	1.5	1.5	-	-	2.4	2.4
Appropriations: Tax Holidays & Admin	(0.5)	-	-	-	-	-	(0.5)	-
FY 2016-17 Total	**(304.5)**	**(329.6)**	**1.2**	**0.4**	**(52.9)**	**(89.9)**	**(356.2)**	**(419.1)**
Non-recurring Impacts After FY 2016-17	**Cash**		**Cash**		**Cash**		**Cash**	
Sales Tax: Admissions Resales (17/18 & 18/19)	(3.5)	-	-	-	(1.0)	-	(4.5)	-
Sales Tax: Rural Areas of Opportunity/Bldg Materials	(7.2)	-	-	-	(2.7)	-	(9.9)	-
Sales Tax: Business Rent/1% for 1 yr (1/1/2018)	(274.8)	-	(*)	-	(35.5)	-	(310.3)	-
Corp Inc Tax: Federal Code Conformance Issues	(2.8)	-	-	-	-	-	(2.8)	-
Corp Inc Tax: Renewable Energy Prod Credits (17/18)	(10.0)	-	-	-	-	-	(10.0)	-
Corp Inc Tax: Renewable Energy Technology Credits (17/18)	(10.0)	-	-	-	-	-	(10.0)	-
Corp Inc Tax: R&D Credits (17/18)	(2.6)	-	-	-	-	-	(2.6)	-
Bill Total	**(615.4)**	**(329.6)**	**1.2**	**0.4**	**(92.1)**	**(89.9)**	**(706.3)**	**(419.1)**
							Recurring + Pure Nonrecurring (2) =	**(992.7)**

(*) Impact less than $50,000; (**) Impact is indeterminate.
(+/-) Indeterminate impact, direction can be positive or negative
(1) Ad valorem tax impacts assume current tax rates.
(2) Recurring total = -$419.1 million; pure nonrecurring in FY 2016-17 = -$223.5 million; pure nonrecurring after FY 2016-17 = -$350.1 million.

B. Private Sector Impact:

HB 7099, 2nd Eng., provides for a wide range of tax reductions and modifications designed to directly impact both households and businesses. Direct economic impacts on the private sector include:

- Reductions in the business rent tax that will provide tax relief to thousands of Florida businesses that rent real property in Florida.
- Manufacturers will be able to continue to enjoy the sales tax exemption on certain industrial machinery and equipment with the permanent extension of that exemption. Certain fruit and vegetable packinghouses and metals recyclers will also now be able to make use of this sales tax exemption.
- The back to school, hunting and fishing, small business and technology sales tax holidays will provide tax relief to Florida consumers. The college textbook and book fair exemptions in the bill will provide tax relief to students and their parents.
- Certain veterans and their spouses may realize property tax savings from the provisions of the bill, while members of veteran's service organizations will see elimination of sales taxes paid on certain food and drink.
- Administrative costs for Florida's cruise industry, associated with alcoholic beverage and tobacco-related taxes will be reduced.
- Private sector providers of affordable housing will see reduced property tax burdens as long as they continue to provide affordable housing.
- Participants in the brownfield cleanup tax credit program will see more resources available to undertake those activities.

C. Government Sector Impact:

The $762,154 appropriated in the bill consists of the following: $229,982 to implement the "back-to-school" sales tax holiday; and $55,908 to implement the business rent tax rate changes; $91,470 to implement the hunting and fishing sales tax holiday; $104,937 to implement the technology sales tax holiday; and $279,857 to pay additional costs associated with provision of aerial photography by DOR. The appropriations for the back-to-school holiday, the technology sales tax holiday, and the hunting and fishing tax holiday are to pay the cost of mailing a taxpayer information publication (TIP) to approximately 590,000, 290,000, and 264,900 sales tax dealers notifying them of the respective tax free periods. Of the appropriation for the business rent tax rate reduction, $45,188 is for tax dealer notification and the remainder is for computer system reprogramming.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 125.0104, 159.621, 163.387, 195.022, 196.011, 196.012, 196.081, 196.196, 196.1978, 196.198, 196.1995, 201.15, 206.9825, 210.13, 210.25, 212.031, 212.04, 212.05, 212.08, 220.03, 220.13, 220.1845, 220.192, 220.193, 220.196, 220.222, 220.241, 220.33, 220.34, 376.30781, 561.121, 564.06, 565.02, and 951.22.

This bill substantially amends chapter 2015-221, Laws of Florida.

This bill creates section 196.1955 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.

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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/02/2016	.	
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The Committee on Appropriations (Hukill and Lee) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Paragraph (kkk) of subsection (7) of section 212.08, Florida Statutes, is amended to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following

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are hereby specifically exempt from the tax imposed by this chapter.

(7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any entity by this chapter do not inure to any transaction that is otherwise taxable under this chapter when payment is made by a representative or employee of the entity by any means, including, but not limited to, cash, check, or credit card, even when that representative or employee is subsequently reimbursed by the entity. In addition, exemptions provided to any entity by this subsection do not inure to any transaction that is otherwise taxable under this chapter unless the entity has obtained a sales tax exemption certificate from the department or the entity obtains or provides other documentation as required by the department. Eligible purchases or leases made with such a certificate must be in strict compliance with this subsection and departmental rules, and any person who makes an exempt purchase with a certificate that is not in strict compliance with this subsection and the rules is liable for and shall pay the tax. The department may adopt rules to administer this subsection.

(kkk) *Certain machinery and equipment.*—

1. Industrial machinery and equipment purchased by eligible manufacturing businesses which is used at a fixed location in ~~within~~ this state~~, or a mixer drum affixed to a mixer truck which is used at any location within this state to mix, agitate, and transport freshly mixed concrete in a plastic state,~~ for the manufacture, processing, compounding, or production of items of tangible personal property for sale is ~~shall be~~ exempt from the tax imposed by this chapter. ~~Parts and labor required to affix a~~

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~~mixer drum exempt under this paragraph to a mixer truck are also exempt.~~ If, at the time of purchase, the purchaser furnishes the seller with a signed certificate certifying the purchaser's entitlement to exemption pursuant to this paragraph, the seller is not required to collect ~~is relieved of the responsibility for collecting~~ the tax on the sale of such items, and the department shall look solely to the purchaser for recovery of the tax if it determines that the purchaser was not entitled to the exemption.

2. For purposes of this paragraph, the term:

a. "Eligible manufacturing business" means any business whose primary business activity at the location where the industrial machinery and equipment is located is within the industries classified under NAICS codes 31, 32, ~~and~~ 33, and 423930.

b. "Eligible postharvest activity business" means a business whose primary business activity, at the location where the postharvest machinery and equipment is located, is within the industries classified under NAICS code 115114.

c. ~~As used in this subparagraph,~~ "NAICS" means those classifications contained in the North American Industry Classification System, as published in 2007 by the Office of Management and Budget, Executive Office of the President.

d.~~b.~~ "Primary business activity" means an activity representing more than 50 percent of the activities conducted at the location where the industrial machinery and equipment or postharvest machinery and equipment is located.

e.~~c.~~ "Industrial machinery and equipment" means tangible personal property or other property that has a depreciable life of 3 years or more and that is used as an integral part in the

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manufacturing, processing, compounding, or production of tangible personal property for sale. The term includes tangible personal property or other property that has a depreciable life of 3 years or more which is used as an integral part in the recycling of metals for sale. A building and its structural components are not industrial machinery and equipment unless the building or structural component is so closely related to the industrial machinery and equipment that it houses or supports that the building or structural component can be expected to be replaced when the machinery and equipment are replaced. Heating and air conditioning systems are not industrial machinery and equipment unless the sole justification for their installation is to meet the requirements of the production process, even though the system may provide incidental comfort to employees or serve, to an insubstantial degree, nonproduction activities. The term includes parts and accessories for industrial machinery and equipment only to the extent that the parts and accessories are purchased before ~~prior to~~ the date the machinery and equipment are placed in service.

f. "Postharvest activities" means services performed on crops, after their harvest, with the intent of preparing them for market or further processing. Postharvest activities include, but are not limited to, crop cleaning, sun drying, shelling, fumigating, curing, sorting, grading, packing, and cooling.

g. "Postharvest machinery and equipment" means tangible personal property or other property with a depreciable life of 3 years or more which is used primarily for postharvest activities. A building and its structural components are not

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postharvest industrial machinery and equipment unless the building or structural component is so closely related to the postharvest machinery and equipment that it houses or supports that the building or structural component can be expected to be replaced when the postharvest machinery and equipment is replaced. Heating and air conditioning systems are not postharvest machinery and equipment unless the sole justification for their installation is to meet the requirements of the postharvest activities process, even though the system may provide incidental comfort to employees or serve, to an insubstantial degree, nonpostharvest activities.

3. Postharvest machinery and equipment purchased by an eligible postharvest activity business which is used at a fixed location in this state is exempt from the tax imposed by this chapter. All labor charges for the repair of, and parts and materials used in the repair of and incorporated into, such postharvest machinery and equipment are also exempt. If, at the time of purchase, the purchaser furnishes the seller with a signed certificate certifying the purchaser's entitlement to exemption pursuant to this subparagraph, the seller is not required to collect the tax on the sale of such items, and the department shall look solely to the purchaser for recovery of the tax if it determines that the purchaser was not entitled to the exemption.

4.~~3.~~ A mixer drum affixed to a mixer truck which is used at any location in this state to mix, agitate, and transport freshly mixed concrete in a plastic state for sale is exempt from the tax imposed by this chapter. Parts and labor required to affix a mixer drum exempt under this subparagraph to a mixer

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truck are also exempt. If, at the time of purchase, the purchaser furnishes the seller with a signed certificate certifying the purchaser's entitlement to exemption pursuant to this subparagraph, the seller is not required to collect the tax on the sale of such items, and the department shall look solely to the purchaser for recovery of the tax if it determines that the purchaser was not entitled to the exemption. This subparagraph ~~paragraph~~ is repealed April 30, 2017.

Section 2. Effective upon this act becoming a law and operating retroactively to January 1, 2016, paragraph (n) of subsection (1) and paragraph (c) of subsection (2) of section 220.03, Florida Statutes, are amended to read:

220.03 Definitions.—

(1) SPECIFIC TERMS.—When used in this code, and when not otherwise distinctly expressed or manifestly incompatible with the intent thereof, the following terms shall have the following meanings:

(n) "Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended and in effect on January 1, 2016 ~~2015~~, except as provided in subsection (3).

(2) DEFINITIONAL RULES.—When used in this code and neither otherwise distinctly expressed nor manifestly incompatible with the intent thereof:

(c) Any term used in this code has the same meaning as when used in a comparable context in the Internal Revenue Code and other statutes of the United States relating to federal income taxes, as such code and statutes are in effect on January 1, 2016 ~~2015~~. However, if subsection (3) is implemented, the meaning of a term shall be taken at the time the term is applied

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under this code.

Section 3. Effective upon this act becoming a law and operating retroactively to January 1, 2016, paragraph (e) of subsection (1) of section 220.13, Florida Statutes, is amended to read:

220.13 "Adjusted federal income" defined.—

(1) The term "adjusted federal income" means an amount equal to the taxpayer's taxable income as defined in subsection (2), or such taxable income of more than one taxpayer as provided in s. 220.131, for the taxable year, adjusted as follows:

(e) *Adjustments related to federal acts.*—Taxpayers shall be required to make the adjustments prescribed in this paragraph for Florida tax purposes with respect to certain tax benefits received pursuant to the Economic Stimulus Act of 2008, the American Recovery and Reinvestment Act of 2009, the Small Business Jobs Act of 2010, the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, the American Taxpayer Relief Act of 2012, ~~and~~ the Tax Increase Prevention Act of 2014, and the Consolidated Appropriations Act, 2016.

1. There shall be added to such taxable income an amount equal to 100 percent of any amount deducted for federal income tax purposes as bonus depreciation for the taxable year pursuant to ss. 167 and 168(k) of the Internal Revenue Code of 1986, as amended by s. 103 of Pub. L. No. 110-185, s. 1201 of Pub. L. No. 111-5, s. 2022 of Pub. L. No. 111-240, s. 401 of Pub. L. No. 111-312, s. 331 of Pub. L. No. 112-240, ~~and~~ s. 125 of Pub. L. No. 113-295, and s. 143 of Division Q of Pub. L. No. 114-113,

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for property placed in service after December 31, 2007, and before January 1, 2021 ~~2015~~. For the taxable year and for each of the 6 subsequent taxable years, there shall be subtracted from such taxable income an amount equal to one-seventh of the amount by which taxable income was increased pursuant to this subparagraph, notwithstanding any sale or other disposition of the property that is the subject of the adjustments and regardless of whether such property remains in service in the hands of the taxpayer.

2. There shall be added to such taxable income an amount equal to 100 percent of any amount in excess of $128,000 deducted for federal income tax purposes for the taxable year pursuant to s. 179 of the Internal Revenue Code of 1986, as amended by s. 102 of Pub. L. No. 110-185, s. 1202 of Pub. L. No. 111-5, s. 2021 of Pub. L. No. 111-240, s. 402 of Pub. L. No. 111-312, s. 315 of Pub. L. No. 112-240, and s. 127 of Pub. L. No. 113-295, for taxable years beginning after December 31, 2007, and before January 1, 2015. For the taxable year and for each of the 6 subsequent taxable years, there shall be subtracted from such taxable income one-seventh of the amount by which taxable income was increased pursuant to this subparagraph, notwithstanding any sale or other disposition of the property that is the subject of the adjustments and regardless of whether such property remains in service in the hands of the taxpayer.

3. There shall be added to such taxable income an amount equal to the amount of deferred income not included in such taxable income pursuant to s. 108(i)(1) of the Internal Revenue Code of 1986, as amended by s. 1231 of Pub. L. No. 111-5. There

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shall be subtracted from such taxable income an amount equal to the amount of deferred income included in such taxable income pursuant to s. 108(i)(1) of the Internal Revenue Code of 1986, as amended by s. 1231 of Pub. L. No. 111-5.

4. Subtractions available under this paragraph may be transferred to the surviving or acquiring entity following a merger or acquisition and used in the same manner and with the same limitations as specified by this paragraph.

5. The additions and subtractions specified in this paragraph are intended to adjust taxable income for Florida tax purposes, and, notwithstanding any other provision of this code, such additions and subtractions shall be permitted to change a taxpayer's net operating loss for Florida tax purposes.

Section 4. (1) The Department of Revenue is authorized, and all conditions are deemed to be met, to adopt emergency rules pursuant to s. 120.54(4), Florida Statutes, for the purpose of implementing the amendments made by this act to ss. 220.03(1)(n) and (2)(c), Florida Statutes, and s. 220.13(1)(e), Florida Statutes.

(2) Notwithstanding any other provision of law, emergency rules adopted pursuant to subsection (1) are effective for 6 months after adoption and may be renewed during the pendency of procedures to adopt permanent rules addressing the subject of the emergency rules.

(3) This section expires January 1, 2020.

Section 5. Effective upon this act becoming a law and applicable to taxable years beginning on or after January 1, 2016, section 220.222, Florida Statutes, is amended to read:

220.222 Returns; time and place for filing.—


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(1)(a) Returns required by this code shall be filed with the office of the department in Leon County or at such other place as the department may by regulation prescribe. All returns required for a DISC (Domestic International Sales Corporation) under paragraph 6011(c)(2) of the Internal Revenue Code shall be filed on or before the 1st day of the 10th month after ~~following~~ the close of the taxable year; all partnership information returns shall be filed on or before the 1st day of the 4th ~~5th~~ month after ~~following~~ the close of the taxable year; and all other returns shall be filed on or before the 1st day of the 5th ~~4th~~ month after ~~following~~ the close of the taxable year or the 15th day after ~~following~~ the due date, without extension, for the filing of the related federal return for the taxable year, unless under subsection (2) one or more extensions of time, not to exceed 6 months in the aggregate, for any such filing is granted.

(b) Notwithstanding paragraph (a), for taxable years beginning before January 1, 2026, returns of taxpayers with a taxable year ending on June 30 shall be filed on or before the 1st day of the 4th month after the close of the taxable year or the 15th day after the due date, without extension, for the filing of the related federal return for the taxable year, unless under subsection (2) one or more extensions of time for any such filing is granted.

(2)(a) When a taxpayer has been granted an extension or extensions of time within which to file its federal income tax return for any taxable year, and if the requirements of s. 220.32 are met, the filing of a request for such extension or extensions with the department shall automatically extend the


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due date of the return required under this code until ~~15 days after the expiration of the federal extension or until~~ the expiration of 6 months from the original due date~~, whichever first occurs~~.

(b) The department may grant an extension or extensions of time for the filing of any return required under this code upon receiving a prior request therefor if good cause for an extension is shown. However, the aggregate extensions of time under paragraph ~~paragraphs~~ (a) and this paragraph must ~~(b) shall~~ not exceed 6 months. An ~~No~~ extension granted under this paragraph is not ~~shall be~~ valid unless the taxpayer complies with ~~the requirements of~~ s. 220.32.

(c) For purposes of this subsection, a taxpayer is not in compliance with ~~the requirements of~~ s. 220.32 if the taxpayer underpays the required payment by more than the greater of $2,000 or 30 percent of the tax shown on the return when filed.

(d) For taxable years beginning before January 1, 2026, the 6-month time period in paragraphs (a) and (b) shall be 7 months for taxpayers with a taxable year ending June 30 and shall be 5 months for taxpayers with a taxable year ending December 31.

Section 6. Effective upon this act becoming a law and applicable to taxable years beginning on or after January 1, 2017, section 220.241, Florida Statutes, is amended to read:

220.241 Declaration; time for filing.—

(1) A declaration of estimated tax under this code shall be filed before the 1st day of the 6th ~~5th~~ month of each taxable year, except that if the minimum tax requirement of s. 220.24(1) is first met:

(a) ~~(1)~~ After the 3rd month and before the 6th month of the

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taxable year, the declaration shall be filed before the 1st day of the 7th month;

(b) ~~(2)~~ After the 5th month and before the 9th month of the taxable year, the declaration shall be filed before the 1st day of the 10th month; or

(c) ~~(3)~~ After the 8th month and before the 12th month of the taxable year, the declaration shall be filed for the taxable year before the 1st day of the succeeding taxable year.

(2) Notwithstanding subsection (1), for taxable years beginning before January 1, 2026, taxpayers with a taxable year ending on June 30 shall file declarations before the 1st day of the 5th month of each taxable year, unless paragraph (1)(a), paragraph (1)(b), or paragraph (1)(c) applies.

Section 7. Effective upon this act becoming a law and applicable to taxable years beginning on or after January 1, 2017, subsection (1) of section 220.33, Florida Statutes, is amended to read:

220.33 Payments of estimated tax.—A taxpayer required to file a declaration of estimated tax pursuant to s. 220.24 shall pay such estimated tax as follows:

(1) If the declaration is required to be filed before the 1st day of the 6th ~~5th~~ month of the taxable year, the estimated tax shall be paid in four equal installments. The first installment shall be paid at the time of the required filing of the declaration; the second and third installments shall be paid before the 1st day of the 7th month and before the 1st day of the 10th month of the taxable year, respectively; and the fourth installment shall be paid before the 1st day of the next taxable year.

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Section 8. Effective upon this act becoming a law and applicable to taxable years beginning on or after January 1, 2017, paragraph (c) of subsection (2) of section 220.34, Florida Statutes, is amended to read:

220.34 Special rules relating to estimated tax.—

(2) No interest or penalty shall be due or paid with respect to a failure to pay estimated taxes except the following:

(c) The period of the underpayment for which interest and penalties apply shall commence on the date the installment was required to be paid, determined without regard to any extensions of time, and shall terminate on the earlier of the following dates:

1. The 1st ~~first~~ day of the 5th ~~fourth~~ month after ~~following~~ the close of the taxable year;

2. For taxable years beginning before January 1, 2026, for taxpayers with a taxable year ending June 30, the 1st day of the 4th month after the close of the taxable year; or

3.~~2.~~ With respect to any portion of the underpayment, the date on which such portion is paid.

For purposes of this paragraph, a payment of estimated tax on any installment date shall be considered a payment of any previous underpayment only to the extent such payment exceeds the amount of the installment determined under subparagraph (b)1. for such installment date.

Section 9. For the 2016-2017 fiscal year, the sum of $100,374 in nonrecurring funds is appropriated from the General Revenue Fund to the Department of Revenue for the purpose of

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implementing ss. 220.03, 220.13, 220.222, 220.241, 220.33 and 220.34, Florida Statutes, as amended by this act.

Section 10. Except as otherwise expressly provided in this act and except for this section, which shall take effect upon this act becoming a law, this act shall take effect July 1, 2016.

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

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to taxation; amending s. 212.08, F.S.; revising definitions regarding certain industrial machinery and equipment; removing the expiration date on the exemption for purchases of certain machinery and equipment; revising the definition of the term "eligible manufacturing business" for purposes of qualification for the sales and use tax exemption; providing definitions for certain postharvest machinery and equipment, postharvest activities, and eligible postharvest activity businesses; providing an exemption for the purchase of such machinery and equipment; amending s. 220.03, F.S.; adopting the 2016 version of the Internal Revenue Code; providing retroactive applicability; amending s. 220.13, F.S.; incorporating a reference to a recent federal act into state law for the purpose of defining the term "adjusted federal income"; revising the treatment by


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this state of certain depreciation of assets allowed for federal income tax purposes; providing retroactive applicability; authorizing the Department of Revenue to adopt emergency rules; amending s. 220.222, F.S.; revising due dates for partnership information returns and corporate tax returns; amending s. 220.241, F.S.; revising due dates to file a declaration of estimated corporate income tax; amending s. 220.33, F.S.; revising the due date of estimated payments of corporate income tax; amending 220.34, F.S.; revising the dates for purposes of calculating interest and penalties on underpayments of estimated corporate income tax; providing an appropriation; providing effective dates.

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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/02/2016	.	
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The Committee on Appropriations (Hays) recommended the following:

Senate Amendment to Amendment (941552) (with title amendment)

Between lines 4 and 5
insert:

Section 1. Section 196.1955, Florida Statutes, is created to read:

196.1955 Preparing property for educational, literary, scientific, religious, or charitable use.—

(1) Property owned by an exempt organization is used for an

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exempt purpose if the owner has taken affirmative steps to prepare the property for an exempt educational, literary, scientific, religious, or charitable use and no portion of the property is being used for a nonexempt purpose. The term "affirmative steps" means environmental or land use permitting activities, creation of architectural plans or schematic drawings, land clearing or site preparation, construction or renovation activities, or other activities that demonstrate a commitment to prepare the property for an exempt use.

(2)(a) If property owned by an organization that has been granted an exemption under this section is sold, transferred, or used for a purpose other than an exempt use or is not in actual exempt use within 5 years after the date the organization is granted an exemption, the property appraiser making such determination shall serve upon the organization that received the exemption a notice of intent to record in the public records of the county a notice of tax lien against any property owned by that organization in that county, and such property must be identified in the notice of tax lien. The organization owning such property is subject to the taxes otherwise due as a result of the failure to use the property in an exempt manner, plus 15 percent interest per annum.

1. The lien, when filed, attaches to any property identified in the notice of tax lien which is owned by the organization that received the exemption. If the organization no longer owns property in the county but owns property in another county in the state, the property appraiser shall record in each such county a notice of tax lien identifying the property owned by the organization in each respective county, which shall

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become a lien against the identified property.

2. Before a lien may be filed, the organization must be given 30 days to pay the taxes and interest.

3. If an exemption is improperly granted as a result of a clerical mistake or an omission by the property appraiser, the organization improperly receiving the exemption may not be assessed interest.

4. The 5-year limitation specified in this subsection shall be extended by the property appraiser on an annual basis if the organization continues to take affirmative steps to prepare the property for the purposes specified in this section.

(b) This subsection does not apply to property being prepared for use as a house of public worship. The term "public worship" means religious worship services and those activities that are incidental to religious worship services, such as educational activities, parking, recreation, partaking of meals, and fellowship.

Section 2. Subsections (3), (4), and (5) of section 196.196, Florida Statutes, are amended to read:

196.196 Determining whether property is entitled to charitable, religious, scientific, or literary exemption.—

~~(3) Property owned by an exempt organization is used for a religious purpose if the institution has taken affirmative steps to prepare the property for use as a house of public worship. The term "affirmative steps" means environmental or land use permitting activities, creation of architectural plans or schematic drawings, land clearing or site preparation, construction or renovation activities, or other similar activities that demonstrate a commitment of the property to a~~

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~~religious use as a house of public worship. For purposes of this subsection, the term "public worship" means religious worship services and those other activities that are incidental to religious worship services, such as educational activities, parking, recreation, partaking of meals, and fellowship.~~

(3)~~(4)~~ Except as otherwise provided in this section ~~herein~~, property claimed as exempt for literary, scientific, religious, or charitable purposes which is used for profitmaking purposes is ~~shall be~~ subject to ad valorem taxation. Use of property for functions not requiring a business or occupational license conducted by the organization at its primary residence, the revenue of which is used wholly for exempt purposes, is ~~shall~~ not ~~be~~ considered profitmaking ~~profit making~~. In this connection the playing of bingo on such property is ~~shall~~ not ~~be~~ considered a use of ~~as using such~~ property which ~~in such a manner as~~ would impair its exempt status.

~~(5)(a) Property owned by an exempt organization qualified as charitable under s. 501(c)(3) of the Internal Revenue Code is used for a charitable purpose if the organization has taken affirmative steps to prepare the property to provide affordable housing to persons or families that meet the extremely-low-income, very-low-income, low-income, or moderate-income limits, as specified in s. 420.0004. The term "affirmative steps" means environmental or land use permitting activities, creation of architectural plans or schematic drawings, land clearing or site preparation, construction or renovation activities, or other similar activities that demonstrate a commitment of the property to providing affordable housing.~~

~~(b)1. If property owned by an organization granted an~~


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~~exemption under this subsection is transferred for a purpose other than directly providing affordable homeownership or rental housing to persons or families who meet the extremely-low-income, very-low-income, low-income, or moderate-income limits, as specified in s. 420.0004, or is not in actual use to provide such affordable housing within 5 years after the date the organization is granted the exemption, the property appraiser making such determination shall serve upon the organization that illegally or improperly received the exemption a notice of intent to record in the public records of the county a notice of tax lien against any property owned by that organization in the county, and such property shall be identified in the notice of tax lien. The organization owning such property is subject to the taxes otherwise due and owing as a result of the failure to use the property to provide affordable housing plus 15 percent interest per annum and a penalty of 50 percent of the taxes owed.~~

~~2. Such lien, when filed, attaches to any property identified in the notice of tax lien owned by the organization that illegally or improperly received the exemption. If such organization no longer owns property in the county but owns property in any other county in the state, the property appraiser shall record in each such other county a notice of tax lien identifying the property owned by such organization in such county which shall become a lien against the identified property. Before any such lien may be filed, the organization so notified must be given 30 days to pay the taxes, penalties, and interest.~~

~~3. If an exemption is improperly granted as a result of a~~

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~~clerical mistake or an omission by the property appraiser, the organization improperly receiving the exemption shall not be assessed a penalty or interest.~~

~~4. The 5-year limitation specified in this subsection may be extended if the holder of the exemption continues to take affirmative steps to develop the property for the purposes specified in this subsection.~~

Section 3. Section 196.198, Florida Statutes, is amended to read:

196.198 Educational property exemption.—

(1) Educational institutions within this state and their property used by them or by any other exempt entity or educational institution exclusively for educational purposes are exempt from taxation.

(a) Sheltered workshops providing rehabilitation and retraining of individuals who have disabilities and exempted by a certificate under s. (d) of the federal Fair Labor Standards Act of 1938, as amended, are declared wholly educational in purpose and are exempt from certification, accreditation, and membership requirements set forth in s. 196.012.

(b) Those portions of property of college fraternities and sororities certified by the president of the college or university to the appropriate property appraiser as being essential to the educational process are exempt from ad valorem taxation.

(c) The use of property by public fairs and expositions chartered by chapter 616 is presumed to be an educational use of such property and is exempt from ad valorem taxation to the extent of such use.

(2) Property used exclusively for educational purposes shall be deemed owned by an educational institution if the entity owning 100 percent of the educational institution is owned by the identical persons who own the property, or if the entity owning 100 percent of the educational institution and the entity owning the property are owned by the identical natural persons.

(a) Land, buildings, and other improvements to real property used exclusively for educational purposes shall be deemed owned by an educational institution if the entity owning 100 percent of the land is a nonprofit entity and the land is used, under a ground lease or other contractual arrangement, by an educational institution that owns the buildings and other improvements to the real property, is a nonprofit entity under s. 501(c)(3) of the Internal Revenue Code, and provides education limited to students in prekindergarten through grade 8.

(b) If legal title to property is held by a governmental agency that leases the property to a lessee, the property shall be deemed to be owned by the governmental agency and used exclusively for educational purposes if the governmental agency continues to use such property exclusively for educational purposes pursuant to a sublease or other contractual agreement with that lessee.

(c) If the title to land is held by the trustee of an irrevocable inter vivos trust and if the trust grantor owns 100 percent of the entity that owns an educational institution that is using the land exclusively for educational purposes, the land is deemed to be property owned by the educational institution

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for purposes of this exemption. ~~Property owned by an educational institution shall be deemed to be used for an educational purpose if the institution has taken affirmative steps to prepare the property for educational use. The term "affirmative steps" means environmental or land use permitting activities, creation of architectural plans or schematic drawings, land clearing or site preparation, construction or renovation activities, or other similar activities that demonstrate commitment of the property to an educational use.~~

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

And the title is amended as follows:

Delete line 371

and insert:

An act relating to taxation; creating s. 196.1955, F.S.; consolidating and revising provisions relating to obtaining an ad valorem exemption for property owned by an exempt organization, including the requirement that the owner of an exempt organization take affirmative steps to demonstrate an exempt use; defining the term "affirmative steps"; requiring the property appraiser to serve a notice of tax lien on exempt property that is not in exempt use after a certain time; providing that the lien attaches to any property owned by the organization identified in the notice of lien; providing that the provisions authorizing the tax lien do not apply to a house of public worship; defining the term "public worship"; amending s. 196.196, F.S.; deleting provisions

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relating to the exemption as it applies to public worship and affordable housing and provisions incorporated into s. 196.1955, F.S.; amending s. 196.198, F.S.; deleting provisions relating to property owned by an educational institution and used for an educational purpose which are incorporated in s. 196.1955, F.S.; amending s. 212.08, F.S.;

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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/02/2016	.	
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The Committee on Appropriations (Negron) recommended the following:

Senate Amendment to Amendment (941552) (with title amendment)

Between lines 4 and 5
insert:
Section 1. Effective upon this act becoming a law, subsections (5) and (11) of section 196.1995, Florida Statutes, are amended to read:
196.1995 Economic development ad valorem tax exemption.—
(5) Upon a majority vote in favor of such authority, the

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board of county commissioners or the governing authority of the municipality, at its discretion, by ordinance may exempt from ad valorem taxation up to 100 percent of the assessed value of all improvements to real property made by or for the use of a new business and of all tangible personal property of such new business, or up to 100 percent of the assessed value of all added improvements to real property made to facilitate the expansion of an existing business and of the net increase in all tangible personal property acquired to facilitate such expansion of an existing business. To qualify for this exemption, the improvements to real property must be made or the tangible personal property must be added or increased after approval by motion or resolution of the local governing body, subject to ordinance adoption or on or after the day the ordinance is adopted. However, if the authority to grant exemptions is approved in a referendum in which the ballot question contained in subsection (3) appears on the ballot, the authority of the board of county commissioners or the governing authority of the municipality to grant exemptions is limited solely to new businesses and expansions of existing businesses that are located in an enterprise zone or brownfield area. Property acquired to replace existing property shall not be considered to facilitate a business expansion. <u>All data center equipment for a qualifying data center shall be exempt from ad valorem taxation for the term of the approved exemption.</u> The exemption applies only to taxes levied by the respective unit of government granting the exemption. The exemption does not apply, however, to taxes levied for the payment of bonds or to taxes authorized by a vote of the electors pursuant to s. 9(b) or s. 12, Art. VII

453284

of the State Constitution. Any such exemption shall remain in effect for up to 10 years with respect to any particular facility, or up to 20 years for a qualifying data center, regardless of any change in the authority of the county or municipality to grant such exemptions. The exemption shall not be prolonged or extended by granting exemptions from additional taxes or by virtue of any reorganization or sale of the business receiving the exemption.

(11) An ordinance granting an exemption under this section shall be adopted in the same manner as any other ordinance of the county or municipality and shall include the following:

(a) The name and address of the new business or expansion of an existing business to which the exemption is granted;

(b) The total amount of revenue available to the county or municipality from ad valorem tax sources for the current fiscal year, the total amount of revenue lost to the county or municipality for the current fiscal year by virtue of economic development ad valorem tax exemptions currently in effect, and the estimated revenue loss to the county or municipality for the current fiscal year attributable to the exemption of the business named in the ordinance;

(c) The period of time for which the exemption will remain in effect and the expiration date of the exemption, which may be any period of time up to 10 years, or up to 20 years for a qualifying data center; and

(d) A finding that the business named in the ordinance meets the requirements of s. 196.012(14) or (15).

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

453284

And the title is amended as follows:

Delete line 371

and insert:

An act relating to taxation; amending s. 196.1995, F.S.; providing applicability of an economic development ad valorem tax exemption to qualifying data centers; amending s. 212.08, F.S.;

342894

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/02/2016	.	
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The Committee on Appropriations (Gaetz) recommended the following:

Senate Amendment to Amendment (941552) (with title amendment)

Between lines 4 and 5
insert:

Section 1. Effective October 1, 2016, paragraph (m) of subsection (3) and subsection (5) of section 125.0104, Florida Statutes, are amended to read:

125.0104 Tourist development tax; procedure for levying; authorized uses; referendum; enforcement.—

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(3) TAXABLE PRIVILEGES; EXEMPTIONS; LEVY; RATE.—

(m)1. In addition to any other tax which is imposed pursuant to this section, a high tourism impact county may impose an additional 1-percent tax on the exercise of the privilege described in paragraph (a) by extraordinary vote of the governing board of the county. The tax revenues received pursuant to this paragraph shall be used for one or more of the authorized uses pursuant to subparagraph (5)(a)2., paragraph (5)(b), or paragraph (5)(c) ~~subsection (5)~~.

2. A county is considered to be a high tourism impact county after the Department of Revenue has certified to such county that the sales subject to the tax levied pursuant to this section exceeded $600 million during the previous calendar year, or were at least 18 percent of the county's total taxable sales under chapter 212 where the sales subject to the tax levied pursuant to this section were a minimum of $200 million, except that no county authorized to levy a convention development tax pursuant to s. 212.0305 shall be considered a high tourism impact county. Once a county qualifies as a high tourism impact county, it shall retain this designation for the period the tax is levied pursuant to this paragraph.

3. ~~The provisions of~~ Paragraphs (4)(a)-(d) do ~~shall~~ not apply to the adoption of the additional tax authorized in this paragraph. The effective date of the levy and imposition of the tax authorized under this paragraph shall be the first day of the second month following approval of the ordinance by the governing board or the first day of any subsequent month as may be specified in the ordinance. A certified copy of such ordinance shall be furnished by the county to the Department of

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Revenue within 10 days after approval of such ordinance.

(5) AUTHORIZED USES OF REVENUE.—

(a) Except as otherwise provided in this section, and after deducting payments required by subparagraph (c)2., all tax revenues received pursuant to this section by a county imposing the tourist development tax shall be used by that county as follows ~~for the following purposes only~~:

1. In a Gulf Coast tourism county, to fund lifeguards, and up to 10 percent of the revenues may be used to provide emergency medical services, as defined in s. 401.107(3), or law enforcement services that are needed for enhanced emergency medical or public safety services related to increased tourism and visitors to an area. If taxes collected pursuant to this section are used to fund emergency medical services or public safety services for tourism or special events, the governing board of a county or municipality is prohibited from using such taxes to supplant the normal operating expenses of an emergency services department, a fire department, a sheriff's office, or a police department. For the purposes of this subparagraph, the term "Gulf Coast Tourism County" shall mean a county which:

a. Is located adjacent to the Gulf of Mexico but not adjacent to the Atlantic Ocean; or

b. Collects a minimum of $10 million in annual revenues from any tax, or any combination of taxes, authorized to be levied pursuant to this section.

2. The remaining revenues shall be used for the following purposes only:

a.~~1.~~ To acquire, construct, extend, enlarge, remodel, repair, improve, maintain, operate, or promote one or more:

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(I)~~a.~~ Publicly owned and operated convention centers, sports stadiums, sports arenas, coliseums, or auditoriums within the boundaries of the county or subcounty special taxing district in which the tax is levied; or

(II)~~b.~~ Aquariums or museums that are publicly owned and operated or owned and operated by not-for-profit organizations and open to the public, within the boundaries of the county or subcounty special taxing district in which the tax is levied;

b.~~2.~~ To promote zoological parks that are publicly owned and operated or owned and operated by not-for-profit organizations and open to the public;

c.~~3.~~ To promote and advertise tourism in this state and nationally and internationally; however, if tax revenues are expended for an activity, service, venue, or event, the activity, service, venue, or event must have as one of its main purposes the attraction of tourists as evidenced by the promotion of the activity, service, venue, or event to tourists;

d.~~4.~~ To fund convention bureaus, tourist bureaus, tourist information centers, and news bureaus as county agencies or by contract with the chambers of commerce or similar associations in the county, which may include any indirect administrative costs for services performed by the county on behalf of the promotion agency; or

e.~~5.~~ To finance beach park facilities or beach improvement, maintenance, renourishment, restoration, and erosion control, including shoreline protection, enhancement, cleanup, or restoration of inland lakes and rivers to which there is public access as those uses relate to the physical preservation of the beach, shoreline, or inland lake or river. However, any funds

identified by a county as the local matching source for beach renourishment, restoration, or erosion control projects included in the long-range budget plan of the state's Beach Management Plan, pursuant to s. 161.091, or funds contractually obligated by a county in the financial plan for a federally authorized shore protection project may not be used or loaned for any other purpose. In counties with a population of fewer than 100,000 ~~population~~, up to 10 percent of the revenues from the tourist development tax may be used for beach park facilities.

Sub-subparagraphs a. and b. ~~Subparagraphs 1. and 2.~~ may be implemented through service contracts and leases with lessees that have sufficient expertise or financial capability to operate such facilities.

(b) Tax revenues received pursuant to this section by a county with a population of less than 750,000 ~~population~~ imposing a tourist development tax may only be used by that county for the following purposes in addition to those purposes allowed pursuant to paragraph (a): to acquire, construct, extend, enlarge, remodel, repair, improve, maintain, operate, or promote one or more zoological parks, fishing piers, or nature centers which are publicly owned and operated or owned and operated by not-for-profit organizations and open to the public. All population figures relating to this subsection shall be based on the most recent population estimates prepared pursuant to ~~the provisions of~~ s. 186.901. These population estimates shall be those in effect on July 1 of each year.

(c)1. The revenues to be derived from the tourist development tax may be pledged to secure and liquidate revenue

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bonds issued by the county for the purposes set forth in sub-subparagraphs (a)2.a., b., and e. ~~subparagraphs (a)1., 2., and 5.~~ or for the purpose of refunding bonds previously issued for such purposes, or both; however, no more than 50 percent of the revenues from the tourist development tax may be pledged to secure and liquidate revenue bonds or revenue refunding bonds issued for the purposes set forth in sub-subparagraph (a)2.e. ~~subparagraph (a)5.~~ Such revenue bonds and revenue refunding bonds may be authorized and issued in such principal amounts, with such interest rates and maturity dates, and subject to such other terms, conditions, and covenants as the governing board of the county shall provide. The Legislature intends that this paragraph be full and complete authority for accomplishing such purposes, but such authority is supplemental and additional to, and not in derogation of, any powers now existing or later conferred under law.

2. Revenues from tourist development taxes that are pledged to secure and liquidate revenue bonds or other forms of indebtedness issued pursuant to subparagraph 1. that are outstanding as of March 11, 2016, shall be made available first to make payments when due on the outstanding bonds or other forms of indebtedness before any other uses of the tax revenues.

(d) In order to recommend a proposed use of tourist development tax revenues authorized in subparagraph (a)2. or paragraph (b) to the governing board of a county, the tourist development council or a member of the public must submit a written proposal to the governing board of the county. The governing board of each county may determine the requirements for a written proposal, but, at a minimum, each proposal must

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include a description of the proposed use and an estimate of the cost.

(e) Before expending any revenues from a tourist development tax on a use authorized in subparagraph (a)2. or paragraph (b) in excess of $100,000, the governing board of a county or a person authorized by the governing board must perform or provide for the performance of a return-on-investment analysis or cost-benefit analysis for the proposed use. The return-on-investment analysis or cost-benefit analysis must be performed by an individual who has prior experience with input-output modeling or the application of economic multipliers, such as the Regional Input-Output Modeling System created by the Bureau of Economic Analysis of the United States Department of Commerce. The return-on-investment analysis or cost-benefit analysis shall be paid for by revenues received pursuant to paragraphs (3)(c) and (d).

(f) ~~(d)~~ Any use of the local option tourist development tax revenues collected pursuant to this section for a purpose not expressly authorized by paragraph (3)(l) or paragraph (3)(n) or paragraph (a), paragraph (b), or paragraph (c) of this subsection is expressly prohibited.

(g) As an additional means of enforcing the prohibition in paragraph (f), a county's decision to use revenues in violation of paragraph (f) is subject to administrative review pursuant to ss. 120.569 and 120.57. A party may file a petition with the Division of Administrative Hearings within 60 days after such decision, except that a county's decision to use such revenues for a facility for which tax revenues under this section have already been pledged to secure and liquidate revenue bonds

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pursuant to paragraph (c) is not subject to administrative review. Any remitter of the tax provided for in this section, or any organization representing multiple remitters of the tax, shall be considered to be a party whose substantial interests are affected by such use and may challenge a particular use or uses alleged to be in violation of paragraph (f). During the pendency of the administrative proceeding and any resulting appeal, tax revenues collected under this section may not be used to fund the challenged use or uses. The county's interpretation of this section shall be afforded no deference in the proceedings. The decision of the administrative law judge constitutes a final order in such action, subject to judicial review as provided in s. 120.68. A prevailing remitter or remitter organization shall be awarded the reasonable costs of the action plus reasonable attorney fees, including on appeal.

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

And the title is amended as follows:

Delete line 371

and insert:

An act relating to taxation; amending s. 125.0104, F.S.; revising uses of certain tourist development taxes; requiring the performance of a return-on-investment or cost-benefit analysis in specified circumstances; authorizing certain entities to file administrative challenges against counties for using tourist development taxes for unauthorized purposes; prohibiting use of those revenues for purposes which are the subject of a challenge; authorizing reasonable

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attorney fees and costs under specified circumstances;
amending s. 212.08, F.S.;

266252

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/02/2016	.	
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The Committee on Appropriations (Hays) recommended the following:

Senate Amendment to Amendment (941552) (with title amendment)

Between lines 355 and 356
insert:

Section 9. Paragraph (a) of subsection (2) of section 565.03, Florida Statutes, is amended to read:

565.03 License fees; manufacturers, distributors, brokers, sales agents, and importers of alcoholic beverages; vendor licenses and fees; craft distilleries.—

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(2)(a) A distillery authorized to do business under the Beverage Law shall pay an annual state license tax for each plant or branch operating in the state, as follows:

1. If engaged in the business of manufacturing distilled spirits, a state license tax of $4,000.

2. If engaged in the business of rectifying and blending spirituous liquors and nothing else, a state license tax of $4,000.

3. If engaged in the business of manufacturing distilled spirits as a qualified craft distillery, a state license tax of $1,000.

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

And the title is amended as follows:

Delete line 400

and insert:

income tax; amending s. 565.03, F.S.; specifying the annual state license tax for certain plants or branches of a specified distillery; providing an appropriation; providing

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LEGISLATIVE ACTION

Senate	.	House
Comm: RE	.	
03/04/2016	.	
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The Committee on Appropriations (Hukill and Lee) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Effective upon this act becoming a law, paragraph (b) of subsection (14) and paragraph (b) of subsection (15) of section 196.012, Florida Statutes, are amended to read:

196.012 Definitions.—For the purpose of this chapter, the following terms are defined as follows, except where the context clearly indicates otherwise:


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(14) "New business" means:

(b) Any business or organization located in an area that was designated as an enterprise zone pursuant to chapter 290 as of December 30, 2015, or brownfield area that first begins operation on a site clearly separate from any other commercial or industrial operation owned by the same business or organization.

(15) "Expansion of an existing business" means:

(b) Any business or organization located in an area that was designated as an enterprise zone pursuant to chapter 290 as of December 30, 2015, or brownfield area that increases operations on a site located within the same zone or area colocated with a commercial or industrial operation owned by the same business or organization under common control with the same business or organization.

Section 2. Effective upon this act becoming a law, subsections (5) and (11) of section 196.1995, Florida Statutes, are amended to read:

196.1995 Economic development ad valorem tax exemption.—

(5) Upon a majority vote in favor of such authority, the board of county commissioners or the governing authority of the municipality, at its discretion, by ordinance may exempt from ad valorem taxation up to 100 percent of the assessed value of all improvements to real property made by or for the use of a new business and of all tangible personal property of such new business, or up to 100 percent of the assessed value of all added improvements to real property made to facilitate the expansion of an existing business and of the net increase in all tangible personal property acquired to facilitate such expansion

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of an existing business. To qualify for this exemption, the improvements to real property must be made or the tangible personal property must be added or increased after approval by motion or resolution of the local governing body, subject to ordinance adoption or on or after the day the ordinance is adopted. However, if the authority to grant exemptions is approved in a referendum in which the ballot question contained in subsection (3) appears on the ballot, the authority of the board of county commissioners or the governing authority of the municipality to grant exemptions is limited solely to new businesses and expansions of existing businesses that are located in an area which was designated as an enterprise zone pursuant to chapter 290 as of December 30, 2015, or in a brownfield area. New businesses and expansions of existing businesses located in an area that was designated as an enterprise zone pursuant to chapter 290 as of December 30, 2015, but is not in a brownfield area, may qualify for the ad valorem tax exemption only if approved by motion or resolution of the local governing body, subject to ordinance adoption, or by ordinance, enacted before December 31, 2015. Property acquired to replace existing property shall not be considered to facilitate a business expansion. All data center equipment for a data center shall be exempt from ad valorem taxation for the term of the approved exemption. The exemption applies only to taxes levied by the respective unit of government granting the exemption. The exemption does not apply, however, to taxes levied for the payment of bonds or to taxes authorized by a vote of the electors pursuant to s. 9(b) or s. 12, Art. VII of the State Constitution. Any such exemption shall remain in effect


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for up to 10 years with respect to any particular facility, or up to 20 years for a data center, regardless of any change in the authority of the county or municipality to grant such exemptions or the expiration of the Enterprise Zone Act pursuant to chapter 290. The exemption shall not be prolonged or extended by granting exemptions from additional taxes or by virtue of any reorganization or sale of the business receiving the exemption.

(11) An ordinance granting an exemption under this section shall be adopted in the same manner as any other ordinance of the county or municipality and shall include the following:

(a) The name and address of the new business or expansion of an existing business to which the exemption is granted;

(b) The total amount of revenue available to the county or municipality from ad valorem tax sources for the current fiscal year, the total amount of revenue lost to the county or municipality for the current fiscal year by virtue of economic development ad valorem tax exemptions currently in effect, and the estimated revenue loss to the county or municipality for the current fiscal year attributable to the exemption of the business named in the ordinance;

(c) The period of time for which the exemption will remain in effect and the expiration date of the exemption, which may be any period of time up to 10 years, or up to 20 years for a data center; and

(d) A finding that the business named in the ordinance meets the requirements of s. 196.012(14) or (15).

Section 3. The amendments made by this act to ss. 196.012 and 196.1995, Florida Statutes, which relate to the ad valorem tax exemption for certain enterprise zone businesses are


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remedial in nature and apply retroactively to December 31, 2015, and the amendments to s. 196.1995, Florida Statutes, made by this act which relate to the ad valorem tax exemption for data center equipment apply upon this act becoming a law.

Section 4. Section 201.15, Florida Statutes, is amended to read:

201.15 Distribution of taxes collected.—All taxes collected under this chapter are hereby pledged and shall be first made available to make payments when due on bonds issued pursuant to s. 215.618 or s. 215.619, or any other bonds authorized to be issued on a parity basis with such bonds. Such pledge and availability for the payment of these bonds shall have priority over any requirement for the payment of service charges or costs of collection and enforcement under this section. All taxes collected under this chapter, except taxes distributed to the Land Acquisition Trust Fund pursuant to subsections (1) and (2), are subject to the service charge imposed in s. 215.20(1). Before distribution pursuant to this section, the Department of Revenue shall deduct amounts necessary to pay the costs of the collection and enforcement of the tax levied by this chapter. The costs and service charge may not be levied against any portion of taxes pledged to debt service on bonds to the extent that the costs and service charge are required to pay any amounts relating to the bonds. All of the costs of the collection and enforcement of the tax levied by this chapter and the service charge shall be available and transferred to the extent necessary to pay debt service and any other amounts payable with respect to bonds authorized before January 1, 2017 ~~2015~~, secured by revenues distributed pursuant to this section.

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All taxes remaining after deduction of costs shall be distributed as follows:

(1) Amounts necessary to make payments on bonds issued pursuant to s. 215.618 or s. 215.619, as provided under paragraphs (3)(a) and (b), or on any other bonds authorized to be issued on a parity basis with such bonds shall be deposited into the Land Acquisition Trust Fund.

(2) If the amounts deposited pursuant to subsection (1) are less than 33 percent of all taxes collected after first deducting the costs of collection, an amount equal to 33 percent of all taxes collected after first deducting the costs of collection, minus the amounts deposited pursuant to subsection (1), shall be deposited into the Land Acquisition Trust Fund.

(3) Amounts on deposit in the Land Acquisition Trust Fund shall be used in the following order:

(a) Payment of debt service or funding of debt service reserve funds, rebate obligations, or other amounts payable with respect to Florida Forever bonds issued pursuant to s. 215.618. The amount used for such purposes may not exceed $300 million in each fiscal year. It is the intent of the Legislature that all bonds issued to fund the Florida Forever Act be retired by December 31, 2040. Except for bonds issued to refund previously issued bonds, no series of bonds may be issued pursuant to this paragraph unless such bonds are approved and the debt service for the remainder of the fiscal year in which the bonds are issued is specifically appropriated in the General Appropriations Act.

(b) Payment of debt service or funding of debt service reserve funds, rebate obligations, or other amounts due with


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respect to Everglades restoration bonds issued pursuant to s. 215.619. Taxes distributed under paragraph (a) and this paragraph must be collectively distributed on a pro rata basis when the available moneys under this subsection are not sufficient to cover the amounts required under paragraph (a) and this paragraph.

Bonds issued pursuant to s. 215.618 or s. 215.619 are equally and ratably secured by moneys distributable to the Land Acquisition Trust Fund.

(4) After the required distributions to the Land Acquisition Trust Fund pursuant to subsections (1) and (2) and deduction of the service charge imposed pursuant to s. 215.20(1), the remainder shall be distributed as follows:

(a) The lesser of 24.18442 percent of the remainder or $541.75 million in each fiscal year shall be paid into the State Treasury to the credit of the State Transportation Trust Fund. Of such funds, $75 million for each fiscal year shall be transferred to the State Economic Enhancement and Development Trust Fund within the Department of Economic Opportunity. Notwithstanding any other law, the remaining amount credited to the State Transportation Trust Fund shall be used for:

1. Capital funding for the New Starts Transit Program, authorized by Title 49, U.S.C. s. 5309 and specified in s. 341.051, in the amount of 10 percent of the funds;

2. The Small County Outreach Program specified in s. 339.2818, in the amount of 10 percent of the funds;

3. The Strategic Intermodal System specified in ss. 339.61, 339.62, 339.63, and 339.64, in the amount of 75 percent of the

funds after deduction of the payments required pursuant to subparagraphs 1. and 2.; and

4. The Transportation Regional Incentive Program specified in s. 339.2819, in the amount of 25 percent of the funds after deduction of the payments required pursuant to subparagraphs 1. and 2. The first $60 million of the funds allocated pursuant to this subparagraph shall be allocated annually to the Florida Rail Enterprise for the purposes established in s. 341.303(5).

(b) The lesser of 0.1456 percent of the remainder or $3.25 million in each fiscal year shall be paid into the State Treasury to the credit of the Grants and Donations Trust Fund in the Department of Economic Opportunity to fund technical assistance to local governments.

Moneys distributed pursuant to paragraphs (a) and (b) may not be pledged for debt service unless such pledge is approved by referendum of the voters.

(c) Eleven and twenty-four hundredths percent of the remainder in each fiscal year shall be paid into the State Treasury to the credit of the State Housing Trust Fund. Of such funds, the first $35 million shall be transferred annually, subject to any distribution required under subsection (5), to the State Economic Enhancement and Development Trust Fund within the Department of Economic Opportunity. The remainder shall be used as follows:

1. Half of that amount shall be used for the purposes for which the State Housing Trust Fund was created and exists by law.

2. Half of that amount shall be paid into the State Treasury to the credit of the Local Government Housing Trust

Fund and used for the purposes for which the Local Government Housing Trust Fund was created and exists by law.

(d) Twelve and ninety-three hundredths percent of the remainder in each fiscal year shall be paid into the State Treasury to the credit of the State Housing Trust Fund. Of such funds, the first $40 million shall be transferred annually, subject to any distribution required under subsection (5), to the State Economic Enhancement and Development Trust Fund within the Department of Economic Opportunity. The remainder shall be used as follows:

1. Twelve and one-half percent of that amount shall be deposited into the State Housing Trust Fund and expended by the Department of Economic Opportunity and the Florida Housing Finance Corporation for the purposes for which the State Housing Trust Fund was created and exists by law.

2. Eighty-seven and one-half percent of that amount shall be distributed to the Local Government Housing Trust Fund and used for the purposes for which the Local Government Housing Trust Fund was created and exists by law. Funds from this category may also be used to provide for state and local services to assist the homeless.

(e) The lesser of 0.017 percent of the remainder or $300,000 in each fiscal year shall be paid into the State Treasury to the credit of the General Inspection Trust Fund to be used to fund oyster management and restoration programs as provided in s. 379.362(3).

(5) Distributions to the State Housing Trust Fund pursuant to paragraphs (4)(c) and (d) must be sufficient to cover amounts required to be transferred to the Florida Affordable Housing

Guarantee Program's annual debt service reserve and guarantee fund pursuant to s. 420.5092(6)(a) and (b) up to the amount required to be transferred to such reserve and fund based on the percentage distribution of documentary stamp tax revenues to the State Housing Trust Fund which is in effect in the 2004-2005 fiscal year.

(6) After the distributions provided in the preceding subsections, any remaining taxes shall be paid into the State Treasury to the credit of the General Revenue Fund.

Section 5. Paragraph (b) of subsection (1) of section 206.9825, Florida Statutes, is amended to read:

206.9825 Aviation fuel tax.—

(1)

(b) Any licensed wholesaler or terminal supplier that delivers aviation fuel to an air carrier offering transcontinental jet service and that, after January 1, 1996, but before July 1, 2016, increases the air carrier's Florida workforce by more than 1,000 ~~1000~~ percent and by 250 or more full-time equivalent employee positions, may receive a credit or refund as the ultimate vendor of the aviation fuel for the 6.9 cents excise tax previously paid, provided that the air carrier has no facility for fueling highway vehicles from the tank in which the aviation fuel is stored. In calculating the new or additional Florida full-time equivalent employee positions, any full-time equivalent employee positions of parent or subsidiary corporations which existed before January 1, 1996, shall not be counted toward reaching the Florida employment increase thresholds. The refund allowed under this paragraph is in furtherance of the goals and policies of the State Comprehensive


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Plan set forth in s. 187.201(16)(a), (b)1., 2., (17)(a), (b)1., 4., (19)(a), (b)5., (21)(a), (b)1., 2., 4., 7., 9., and 12.

Section 6. Effective July 1, 2019, section 206.9825, Florida Statutes, as amended by this act, is amended to read:

206.9825 Aviation fuel tax.—

(1)(a) Except as otherwise provided in this part, an excise tax of 4.27 ~~6.9~~ cents per gallon of aviation fuel is imposed upon every gallon of aviation fuel sold in this state, or brought into this state for use, upon which such tax has not been paid or the payment thereof has not been lawfully assumed by some person handling the same in this state. Fuel taxed pursuant to this part is ~~shall~~ not ~~be~~ subject to the taxes imposed by ss. 206.41(1)(d), (e), and (f) and 206.87(1)(b), (c), and (d).

~~(b) Any licensed wholesaler or terminal supplier that delivers aviation fuel to an air carrier offering transcontinental jet service and that, after January 1, 1996, but before July 1, 2016, increases the air carrier's Florida workforce by more than 1,000 percent and by 250 or more full-time equivalent employee positions, may receive a credit or refund as the ultimate vendor of the aviation fuel for the 6.9 cents excise tax previously paid, provided that the air carrier has no facility for fueling highway vehicles from the tank in which the aviation fuel is stored. In calculating the new or additional Florida full-time equivalent employee positions, any full-time equivalent employee positions of parent or subsidiary corporations which existed before January 1, 1996, shall not be counted toward reaching the Florida employment increase thresholds. The refund allowed under this paragraph is in~~

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~~furtherance of the goals and policies of the State Comprehensive Plan set forth in s. 187.201(16)(a), (b)1., 2., (17)(a), (b)1., 4., (19)(a), (b)5., (21)(a), (b)1., 2., 4., 7., 9., and 12.~~

~~(c) If, before July 1, 2001, the number of full-time equivalent employee positions created or added to the air carrier's Florida workforce falls below 250, the exemption granted pursuant to this section shall not apply during the period in which the air carrier has fewer than the 250 additional employees.~~

~~(d) The exemption taken by credit or refund pursuant to paragraph (b) shall apply only under the terms and conditions set forth therein. If any part of that paragraph is judicially declared to be unconstitutional or invalid, the validity of any provisions taxing aviation fuel shall not be affected and all fuel exempted pursuant to paragraph (b) shall be subject to tax as if the exemption was never enacted. Every person benefiting from such exemption shall be liable for and make payment of all taxes for which a credit or refund was granted.~~

(b) ~~(e)~~1. Sales of aviation fuel to, and exclusively used for flight training through a school of aeronautics or college of aviation by, a college based in this state which is a tax-exempt organization under s. 501(c)(3) of the Internal Revenue Code or a university based in this state are exempt from the tax imposed by this part if the college or university:

a. Is accredited by or has applied for accreditation by the Aviation Accreditation Board International; and

b. Offers a graduate program in aeronautical or aerospace engineering or offers flight training through a school of aeronautics or college of aviation.


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2. A licensed wholesaler or terminal supplier that sells aviation fuel to a college or university qualified under this paragraph and that does not collect the aviation fuel tax from the college or university on such sale may receive an ultimate vendor credit for the 4.27-cent ~~6.9-cent~~ excise tax previously paid on the aviation fuel delivered to such college or university.

3. A college or university qualified under this paragraph which purchases aviation fuel from a retail supplier, including a fixed-base operator, and pays the 4.27-cent ~~6.9-cent~~ excise tax on the purchase may apply for and receive a refund of the aviation fuel tax paid.

(2)(a) An excise tax of 4.27 ~~6.9~~ cents per gallon is imposed on each gallon of kerosene in the same manner as prescribed for diesel fuel under ss. 206.87(2) and 206.872.

(b) The exemptions provided by s. 206.874 shall apply to kerosene if the dyeing and marking requirements of s. 206.8741 are met.

(c) Kerosene prepackaged in containers of 5 gallons or less and labeled "Not for Use in a Motor Vehicle" is exempt from the taxes imposed by this part when sold for home heating and cooking. Packagers may qualify for a refund of taxes previously paid, as prescribed by the department.

(d) Sales of kerosene in quantities of 5 gallons or less by a person not licensed under this chapter who has no facilities for placing kerosene in the fuel supply system of a motor vehicle may qualify for a refund of taxes paid. Refunds of taxes paid shall be limited to sales for use in home heating or cooking and shall be documented as prescribed by the department.

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(3) An excise tax of 4.27 ~~6.9~~ cents per gallon is imposed on each gallon of aviation gasoline in the manner prescribed by paragraph (2)(a). However, the exemptions allowed by paragraph (2)(b) do not apply to aviation gasoline.

(4) Any licensed wholesaler or terminal supplier that delivers undyed kerosene to a residence for home heating or cooking may receive a credit or refund as the ultimate vendor of the kerosene for the 4.27-cent ~~6.9 cents~~ excise tax previously paid.

(5) Any licensed wholesaler or terminal supplier that delivers undyed kerosene to a retail dealer not licensed as a wholesaler or terminal supplier for sale as a home heating or cooking fuel may receive a credit or refund as the ultimate vendor of the kerosene for the 4.27-cent ~~6.9 cents~~ excise tax previously paid, provided the retail dealer has no facility for fueling highway vehicles from the tank in which the kerosene is stored.

(6) Any person who fails to meet the requirements of this section is subject to a backup tax as provided by s. 206.873.

Section 7. Section 210.13, Florida Statutes, is amended to read:

210.13 Determination of tax on failure to file a return.—If a dealer or other person required to remit the tax under this part fails to file any return required under this part~~,~~ or, having filed an incorrect or insufficient return, fails to file a correct or sufficient return, as the case may require, within 10 days after the giving of notice to the dealer or other person by the Division of Alcoholic Beverages and Tobacco that such return or corrected or sufficient return is required, the

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division shall determine the amount of tax due by such dealer or other person any time within 3 years after the making of the earliest sale included in such determination and give written notice of such determination to such dealer or other person. Such a determination shall finally and irrevocably fix the tax unless the dealer or other person against whom it is assessed ~~shall~~, within 30 days after the giving of notice of such determination, applies ~~apply~~ to the division for a hearing. Judicial review shall not be granted unless the amount of tax stated in the decision, with penalties thereon, if any, is ~~shall have been~~ first deposited with the division, and an undertaking or bond filed in the court in which such cause may be pending in such amount and with such sureties as the court shall approve, conditioned that if such proceeding be dismissed or the decision of the division confirmed, the applicant for review will pay all costs and charges which may accrue against the applicant in the prosecution of the proceeding. At the option of the applicant, such undertaking or bond may be in an additional sum sufficient to cover the tax, penalties, costs, and charges aforesaid, in which event the applicant shall not be required to pay such tax and penalties precedent to the granting of such review by such court.

Section 8. Subsections (1) through (13) of section 210.25, Florida Statutes, are renumbered as subsections (2) through (14), respectively, a new subsection (1) is added to that section, and present subsection (13) of that section is amended, to read:

210.25 Definitions.—As used in this part:

(1) "Affiliate" means a manufacturer or other person that

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directly or indirectly, through one or more intermediaries, controls or is controlled by a distributor or that is under common control with a distributor.

(14) ~~(13)~~ "Wholesale sales price" means the sum of:

(a) The full price paid by the distributor to acquire the tobacco products, including charges by the seller for the cost of materials, the cost of labor and service, charges for transportation and delivery, the federal excise tax, and any other charge, even if the charge is listed as a separate item on the invoice paid by the ~~established price for which a manufacturer sells a tobacco product to a~~ distributor, exclusive of any diminution by volume or other discounts, including a discount provided to a distributor by an affiliate; and

(b) The federal excise tax paid by the distributor on the tobacco products if the tax is not included in the full price under paragraph (a).

Section 9. Paragraph (a) of subsection (1) of section 212.05, Florida Statutes, is amended to read:

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

(1) For the exercise of such privilege, a tax is levied on each taxable transaction or incident, which tax is due and

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payable as follows:

(a)1.a. At the rate of 6 percent of the sales price of each item or article of tangible personal property when sold at retail in this state, computed on each taxable sale for the purpose of remitting the amount of tax due the state, and including each and every retail sale.

b. Each occasional or isolated sale of an aircraft, boat, mobile home, or motor vehicle of a class or type which is required to be registered, licensed, titled, or documented in this state or by the United States Government shall be subject to tax at the rate provided in this paragraph. The department shall by rule adopt any nationally recognized publication for valuation of used motor vehicles as the reference price list for any used motor vehicle which is required to be licensed pursuant to s. 320.08(1), (2), (3)(a), (b), (c), or (e), or (9). If any party to an occasional or isolated sale of such a vehicle reports to the tax collector a sales price which is less than 80 percent of the average loan price for the specified model and year of such vehicle as listed in the most recent reference price list, the tax levied under this paragraph shall be computed by the department on such average loan price unless the parties to the sale have provided to the tax collector an affidavit signed by each party, or other substantial proof, stating the actual sales price. Any party to such sale who reports a sales price less than the actual sales price is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. The department shall collect or attempt to collect from such party any delinquent sales taxes. In addition, such party shall pay any tax due and any penalty

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and interest assessed plus a penalty equal to twice the amount of the additional tax owed. Notwithstanding any other provision of law, the Department of Revenue may waive or compromise any penalty imposed pursuant to this subparagraph.

2. This paragraph does not apply to the sale of a boat or aircraft by or through a registered dealer under this chapter to a purchaser who, at the time of taking delivery, is a nonresident of this state, does not make his or her permanent place of abode in this state, and is not engaged in carrying on in this state any employment, trade, business, or profession in which the boat or aircraft will be used in this state, or is a corporation none of the officers or directors of which is a resident of, or makes his or her permanent place of abode in, this state, or is a noncorporate entity that has no individual vested with authority to participate in the management, direction, or control of the entity's affairs who is a resident of, or makes his or her permanent abode in, this state. For purposes of this exemption, either a registered dealer acting on his or her own behalf as seller, a registered dealer acting as broker on behalf of a seller, or a registered dealer acting as broker on behalf of the purchaser may be deemed to be the selling dealer. This exemption shall not be allowed unless:

a. The purchaser removes a qualifying boat, as described in sub-subparagraph f., from the state within 90 days after the date of purchase or extension, or the purchaser removes a nonqualifying boat or an aircraft from this state within 10 days after the date of purchase or, when the boat or aircraft is repaired or altered, within 20 days after completion of the repairs or alterations; or if the aircraft will be registered in

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a foreign jurisdiction and:

(I) Application for the aircraft's registration is properly filed with a civil airworthiness authority of a foreign jurisdiction within 10 days after the date of purchase;

(II) The purchaser removes the aircraft from the state to a foreign jurisdiction within 10 days after the date the aircraft is registered by the applicable foreign airworthiness authority; and

(III) The aircraft is operated in the state solely to remove it from the state to a foreign jurisdiction.

For purposes of this sub-subparagraph, the term "foreign jurisdiction" means any jurisdiction outside of the United States or any of its territories;

b. The purchaser, within 30 days from the date of departure, provides ~~shall provide~~ the department with written proof that the purchaser licensed, registered, titled, or documented the boat or aircraft outside the state. If such written proof is unavailable, within 30 days the purchaser shall provide proof that the purchaser applied for such license, title, registration, or documentation. The purchaser shall forward to the department proof of title, license, registration, or documentation upon receipt;

c. The purchaser, within 10 days of removing the boat or aircraft from Florida, furnishes ~~shall furnish~~ the department with proof of removal in the form of receipts for fuel, dockage, slippage, tie-down, or hangaring from outside of Florida. The information so provided must clearly and specifically identify the boat or aircraft;


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d. The selling dealer, within 5 days of the date of sale, provides ~~shall provide~~ to the department a copy of the sales invoice, closing statement, bills of sale, and the original affidavit signed by the purchaser attesting that he or she has read the provisions of this section;

e. The seller makes a copy of the affidavit a part of his or her record for as long as required by s. 213.35; and

f. Unless the nonresident purchaser of a boat of 5 net tons of admeasurement or larger intends to remove the boat from this state within 10 days after the date of purchase or when the boat is repaired or altered, within 20 days after completion of the repairs or alterations, the nonresident purchaser applies ~~shall apply~~ to the selling dealer for a decal which authorizes 90 days after the date of purchase for removal of the boat. The nonresident purchaser of a qualifying boat may apply to the selling dealer within 60 days after the date of purchase for an extension decal that authorizes the boat to remain in this state for an additional 90 days, but not more than a total of 180 days, before the nonresident purchaser is required to pay the tax imposed by this chapter. The department is authorized to issue decals in advance to dealers. The number of decals issued in advance to a dealer shall be consistent with the volume of the dealer's past sales of boats which qualify under this sub-subparagraph. The selling dealer or his or her agent shall mark and affix the decals to qualifying boats in the manner prescribed by the department, before ~~prior to~~ delivery of the boat.

(I) The department is hereby authorized to charge dealers a fee sufficient to recover the costs of decals issued, except the

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extension decal shall cost $425.

(II) The proceeds from the sale of decals will be deposited into the administrative trust fund.

(III) Decals shall display information to identify the boat as a qualifying boat under this sub-subparagraph, including, but not limited to, the decal's date of expiration.

(IV) The department is authorized to require dealers who purchase decals to file reports with the department and may prescribe all necessary records by rule. All such records are subject to inspection by the department.

(V) Any dealer or his or her agent who issues a decal falsely, fails to affix a decal, mismarks the expiration date of a decal, or fails to properly account for decals will be considered prima facie to have committed a fraudulent act to evade the tax and will be liable for payment of the tax plus a mandatory penalty of 200 percent of the tax, and shall be liable for fine and punishment as provided by law for a conviction of a misdemeanor of the first degree, as provided in s. 775.082 or s. 775.083.

(VI) Any nonresident purchaser of a boat who removes a decal before ~~prior to~~ permanently removing the boat from the state, or defaces, changes, modifies, or alters a decal in a manner affecting its expiration date before ~~prior to~~ its expiration, or who causes or allows the same to be done by another, will be considered prima facie to have committed a fraudulent act to evade the tax and will be liable for payment of the tax plus a mandatory penalty of 200 percent of the tax, and shall be liable for fine and punishment as provided by law for a conviction of a misdemeanor of the first degree, as

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provided in s. 775.082 or s. 775.083.

(VII) The department is authorized to adopt rules necessary to administer and enforce this subparagraph and to publish the necessary forms and instructions.

(VIII) The department is hereby authorized to adopt emergency rules pursuant to s. 120.54(4) to administer and enforce the provisions of this subparagraph.

If the purchaser fails to remove the qualifying boat from this state within the maximum 180 days after purchase or a nonqualifying boat or an aircraft from this state within 10 days after purchase or, when the boat or aircraft is repaired or altered, within 20 days after completion of such repairs or alterations, or permits the boat or aircraft to return to this state within 6 months from the date of departure, except as provided in s. 212.08(7)(fff), or if the purchaser fails to furnish the department with any of the documentation required by this subparagraph within the prescribed time period, the purchaser shall be liable for use tax on the cost price of the boat or aircraft and, in addition thereto, payment of a penalty to the Department of Revenue equal to the tax payable. This penalty shall be in lieu of the penalty imposed by s. 212.12(2). The maximum 180-day period following the sale of a qualifying boat tax-exempt to a nonresident may not be tolled for any reason.

Section 10. Paragraph (c) of subsection (1) of section 212.06, Florida Statutes, is amended to read:

212.06 Sales, storage, use tax; collectible from dealers; “dealer” defined; dealers to collect from purchasers;

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legislative intent as to scope of tax.—

(1)

(c)1. Notwithstanding the provisions of paragraph (b), the use tax on asphalt manufactured for one's own use shall be calculated with respect to paragraph (b) only upon the cost of materials which become a component part or which are an ingredient of the finished asphalt and upon the cost of the transportation of such components and ingredients. In addition, an indexed tax of 38 cents per ton of such manufactured asphalt shall be due at the same time and in the same manner as taxes due pursuant to paragraph (b). Beginning July 1, 1989, the indexed tax shall be adjusted each July 1 to an amount, rounded to the nearest cent, equal to the product of 38 cents multiplied by a fraction, the numerator of which is the annual average of the "materials and components for construction" series of the producer price index, as calculated and published by the United States Department of Labor, Bureau of Statistics, for the previous calendar year, and the denominator of which is the annual average of said series for calendar year 1988.

2.a. Beginning July 1, 1999, the indexed tax imposed by this paragraph on manufactured asphalt which is used for any federal, state, or local government public works project shall be reduced by 20 percent.

b. Beginning July 1, 2000, the indexed tax imposed by this paragraph on manufactured asphalt which is used for any federal, state, or local government public works project shall be reduced by 40 percent.

c. Beginning July 1, 2016, the indexed tax imposed by this paragraph on manufactured asphalt which is used for any federal,

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state, or local government public works project shall be reduced by 60 percent.

d. Beginning July 1, 2017, the indexed tax imposed by this paragraph on manufactured asphalt which is used for any federal, state, or local government public works project shall be reduced by 80 percent.

e. Beginning July 1, 2018, manufactured asphalt used for any federal, state, or local government public works project shall be exempt from the indexed tax imposed by this paragraph.

Section 11. Paragraphs (n) and (kkk) of subsection (7) of section 212.08, Florida Statutes, are amended to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any entity by this chapter do not inure to any transaction that is otherwise taxable under this chapter when payment is made by a representative or employee of the entity by any means, including, but not limited to, cash, check, or credit card, even when that representative or employee is subsequently reimbursed by the entity. In addition, exemptions provided to any entity by this subsection do not inure to any transaction that is otherwise taxable under this chapter unless the entity has obtained a sales tax exemption certificate from the department or the entity obtains or provides other documentation as required by the department. Eligible purchases or leases made

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with such a certificate must be in strict compliance with this subsection and departmental rules, and any person who makes an exempt purchase with a certificate that is not in strict compliance with this subsection and the rules is liable for and shall pay the tax. The department may adopt rules to administer this subsection.

(n) *Veterans' organizations.*—

1. There are exempt from the tax imposed by this chapter transactions involving sales or leases to qualified veterans' organizations and their auxiliaries when used in carrying on their customary veterans' organization activities or sales of food or drink by qualified veterans' organizations in connection with customary veterans' organization activities to members of qualified veterans' organizations.

2. As used in this paragraph, the term "veterans' organizations" means nationally chartered or recognized veterans' organizations, including, but not limited to, the American Legion, Veterans of Foreign Wars of the United States, Florida chapters of the Paralyzed Veterans of America, Catholic War Veterans of the U.S.A., Jewish War Veterans of the U.S.A., and the Disabled American Veterans, Department of Florida, Inc., which hold current exemptions from federal income tax under s. 501(c)(4) or (19) of the Internal Revenue Code of 1986, as amended.

(kkk) *Certain machinery and equipment.*—

1. Industrial machinery and equipment purchased by eligible manufacturing businesses which is used at a fixed location in ~~within~~ this state~~, or a mixer drum affixed to a mixer truck which is used at any location within this state to mix, agitate,~~

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~~and transport freshly mixed concrete in a plastic state,~~ for the manufacture, processing, compounding, or production of items of tangible personal property for sale is ~~shall be~~ exempt from the tax imposed by this chapter. ~~Parts and labor required to affix a mixer drum exempt under this paragraph to a mixer truck are also exempt.~~ If, at the time of purchase, the purchaser furnishes the seller with a signed certificate certifying the purchaser's entitlement to exemption pursuant to this paragraph, the seller is not required to collect ~~is relieved of the responsibility for collecting~~ the tax on the sale of such items, and the department shall look solely to the purchaser for recovery of the tax if it determines that the purchaser was not entitled to the exemption.

2. For purposes of this paragraph, the term:

a. "Eligible manufacturing business" means any business whose primary business activity at the location where the industrial machinery and equipment is located is within the industries classified under NAICS codes 31, 32, ~~and~~ 33, and 423930.

b. "Eligible postharvest activity business" means a business whose primary business activity, at the location where the postharvest machinery and equipment is located, is within the industries classified under NAICS code 115114.

c. ~~As used in this subparagraph,~~ "NAICS" means those classifications contained in the North American Industry Classification System, as published in 2007 by the Office of Management and Budget, Executive Office of the President.

d.~~b.~~ "Primary business activity" means an activity representing more than 50 percent of the activities conducted at the location where the industrial machinery and equipment or


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postharvest machinery and equipment is located.

e.~~c.~~ "Industrial machinery and equipment" means tangible personal property or other property that has a depreciable life of 3 years or more and that is used as an integral part in the manufacturing, processing, compounding, or production of tangible personal property for sale. The term includes tangible personal property or other property that has a depreciable life of 3 years or more which is used as an integral part in the recycling of metals for sale. A building and its structural components are not industrial machinery and equipment unless the building or structural component is so closely related to the industrial machinery and equipment that it houses or supports that the building or structural component can be expected to be replaced when the machinery and equipment are replaced. Heating and air conditioning systems are not industrial machinery and equipment unless the sole justification for their installation is to meet the requirements of the production process, even though the system may provide incidental comfort to employees or serve, to an insubstantial degree, nonproduction activities. The term includes parts and accessories for industrial machinery and equipment only to the extent that the parts and accessories are purchased before ~~prior to~~ the date the machinery and equipment are placed in service.

f. "Postharvest activities" means services performed on crops, after their harvest, with the intent of preparing them for market or further processing. Postharvest activities include, but are not limited to, crop cleaning, sun drying, shelling, fumigating, curing, sorting, grading, packing, and cooling.

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g. "Postharvest machinery and equipment" means tangible personal property or other property with a depreciable life of 3 years or more which is used primarily for postharvest activities. A building and its structural components are not postharvest industrial machinery and equipment unless the building or structural component is so closely related to the postharvest machinery and equipment that it houses or supports that the building or structural component can be expected to be replaced when the postharvest machinery and equipment is replaced. Heating and air conditioning systems are not postharvest machinery and equipment unless the sole justification for their installation is to meet the requirements of the postharvest activities process, even though the system may provide incidental comfort to employees or serve, to an insubstantial degree, nonpostharvest activities.

3. Postharvest machinery and equipment purchased by an eligible postharvest activity business which is used at a fixed location in this state is exempt from the tax imposed by this chapter. All labor charges for the repair of, and parts and materials used in the repair of and incorporated into, such postharvest machinery and equipment are also exempt. If, at the time of purchase, the purchaser furnishes the seller with a signed certificate certifying the purchaser's entitlement to exemption pursuant to this subparagraph, the seller is not required to collect the tax on the sale of such items, and the department shall look solely to the purchaser for recovery of the tax if it determines that the purchaser was not entitled to the exemption.

4.~~3.~~ A mixer drum affixed to a mixer truck which is used at

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any location in this state to mix, agitate, and transport freshly mixed concrete in a plastic state for sale is exempt from the tax imposed by this chapter. Parts and labor required to affix a mixer drum exempt under this subparagraph to a mixer truck are also exempt. If, at the time of purchase, the purchaser furnishes the seller with a signed certificate certifying the purchaser's entitlement to exemption pursuant to this subparagraph, the seller is not required to collect the tax on the sale of such items, and the department shall look solely to the purchaser for recovery of the tax if it determines that the purchaser was not entitled to the exemption. This subparagraph ~~paragraph~~ is repealed April 30, 2017.

Section 12. Effective upon this act becoming a law and operating retroactively to January 1, 2016, paragraph (n) of subsection (1) and paragraph (c) of subsection (2) of section 220.03, Florida Statutes, are amended to read:

220.03 Definitions.—

(1) SPECIFIC TERMS.—When used in this code, and when not otherwise distinctly expressed or manifestly incompatible with the intent thereof, the following terms shall have the following meanings:

(n) "Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended and in effect on January 1, 2016 ~~2015~~, except as provided in subsection (3).

(2) DEFINITIONAL RULES.—When used in this code and neither otherwise distinctly expressed nor manifestly incompatible with the intent thereof:

(c) Any term used in this code has the same meaning as when used in a comparable context in the Internal Revenue Code and

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other statutes of the United States relating to federal income taxes, as such code and statutes are in effect on January 1, 2016 ~~2015~~. However, if subsection (3) is implemented, the meaning of a term shall be taken at the time the term is applied under this code.

Section 13. Effective upon this act becoming a law and operating retroactively to January 1, 2016, paragraph (e) of subsection (1) of section 220.13, Florida Statutes, is amended to read:

220.13 "Adjusted federal income" defined.—

(1) The term "adjusted federal income" means an amount equal to the taxpayer's taxable income as defined in subsection (2), or such taxable income of more than one taxpayer as provided in s. 220.131, for the taxable year, adjusted as follows:

(e) *Adjustments related to federal acts.*—Taxpayers shall be required to make the adjustments prescribed in this paragraph for Florida tax purposes with respect to certain tax benefits received pursuant to the Economic Stimulus Act of 2008, the American Recovery and Reinvestment Act of 2009, the Small Business Jobs Act of 2010, the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, the American Taxpayer Relief Act of 2012, ~~and~~ the Tax Increase Prevention Act of 2014, and the Consolidated Appropriations Act, 2016.

1. There shall be added to such taxable income an amount equal to 100 percent of any amount deducted for federal income tax purposes as bonus depreciation for the taxable year pursuant to ss. 167 and 168(k) of the Internal Revenue Code of 1986, as


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amended by s. 103 of Pub. L. No. 110-185, s. 1201 of Pub. L. No. 111-5, s. 2022 of Pub. L. No. 111-240, s. 401 of Pub. L. No. 111-312, s. 331 of Pub. L. No. 112-240, ~~and~~ s. 125 of Pub. L. No. 113-295, and s. 143 of Division Q of Pub. L. No. 114-113, for property placed in service after December 31, 2007, and before January 1, 2021 ~~2015~~. For the taxable year and for each of the 6 subsequent taxable years, there shall be subtracted from such taxable income an amount equal to one-seventh of the amount by which taxable income was increased pursuant to this subparagraph, notwithstanding any sale or other disposition of the property that is the subject of the adjustments and regardless of whether such property remains in service in the hands of the taxpayer.

2. There shall be added to such taxable income an amount equal to 100 percent of any amount in excess of $128,000 deducted for federal income tax purposes for the taxable year pursuant to s. 179 of the Internal Revenue Code of 1986, as amended by s. 102 of Pub. L. No. 110-185, s. 1202 of Pub. L. No. 111-5, s. 2021 of Pub. L. No. 111-240, s. 402 of Pub. L. No. 111-312, s. 315 of Pub. L. No. 112-240, and s. 127 of Pub. L. No. 113-295, for taxable years beginning after December 31, 2007, and before January 1, 2015. For the taxable year and for each of the 6 subsequent taxable years, there shall be subtracted from such taxable income one-seventh of the amount by which taxable income was increased pursuant to this subparagraph, notwithstanding any sale or other disposition of the property that is the subject of the adjustments and regardless of whether such property remains in service in the hands of the taxpayer.

3. There shall be added to such taxable income an amount equal to the amount of deferred income not included in such taxable income pursuant to s. 108(i)(1) of the Internal Revenue Code of 1986, as amended by s. 1231 of Pub. L. No. 111-5. There shall be subtracted from such taxable income an amount equal to the amount of deferred income included in such taxable income pursuant to s. 108(i)(1) of the Internal Revenue Code of 1986, as amended by s. 1231 of Pub. L. No. 111-5.

4. Subtractions available under this paragraph may be transferred to the surviving or acquiring entity following a merger or acquisition and used in the same manner and with the same limitations as specified by this paragraph.

5. The additions and subtractions specified in this paragraph are intended to adjust taxable income for Florida tax purposes, and, notwithstanding any other provision of this code, such additions and subtractions shall be permitted to change a taxpayer’s net operating loss for Florida tax purposes.

Section 14. (1) The Department of Revenue is authorized, and all conditions are deemed to be met, to adopt emergency rules pursuant to s. 120.54(4), Florida Statutes, for the purpose of implementing the amendments made by this act to s. 220.03(1)(n) and (2)(c), Florida Statutes, and s. 220.13(1)(e), Florida Statutes.

(2) Notwithstanding any other provision of law, emergency rules adopted pursuant to subsection (1) are effective for 6 months after adoption and may be renewed during the pendency of procedures to adopt permanent rules addressing the subject of the emergency rules.

(3) This section expires January 1, 2020.

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Section 15. Effective upon this act becoming a law and applicable to taxable years beginning on or after January 1, 2016, section 220.222, Florida Statutes, is amended to read:

220.222 Returns; time and place for filing.—

(1)(a) Returns required by this code shall be filed with the office of the department in Leon County or at such other place as the department may by regulation prescribe. All returns required for a DISC (Domestic International Sales Corporation) under paragraph 6011(c)(2) of the Internal Revenue Code shall be filed on or before the 1st day of the 10th month after ~~following~~ the close of the taxable year; all partnership information returns shall be filed on or before the 1st day of the 4th ~~5th~~ month after ~~following~~ the close of the taxable year; and all other returns shall be filed on or before the 1st day of the 5th ~~4th~~ month after ~~following~~ the close of the taxable year or the 15th day after ~~following~~ the due date, without extension, for the filing of the related federal return for the taxable year, unless under subsection (2) one or more extensions of time, not to exceed 6 months in the aggregate, for any such filing is granted.

(b) Notwithstanding paragraph (a), for taxable years beginning before January 1, 2026, returns of taxpayers with a taxable year ending on June 30 shall be filed on or before the 1st day of the 4th month after the close of the taxable year or the 15th day after the due date, without extension, for the filing of the related federal return for the taxable year, unless under subsection (2) one or more extensions of time for any such filing is granted.

(2)(a) When a taxpayer has been granted an extension or

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extensions of time within which to file its federal income tax return for any taxable year, and if the requirements of s. 220.32 are met, the filing of a request for such extension or extensions with the department shall automatically extend the due date of the return required under this code until ~~15 days after the expiration of the federal extension or until~~ the expiration of 6 months from the original due date~~, whichever first occurs~~.

(b) The department may grant an extension or extensions of time for the filing of any return required under this code upon receiving a prior request therefor if good cause for an extension is shown. However, the aggregate extensions of time under paragraph ~~paragraphs~~ (a) and this paragraph must ~~(b) shall~~ not exceed 6 months. An ~~No~~ extension granted under this paragraph is not ~~shall be~~ valid unless the taxpayer complies with ~~the requirements of~~ s. 220.32.

(c) For purposes of this subsection, a taxpayer is not in compliance with ~~the requirements of~~ s. 220.32 if the taxpayer underpays the required payment by more than the greater of $2,000 or 30 percent of the tax shown on the return when filed.

(d) For taxable years beginning before January 1, 2026, the 6-month time period in paragraphs (a) and (b) shall be 7 months for taxpayers with a taxable year ending June 30 and shall be 5 months for taxpayers with a taxable year ending December 31.

Section 16. Effective upon this act becoming a law and applicable to taxable years beginning on or after January 1, 2017, section 220.241, Florida Statutes, is amended to read:

220.241 Declaration; time for filing.—

(1) A declaration of estimated tax under this code shall be

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filed before the 1st day of the 6th ~~5th~~ month of each taxable year, except that if the minimum tax requirement of s. 220.24(1) is first met:

(a) ~~(1)~~ After the 3rd month and before the 6th month of the taxable year, the declaration shall be filed before the 1st day of the 7th month;

(b) ~~(2)~~ After the 5th month and before the 9th month of the taxable year, the declaration shall be filed before the 1st day of the 10th month; or

(c) ~~(3)~~ After the 8th month and before the 12th month of the taxable year, the declaration shall be filed for the taxable year before the 1st day of the succeeding taxable year.

(2) Notwithstanding subsection (1), for taxable years beginning before January 1, 2026, taxpayers with a taxable year ending on June 30 shall file declarations before the 1st day of the 5th month of each taxable year, unless paragraph (1)(a), paragraph (1)(b), or paragraph (1)(c) applies.

Section 17. Effective upon this act becoming a law and applicable to taxable years beginning on or after January 1, 2017, subsection (1) of section 220.33, Florida Statutes, is amended to read:

220.33 Payments of estimated tax.—A taxpayer required to file a declaration of estimated tax pursuant to s. 220.24 shall pay such estimated tax as follows:

(1) If the declaration is required to be filed before the 1st day of the 6th ~~5th~~ month of the taxable year, the estimated tax shall be paid in four equal installments. The first installment shall be paid at the time of the required filing of the declaration; the second and third installments shall be paid

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before the 1st day of the 7th month and before the 1st day of the 10th month of the taxable year, respectively; and the fourth installment shall be paid before the 1st day of the next taxable year.

Section 18. Effective upon this act becoming a law and applicable to taxable years beginning on or after January 1, 2017, paragraph (c) of subsection (2) of section 220.34, Florida Statutes, is amended to read:

220.34 Special rules relating to estimated tax.—

(2) No interest or penalty shall be due or paid with respect to a failure to pay estimated taxes except the following:

(c) The period of the underpayment for which interest and penalties apply shall commence on the date the installment was required to be paid, determined without regard to any extensions of time, and shall terminate on the earlier of the following dates:

1. The 1st ~~first~~ day of the 5th ~~fourth~~ month after ~~following~~ the close of the taxable year;

2. For taxable years beginning before January 1, 2026, for taxpayers with a taxable year ending June 30, the 1st day of the 4th month after the close of the taxable year; or

3.~~2.~~ With respect to any portion of the underpayment, the date on which such portion is paid.

For purposes of this paragraph, a payment of estimated tax on any installment date shall be considered a payment of any previous underpayment only to the extent such payment exceeds the amount of the installment determined under subparagraph

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(b)1. for such installment date.

Section 19. Subsections (1) and (2) of section 561.121, Florida Statutes, are amended to read:

561.121 Deposit of revenue.—

(1) All state funds collected pursuant to ss. 563.05, 564.06, 565.02(9), and 565.12 shall be paid into the State Treasury and disbursed in the following manner:

(a) Two percent of monthly collections of the excise taxes on alcoholic beverages established in ss. 563.05, 564.06, and 565.12 and the tax on alcoholic beverages, cigarettes, and other tobacco products established in s. 565.02(9) shall be deposited into the Alcoholic Beverage and Tobacco Trust Fund to meet the division's appropriation for the state fiscal year.

(b) The remainder of the funds collected pursuant to ss. 563.05, 564.06, and 565.12 and the tax on alcoholic beverages, cigarettes, and other tobacco products established in s. 565.02(9) shall be credited to the General Revenue Fund.

(2) The unencumbered balance in the Alcoholic Beverage and Tobacco Trust Fund at the close of each fiscal year may not exceed $2 million. These funds shall be held in reserve for use in the event that trust fund revenues are unable to meet the division's appropriation for the next fiscal year. In the event of a revenue shortfall, these funds shall be spent pursuant to subsection (3). Notwithstanding subsection (1), if the unencumbered balance on June 30 in any fiscal year is less than $2 million, the department is authorized to retain the difference between the June 30 unencumbered balance in the trust fund and $2 million from the July collections of state funds collected pursuant to ss. 563.05, 564.06, and 565.12 and the tax

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on alcoholic beverages, cigarettes, and other tobacco products established in s. 565.02(9). Any unencumbered funds in excess of reserve funds shall be transferred unallocated to the General Revenue Fund by August 31 of the next fiscal year.

Section 20. Subsection (4) of section 564.06, Florida Statutes, is amended to read:

564.06 Excise taxes on wines and beverages.—

(4) As to cider, which is made from the normal alcoholic fermentation of the juice of sound, ripe apples or pears, including but not limited to flavored, sparkling, or carbonated cider and cider made from condensed apple or pear must, that contain not less than one-half of 1 percent of alcohol by volume and not more than 7 percent of alcohol by volume, there shall be paid by all manufacturers and distributors a tax at the rate of $.89 per gallon. With the sole exception of the excise tax rate, cider shall be considered wine and shall be subject to the provisions of this chapter.

Section 21. Subsection (9) of section 565.02, Florida Statutes, is amended to read:

565.02 License fees; vendors; clubs; caterers; and others.—

(9)(a) As used in this subsection, the term:

1. "Annual capacity" means an amount equal to the number of lower berths on a vessel multiplied by the number of embarkations of that vessel during a calendar year.

2. "Base rate" means an amount equal to the total taxes and surcharges paid by all permittees pursuant to the Beverage Law and chapter 210 for sales of alcoholic beverages, cigarettes, and other tobacco products taking place between January 1, 2015, and December 31, 2015, inclusive, divided by the sum of the


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annual capacities of all vessels permitted pursuant to former s. 565.02(9), Florida Statutes 2015, for calendar year 2015.

3. "Embarkation" means an instance in which a vessel departs from a port in this state.

4. "Lower berth" means a bed that is:

a. Affixed to a vessel;

b. Not located above another bed in the same cabin; and

c. Located in a cabin not in use by employees of the operator of the vessel or its contractors.

5. "Quarterly capacity" means an amount equal to the number of lower berths on a vessel multiplied by the number of embarkations of that vessel during a calendar quarter.

(b) It is the finding of the Legislature that passenger vessels engaged exclusively in foreign commerce are susceptible to a distinct and separate classification for purposes of the sale of alcoholic beverages, cigarettes, and other tobacco products under the Beverage Law and chapter 210.

(c) Upon the filing of an application and payment of an annual fee of $1,100, the director is authorized to issue a permit authorizing the operator, or, if applicable, his or her concessionaire, of a passenger vessel which has cabin-berth capacity for at least 75 passengers, and which is engaged exclusively in foreign commerce, to sell alcoholic beverages, cigarettes, and other tobacco products on the vessel for consumption on board only:

1.~~(a)~~ For no more than ~~During a period not in excess of~~ 24 hours before ~~prior to~~ departure while the vessel is moored at a dock or wharf in a port of this state; or

2.~~(b)~~ At any time while the vessel is located in Florida

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territorial waters and is in transit to or from international waters.

One such permit shall be required for each such vessel and shall name the vessel for which it is issued. No license shall be required or tax levied by any municipality or county for the privilege of selling beverages, cigarettes, or other tobacco products for consumption on board such vessels. The beverages, cigarettes, or other tobacco products so sold may be purchased outside the state by the permittee, and the same shall not be considered as imported for the purposes of s. 561.14(3) solely because of such sale. The permittee is not required to obtain its beverages, cigarettes, or other tobacco products from licensees under the Beverage Law or chapter 210. Each permittee~~,~~ ~~but it~~ shall keep a strict account of the quarterly capacity of each of its vessels ~~all such beverages sold within this state~~ and shall make quarterly ~~monthly~~ reports to the division on forms prepared and furnished by the division. ~~A permittee who sells on board the vessel beverages withdrawn from United States Bureau of Customs and Border Protection bonded storage on board the vessel may satisfy such accounting requirement by supplying the division with copies of the appropriate United States Bureau of Customs and Border Protection forms evidencing such withdrawals as importations under United States customs laws.~~

(d) Each ~~Such~~ permittee shall pay to the state a ~~an excise~~ tax for beverages, cigarettes, and other tobacco products sold pursuant to this subsection in an amount equal to the base rate multiplied by the permittee's quarterly capacity during the calendar quarter, less any tax or surcharge already paid by a

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licensed manufacturer or distributor pursuant to the Beverage Law or chapter 210 on beverages, cigarettes, and other tobacco products sold by the permittee pursuant to this subsection during the quarter for which tax is due ~~section, if such excise tax has not previously been paid, in an amount equal to the tax which would be required to be paid on such sales by a licensed manufacturer or distributor~~.

(e) A vendor holding such permit shall pay the tax quarterly ~~monthly~~ to the division at the same time he or she furnishes the required report. Such report shall be filed on or before the 15th day of each calendar quarter ~~month~~ for the quarterly capacity ~~sales occurring~~ during the previous calendar quarter ~~month~~.

(f) No later than August 1, 2016, each permittee shall report the annual capacity for each of its vessels for calendar year 2015 to the division on forms prepared and furnished by the division. No later than September 1, 2016, the division shall calculate the base rate and report it to each permittee. The base rate shall also be published in the Florida Administrative Register and on the department's website. The division may verify independently the information provided under this paragraph.

(g) Revenues collected pursuant to this subsection shall be distributed pursuant to s. 561.121(1).

Section 22. Subsection (1) of section 951.22, Florida Statutes, is amended to read:

951.22 County detention facilities; contraband articles.—

(1) It is unlawful, except through regular channels as duly authorized by the sheriff or officer in charge, to introduce

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into or possess upon the grounds of any county detention facility as defined in s. 951.23 or to give to or receive from any inmate of any such facility wherever said inmate is located at the time or to take or to attempt to take or send therefrom any of the following articles which are hereby declared to be contraband for the purposes of this act, to wit: Any written or recorded communication; any currency or coin; any article of food or clothing; any tobacco products as defined in s. 210.25(12) ~~210.25(11)~~; any cigarette as defined in s. 210.01(1); any cigar; any intoxicating beverage or beverage which causes or may cause an intoxicating effect; any narcotic, hypnotic, or excitative drug or drug of any kind or nature, including nasal inhalators, sleeping pills, barbiturates, and controlled substances as defined in s. 893.02(4); any firearm or any instrumentality customarily used or which is intended to be used as a dangerous weapon; and any instrumentality of any nature that may be or is intended to be used as an aid in effecting or attempting to effect an escape from a county facility.

Section 23. Clothing and school supplies; sales tax holiday.—

(1) The tax levied under chapter 212, Florida Statutes, may not be collected during the period from 12:01 a.m. on August 5, 2016, through 11:59 p.m. on August 7, 2016, on the retail sale of:

(a) Clothing, wallets, or bags, including handbags, backpacks, fanny packs, and diaper bags, but excluding briefcases, suitcases, and other garment bags, having a sales price of $60 or less per item. As used in this paragraph, the term “clothing” means:


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1. Any article of wearing apparel intended to be worn on or about the human body, excluding watches, watchbands, jewelry, umbrellas, and handkerchiefs; and

2. All footwear, excluding skis, swim fins, roller blades, and skates.

(b) School supplies having a sales price of $15 or less per item. As used in this paragraph, the term "school supplies" means pens, pencils, erasers, crayons, notebooks, notebook filler paper, legal pads, binders, lunch boxes, construction paper, markers, folders, poster board, composition books, poster paper, scissors, cellophane tape, glue or paste, rulers, computer disks, protractors, compasses, and calculators.

(2) The tax exemptions provided in this section do not apply to sales within a theme park or entertainment complex as defined in s. 509.013(9), Florida Statutes, within a public lodging establishment as defined in s. 509.013(4), Florida Statutes, or within an airport as defined in s. 330.27(2), Florida Statutes.

(3) The tax exemptions provided in this section apply at the option of a dealer if less than 5 percent of the dealer's gross sales of tangible personal property in the prior calendar year are comprised of items that would be exempt under this section. If a qualifying dealer chooses not to participate in the tax holiday, by August 1, 2016, the dealer must notify the Department of Revenue in writing of its election to collect sales tax during the holiday and must post a copy of that notice in a conspicuous location at its place of business.

(4) The Department of Revenue may, and all conditions are deemed met to, adopt emergency rules pursuant to s. 120.54(4),

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Florida Statutes, to administer this section.

(5) For the 2016-2017 fiscal year, the sum of $229,982 in nonrecurring funds is appropriated from the General Revenue Fund to the Department of Revenue for the purpose of implementing this section.

Section 24. For the 2016-2017 fiscal year, the sum of $100,374 in nonrecurring funds is appropriated from the General Revenue Fund to the Department of Revenue for the purpose of implementing ss. 220.03, 220.13, 220.222, 220.241, 220.33, and 220.34, as amended by this act.

Section 25. Except as otherwise expressly provided in this act and except for this section, which shall take effect upon this act becoming a law, this act shall take effect July 1, 2016.

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

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to taxation; amending s. 196.012, F.S.; revising definitions related to certain businesses; amending s. 196.1995, F.S.; revising an economic development ad valorem tax exemption for certain enterprise zone businesses; providing applicability of the exemption to data centers; providing retroactive applicability for certain provisions; amending s. 201.15, F.S.; revising a date relating to the payment of debt service for certain


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bonds; amending s. 206.9825, F.S.; revising eligibility criteria for wholesalers and terminal suppliers to receive aviation fuel tax refunds or credits of previously paid excise taxes; providing for future repeal of such refunds or credits; revising the rate of the excise tax on certain aviation fuels on a specified date; amending s. 210.13, F.S.; providing procedures to be used when a person, other than a dealer, is required but fails to remit certain taxes; amending s. 210.25, F.S.; revising definitions related to tobacco; amending s. 212.05, F.S.; clarifying the requirements for the exemption from tax on certain sales of aircraft that will be registered in a foreign jurisdiction; amending s. 212.06, F.S.; reducing by a specified percentage over time an indexed tax on manufactured asphalt used for a government public works project; exempting such manufactured asphalt from the indexed tax beginning on a specified date; amending s. 212.08, F.S.; exempting the sales of food or drinks by certain qualified veterans' organizations; revising definitions regarding certain industrial machinery and equipment; removing the expiration date on the exemption for purchases of certain machinery and equipment; revising the definition of the term "eligible manufacturing business" for purposes of qualification for the sales and use tax exemption; providing definitions for certain postharvest machinery and equipment, postharvest activities, and eligible postharvest

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activity businesses; providing an exemption for the purchase of such machinery and equipment; amending s. 220.03, F.S.; adopting the 2016 version of the Internal Revenue Code; providing retroactive applicability; amending s. 220.13, F.S.; incorporating a reference to a recent federal act into state law for the purpose of defining the term "adjusted federal income"; revising the treatment by this state of certain depreciation of assets allowed for federal income tax purposes; providing retroactive applicability; authorizing the Department of Revenue to adopt emergency rules; providing for expiration; amending s. 220.222, F.S.; revising due dates for partnership information returns and corporate tax returns; amending s. 220.241, F.S.; revising due dates to file a declaration of estimated corporate income tax; amending s. 220.33, F.S.; revising the due date of estimated payments of corporate income tax; amending s. 220.34, F.S.; revising the dates for purposes of calculating interest and penalties on underpayments of estimated corporate income tax; amending s. 561.121, F.S.; requiring that certain taxes related to alcoholic beverages and tobacco products sold on cruise ships be deposited into specified funds; amending s. 564.06, F.S.; specifying the excise tax that is applicable to cider made from pears; amending s. 565.02, F.S.; creating an alternative method of taxation for alcoholic beverages and tobacco products sold on certain cruise ships;


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requiring the reporting of certain information by each permittee for purposes of determining the base rate applicable to the taxpayers; authorizing the Division of Alcoholic Beverages and Tobacco within the Department of Business and Professional Regulation to independently verify certain reported information; amending s. 951.22, F.S.; conforming a cross-reference; providing an exemption from the sales and use tax for the retail sale of certain clothes and school supplies during a specified period; providing exceptions; authorizing certain dealers to elect not to participate in such tax exemptions; providing requirements for such dealers; authorizing the Department of Revenue to adopt emergency rules; providing appropriations; providing effective dates.

576912

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/04/2016	.	
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The Committee on Appropriations (Hays) recommended the following:

Senate Amendment to Amendment (403268) (with title amendment)

Between lines 4 and 5
insert:

Section 1. Paragraph (a) of subsection (2) of section 565.03, Florida Statutes, is amended to read:

565.03 License fees; manufacturers, distributors, brokers, sales agents, and importers of alcoholic beverages; vendor licenses and fees; craft distilleries.—

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(2)(a) A distillery authorized to do business under the Beverage Law shall pay an annual state license tax for each plant or branch operating in the state, as follows:

1. If engaged in the business of manufacturing distilled spirits, a state license tax of $4,000.

2. If engaged in the business of rectifying and blending spirituous liquors and nothing else, a state license tax of $4,000.

3. If engaged in the business of manufacturing distilled spirits as a qualified craft distillery, a state license tax of $1,000.

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

And the title is amended as follows:

Delete line 1249

and insert:

An act relating to taxation; amending s. 565.03, F.S.; specifying the annual state license tax for certain plants or branches of a specified distillery; amending s. 196.012,

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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/04/2016	.	
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The Committee on Appropriations (Hays) recommended the following:

Senate Amendment to Amendment (403268) (with title amendment)

Between lines 4 and 5
insert:

Section 1. Section 196.1955, Florida Statutes, is created to read:

196.1955 Preparing property for educational, literary, scientific, religious, or charitable use.—

(1) Property owned by an exempt organization is used for an

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exempt purpose if the owner has taken affirmative steps to prepare the property for an exempt educational, literary, scientific, religious, or charitable use and no portion of the property is being used for a nonexempt purpose. The term "affirmative steps" means environmental or land use permitting activities, creation of architectural plans or schematic drawings, land clearing or site preparation, construction or renovation activities, or other activities that demonstrate a commitment to prepare the property for an exempt use.

(2)(a) If property owned by an organization that has been granted an exemption under this section is sold, transferred, or used for a purpose other than an exempt use or is not in actual exempt use within 5 years after the date the organization is granted an exemption, the property appraiser making such determination shall serve upon the organization that received the exemption a notice of intent to record in the public records of the county a notice of tax lien against any property owned by that organization in that county, and such property must be identified in the notice of tax lien. The organization owning such property is subject to the taxes otherwise due as a result of the failure to use the property in an exempt manner, plus 15 percent interest per annum.

1. The lien, when filed, attaches to any property identified in the notice of tax lien which is owned by the organization that received the exemption. If the organization no longer owns property in the county but owns property in another county in the state, the property appraiser shall record in each such county a notice of tax lien identifying the property owned by the organization in each respective county, which shall

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become a lien against the identified property.

2. Before a lien may be filed, the organization must be given 30 days to pay the taxes and interest.

3. If an exemption is improperly granted as a result of a clerical mistake or an omission by the property appraiser, the organization improperly receiving the exemption may not be assessed interest.

4. The 5-year limitation specified in this subsection shall be extended by the property appraiser on an annual basis if the organization continues to take affirmative steps to prepare the property for the purposes specified in this section.

(b) This subsection does not apply to property being prepared for use as a house of public worship. The term "public worship" means religious worship services and those activities that are incidental to religious worship services, such as educational activities, parking, recreation, partaking of meals, and fellowship.

Section 2. Subsections (3), (4), and (5) of section 196.196, Florida Statutes, are amended to read:

196.196 Determining whether property is entitled to charitable, religious, scientific, or literary exemption.—

~~(3) Property owned by an exempt organization is used for a religious purpose if the institution has taken affirmative steps to prepare the property for use as a house of public worship. The term "affirmative steps" means environmental or land use permitting activities, creation of architectural plans or schematic drawings, land clearing or site preparation, construction or renovation activities, or other similar activities that demonstrate a commitment of the property to a~~

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~~religious use as a house of public worship. For purposes of this subsection, the term "public worship" means religious worship services and those other activities that are incidental to religious worship services, such as educational activities, parking, recreation, partaking of meals, and fellowship.~~

(3)~~(4)~~ Except as otherwise provided in this section ~~herein~~, property claimed as exempt for literary, scientific, religious, or charitable purposes which is used for profitmaking purposes is ~~shall be~~ subject to ad valorem taxation. Use of property for functions not requiring a business or occupational license conducted by the organization at its primary residence, the revenue of which is used wholly for exempt purposes, is ~~shall~~ not ~~be~~ considered profitmaking ~~profit making~~. In this connection the playing of bingo on such property is ~~shall~~ not ~~be~~ considered a use of ~~as using such~~ property which ~~in such a manner as~~ would impair its exempt status.

~~(5)(a) Property owned by an exempt organization qualified as charitable under s. 501(c)(3) of the Internal Revenue Code is used for a charitable purpose if the organization has taken affirmative steps to prepare the property to provide affordable housing to persons or families that meet the extremely-low-income, very-low-income, low-income, or moderate-income limits, as specified in s. 420.0004. The term "affirmative steps" means environmental or land use permitting activities, creation of architectural plans or schematic drawings, land clearing or site preparation, construction or renovation activities, or other similar activities that demonstrate a commitment of the property to providing affordable housing.~~

~~(b)1. If property owned by an organization granted an~~

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~~exemption under this subsection is transferred for a purpose other than directly providing affordable homeownership or rental housing to persons or families who meet the extremely-low-income, very-low-income, low-income, or moderate-income limits, as specified in s. 420.0004, or is not in actual use to provide such affordable housing within 5 years after the date the organization is granted the exemption, the property appraiser making such determination shall serve upon the organization that illegally or improperly received the exemption a notice of intent to record in the public records of the county a notice of tax lien against any property owned by that organization in the county, and such property shall be identified in the notice of tax lien. The organization owning such property is subject to the taxes otherwise due and owing as a result of the failure to use the property to provide affordable housing plus 15 percent interest per annum and a penalty of 50 percent of the taxes owed.~~

~~2. Such lien, when filed, attaches to any property identified in the notice of tax lien owned by the organization that illegally or improperly received the exemption. If such organization no longer owns property in the county but owns property in any other county in the state, the property appraiser shall record in each such other county a notice of tax lien identifying the property owned by such organization in such county which shall become a lien against the identified property. Before any such lien may be filed, the organization so notified must be given 30 days to pay the taxes, penalties, and interest.~~

~~3. If an exemption is improperly granted as a result of a~~


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~~clerical mistake or an omission by the property appraiser, the organization improperly receiving the exemption shall not be assessed a penalty or interest.~~

~~4. The 5-year limitation specified in this subsection may be extended if the holder of the exemption continues to take affirmative steps to develop the property for the purposes specified in this subsection.~~

Section 3. Section 196.198, Florida Statutes, is amended to read:

196.198 Educational property exemption.—

(1) Educational institutions within this state and their property used by them or by any other exempt entity or educational institution exclusively for educational purposes are exempt from taxation.

(a) Sheltered workshops providing rehabilitation and retraining of individuals who have disabilities and exempted by a certificate under s. (d) of the federal Fair Labor Standards Act of 1938, as amended, are declared wholly educational in purpose and are exempt from certification, accreditation, and membership requirements set forth in s. 196.012.

(b) Those portions of property of college fraternities and sororities certified by the president of the college or university to the appropriate property appraiser as being essential to the educational process are exempt from ad valorem taxation.

(c) The use of property by public fairs and expositions chartered by chapter 616 is presumed to be an educational use of such property and is exempt from ad valorem taxation to the extent of such use.


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(2) Property used exclusively for educational purposes shall be deemed owned by an educational institution if the entity owning 100 percent of the educational institution is owned by the identical persons who own the property, or if the entity owning 100 percent of the educational institution and the entity owning the property are owned by the identical natural persons.

(a) Land, buildings, and other improvements to real property used exclusively for educational purposes shall be deemed owned by an educational institution if the entity owning 100 percent of the land is a nonprofit entity and the land is used, under a ground lease or other contractual arrangement, by an educational institution that owns the buildings and other improvements to the real property, is a nonprofit entity under s. 501(c)(3) of the Internal Revenue Code, and provides education limited to students in prekindergarten through grade 8.

(b) If legal title to property is held by a governmental agency that leases the property to a lessee, the property shall be deemed to be owned by the governmental agency and used exclusively for educational purposes if the governmental agency continues to use such property exclusively for educational purposes pursuant to a sublease or other contractual agreement with that lessee.

(c) If the title to land is held by the trustee of an irrevocable inter vivos trust and if the trust grantor owns 100 percent of the entity that owns an educational institution that is using the land exclusively for educational purposes, the land is deemed to be property owned by the educational institution


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for purposes of this exemption. ~~Property owned by an educational institution shall be deemed to be used for an educational purpose if the institution has taken affirmative steps to prepare the property for educational use. The term "affirmative steps" means environmental or land use permitting activities, creation of architectural plans or schematic drawings, land clearing or site preparation, construction or renovation activities, or other similar activities that demonstrate commitment of the property to an educational use.~~

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

And the title is amended as follows:

Delete line 1249

and insert:

An act relating to taxation; creating s. 196.1955, F.S.; consolidating and revising provisions relating to obtaining an ad valorem exemption for property owned by an exempt organization, including the requirement that the owner of an exempt organization take affirmative steps to demonstrate an exempt use; defining the term "affirmative steps"; requiring the property appraiser to serve a notice of tax lien on exempt property that is not in exempt use after a certain time; providing that the lien attaches to any property owned by the organization identified in the notice of lien; providing that the provisions authorizing the tax lien do not apply to a house of public worship; defining the term "public worship"; amending s. 196.196, F.S.; deleting provisions

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relating to the exemption as it applies to public worship and affordable housing and provisions incorporated into s. 196.1955, F.S.; amending s. 196.198, F.S.; deleting provisions relating to property owned by an educational institution and used for an educational purpose which are incorporated in s. 196.1955, F.S.; amending s. 196.012,

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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/04/2016	.	
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The Committee on Appropriations (Gaetz) recommended the following:

Senate Amendment to Amendment (403268) (with title amendment)

Between lines 4 and 5
insert:

Section 1. Paragraph (a) of subsection (5) of section 125.0104, Florida Statutes, is amended to read:

125.0104 Tourist development tax; procedure for levying; authorized uses; referendum; enforcement.—

(5) AUTHORIZED USES OF REVENUE.—

961560

(a) All tax revenues received pursuant to this section by a county imposing the tourist development tax shall be used by that county for the following purposes only:

1. To acquire, construct, extend, enlarge, remodel, repair, improve, maintain, operate, or promote one or more:

a. Publicly owned and operated convention centers, sports stadiums, sports arenas, coliseums, or auditoriums within the boundaries of the county or subcounty special taxing district in which the tax is levied; or

b. Aquariums or museums that are publicly owned and operated or owned and operated by not-for-profit organizations and open to the public, within the boundaries of the county or subcounty special taxing district in which the tax is levied;

2. To promote zoological parks that are publicly owned and operated or owned and operated by not-for-profit organizations and open to the public;

3. To promote and advertise tourism in this state and nationally and internationally; however, if tax revenues are expended for an activity, service, venue, or event, the activity, service, venue, or event must have as one of its main purposes the attraction of tourists as evidenced by the promotion of the activity, service, venue, or event to tourists;

4. To fund convention bureaus, tourist bureaus, tourist information centers, and news bureaus as county agencies or by contract with the chambers of commerce or similar associations in the county, which may include any indirect administrative costs for services performed by the county on behalf of the promotion agency; ~~or~~

5. To finance beach park facilities or beach improvement,

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maintenance, renourishment, restoration, and erosion control, including shoreline protection, enhancement, cleanup, or restoration of inland lakes and rivers to which there is public access as those uses relate to the physical preservation of the beach, shoreline, or inland lake or river. However, any funds identified by a county as the local matching source for beach renourishment, restoration, or erosion control projects included in the long-range budget plan of the state's Beach Management Plan, pursuant to s. 161.091, or funds contractually obligated by a county in the financial plan for a federally authorized shore protection project may not be used or loaned for any other purpose. In counties of fewer than 100,000 population, up to 10 percent of the revenues from the tourist development tax may be used for beach park facilities; or.

6. In a Gulf Coast tourism county, to fund lifeguards, and up to 10 percent of the revenues may be used to provide emergency medical services, as defined in s. 401.107(3), or law enforcement services that are needed for enhanced emergency medical or public safety services related to increased tourism and visitors to an area. If taxes collected pursuant to this section are used to fund emergency medical services or public safety services for tourism or special events, the governing board of a county or municipality is prohibited from using such taxes to supplant the normal operating expenses of an emergency services department, a fire department, a sheriff's office, or a police department. For the purposes of this subparagraph, the term "Gulf Coast tourism county" shall mean a county which:

a. Is located adjacent to the Gulf of Mexico but not adjacent to the Atlantic Ocean; and

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b. Collects a minimum of $10 million in annual revenues from any tax, or any combination of taxes, authorized to be levied pursuant to this section.

Subparagraphs 1. and 2. may be implemented through service contracts and leases with lessees that have sufficient expertise or financial capability to operate such facilities.

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

And the title is amended as follows:

Delete line 1249

and insert:

An act relating to taxation; amending s. 125.0104, F.S.; authorizing the use of certain tourist development taxes in a Gulf Coast tourism county for specified purposes; prohibiting certain uses of such taxes by a governing board of a county or municipality; defining the term "Gulf Coast tourism county"; amending s. 196.012,

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LEGISLATIVE ACTION

Senate	.	House
Comm: RE	.	
03/04/2016	.	
	.	
	.	
	.	

The Committee on Appropriations (Gaetz) recommended the following:

Senate Amendment to Amendment (403268) (with title amendment)

Between lines 4 and 5
insert:

Section 1. Paragraph (c) of subsection (5) of section 125.0104, Florida Statutes, is redesignated as paragraph (d), present paragraph (d) of that subsection is amended, and a new paragraph (c) is added to that subsection, to read:

125.0104 Tourist development tax; procedure for levying;

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authorized uses; referendum; enforcement.—

(5) AUTHORIZED USES OF REVENUE.—

(c) A county located adjacent to the Gulf of Mexico or the Atlantic Ocean, except a county that receives revenue from taxes levied pursuant to s. 125.0108, which meets the following criteria may use up to 10 percent of the tax revenue received pursuant to this section to reimburse expenses incurred in providing public safety services, including emergency medical services as defined in s. 401.107(3), and law enforcement services, which are needed to address impacts related to increased tourism and visitors to an area. However, if taxes collected pursuant to this section are used to reimburse emergency medical services or public safety services for tourism or special events, the governing board of a county or municipality may not use such taxes to supplant the normal operating expenses of an emergency medical services department, a fire department, a sheriff's office, or a police department. To receive reimbursement, the county must:

1. Generate a minimum of $10 million in annual proceeds from any tax, or any combination of taxes, authorized to be levied pursuant to this section;

2. Have at least three municipalities; and

3. Have an estimated population of less than 225,000, according to the most recent population estimate prepared pursuant to s. 186.901, excluding the inmate population.

The board of county commissioners must by majority vote approve reimbursement made pursuant to this paragraph upon receipt of a recommendation from the tourist development council.

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(e) ~~(d)~~ Any use of the local option tourist development tax revenues collected pursuant to this section for a purpose not expressly authorized by paragraph (3)(l) or paragraph (3)(n) or paragraphs (a)-(d) ~~paragraph (a), paragraph (b), or paragraph (c)~~ of this subsection is expressly prohibited.

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

And the title is amended as follows:

Delete line 1249

and insert:

An act relating to taxation; amending s. 125.0104, F.S.; specifying additional uses for revenues received from tourist development taxes for certain coastal counties; conforming a cross-reference; amending s. 196.012,

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LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/04/2016	.	
	.	
	.	
	.	

The Committee on Appropriations (Hukill and Lee) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Paragraph (c) of subsection (5) of section 125.0104, Florida Statutes, is redesignated as paragraph (d), present paragraph (d) of that subsection is amended, and a new paragraph (c) is added to that subsection, to read:

125.0104 Tourist development tax; procedure for levying; authorized uses; referendum; enforcement.—

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(5) AUTHORIZED USES OF REVENUE.—

(c) A county located adjacent to the Gulf of Mexico or the Atlantic Ocean, except a county that receives revenue from taxes levied pursuant to s. 125.0108, which meets the following criteria may use up to 10 percent of the tax revenue received pursuant to this section to reimburse expenses incurred in providing public safety services, including emergency medical services as defined in s. 401.107(3), and law enforcement services, which are needed to address impacts related to increased tourism and visitors to an area. However, if taxes collected pursuant to this section are used to reimburse emergency medical services or public safety services for tourism or special events, the governing board of a county or municipality may not use such taxes to supplant the normal operating expenses of an emergency medical services department, a fire department, a sheriff's office, or a police department. To receive reimbursement, the county must:

1. Generate a minimum of $10 million in annual proceeds from any tax, or any combination of taxes, authorized to be levied pursuant to this section;

2. Have at least three municipalities; and

3. Have an estimated population of less than 225,000, according to the most recent population estimate prepared pursuant to s. 186.901, excluding the inmate population.

The board of county commissioners must by majority vote approve reimbursement made pursuant to this paragraph upon receipt of a recommendation from the tourist development council.

(e) ~~(d)~~ Any use of the local option tourist development tax

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revenues collected pursuant to this section for a purpose not expressly authorized by paragraph (3)(l) or paragraph (3)(n) or paragraphs (a)-(d) ~~paragraph (a), paragraph (b), or paragraph (c)~~ of this subsection is expressly prohibited.

Section 2. Effective upon this act becoming a law, paragraph (b) of subsection (14) and paragraph (b) of subsection (15) of section 196.012, Florida Statutes, are amended to read:

196.012 Definitions.—For the purpose of this chapter, the following terms are defined as follows, except where the context clearly indicates otherwise:

(14) "New business" means:

(b) Any business or organization located in an area that was designated as an enterprise zone pursuant to chapter 290 as of December 30, 2015, or brownfield area that first begins operation on a site clearly separate from any other commercial or industrial operation owned by the same business or organization.

(15) "Expansion of an existing business" means:

(b) Any business or organization located in an area that was designated as an enterprise zone pursuant to chapter 290 as of December 30, 2015, or brownfield area that increases operations on a site located within the same zone or area colocated with a commercial or industrial operation owned by the same business or organization under common control with the same business or organization.

Section 3. Effective upon this act becoming a law, subsections (5) and (11) of section 196.1995, Florida Statutes, are amended to read:

196.1995 Economic development ad valorem tax exemption.—

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(5) Upon a majority vote in favor of such authority, the board of county commissioners or the governing authority of the municipality, at its discretion, by ordinance may exempt from ad valorem taxation up to 100 percent of the assessed value of all improvements to real property made by or for the use of a new business and of all tangible personal property of such new business, or up to 100 percent of the assessed value of all added improvements to real property made to facilitate the expansion of an existing business and of the net increase in all tangible personal property acquired to facilitate such expansion of an existing business. To qualify for this exemption, the improvements to real property must be made or the tangible personal property must be added or increased after approval by motion or resolution of the local governing body, subject to ordinance adoption or on or after the day the ordinance is adopted. However, if the authority to grant exemptions is approved in a referendum in which the ballot question contained in subsection (3) appears on the ballot, the authority of the board of county commissioners or the governing authority of the municipality to grant exemptions is limited solely to new businesses and expansions of existing businesses that are located in an area which was designated as an enterprise zone pursuant to chapter 290 as of December 30, 2015, or in a brownfield area. New businesses and expansions of existing businesses located in an area that was designated as an enterprise zone pursuant to chapter 290 as of December 30, 2015, but is not in a brownfield area, may qualify for the ad valorem tax exemption only if approved by motion or resolution of the local governing body, subject to ordinance adoption, or by


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ordinance, enacted before December 31, 2015. Property acquired to replace existing property shall not be considered to facilitate a business expansion. All data center equipment for a data center shall be exempt from ad valorem taxation for the term of the approved exemption. The exemption applies only to taxes levied by the respective unit of government granting the exemption. The exemption does not apply, however, to taxes levied for the payment of bonds or to taxes authorized by a vote of the electors pursuant to s. 9(b) or s. 12, Art. VII of the State Constitution. Any such exemption shall remain in effect for up to 10 years with respect to any particular facility, or up to 20 years for a data center, regardless of any change in the authority of the county or municipality to grant such exemptions or the expiration of the Enterprise Zone Act pursuant to chapter 290. The exemption shall not be prolonged or extended by granting exemptions from additional taxes or by virtue of any reorganization or sale of the business receiving the exemption.

(11) An ordinance granting an exemption under this section shall be adopted in the same manner as any other ordinance of the county or municipality and shall include the following:

(a) The name and address of the new business or expansion of an existing business to which the exemption is granted;

(b) The total amount of revenue available to the county or municipality from ad valorem tax sources for the current fiscal year, the total amount of revenue lost to the county or municipality for the current fiscal year by virtue of economic development ad valorem tax exemptions currently in effect, and the estimated revenue loss to the county or municipality for the current fiscal year attributable to the exemption of the

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business named in the ordinance;

(c) The period of time for which the exemption will remain in effect and the expiration date of the exemption, which may be any period of time up to 10 years, or up to 20 years for a data center; and

(d) A finding that the business named in the ordinance meets the requirements of s. 196.012(14) or (15).

Section 4. The amendments made by this act to ss. 196.012 and 196.1995, Florida Statutes, which relate to the ad valorem tax exemption for certain enterprise zone businesses are remedial in nature and apply retroactively to December 31, 2015, and the amendments to s. 196.1995, Florida Statutes, made by this act which relate to the ad valorem tax exemption for data center equipment apply upon this act becoming a law.

Section 5. Section 201.15, Florida Statutes, is amended to read:

201.15 Distribution of taxes collected.—All taxes collected under this chapter are hereby pledged and shall be first made available to make payments when due on bonds issued pursuant to s. 215.618 or s. 215.619, or any other bonds authorized to be issued on a parity basis with such bonds. Such pledge and availability for the payment of these bonds shall have priority over any requirement for the payment of service charges or costs of collection and enforcement under this section. All taxes collected under this chapter, except taxes distributed to the Land Acquisition Trust Fund pursuant to subsections (1) and (2), are subject to the service charge imposed in s. 215.20(1). Before distribution pursuant to this section, the Department of Revenue shall deduct amounts necessary to pay the costs of the

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collection and enforcement of the tax levied by this chapter. The costs and service charge may not be levied against any portion of taxes pledged to debt service on bonds to the extent that the costs and service charge are required to pay any amounts relating to the bonds. All of the costs of the collection and enforcement of the tax levied by this chapter and the service charge shall be available and transferred to the extent necessary to pay debt service and any other amounts payable with respect to bonds authorized before January 1, 2017 ~~2015~~, secured by revenues distributed pursuant to this section. All taxes remaining after deduction of costs shall be distributed as follows:

(1) Amounts necessary to make payments on bonds issued pursuant to s. 215.618 or s. 215.619, as provided under paragraphs (3)(a) and (b), or on any other bonds authorized to be issued on a parity basis with such bonds shall be deposited into the Land Acquisition Trust Fund.

(2) If the amounts deposited pursuant to subsection (1) are less than 33 percent of all taxes collected after first deducting the costs of collection, an amount equal to 33 percent of all taxes collected after first deducting the costs of collection, minus the amounts deposited pursuant to subsection (1), shall be deposited into the Land Acquisition Trust Fund.

(3) Amounts on deposit in the Land Acquisition Trust Fund shall be used in the following order:

(a) Payment of debt service or funding of debt service reserve funds, rebate obligations, or other amounts payable with respect to Florida Forever bonds issued pursuant to s. 215.618. The amount used for such purposes may not exceed $300 million in

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each fiscal year. It is the intent of the Legislature that all bonds issued to fund the Florida Forever Act be retired by December 31, 2040. Except for bonds issued to refund previously issued bonds, no series of bonds may be issued pursuant to this paragraph unless such bonds are approved and the debt service for the remainder of the fiscal year in which the bonds are issued is specifically appropriated in the General Appropriations Act.

(b) Payment of debt service or funding of debt service reserve funds, rebate obligations, or other amounts due with respect to Everglades restoration bonds issued pursuant to s. 215.619. Taxes distributed under paragraph (a) and this paragraph must be collectively distributed on a pro rata basis when the available moneys under this subsection are not sufficient to cover the amounts required under paragraph (a) and this paragraph.

Bonds issued pursuant to s. 215.618 or s. 215.619 are equally and ratably secured by moneys distributable to the Land Acquisition Trust Fund.

(4) After the required distributions to the Land Acquisition Trust Fund pursuant to subsections (1) and (2) and deduction of the service charge imposed pursuant to s. 215.20(1), the remainder shall be distributed as follows:

(a) The lesser of 24.18442 percent of the remainder or $541.75 million in each fiscal year shall be paid into the State Treasury to the credit of the State Transportation Trust Fund. Of such funds, $75 million for each fiscal year shall be transferred to the State Economic Enhancement and Development

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Trust Fund within the Department of Economic Opportunity. Notwithstanding any other law, the remaining amount credited to the State Transportation Trust Fund shall be used for:

1. Capital funding for the New Starts Transit Program, authorized by Title 49, U.S.C. s. 5309 and specified in s. 341.051, in the amount of 10 percent of the funds;

2. The Small County Outreach Program specified in s. 339.2818, in the amount of 10 percent of the funds;

3. The Strategic Intermodal System specified in ss. 339.61, 339.62, 339.63, and 339.64, in the amount of 75 percent of the funds after deduction of the payments required pursuant to subparagraphs 1. and 2.; and

4. The Transportation Regional Incentive Program specified in s. 339.2819, in the amount of 25 percent of the funds after deduction of the payments required pursuant to subparagraphs 1. and 2. The first $60 million of the funds allocated pursuant to this subparagraph shall be allocated annually to the Florida Rail Enterprise for the purposes established in s. 341.303(5).

(b) The lesser of 0.1456 percent of the remainder or $3.25 million in each fiscal year shall be paid into the State Treasury to the credit of the Grants and Donations Trust Fund in the Department of Economic Opportunity to fund technical assistance to local governments.

Moneys distributed pursuant to paragraphs (a) and (b) may not be pledged for debt service unless such pledge is approved by referendum of the voters.

(c) Eleven and twenty-four hundredths percent of the remainder in each fiscal year shall be paid into the State Treasury to the credit of the State Housing Trust Fund. Of such

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funds, the first $35 million shall be transferred annually, subject to any distribution required under subsection (5), to the State Economic Enhancement and Development Trust Fund within the Department of Economic Opportunity. The remainder shall be used as follows:

1. Half of that amount shall be used for the purposes for which the State Housing Trust Fund was created and exists by law.

2. Half of that amount shall be paid into the State Treasury to the credit of the Local Government Housing Trust Fund and used for the purposes for which the Local Government Housing Trust Fund was created and exists by law.

(d) Twelve and ninety-three hundredths percent of the remainder in each fiscal year shall be paid into the State Treasury to the credit of the State Housing Trust Fund. Of such funds, the first $40 million shall be transferred annually, subject to any distribution required under subsection (5), to the State Economic Enhancement and Development Trust Fund within the Department of Economic Opportunity. The remainder shall be used as follows:

1. Twelve and one-half percent of that amount shall be deposited into the State Housing Trust Fund and expended by the Department of Economic Opportunity and the Florida Housing Finance Corporation for the purposes for which the State Housing Trust Fund was created and exists by law.

2. Eighty-seven and one-half percent of that amount shall be distributed to the Local Government Housing Trust Fund and used for the purposes for which the Local Government Housing Trust Fund was created and exists by law. Funds from this

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category may also be used to provide for state and local services to assist the homeless.

(e) The lesser of 0.017 percent of the remainder or $300,000 in each fiscal year shall be paid into the State Treasury to the credit of the General Inspection Trust Fund to be used to fund oyster management and restoration programs as provided in s. 379.362(3).

(5) Distributions to the State Housing Trust Fund pursuant to paragraphs (4)(c) and (d) must be sufficient to cover amounts required to be transferred to the Florida Affordable Housing Guarantee Program's annual debt service reserve and guarantee fund pursuant to s. 420.5092(6)(a) and (b) up to the amount required to be transferred to such reserve and fund based on the percentage distribution of documentary stamp tax revenues to the State Housing Trust Fund which is in effect in the 2004-2005 fiscal year.

(6) After the distributions provided in the preceding subsections, any remaining taxes shall be paid into the State Treasury to the credit of the General Revenue Fund.

Section 6. Paragraph (b) of subsection (1) of section 206.9825, Florida Statutes, is amended to read:

206.9825 Aviation fuel tax.—

(1)

(b) Any licensed wholesaler or terminal supplier that delivers aviation fuel to an air carrier offering transcontinental jet service and that, after January 1, 1996, but before July 1, 2016, increases the air carrier's Florida workforce by more than 1,000 ~~1000~~ percent and by 250 or more full-time equivalent employee positions, may receive a credit or

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refund as the ultimate vendor of the aviation fuel for the 6.9 cents excise tax previously paid, provided that the air carrier has no facility for fueling highway vehicles from the tank in which the aviation fuel is stored. In calculating the new or additional Florida full-time equivalent employee positions, any full-time equivalent employee positions of parent or subsidiary corporations which existed before January 1, 1996, shall not be counted toward reaching the Florida employment increase thresholds. The refund allowed under this paragraph is in furtherance of the goals and policies of the State Comprehensive Plan set forth in s. 187.201(16)(a), (b)1., 2., (17)(a), (b)1., 4., (19)(a), (b)5., (21)(a), (b)1., 2., 4., 7., 9., and 12.

Section 7. Effective July 1, 2019, section 206.9825, Florida Statutes, as amended by this act, is amended to read:

206.9825 Aviation fuel tax.—

(1)(a) Except as otherwise provided in this part, an excise tax of 4.27 ~~6.9~~ cents per gallon of aviation fuel is imposed upon every gallon of aviation fuel sold in this state, or brought into this state for use, upon which such tax has not been paid or the payment thereof has not been lawfully assumed by some person handling the same in this state. Fuel taxed pursuant to this part is ~~shall~~ not ~~be~~ subject to the taxes imposed by ss. 206.41(1)(d), (e), and (f) and 206.87(1)(b), (c), and (d).

~~(b) Any licensed wholesaler or terminal supplier that delivers aviation fuel to an air carrier offering transcontinental jet service and that, after January 1, 1996, but before July 1, 2016, increases the air carrier's Florida workforce by more than 1,000 percent and by 250 or more full-~~

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~~time equivalent employee positions, may receive a credit or refund as the ultimate vendor of the aviation fuel for the 6.9 cents excise tax previously paid, provided that the air carrier has no facility for fueling highway vehicles from the tank in which the aviation fuel is stored. In calculating the new or additional Florida full-time equivalent employee positions, any full-time equivalent employee positions of parent or subsidiary corporations which existed before January 1, 1996, shall not be counted toward reaching the Florida employment increase thresholds. The refund allowed under this paragraph is in furtherance of the goals and policies of the State Comprehensive Plan set forth in s. 187.201(16)(a), (b)1., 2., (17)(a), (b)1., 4., (19)(a), (b)5., (21)(a), (b)1., 2., 4., 7., 9., and 12.~~

~~(c) If, before July 1, 2001, the number of full-time equivalent employee positions created or added to the air carrier's Florida workforce falls below 250, the exemption granted pursuant to this section shall not apply during the period in which the air carrier has fewer than the 250 additional employees.~~

~~(d) The exemption taken by credit or refund pursuant to paragraph (b) shall apply only under the terms and conditions set forth therein. If any part of that paragraph is judicially declared to be unconstitutional or invalid, the validity of any provisions taxing aviation fuel shall not be affected and all fuel exempted pursuant to paragraph (b) shall be subject to tax as if the exemption was never enacted. Every person benefiting from such exemption shall be liable for and make payment of all taxes for which a credit or refund was granted.~~

(b) ~~(e)~~ 1. Sales of aviation fuel to, and exclusively used

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for flight training through a school of aeronautics or college of aviation by, a college based in this state which is a tax-exempt organization under s. 501(c)(3) of the Internal Revenue Code or a university based in this state are exempt from the tax imposed by this part if the college or university:

a. Is accredited by or has applied for accreditation by the Aviation Accreditation Board International; and

b. Offers a graduate program in aeronautical or aerospace engineering or offers flight training through a school of aeronautics or college of aviation.

2. A licensed wholesaler or terminal supplier that sells aviation fuel to a college or university qualified under this paragraph and that does not collect the aviation fuel tax from the college or university on such sale may receive an ultimate vendor credit for the 4.27-cent ~~6.9-cent~~ excise tax previously paid on the aviation fuel delivered to such college or university.

3. A college or university qualified under this paragraph which purchases aviation fuel from a retail supplier, including a fixed-base operator, and pays the 4.27-cent ~~6.9-cent~~ excise tax on the purchase may apply for and receive a refund of the aviation fuel tax paid.

(2)(a) An excise tax of 4.27 ~~6.9~~ cents per gallon is imposed on each gallon of kerosene in the same manner as prescribed for diesel fuel under ss. 206.87(2) and 206.872.

(b) The exemptions provided by s. 206.874 shall apply to kerosene if the dyeing and marking requirements of s. 206.8741 are met.

(c) Kerosene prepackaged in containers of 5 gallons or less

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and labeled "Not for Use in a Motor Vehicle" is exempt from the taxes imposed by this part when sold for home heating and cooking. Packagers may qualify for a refund of taxes previously paid, as prescribed by the department.

(d) Sales of kerosene in quantities of 5 gallons or less by a person not licensed under this chapter who has no facilities for placing kerosene in the fuel supply system of a motor vehicle may qualify for a refund of taxes paid. Refunds of taxes paid shall be limited to sales for use in home heating or cooking and shall be documented as prescribed by the department.

(3) An excise tax of 4.27 ~~6.9~~ cents per gallon is imposed on each gallon of aviation gasoline in the manner prescribed by paragraph (2)(a). However, the exemptions allowed by paragraph (2)(b) do not apply to aviation gasoline.

(4) Any licensed wholesaler or terminal supplier that delivers undyed kerosene to a residence for home heating or cooking may receive a credit or refund as the ultimate vendor of the kerosene for the 4.27-cent ~~6.9 cents~~ excise tax previously paid.

(5) Any licensed wholesaler or terminal supplier that delivers undyed kerosene to a retail dealer not licensed as a wholesaler or terminal supplier for sale as a home heating or cooking fuel may receive a credit or refund as the ultimate vendor of the kerosene for the 4.27-cent ~~6.9 cents~~ excise tax previously paid, provided the retail dealer has no facility for fueling highway vehicles from the tank in which the kerosene is stored.

(6) Any person who fails to meet the requirements of this section is subject to a backup tax as provided by s. 206.873.

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Section 8. Section 210.13, Florida Statutes, is amended to read:

210.13 Determination of tax on failure to file a return.—If a dealer or other person required to remit the tax under this part fails to file any return required under this part~~,~~ or, having filed an incorrect or insufficient return, fails to file a correct or sufficient return, as the case may require, within 10 days after the giving of notice to the dealer or other person by the Division of Alcoholic Beverages and Tobacco that such return or corrected or sufficient return is required, the division shall determine the amount of tax due by such dealer or other person any time within 3 years after the making of the earliest sale included in such determination and give written notice of such determination to such dealer or other person. Such a determination shall finally and irrevocably fix the tax unless the dealer or other person against whom it is assessed ~~shall~~, within 30 days after the giving of notice of such determination, applies ~~apply~~ to the division for a hearing. Judicial review shall not be granted unless the amount of tax stated in the decision, with penalties thereon, if any, is ~~shall have been~~ first deposited with the division, and an undertaking or bond filed in the court in which such cause may be pending in such amount and with such sureties as the court shall approve, conditioned that if such proceeding be dismissed or the decision of the division confirmed, the applicant for review will pay all costs and charges which may accrue against the applicant in the prosecution of the proceeding. At the option of the applicant, such undertaking or bond may be in an additional sum sufficient to cover the tax, penalties, costs, and charges aforesaid, in

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which event the applicant shall not be required to pay such tax and penalties precedent to the granting of such review by such court.

Section 9. Subsections (1) through (13) of section 210.25, Florida Statutes, are renumbered as subsections (2) through (14), respectively, a new subsection (1) is added to that section, and present subsection (13) of that section is amended, to read:

210.25 Definitions.—As used in this part:

(1) "Affiliate" means a manufacturer or other person that directly or indirectly, through one or more intermediaries, controls or is controlled by a distributor or that is under common control with a distributor.

(14) ~~(13)~~ "Wholesale sales price" means the sum of:

(a) The full price paid by the distributor to acquire the tobacco products, including charges by the seller for the cost of materials, the cost of labor and service, charges for transportation and delivery, the federal excise tax, and any other charge, even if the charge is listed as a separate item on the invoice paid by the ~~established price for which a manufacturer sells a tobacco product to a~~ distributor, exclusive of any diminution by volume or other discounts, including a discount provided to a distributor by an affiliate; and

(b) The federal excise tax paid by the distributor on the tobacco products if the tax is not included in the full price under paragraph (a).

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

212.05 Sales, storage, use tax.—It is hereby declared to be

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the legislative intent that every person is exercising a taxable privilege who engages in the business of selling tangible personal property at retail in this state, including the business of making mail order sales, or who rents or furnishes any of the things or services taxable under this chapter, or who stores for use or consumption in this state any item or article of tangible personal property as defined herein and who leases or rents such property within the state.

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

(a)1.a. At the rate of 6 percent of the sales price of each item or article of tangible personal property when sold at retail in this state, computed on each taxable sale for the purpose of remitting the amount of tax due the state, and including each and every retail sale.

b. Each occasional or isolated sale of an aircraft, boat, mobile home, or motor vehicle of a class or type which is required to be registered, licensed, titled, or documented in this state or by the United States Government shall be subject to tax at the rate provided in this paragraph. The department shall by rule adopt any nationally recognized publication for valuation of used motor vehicles as the reference price list for any used motor vehicle which is required to be licensed pursuant to s. 320.08(1), (2), (3)(a), (b), (c), or (e), or (9). If any party to an occasional or isolated sale of such a vehicle reports to the tax collector a sales price which is less than 80 percent of the average loan price for the specified model and year of such vehicle as listed in the most recent reference

price list, the tax levied under this paragraph shall be computed by the department on such average loan price unless the parties to the sale have provided to the tax collector an affidavit signed by each party, or other substantial proof, stating the actual sales price. Any party to such sale who reports a sales price less than the actual sales price is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. The department shall collect or attempt to collect from such party any delinquent sales taxes. In addition, such party shall pay any tax due and any penalty and interest assessed plus a penalty equal to twice the amount of the additional tax owed. Notwithstanding any other provision of law, the Department of Revenue may waive or compromise any penalty imposed pursuant to this subparagraph.

2. This paragraph does not apply to the sale of a boat or aircraft by or through a registered dealer under this chapter to a purchaser who, at the time of taking delivery, is a nonresident of this state, does not make his or her permanent place of abode in this state, and is not engaged in carrying on in this state any employment, trade, business, or profession in which the boat or aircraft will be used in this state, or is a corporation none of the officers or directors of which is a resident of, or makes his or her permanent place of abode in, this state, or is a noncorporate entity that has no individual vested with authority to participate in the management, direction, or control of the entity's affairs who is a resident of, or makes his or her permanent abode in, this state. For purposes of this exemption, either a registered dealer acting on his or her own behalf as seller, a registered dealer acting as

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broker on behalf of a seller, or a registered dealer acting as broker on behalf of the purchaser may be deemed to be the selling dealer. This exemption shall not be allowed unless:

a. The purchaser removes a qualifying boat, as described in sub-subparagraph f., from the state within 90 days after the date of purchase or extension, or the purchaser removes a nonqualifying boat or an aircraft from this state within 10 days after the date of purchase or, when the boat or aircraft is repaired or altered, within 20 days after completion of the repairs or alterations; or if the aircraft will be registered in a foreign jurisdiction and:

(I) Application for the aircraft's registration is properly filed with a civil airworthiness authority of a foreign jurisdiction within 10 days after the date of purchase;

(II) The purchaser removes the aircraft from the state to a foreign jurisdiction within 10 days after the date the aircraft is registered by the applicable foreign airworthiness authority; and

(III) The aircraft is operated in the state solely to remove it from the state to a foreign jurisdiction.

For purposes of this sub-subparagraph, the term "foreign jurisdiction" means any jurisdiction outside of the United States or any of its territories;

b. The purchaser, within 30 days from the date of departure, provides ~~shall provide~~ the department with written proof that the purchaser licensed, registered, titled, or documented the boat or aircraft outside the state. If such written proof is unavailable, within 30 days the purchaser shall

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provide proof that the purchaser applied for such license, title, registration, or documentation. The purchaser shall forward to the department proof of title, license, registration, or documentation upon receipt;

c. The purchaser, within 10 days of removing the boat or aircraft from Florida, furnishes ~~shall furnish~~ the department with proof of removal in the form of receipts for fuel, dockage, slippage, tie-down, or hangaring from outside of Florida. The information so provided must clearly and specifically identify the boat or aircraft;

d. The selling dealer, within 5 days of the date of sale, provides ~~shall provide~~ to the department a copy of the sales invoice, closing statement, bills of sale, and the original affidavit signed by the purchaser attesting that he or she has read the provisions of this section;

e. The seller makes a copy of the affidavit a part of his or her record for as long as required by s. 213.35; and

f. Unless the nonresident purchaser of a boat of 5 net tons of admeasurement or larger intends to remove the boat from this state within 10 days after the date of purchase or when the boat is repaired or altered, within 20 days after completion of the repairs or alterations, the nonresident purchaser applies ~~shall apply~~ to the selling dealer for a decal which authorizes 90 days after the date of purchase for removal of the boat. The nonresident purchaser of a qualifying boat may apply to the selling dealer within 60 days after the date of purchase for an extension decal that authorizes the boat to remain in this state for an additional 90 days, but not more than a total of 180 days, before the nonresident purchaser is required to pay the

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tax imposed by this chapter. The department is authorized to issue decals in advance to dealers. The number of decals issued in advance to a dealer shall be consistent with the volume of the dealer's past sales of boats which qualify under this sub-subparagraph. The selling dealer or his or her agent shall mark and affix the decals to qualifying boats in the manner prescribed by the department, before ~~prior to~~ delivery of the boat.

(I) The department is hereby authorized to charge dealers a fee sufficient to recover the costs of decals issued, except the extension decal shall cost $425.

(II) The proceeds from the sale of decals will be deposited into the administrative trust fund.

(III) Decals shall display information to identify the boat as a qualifying boat under this sub-subparagraph, including, but not limited to, the decal's date of expiration.

(IV) The department is authorized to require dealers who purchase decals to file reports with the department and may prescribe all necessary records by rule. All such records are subject to inspection by the department.

(V) Any dealer or his or her agent who issues a decal falsely, fails to affix a decal, mismarks the expiration date of a decal, or fails to properly account for decals will be considered prima facie to have committed a fraudulent act to evade the tax and will be liable for payment of the tax plus a mandatory penalty of 200 percent of the tax, and shall be liable for fine and punishment as provided by law for a conviction of a misdemeanor of the first degree, as provided in s. 775.082 or s. 775.083.

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(VI) Any nonresident purchaser of a boat who removes a decal before ~~prior to~~ permanently removing the boat from the state, or defaces, changes, modifies, or alters a decal in a manner affecting its expiration date before ~~prior to~~ its expiration, or who causes or allows the same to be done by another, will be considered prima facie to have committed a fraudulent act to evade the tax and will be liable for payment of the tax plus a mandatory penalty of 200 percent of the tax, and shall be liable for fine and punishment as provided by law for a conviction of a misdemeanor of the first degree, as provided in s. 775.082 or s. 775.083.

(VII) The department is authorized to adopt rules necessary to administer and enforce this subparagraph and to publish the necessary forms and instructions.

(VIII) The department is hereby authorized to adopt emergency rules pursuant to s. 120.54(4) to administer and enforce the provisions of this subparagraph.

If the purchaser fails to remove the qualifying boat from this state within the maximum 180 days after purchase or a nonqualifying boat or an aircraft from this state within 10 days after purchase or, when the boat or aircraft is repaired or altered, within 20 days after completion of such repairs or alterations, or permits the boat or aircraft to return to this state within 6 months from the date of departure, except as provided in s. 212.08(7)(fff), or if the purchaser fails to furnish the department with any of the documentation required by this subparagraph within the prescribed time period, the purchaser shall be liable for use tax on the cost price of the

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boat or aircraft and, in addition thereto, payment of a penalty to the Department of Revenue equal to the tax payable. This penalty shall be in lieu of the penalty imposed by s. 212.12(2). The maximum 180-day period following the sale of a qualifying boat tax-exempt to a nonresident may not be tolled for any reason.

Section 11. Paragraph (c) of subsection (1) of section 212.06, Florida Statutes, is amended to read:

212.06 Sales, storage, use tax; collectible from dealers; "dealer" defined; dealers to collect from purchasers; legislative intent as to scope of tax.—

(1)

(c)1. Notwithstanding the provisions of paragraph (b), the use tax on asphalt manufactured for one's own use shall be calculated with respect to paragraph (b) only upon the cost of materials which become a component part or which are an ingredient of the finished asphalt and upon the cost of the transportation of such components and ingredients. In addition, an indexed tax of 38 cents per ton of such manufactured asphalt shall be due at the same time and in the same manner as taxes due pursuant to paragraph (b). Beginning July 1, 1989, the indexed tax shall be adjusted each July 1 to an amount, rounded to the nearest cent, equal to the product of 38 cents multiplied by a fraction, the numerator of which is the annual average of the "materials and components for construction" series of the producer price index, as calculated and published by the United States Department of Labor, Bureau of Statistics, for the previous calendar year, and the denominator of which is the annual average of said series for calendar year 1988.

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2.a. Beginning July 1, 1999, the indexed tax imposed by this paragraph on manufactured asphalt which is used for any federal, state, or local government public works project shall be reduced by 20 percent.

b. Beginning July 1, 2000, the indexed tax imposed by this paragraph on manufactured asphalt which is used for any federal, state, or local government public works project shall be reduced by 40 percent.

c. Beginning July 1, 2016, the indexed tax imposed by this paragraph on manufactured asphalt which is used for any federal, state, or local government public works project shall be reduced by 60 percent.

d. Beginning July 1, 2017, the indexed tax imposed by this paragraph on manufactured asphalt which is used for any federal, state, or local government public works project shall be reduced by 80 percent.

e. Beginning July 1, 2018, manufactured asphalt used for any federal, state, or local government public works project shall be exempt from the indexed tax imposed by this paragraph.

Section 12. Paragraphs (n) and (kkk) of subsection (7) of section 212.08, Florida Statutes, are amended to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any entity by this chapter do not inure to any transaction that is

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otherwise taxable under this chapter when payment is made by a representative or employee of the entity by any means, including, but not limited to, cash, check, or credit card, even when that representative or employee is subsequently reimbursed by the entity. In addition, exemptions provided to any entity by this subsection do not inure to any transaction that is otherwise taxable under this chapter unless the entity has obtained a sales tax exemption certificate from the department or the entity obtains or provides other documentation as required by the department. Eligible purchases or leases made with such a certificate must be in strict compliance with this subsection and departmental rules, and any person who makes an exempt purchase with a certificate that is not in strict compliance with this subsection and the rules is liable for and shall pay the tax. The department may adopt rules to administer this subsection.

(n) *Veterans' organizations.*—

1. There are exempt from the tax imposed by this chapter transactions involving sales or leases to qualified veterans' organizations and their auxiliaries when used in carrying on their customary veterans' organization activities or sales of food or drink by qualified veterans' organizations in connection with customary veterans' organization activities to members of qualified veterans' organizations.

2. As used in this paragraph, the term "veterans' organizations" means nationally chartered or recognized veterans' organizations, including, but not limited to, the American Legion, Veterans of Foreign Wars of the United States, Florida chapters of the Paralyzed Veterans of America, Catholic

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War Veterans of the U.S.A., Jewish War Veterans of the U.S.A., and the Disabled American Veterans, Department of Florida, Inc., which hold current exemptions from federal income tax under s. 501(c)(4) or (19) of the Internal Revenue Code of 1986, as amended.

(kkk) *Certain machinery and equipment.*—

1. Industrial machinery and equipment purchased by eligible manufacturing businesses which is used at a fixed location in ~~within~~ this state~~, or a mixer drum affixed to a mixer truck which is used at any location within this state to mix, agitate, and transport freshly mixed concrete in a plastic state,~~ for the manufacture, processing, compounding, or production of items of tangible personal property for sale is ~~shall be~~ exempt from the tax imposed by this chapter. ~~Parts and labor required to affix a mixer drum exempt under this paragraph to a mixer truck are also exempt.~~ If, at the time of purchase, the purchaser furnishes the seller with a signed certificate certifying the purchaser's entitlement to exemption pursuant to this paragraph, the seller is not required to collect ~~is relieved of the responsibility for collecting~~ the tax on the sale of such items, and the department shall look solely to the purchaser for recovery of the tax if it determines that the purchaser was not entitled to the exemption.

2. For purposes of this paragraph, the term:

a. "Eligible manufacturing business" means any business whose primary business activity at the location where the industrial machinery and equipment is located is within the industries classified under NAICS codes 31, 32, ~~and~~ 33, and 423930.

b. "Eligible postharvest activity business" means a

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business whose primary business activity, at the location where the postharvest machinery and equipment is located, is within the industries classified under NAICS code 115114.

c. ~~As used in this subparagraph,~~ "NAICS" means those classifications contained in the North American Industry Classification System, as published in 2007 by the Office of Management and Budget, Executive Office of the President.

d.~~b.~~ "Primary business activity" means an activity representing more than 50 percent of the activities conducted at the location where the industrial machinery and equipment or postharvest machinery and equipment is located.

e.~~c.~~ "Industrial machinery and equipment" means tangible personal property or other property that has a depreciable life of 3 years or more and that is used as an integral part in the manufacturing, processing, compounding, or production of tangible personal property for sale. The term includes tangible personal property or other property that has a depreciable life of 3 years or more which is used as an integral part in the recycling of metals for sale. A building and its structural components are not industrial machinery and equipment unless the building or structural component is so closely related to the industrial machinery and equipment that it houses or supports that the building or structural component can be expected to be replaced when the machinery and equipment are replaced. Heating and air conditioning systems are not industrial machinery and equipment unless the sole justification for their installation is to meet the requirements of the production process, even though the system may provide incidental comfort to employees or serve, to an insubstantial degree, nonproduction activities. The

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term includes parts and accessories for industrial machinery and equipment only to the extent that the parts and accessories are purchased before ~~prior to~~ the date the machinery and equipment are placed in service.

f. "Postharvest activities" means services performed on crops, after their harvest, with the intent of preparing them for market or further processing. Postharvest activities include, but are not limited to, crop cleaning, sun drying, shelling, fumigating, curing, sorting, grading, packing, and cooling.

g. "Postharvest machinery and equipment" means tangible personal property or other property with a depreciable life of 3 years or more which is used primarily for postharvest activities. A building and its structural components are not postharvest industrial machinery and equipment unless the building or structural component is so closely related to the postharvest machinery and equipment that it houses or supports that the building or structural component can be expected to be replaced when the postharvest machinery and equipment is replaced. Heating and air conditioning systems are not postharvest machinery and equipment unless the sole justification for their installation is to meet the requirements of the postharvest activities process, even though the system may provide incidental comfort to employees or serve, to an insubstantial degree, nonpostharvest activities.

3. Postharvest machinery and equipment purchased by an eligible postharvest activity business which is used at a fixed location in this state is exempt from the tax imposed by this chapter. All labor charges for the repair of, and parts and

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materials used in the repair of and incorporated into, such postharvest machinery and equipment are also exempt. If, at the time of purchase, the purchaser furnishes the seller with a signed certificate certifying the purchaser's entitlement to exemption pursuant to this subparagraph, the seller is not required to collect the tax on the sale of such items, and the department shall look solely to the purchaser for recovery of the tax if it determines that the purchaser was not entitled to the exemption.

4.~~3.~~ A mixer drum affixed to a mixer truck which is used at any location in this state to mix, agitate, and transport freshly mixed concrete in a plastic state for sale is exempt from the tax imposed by this chapter. Parts and labor required to affix a mixer drum exempt under this subparagraph to a mixer truck are also exempt. If, at the time of purchase, the purchaser furnishes the seller with a signed certificate certifying the purchaser's entitlement to exemption pursuant to this subparagraph, the seller is not required to collect the tax on the sale of such items, and the department shall look solely to the purchaser for recovery of the tax if it determines that the purchaser was not entitled to the exemption. This subparagraph ~~paragraph~~ is repealed April 30, 2017.

Section 13. Effective upon this act becoming a law and operating retroactively to January 1, 2016, paragraph (n) of subsection (1) and paragraph (c) of subsection (2) of section 220.03, Florida Statutes, are amended to read:

220.03 Definitions.—

(1) SPECIFIC TERMS.—When used in this code, and when not otherwise distinctly expressed or manifestly incompatible with

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the intent thereof, the following terms shall have the following meanings:

(n) "Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended and in effect on January 1, 2016 ~~2015~~, except as provided in subsection (3).

(2) DEFINITIONAL RULES.—When used in this code and neither otherwise distinctly expressed nor manifestly incompatible with the intent thereof:

(c) Any term used in this code has the same meaning as when used in a comparable context in the Internal Revenue Code and other statutes of the United States relating to federal income taxes, as such code and statutes are in effect on January 1, 2016 ~~2015~~. However, if subsection (3) is implemented, the meaning of a term shall be taken at the time the term is applied under this code.

Section 14. Effective upon this act becoming a law and operating retroactively to January 1, 2016, paragraph (e) of subsection (1) of section 220.13, Florida Statutes, is amended to read:

220.13 "Adjusted federal income" defined.—

(1) The term "adjusted federal income" means an amount equal to the taxpayer's taxable income as defined in subsection (2), or such taxable income of more than one taxpayer as provided in s. 220.131, for the taxable year, adjusted as follows:

(e) *Adjustments related to federal acts.*—Taxpayers shall be required to make the adjustments prescribed in this paragraph for Florida tax purposes with respect to certain tax benefits received pursuant to the Economic Stimulus Act of 2008, the

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American Recovery and Reinvestment Act of 2009, the Small Business Jobs Act of 2010, the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, the American Taxpayer Relief Act of 2012, ~~and~~ the Tax Increase Prevention Act of 2014, and the Consolidated Appropriations Act, 2016.

1. There shall be added to such taxable income an amount equal to 100 percent of any amount deducted for federal income tax purposes as bonus depreciation for the taxable year pursuant to ss. 167 and 168(k) of the Internal Revenue Code of 1986, as amended by s. 103 of Pub. L. No. 110-185, s. 1201 of Pub. L. No. 111-5, s. 2022 of Pub. L. No. 111-240, s. 401 of Pub. L. No. 111-312, s. 331 of Pub. L. No. 112-240, ~~and~~ s. 125 of Pub. L. No. 113-295, and s. 143 of Division Q of Pub. L. No. 114-113, for property placed in service after December 31, 2007, and before January 1, 2021 ~~2015~~. For the taxable year and for each of the 6 subsequent taxable years, there shall be subtracted from such taxable income an amount equal to one-seventh of the amount by which taxable income was increased pursuant to this subparagraph, notwithstanding any sale or other disposition of the property that is the subject of the adjustments and regardless of whether such property remains in service in the hands of the taxpayer.

2. There shall be added to such taxable income an amount equal to 100 percent of any amount in excess of $128,000 deducted for federal income tax purposes for the taxable year pursuant to s. 179 of the Internal Revenue Code of 1986, as amended by s. 102 of Pub. L. No. 110-185, s. 1202 of Pub. L. No. 111-5, s. 2021 of Pub. L. No. 111-240, s. 402 of Pub. L. No.

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111-312, s. 315 of Pub. L. No. 112-240, and s. 127 of Pub. L. No. 113-295, for taxable years beginning after December 31, 2007, and before January 1, 2015. For the taxable year and for each of the 6 subsequent taxable years, there shall be subtracted from such taxable income one-seventh of the amount by which taxable income was increased pursuant to this subparagraph, notwithstanding any sale or other disposition of the property that is the subject of the adjustments and regardless of whether such property remains in service in the hands of the taxpayer.

3. There shall be added to such taxable income an amount equal to the amount of deferred income not included in such taxable income pursuant to s. 108(i)(1) of the Internal Revenue Code of 1986, as amended by s. 1231 of Pub. L. No. 111-5. There shall be subtracted from such taxable income an amount equal to the amount of deferred income included in such taxable income pursuant to s. 108(i)(1) of the Internal Revenue Code of 1986, as amended by s. 1231 of Pub. L. No. 111-5.

4. Subtractions available under this paragraph may be transferred to the surviving or acquiring entity following a merger or acquisition and used in the same manner and with the same limitations as specified by this paragraph.

5. The additions and subtractions specified in this paragraph are intended to adjust taxable income for Florida tax purposes, and, notwithstanding any other provision of this code, such additions and subtractions shall be permitted to change a taxpayer’s net operating loss for Florida tax purposes.

Section 15. (1) The Department of Revenue is authorized, and all conditions are deemed to be met, to adopt emergency

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rules pursuant to s. 120.54(4), Florida Statutes, for the purpose of implementing the amendments made by this act to s. 220.03(1)(n) and (2)(c), Florida Statutes, and s. 220.13(1)(e), Florida Statutes.

(2) Notwithstanding any other provision of law, emergency rules adopted pursuant to subsection (1) are effective for 6 months after adoption and may be renewed during the pendency of procedures to adopt permanent rules addressing the subject of the emergency rules.

(3) This section expires January 1, 2020.

Section 16. Effective upon this act becoming a law and applicable to taxable years beginning on or after January 1, 2016, section 220.222, Florida Statutes, is amended to read:

220.222 Returns; time and place for filing.—

(1)(a) Returns required by this code shall be filed with the office of the department in Leon County or at such other place as the department may by regulation prescribe. All returns required for a DISC (Domestic International Sales Corporation) under paragraph 6011(c)(2) of the Internal Revenue Code shall be filed on or before the 1st day of the 10th month after ~~following~~ the close of the taxable year; all partnership information returns shall be filed on or before the 1st day of the 4th ~~5th~~ month after ~~following~~ the close of the taxable year; and all other returns shall be filed on or before the 1st day of the 5th ~~4th~~ month after ~~following~~ the close of the taxable year or the 15th day after ~~following~~ the due date, without extension, for the filing of the related federal return for the taxable year, unless under subsection (2) one or more extensions of time, not to exceed 6 months in the aggregate, for any such filing is

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granted.

(b) Notwithstanding paragraph (a), for taxable years beginning before January 1, 2026, returns of taxpayers with a taxable year ending on June 30 shall be filed on or before the 1st day of the 4th month after the close of the taxable year or the 15th day after the due date, without extension, for the filing of the related federal return for the taxable year, unless under subsection (2) one or more extensions of time for any such filing is granted.

(2)(a) When a taxpayer has been granted an extension or extensions of time within which to file its federal income tax return for any taxable year, and if the requirements of s. 220.32 are met, the filing of a request for such extension or extensions with the department shall automatically extend the due date of the return required under this code until ~~15 days after the expiration of the federal extension or until~~ the expiration of 6 months from the original due date~~, whichever first occurs~~.

(b) The department may grant an extension or extensions of time for the filing of any return required under this code upon receiving a prior request therefor if good cause for an extension is shown. However, the aggregate extensions of time under paragraph ~~paragraphs~~ (a) and this paragraph must ~~(b) shall~~ not exceed 6 months. An ~~No~~ extension granted under this paragraph is not ~~shall be~~ valid unless the taxpayer complies with ~~the requirements of~~ s. 220.32.

(c) For purposes of this subsection, a taxpayer is not in compliance with ~~the requirements of~~ s. 220.32 if the taxpayer underpays the required payment by more than the greater of

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$2,000 or 30 percent of the tax shown on the return when filed.

(d) For taxable years beginning before January 1, 2026, the 6-month time period in paragraphs (a) and (b) shall be 7 months for taxpayers with a taxable year ending June 30 and shall be 5 months for taxpayers with a taxable year ending December 31.

Section 17. Effective upon this act becoming a law and applicable to taxable years beginning on or after January 1, 2017, section 220.241, Florida Statutes, is amended to read:

220.241 Declaration; time for filing.—

(1) A declaration of estimated tax under this code shall be filed before the 1st day of the 6th ~~5th~~ month of each taxable year, except that if the minimum tax requirement of s. 220.24(1) is first met:

(a) ~~(1)~~ After the 3rd month and before the 6th month of the taxable year, the declaration shall be filed before the 1st day of the 7th month;

(b) ~~(2)~~ After the 5th month and before the 9th month of the taxable year, the declaration shall be filed before the 1st day of the 10th month; or

(c) ~~(3)~~ After the 8th month and before the 12th month of the taxable year, the declaration shall be filed for the taxable year before the 1st day of the succeeding taxable year.

(2) Notwithstanding subsection (1), for taxable years beginning before January 1, 2026, taxpayers with a taxable year ending on June 30 shall file declarations before the 1st day of the 5th month of each taxable year, unless paragraph (1)(a), paragraph (1)(b), or paragraph (1)(c) applies.

Section 18. Effective upon this act becoming a law and applicable to taxable years beginning on or after January 1,

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2017, subsection (1) of section 220.33, Florida Statutes, is amended to read:

220.33 Payments of estimated tax.—A taxpayer required to file a declaration of estimated tax pursuant to s. 220.24 shall pay such estimated tax as follows:

(1) If the declaration is required to be filed before the 1st day of the 6th ~~5th~~ month of the taxable year, the estimated tax shall be paid in four equal installments. The first installment shall be paid at the time of the required filing of the declaration; the second and third installments shall be paid before the 1st day of the 7th month and before the 1st day of the 10th month of the taxable year, respectively; and the fourth installment shall be paid before the 1st day of the next taxable year.

Section 19. Effective upon this act becoming a law and applicable to taxable years beginning on or after January 1, 2017, paragraph (c) of subsection (2) of section 220.34, Florida Statutes, is amended to read:

220.34 Special rules relating to estimated tax.—

(2) No interest or penalty shall be due or paid with respect to a failure to pay estimated taxes except the following:

(c) The period of the underpayment for which interest and penalties apply shall commence on the date the installment was required to be paid, determined without regard to any extensions of time, and shall terminate on the earlier of the following dates:

1. The 1st ~~first~~ day of the 5th ~~fourth~~ month after ~~following~~ the close of the taxable year;

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2. For taxable years beginning before January 1, 2026, for taxpayers with a taxable year ending June 30, the 1st day of the 4th month after the close of the taxable year; or

3.~~2.~~ With respect to any portion of the underpayment, the date on which such portion is paid.

For purposes of this paragraph, a payment of estimated tax on any installment date shall be considered a payment of any previous underpayment only to the extent such payment exceeds the amount of the installment determined under subparagraph (b)1. for such installment date.

Section 20. Subsections (1) and (2) of section 561.121, Florida Statutes, are amended to read:

561.121 Deposit of revenue.—

(1) All state funds collected pursuant to ss. 563.05, 564.06, 565.02(9), and 565.12 shall be paid into the State Treasury and disbursed in the following manner:

(a) Two percent of monthly collections of the excise taxes on alcoholic beverages established in ss. 563.05, 564.06, and 565.12 and the tax on alcoholic beverages, cigarettes, and other tobacco products established in s. 565.02(9) shall be deposited into the Alcoholic Beverage and Tobacco Trust Fund to meet the division's appropriation for the state fiscal year.

(b) The remainder of the funds collected pursuant to ss. 563.05, 564.06, and 565.12 and the tax on alcoholic beverages, cigarettes, and other tobacco products established in s. 565.02(9) shall be credited to the General Revenue Fund.

(2) The unencumbered balance in the Alcoholic Beverage and Tobacco Trust Fund at the close of each fiscal year may not

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exceed $2 million. These funds shall be held in reserve for use in the event that trust fund revenues are unable to meet the division's appropriation for the next fiscal year. In the event of a revenue shortfall, these funds shall be spent pursuant to subsection (3). Notwithstanding subsection (1), if the unencumbered balance on June 30 in any fiscal year is less than $2 million, the department is authorized to retain the difference between the June 30 unencumbered balance in the trust fund and $2 million from the July collections of state funds collected pursuant to ss. 563.05, 564.06, and 565.12 and the tax on alcoholic beverages, cigarettes, and other tobacco products established in s. 565.02(9). Any unencumbered funds in excess of reserve funds shall be transferred unallocated to the General Revenue Fund by August 31 of the next fiscal year.

Section 21. Subsection (4) of section 564.06, Florida Statutes, is amended to read:

564.06 Excise taxes on wines and beverages.—

(4) As to cider, which is made from the normal alcoholic fermentation of the juice of sound, ripe apples or pears, including but not limited to flavored, sparkling, or carbonated cider and cider made from condensed apple or pear must, that contain not less than one-half of 1 percent of alcohol by volume and not more than 7 percent of alcohol by volume, there shall be paid by all manufacturers and distributors a tax at the rate of $.89 per gallon. With the sole exception of the excise tax rate, cider shall be considered wine and shall be subject to the provisions of this chapter.

Section 22. Subsection (9) of section 565.02, Florida Statutes, is amended to read:

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565.02 License fees; vendors; clubs; caterers; and others.—

(9)(a) As used in this subsection, the term:

1. "Annual capacity" means an amount equal to the number of lower berths on a vessel multiplied by the number of embarkations of that vessel during a calendar year.

2. "Base rate" means an amount equal to the total taxes and surcharges paid by all permittees pursuant to the Beverage Law and chapter 210 for sales of alcoholic beverages, cigarettes, and other tobacco products taking place between January 1, 2015, and December 31, 2015, inclusive, divided by the sum of the annual capacities of all vessels permitted pursuant to former s. 565.02(9), Florida Statutes 2015, for calendar year 2015.

3. "Embarkation" means an instance in which a vessel departs from a port in this state.

4. "Lower berth" means a bed that is:

a. Affixed to a vessel;

b. Not located above another bed in the same cabin; and

c. Located in a cabin not in use by employees of the operator of the vessel or its contractors.

5. "Quarterly capacity" means an amount equal to the number of lower berths on a vessel multiplied by the number of embarkations of that vessel during a calendar quarter.

(b) It is the finding of the Legislature that passenger vessels engaged exclusively in foreign commerce are susceptible to a distinct and separate classification for purposes of the sale of alcoholic beverages, cigarettes, and other tobacco products under the Beverage Law and chapter 210.

(c) Upon the filing of an application and payment of an annual fee of $1,100, the director is authorized to issue a

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permit authorizing the operator, or, if applicable, his or her concessionaire, of a passenger vessel which has cabin-berth capacity for at least 75 passengers, and which is engaged exclusively in foreign commerce, to sell alcoholic beverages, cigarettes, and other tobacco products on the vessel for consumption on board only:

1. ~~(a)~~ For no more than ~~During a period not in excess of~~ 24 hours before ~~prior to~~ departure while the vessel is moored at a dock or wharf in a port of this state; or

2. ~~(b)~~ At any time while the vessel is located in Florida territorial waters and is in transit to or from international waters.

One such permit shall be required for each such vessel and shall name the vessel for which it is issued. No license shall be required or tax levied by any municipality or county for the privilege of selling beverages, cigarettes, or other tobacco products for consumption on board such vessels. The beverages, cigarettes, or other tobacco products so sold may be purchased outside the state by the permittee, and the same shall not be considered as imported for the purposes of s. 561.14(3) solely because of such sale. The permittee is not required to obtain its beverages, cigarettes, or other tobacco products from licensees under the Beverage Law or chapter 210. Each permittee~~,~~ ~~but it~~ shall keep a strict account of the quarterly capacity of each of its vessels ~~all such beverages sold within this state~~ and shall make quarterly ~~monthly~~ reports to the division on forms prepared and furnished by the division. ~~A permittee who sells on board the vessel beverages withdrawn from United States~~

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~~Bureau of Customs and Border Protection bonded storage on board the vessel may satisfy such accounting requirement by supplying the division with copies of the appropriate United States Bureau of Customs and Border Protection forms evidencing such withdrawals as importations under United States customs laws.~~

(d) Each ~~Such~~ permittee shall pay to the state a ~~an excise~~ tax for beverages, cigarettes, and other tobacco products sold pursuant to this subsection in an amount equal to the base rate multiplied by the permittee's quarterly capacity during the calendar quarter, less any tax or surcharge already paid by a licensed manufacturer or distributor pursuant to the Beverage Law or chapter 210 on beverages, cigarettes, and other tobacco products sold by the permittee pursuant to this subsection during the quarter for which tax is due ~~section, if such excise tax has not previously been paid, in an amount equal to the tax which would be required to be paid on such sales by a licensed manufacturer or distributor~~.

(e) A vendor holding such permit shall pay the tax quarterly ~~monthly~~ to the division at the same time he or she furnishes the required report. Such report shall be filed on or before the 15th day of each calendar quarter ~~month~~ for the quarterly capacity ~~sales occurring~~ during the previous calendar quarter ~~month~~.

(f) No later than August 1, 2016, each permittee shall report the annual capacity for each of its vessels for calendar year 2015 to the division on forms prepared and furnished by the division. No later than September 1, 2016, the division shall calculate the base rate and report it to each permittee. The base rate shall also be published in the Florida Administrative

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Register and on the department's website. The division may verify independently the information provided under this paragraph.

(g) Revenues collected pursuant to this subsection shall be distributed pursuant to s. 561.121(1).

Section 23. Subsection (1) of section 951.22, Florida Statutes, is amended to read:

951.22 County detention facilities; contraband articles.—

(1) It is unlawful, except through regular channels as duly authorized by the sheriff or officer in charge, to introduce into or possess upon the grounds of any county detention facility as defined in s. 951.23 or to give to or receive from any inmate of any such facility wherever said inmate is located at the time or to take or to attempt to take or send therefrom any of the following articles which are hereby declared to be contraband for the purposes of this act, to wit: Any written or recorded communication; any currency or coin; any article of food or clothing; any tobacco products as defined in s. 210.25(12) ~~210.25(11)~~; any cigarette as defined in s. 210.01(1); any cigar; any intoxicating beverage or beverage which causes or may cause an intoxicating effect; any narcotic, hypnotic, or excitative drug or drug of any kind or nature, including nasal inhalators, sleeping pills, barbiturates, and controlled substances as defined in s. 893.02(4); any firearm or any instrumentality customarily used or which is intended to be used as a dangerous weapon; and any instrumentality of any nature that may be or is intended to be used as an aid in effecting or attempting to effect an escape from a county facility.

Section 24. Clothing and school supplies; sales tax

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holiday.—

(1) The tax levied under chapter 212, Florida Statutes, may not be collected during the period from 12:01 a.m. on August 5, 2016, through 11:59 p.m. on August 7, 2016, on the retail sale of:

(a) Clothing, wallets, or bags, including handbags, backpacks, fanny packs, and diaper bags, but excluding briefcases, suitcases, and other garment bags, having a sales price of $60 or less per item. As used in this paragraph, the term "clothing" means:

1. Any article of wearing apparel intended to be worn on or about the human body, excluding watches, watchbands, jewelry, umbrellas, and handkerchiefs; and

2. All footwear, excluding skis, swim fins, roller blades, and skates.

(b) School supplies having a sales price of $15 or less per item. As used in this paragraph, the term "school supplies" means pens, pencils, erasers, crayons, notebooks, notebook filler paper, legal pads, binders, lunch boxes, construction paper, markers, folders, poster board, composition books, poster paper, scissors, cellophane tape, glue or paste, rulers, computer disks, protractors, compasses, and calculators.

(2) The tax exemptions provided in this section do not apply to sales within a theme park or entertainment complex as defined in s. 509.013(9), Florida Statutes, within a public lodging establishment as defined in s. 509.013(4), Florida Statutes, or within an airport as defined in s. 330.27(2), Florida Statutes.

(3) The tax exemptions provided in this section apply at

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the option of a dealer if less than 5 percent of the dealer's gross sales of tangible personal property in the prior calendar year are comprised of items that would be exempt under this section. If a qualifying dealer chooses not to participate in the tax holiday, by August 1, 2016, the dealer must notify the Department of Revenue in writing of its election to collect sales tax during the holiday and must post a copy of that notice in a conspicuous location at its place of business.

(4) The Department of Revenue may, and all conditions are deemed met to, adopt emergency rules pursuant to s. 120.54(4), Florida Statutes, to administer this section.

(5) For the 2016-2017 fiscal year, the sum of $229,982 in nonrecurring funds is appropriated from the General Revenue Fund to the Department of Revenue for the purpose of implementing this section.

Section 25. For the 2016-2017 fiscal year, the sum of $100,374 in nonrecurring funds is appropriated from the General Revenue Fund to the Department of Revenue for the purpose of implementing ss. 220.03, 220.13, 220.222, 220.241, 220.33, and 220.34, as amended by this act.

Section 26. Except as otherwise expressly provided in this act and except for this section, which shall take effect upon this act becoming a law, this act shall take effect July 1, 2016.

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

And the title is amended as follows:

Delete everything before the enacting clause

and insert:

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A bill to be entitled

An act relating to taxation; amending s. 125.0104, F.S.; specifying additional uses for revenues received from tourist development taxes for certain coastal counties; conforming a cross-reference; amending s. 196.012, F.S.; revising definitions related to certain businesses; amending s. 196.1995, F.S.; revising an economic development ad valorem tax exemption for certain enterprise zone businesses; providing applicability of the exemption to data centers; providing retroactive applicability for certain provisions; amending s. 201.15, F.S.; revising a date relating to the payment of debt service for certain bonds; amending s. 206.9825, F.S.; revising eligibility criteria for wholesalers and terminal suppliers to receive aviation fuel tax refunds or credits of previously paid excise taxes; providing for future repeal of such refunds or credits; revising the rate of the excise tax on certain aviation fuels on a specified date; amending s. 210.13, F.S.; providing procedures to be used when a person, other than a dealer, is required but fails to remit certain taxes; amending s. 210.25, F.S.; revising definitions related to tobacco; amending s. 212.05, F.S.; clarifying the requirements for the exemption from tax on certain sales of aircraft that will be registered in a foreign jurisdiction; amending s. 212.06, F.S.; reducing by a specified percentage over time an indexed tax on manufactured asphalt used for a government public

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works project; exempting such manufactured asphalt from the indexed tax beginning on a specified date; amending s. 212.08, F.S.; exempting the sales of food or drinks by certain qualified veterans' organizations; revising definitions regarding certain industrial machinery and equipment; removing the expiration date on the exemption for purchases of certain machinery and equipment; revising the definition of the term "eligible manufacturing business" for purposes of qualification for the sales and use tax exemption; providing definitions for certain postharvest machinery and equipment, postharvest activities, and eligible postharvest activity businesses; providing an exemption for the purchase of such machinery and equipment; amending s. 220.03, F.S.; adopting the 2016 version of the Internal Revenue Code; providing retroactive applicability; amending s. 220.13, F.S.; incorporating a reference to a recent federal act into state law for the purpose of defining the term "adjusted federal income"; revising the treatment by this state of certain depreciation of assets allowed for federal income tax purposes; providing retroactive applicability; authorizing the Department of Revenue to adopt emergency rules; providing for expiration; amending s. 220.222, F.S.; revising due dates for partnership information returns and corporate tax returns; amending s. 220.241, F.S.; revising due dates to file a declaration of estimated corporate income

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tax; amending s. 220.33, F.S.; revising the due date of estimated payments of corporate income tax; amending s. 220.34, F.S.; revising the dates for purposes of calculating interest and penalties on underpayments of estimated corporate income tax; amending s. 561.121, F.S.; requiring that certain taxes related to alcoholic beverages and tobacco products sold on cruise ships be deposited into specified funds; amending s. 564.06, F.S.; specifying the excise tax that is applicable to cider made from pears; amending s. 565.02, F.S.; creating an alternative method of taxation for alcoholic beverages and tobacco products sold on certain cruise ships; requiring the reporting of certain information by each permittee for purposes of determining the base rate applicable to the taxpayers; authorizing the Division of Alcoholic Beverages and Tobacco within the Department of Business and Professional Regulation to independently verify certain reported information; amending s. 951.22, F.S.; conforming a cross-reference; providing an exemption from the sales and use tax for the retail sale of certain clothes and school supplies during a specified period; providing exceptions; authorizing certain dealers to elect not to participate in such tax exemptions; providing requirements for such dealers; authorizing the Department of Revenue to adopt emergency rules; providing appropriations; providing effective dates.

299122

LEGISLATIVE ACTION

Senate	.	House
Comm: OO	.	
03/03/2016	.	
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	.	

The Committee on Appropriations (Latvala) recommended the following:

Senate Amendment (with title amendment)

Delete lines 189 - 380.

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

And the title is amended as follows:

Delete lines 2 - 11

and insert:

An act relating to taxation;

960516

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/02/2016	.	
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	.	
	.	

The Committee on Appropriations (Negron) recommended the following:

Senate Amendment (with title amendment)

Delete lines 682 - 729
and insert:
Section 9. Effective upon this act becoming a law, subsections (5) and (11) of section 196.1995, Florida Statutes, are amended to read:
196.1995 Economic development ad valorem tax exemption.—
(5) Upon a majority vote in favor of such authority, the board of county commissioners or the governing authority of the

960516

municipality, at its discretion, by ordinance may exempt from ad valorem taxation up to 100 percent of the assessed value of all improvements to real property made by or for the use of a new business and of all tangible personal property of such new business, or up to 100 percent of the assessed value of all added improvements to real property made to facilitate the expansion of an existing business and of the net increase in all tangible personal property acquired to facilitate such expansion of an existing business. To qualify for this exemption, the improvements to real property must be made or the tangible personal property must be added or increased after approval by motion or resolution of the local governing body, subject to ordinance adoption or on or after the day the ordinance is adopted. However, if the authority to grant exemptions is approved in a referendum in which the ballot question contained in subsection (3) appears on the ballot, the authority of the board of county commissioners or the governing authority of the municipality to grant exemptions is limited solely to new businesses and expansions of existing businesses that are located in an area that was designated as an enterprise zone pursuant to chapter 290 as of December 30, 2015, or in a brownfield area. New businesses and expansions of existing businesses located in an area that was designated as an enterprise zone pursuant to chapter 290 as of December 30, 2015, but is not in a brownfield area may qualify for the ad valorem tax exemption only if approved by motion or resolution of the local governing body, subject to ordinance or resolution of the local governing body, subject to ordinance adoption, or by ordinance enacted before December 31, 2015. Property acquired to

960516

replace existing property shall not be considered to facilitate a business expansion. All data center equipment for a qualifying data center as set forth in s. 212.08(5)(s) shall be exempt from ad valorem taxation for the term of the approved exemption. The exemption applies only to taxes levied by the respective unit of government granting the exemption. The exemption does not apply, however, to taxes levied for the payment of bonds or to taxes authorized by a vote of the electors pursuant to s. 9(b) or s. 12, Art. VII of the State Constitution. Any such exemption shall remain in effect for up to 10 years with respect to any particular facility, or up to 20 years for a qualifying data center, regardless of any change in the authority of the county or municipality to grant such exemptions or the expiration of the Florida Enterprise Zone Act pursuant to chapter 290. The exemption shall not be prolonged or extended by granting exemptions from additional taxes or by virtue of any reorganization or sale of the business receiving the exemption.

(11) An ordinance granting an exemption under this section shall be adopted in the same manner as any other ordinance of the county or municipality and shall include the following:

(a) The name and address of the new business or expansion of an existing business to which the exemption is granted;

(b) The total amount of revenue available to the county or municipality from ad valorem tax sources for the current fiscal year, the total amount of revenue lost to the county or municipality for the current fiscal year by virtue of economic development ad valorem tax exemptions currently in effect, and the estimated revenue loss to the county or municipality for the current fiscal year attributable to the exemption of the

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business named in the ordinance;

(c) The period of time for which the exemption will remain in effect and the expiration date of the exemption, which may be any period of time up to 10 years, or up to 20 years for a qualifying data center; and

(d) A finding that the business named in the ordinance meets the requirements of s. 196.012(14) or (15).

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

And the title is amended as follows:

Delete line 45

and insert:

businesses; specifying applicability of the exemption as it relates to qualifying data centers; amending s. 201.15, F.S.; revising a date

624704

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/02/2016	.	
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The Committee on Appropriations (Negron) recommended the following:

Senate Amendment

In directory clause, delete line 1323
and insert:
Section 18. Except for s. 212.08(5)(s), which shall not take effect until authorized by the Legislature in an implementing bill, effective July 1, 2016, paragraphs (r) and (s) are added to subsection

524478

LEGISLATIVE ACTION

Senate	.	House
Comm: OO	.	
03/03/2016	.	
	.	
	.	
	.	

The Committee on Appropriations (Hays) recommended the following:

Senate Amendment (with title amendment)

Between lines 2304 and 2305
insert:

Section 34. Paragraph (a) of subsection (2) of section 565.03, Florida Statutes, is amended to read:

565.03 License fees; manufacturers, distributors, brokers, sales agents, and importers of alcoholic beverages; vendor licenses and fees; craft distilleries.—

(2)(a) A distillery authorized to do business under the

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Beverage Law shall pay an annual state license tax for each plant or branch operating in the state, as follows:

1. If engaged in the business of manufacturing distilled spirits, a state license tax of $4,000.

2. If engaged in the business of rectifying and blending spirituous liquors and nothing else, a state license tax of $4,000.

3. If engaged in the business of manufacturing distilled spirits as a qualified craft distillery, a state license tax of $1,000.

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

And the title is amended as follows:

Delete line 128

and insert:

applicable to the taxpayers; amending s. 565.03, F.S.; requiring a license tax for each plant or branch of certain qualified craft distilleries; amending s. 951.22, F.S.;

A bill to be entitled

An act relating to taxation; amending s. 125.0104, F.S.; revising uses of certain tourist development taxes; requiring the performance of a return-on-investment or cost-benefit analysis in specified circumstances; authorizing certain entities to file administrative challenges against counties for using tourist development taxes for unauthorized purposes; prohibiting use of those revenues for purposes which are the subject of a challenge; authorizing reasonable attorney fees and costs under specified circumstances; amending s. 159.621, F.S.; exempting from the documentary stamp tax certain notes or mortgages with respect to certain loans by or on behalf of a housing finance authority; providing criteria for such exemption; amending s. 163.387, F.S.; specifying uses of community redevelopment agency redevelopment trust fund moneys for certain community redevelopment agencies that support youth centers; amending s. 195.022, F.S.; revising the county population thresholds for purposes of identifying the governmental entity responsible for payment of aerial photographs and ownership maps; amending s. 196.011, F.S.; exempting certain veterans and surviving spouses from certain annual homestead filing requirements; amending s. 196.012, F.S.; revising definitions

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related to certain businesses; amending s. 196.081, F.S.; expanding an exemption from ad valorem taxation for certain permanently and totally disabled veterans under specified circumstances; removing the requirement that a deceased veteran have resided in this state on a specified date before the ad valorem tax exemption for homestead property may apply to the veteran's surviving spouse; exempting the unremarried surviving spouse of certain deceased veterans from payment of ad valorem taxes for certain homestead property in this state, irrespective of the state in which the veteran's homestead was located at the time of death, if certain conditions are met; amending 196.1978, F.S.; providing a property tax discount for certain properties used to provide affordable housing to specified low-income persons and families; amending s. 196.1995, F.S.; revising an economic development ad valorem tax exemption for certain enterprise zone businesses; amending s. 201.15, F.S.; revising a date relating to the payment of debt service for certain bonds; amending s. 206.9825, F.S.; revising eligibility criteria for wholesalers and terminal suppliers to receive aviation fuel tax refunds or credits of previously paid excise taxes; providing for future repeal of such refunds or credits; revising the rate of the excise tax on certain aviation fuels on a

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specified date; amending s. 210.13, F.S.; providing procedures to be used when a person, other than a dealer, is required but fails to remit certain taxes; amending s. 210.25, F.S.; revising definitions related to tobacco; amending s. 212.031, F.S.; reducing the tax levied on the renting, leasing, letting, or granting of a license for the use of real property; providing applicability; amending s. 212.04, F.S.; authorizing a refund or credit of tax for certain resales of admissions upon the demonstration of specified documentation; amending s. 212.05, F.S.; clarifying the requirements for the exemption from tax on certain sales of aircraft that will be registered in a foreign jurisdiction; amending s. 212.08, F.S.; creating an exemption for certain sales of data center equipment, certain sales of electricity, and certain sales of building materials; providing definitions; exempting the sales of food or drinks by certain qualified veterans' organizations; revising definitions regarding certain industrial machinery and equipment; removing the expiration date on the exemption for purchases of certain machinery and equipment; revising the definition of the term "eligible manufacturing business" for purposes of qualification for the sales and use tax exemption; providing definitions for certain postharvest

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machinery and equipment, postharvest activities, and eligible postharvest activity businesses; providing an exemption for the purchase of such machinery and equipment; amending s. 220.03, F.S.; adopting the 2016 version of the Internal Revenue Code; providing retroactive applicability; amending s. 220.13, F.S.; incorporating a reference to a recent federal act into state law for the purpose of defining the term "adjusted federal income"; revising the treatment by this state of certain depreciation of assets allowed for federal income tax purposes; providing retroactive applicability; authorizing the Department of Revenue to adopt emergency rules; amending s. 220.1845, F.S.; specifying a monetary cap on the grant of contaminated site rehabilitation tax credits available for the year; amending s. 220.192, F.S.; extending by 1 year the renewable energy technology corporate income tax credit; amending s. 220.193, F.S.; authorizing certain nonpublic waste-to-energy facilities to be eligible for the renewable energy production corporate income tax credit; removing the repeal of the tax credit; extending by 1 year a specified amount of available tax credit for eligible taxpayers; amending s. 220.196, F.S.; specifying the amount of research and development tax credits that may be granted to business enterprises in a future year; amending s.

220.222, F.S.; revising due dates for partnership information returns and corporate tax returns; amending s. 220.241, F.S.; revising due dates to file a declaration of estimated corporate income tax; amending s. 220.33, F.S.; revising the due date of estimated payments of corporate income tax; amending 220.34, F.S.; revising the dates for purposes of calculating interest and penalties on underpayments of estimated corporate income tax; amending s. 376.30781, F.S.; revising the total amount of tax credits available for the rehabilitation of drycleaning-solvent-contaminated sites and brownfield sites in designated brownfield areas for a specified period; amending s. 561.121, F.S.; requiring that certain taxes related to alcoholic beverages and tobacco products sold on cruise ships be deposited into specified funds; amending s. 564.06, F.S.; specifying the excise tax that is applicable to cider made from pears; amending s. 565.02, F.S.; creating an alternative method of taxation for alcoholic beverages and tobacco products sold on certain cruise ships; requiring the reporting of certain information by each permittee for purposes of determining the base rate applicable to the taxpayers; amending s. 951.22, F.S.; conforming a cross reference; providing an exemption from the sales and use tax for the retail sale of

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certain clothes, school supplies, and personal computers and related accessories during a specified period; providing exceptions; authorizing the Department of Revenue to adopt emergency rules; providing an appropriation; providing an exemption from the sales and use tax for the retail sale of certain items and articles of tangible personal property by certain small businesses during a specified period; providing an exemption from the sales and use tax on the retail sale of certain firearms, ammunition for firearms, camping tents, and fishing supplies during a specified period; providing exceptions; authorizing the department to adopt emergency rules; providing an appropriation; providing an exemption from the sales and use tax for certain personal computers and related accessories during a specified period; providing exceptions; authorizing the department to adopt emergency rules; providing an appropriation; providing an exemption from the sales and use tax on the sale of certain books and other reading materials at book fairs; authorizing the department to adopt emergency rules; amending chapter 2015-221, Laws of Florida; extending the exemption from the sales and use tax on the retail sale of certain textbooks for 1 year; providing an appropriation to the department to implement certain

tax exemptions on rental or license fees; providing an appropriation to the department to assist certain counties in furnishing aerial photographs and maps; specifying that specified amendments related to certain businesses located in areas that were designated as enterprise zones are remedial in nature; creating s. 196.1955, F.S.; consolidating provisions relating to obtaining an ad valorem exemption for property owned by exempt organizations; requiring the owner of an exempt organization to take affirmative steps to demonstrate the property's exempt use; authorizing the property appraiser to serve a notice of tax lien on exempt property that is not in actual exempt use after a specified time; providing that the lien attaches to any property owned by the organization identified in the notice of lien; prohibiting a property appraiser from serving a notice of tax lien on certain property being prepared for use as a house of public worship; defining the terms "charitable use," "affirmative steps," and "public worship"; amending s. 196.196, F.S.; deleting provisions relating to the exemption as it applies to public worship and affordable housing and provisions that have been moved to s. 196.1955, F.S.; amending s. 196.198, F.S.; deleting provisions that have been moved to s. 196.1955, F.S., relating to property owned

by an educational institution and used for an educational purpose; providing a finding of important state interest; providing effective dates.

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

Section 1. Effective October 1, 2016, paragraph (m) of subsection (3) and subsection (5) of section 125.0104, Florida Statutes, are amended to read:

125.0104 Tourist development tax; procedure for levying; authorized uses; referendum; enforcement.—

(3) TAXABLE PRIVILEGES; EXEMPTIONS; LEVY; RATE.—

(m)1. In addition to any other tax which is imposed pursuant to this section, a high tourism impact county may impose an additional 1-percent tax on the exercise of the privilege described in paragraph (a) by extraordinary vote of the governing board of the county. The tax revenues received pursuant to this paragraph shall be used for one or more of the authorized uses pursuant to subparagraph (5)(a)3., paragraph (5)(b), or paragraph (5)(c) ~~subsection (5)~~.

2. A county is considered to be a high tourism impact county after the Department of Revenue has certified to such county that the sales subject to the tax levied pursuant to this section exceeded $600 million during the previous calendar year, or were at least 18 percent of the county's total taxable sales under chapter 212 where the sales subject to the tax levied

pursuant to this section were a minimum of $200 million, except that no county authorized to levy a convention development tax pursuant to s. 212.0305 shall be considered a high tourism impact county. Once a county qualifies as a high tourism impact county, it shall retain this designation for the period the tax is levied pursuant to this paragraph.

3. ~~The provisions of~~ Paragraphs (4)(a)-(d) do ~~shall~~ not apply to the adoption of the additional tax authorized in this paragraph. The effective date of the levy and imposition of the tax authorized under this paragraph shall be the first day of the second month following approval of the ordinance by the governing board or the first day of any subsequent month as may be specified in the ordinance. A certified copy of such ordinance shall be furnished by the county to the Department of Revenue within 10 days after approval of such ordinance.

(5) AUTHORIZED USES OF REVENUE.—

(a) Except as otherwise provided in this section, and after deducting payments required by subparagraph (c)2., all tax revenues received pursuant to this section by a county imposing the tourist development tax shall be used by that county as follows ~~for the following purposes only~~:

1. No less than 35 percent of the revenues must be used for promotion as specified under this section. For purposes of this subparagraph, the term "promotion" does not include any expenditure made pursuant to subsection (9).

2. In a coastal county, up to 10 percent of the revenues

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may be used to provide emergency medical services, as defined in s. 401.107(3), or law enforcement services that are needed for enhanced emergency medical or public safety services related to increased tourism and visitors to an area. If taxes collected pursuant to this section are used to fund emergency medical services or public safety services for tourism or special events, the governing board of a county or municipality is prohibited from using such taxes to supplant the normal operating expenses of an emergency services department, a fire department, a sheriff's office, or a police department.

3. The remaining revenues shall be used for the following purposes only:

a.~~1.~~ To acquire, construct, extend, enlarge, remodel, repair, improve, maintain, operate, or promote one or more:

(I)~~a.~~ Publicly owned and operated convention centers, sports stadiums, sports arenas, coliseums, or auditoriums within the boundaries of the county or subcounty special taxing district in which the tax is levied; or

(II)~~b.~~ Aquariums or museums that are publicly owned and operated or owned and operated by not-for-profit organizations and open to the public, within the boundaries of the county or subcounty special taxing district in which the tax is levied;

b.~~2.~~ To promote zoological parks that are publicly owned and operated or owned and operated by not-for-profit organizations and open to the public;

c.~~3.~~ To promote and advertise tourism in this state and

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

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nationally and internationally; however, if tax revenues are expended for an activity, service, venue, or event, the activity, service, venue, or event must have as one of its main purposes the attraction of tourists as evidenced by the promotion of the activity, service, venue, or event to tourists;

d.~~4.~~ To fund convention bureaus, tourist bureaus, tourist information centers, and news bureaus as county agencies or by contract with the chambers of commerce or similar associations in the county, which may include any indirect administrative costs for services performed by the county on behalf of the promotion agency; or

e.~~5.~~ To finance beach park facilities or beach improvement, maintenance, renourishment, restoration, and erosion control, including shoreline protection, enhancement, cleanup, or restoration of inland lakes and rivers to which there is public access as those uses relate to the physical preservation of the beach, shoreline, or inland lake or river. However, any funds identified by a county as the local matching source for beach renourishment, restoration, or erosion control projects included in the long-range budget plan of the state's Beach Management Plan, pursuant to s. 161.091, or funds contractually obligated by a county in the financial plan for a federally authorized shore protection project may not be used or loaned for any other purpose. In counties with a population of fewer than 100,000 ~~population~~, up to 10 percent of the revenues from the tourist development tax may be used for beach park

facilities.

Sub-subparagraphs a. and b. ~~Subparagraphs 1. and 2.~~ may be implemented through service contracts and leases with lessees that have sufficient expertise or financial capability to operate such facilities.

(b) Tax revenues received pursuant to this section by a county with a population of less than 750,000 ~~population~~ imposing a tourist development tax may only be used by that county for the following purposes in addition to those purposes allowed pursuant to paragraph (a): to acquire, construct, extend, enlarge, remodel, repair, improve, maintain, operate, or promote one or more zoological parks, fishing piers, or nature centers which are publicly owned and operated or owned and operated by not-for-profit organizations and open to the public. All population figures relating to this subsection shall be based on the most recent population estimates prepared pursuant to ~~the provisions of~~ s. 186.901. These population estimates shall be those in effect on July 1 of each year.

(c)1. The revenues to be derived from the tourist development tax may be pledged to secure and liquidate revenue bonds issued by the county for the purposes set forth in sub-subparagraphs (a)3.a., b., and e. ~~subparagraphs (a)1., 2., and 5.~~ or for the purpose of refunding bonds previously issued for such purposes, or both; however, no more than 50 percent of the revenues from the tourist development tax may be pledged to

secure and liquidate revenue bonds or revenue refunding bonds issued for the purposes set forth in sub-subparagraph (a)3.e. ~~subparagraph (a)5.~~ Such revenue bonds and revenue refunding bonds may be authorized and issued in such principal amounts, with such interest rates and maturity dates, and subject to such other terms, conditions, and covenants as the governing board of the county shall provide. The Legislature intends that this paragraph be full and complete authority for accomplishing such purposes, but such authority is supplemental and additional to, and not in derogation of, any powers now existing or later conferred under law.

2. Revenues from tourist development taxes that are pledged to secure and liquidate revenue bonds or other forms of indebtedness issued pursuant to subparagraph 1. that are outstanding as of March 11, 2016, shall be made available first to make payments when due on the outstanding bonds or other forms of indebtedness before any other uses of the tax revenues.

(d) In order to recommend a proposed use of tourist development tax revenues authorized in subparagraph (a)3. or paragraph (b) to the governing board of a county, the tourist development council or a member of the public must submit a written proposal to the governing board of the county. The governing board of each county may determine the requirements for a written proposal, but, at a minimum, each proposal must include a description of the proposed use and an estimate of the cost.

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(e) Before expending any revenues from a tourist development tax on a use authorized in subparagraph (a)3. or paragraph (b) in excess of $100,000, the governing board of a county or a person authorized by the governing board must perform or provide for the performance of a return-on-investment analysis or cost-benefit analysis for the proposed use. The return-on-investment analysis or cost-benefit analysis must be performed by an individual who has prior experience with input-output modeling or the application of economic multipliers, such as the Regional Input-Output Modeling System created by the Bureau of Economic Analysis of the United States Department of Commerce. The return-on-investment analysis or cost-benefit analysis shall be paid for by revenues received pursuant to paragraphs (3)(c) and (d).

(f) ~~(d)~~ Any use of the local option tourist development tax revenues collected pursuant to this section for a purpose not expressly authorized by paragraph (3)(l) or paragraph (3)(n) or paragraph (a), paragraph (b), or paragraph (c) of this subsection is expressly prohibited.

(g) As an additional means of enforcing the prohibition in paragraph (f), a county's decision to use revenues in violation of paragraph (f) is subject to administrative review pursuant to ss. 120.569 and 120.57. A party may file a petition with the Division of Administrative Hearings within 60 days after such decision, except that a county's decision to use such revenues for a facility for which tax revenues under this section have

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already been pledged to secure and liquidate revenue bonds pursuant to paragraph (c) is not subject to administrative review. Any remitter of the tax provided for in this section, or any organization representing multiple remitters of the tax, shall be considered to be a party whose substantial interests are affected by such use and may challenge a particular use or uses alleged to be in violation of paragraph (f). During the pendency of the administrative proceeding and any resulting appeal, tax revenues collected under this section may not be used to fund the challenged use or uses. The county's interpretation of this section shall be afforded no deference in the proceedings. The decision of the administrative law judge constitutes a final order in such action, subject to judicial review as provided in s. 120.68. A prevailing remitter or remitter organization shall be awarded the reasonable costs of the action plus reasonable attorney fees, including on appeal.

Section 2. Section 159.621, Florida Statutes, is amended to read:

159.621 Housing bonds exempted from taxation.—

(1) The bonds of a housing finance authority issued under this act, together with all notes, mortgages, security agreements, letters of credit, or other instruments that ~~which~~ arise out of or are given to secure the repayment of bonds issued in connection with the financing of any housing development under this part, or a note or mortgage given with respect to a loan made by or on behalf of a housing finance

authority pursuant to s. 159.608(8), as well as the interest thereon and income therefrom, are ~~shall be~~ exempt from all taxes. The exemption granted by this subsection does not apply ~~section shall not be applicable~~ to any tax imposed by chapter 220 on interest, income, or profits on debt obligations owned by corporations or to any deed granted in connection with a property financed pursuant to this part.

(2) For a note or mortgage given with respect to a loan made by or on behalf of a housing finance authority pursuant to s. 159.608(8), to be exempt from all taxes pursuant to subsection (1), documentation from the housing finance authority affirming that the loan was made by or on behalf of the housing finance authority must be included with the mortgage at the time the mortgage is recorded.

Section 3. Paragraph (i) is added to subsection (6) of section 163.387, Florida Statutes, to read:

163.387 Redevelopment trust fund.—

(6) Moneys in the redevelopment trust fund may be expended from time to time for undertakings of a community redevelopment agency as described in the community redevelopment plan for the following purposes, including, but not limited to:

(i)1. Supporting youth centers, provided that a community redevelopment agency spends no less than 5 percent of the trust fund revenues annually to support youth centers if:

a. More than 50 percent of the persons younger than 18 years of age living in the community redevelopment area served

by the agency are in families with incomes below the federal poverty level;

b. The youth center submits a written request for support to the community redevelopment agency; and

c. The expenditures do not materially impair any bonds outstanding as of March 11, 2016.

2. For purposes of this paragraph, the term "youth center" means a facility owned and operated by a government entity or a corporation not for profit registered pursuant to chapter 617, the primary purpose of which is to provide educational programs, after-school activities, counseling, and other services to children aged 5 to 18 years and which has operated for at least 2 years before its request for support from the community redevelopment agency. The term includes indoor recreational facilities, as defined in s. 402.302, which are owned and operated by a government entity or corporation not for profit registered pursuant to chapter 617. The term does not include public or private schools, child care facilities as defined in s. 402.302, or private prekindergarten providers as defined in s. 1002.51.

Section 4. Section 195.022, Florida Statutes, is amended to read:

195.022 Forms to be prescribed by Department of Revenue.—The Department of Revenue shall prescribe all forms to be used by property appraisers, tax collectors, clerks of the circuit court, and value adjustment boards in administering and

collecting ad valorem taxes. The department shall prescribe a form for each purpose. The county officer shall reproduce forms for distribution at the expense of his or her office. A county officer may use a form other than the form prescribed by the department upon obtaining written permission from the executive director of the department; however, a county officer may not use a form if the substantive content of the form varies from the form prescribed by the department for the same or a similar purpose. If the executive director finds good cause to grant such permission he or she may do so. The county officer may continue to use the approved form until the law that specifies the form is amended or repealed or until the officer receives written disapproval from the executive director. Otherwise, all such officers and their employees shall use the forms, and follow the instructions applicable to the forms, which are prescribed by the department. Upon request of any property appraiser or, in any event, at least once every 3 years, the department shall prescribe and furnish such aerial photographs and nonproperty ownership maps to the property appraisers as necessary to ensure that all real property within the state is properly listed on the roll. All photographs and maps furnished to a county that meets the population thresholds of a rural community as set forth in s. 288.0656(2)(e) ~~counties with a population of 25,000 or fewer~~ shall be paid for by the department as provided by law. For a county that does not meet those population thresholds ~~counties with a population greater~~

~~than 25,000~~, the department shall furnish such items at the property appraiser's expense. The department may incur reasonable expenses for procuring aerial photographs and nonproperty ownership maps and may charge a fee to the respective property appraiser equal to the cost incurred. The department shall deposit such fees into the Certification Program Trust Fund created pursuant to s. 195.002. There shall be a separate account in the trust fund for the aid and assistance activity of providing aerial photographs and nonproperty ownership maps to property appraisers. The department shall use money in the fund to pay such expenses. All forms and maps and instructions relating to their use must be substantially uniform throughout the state. An officer may employ supplemental forms and maps, at the expense of his or her office, which he or she deems expedient for the purpose of administering and collecting ad valorem taxes. The forms required in ss. 193.461(3)(a) and 196.011(1) for renewal purposes must require sufficient information for the property appraiser to evaluate the changes in use since the prior year. If the property appraiser determines, in the case of a taxpayer, that he or she has insufficient current information upon which to approve the exemption, or if the information on the renewal form is inadequate for him or her to evaluate the taxable status of the property, he or she may require the resubmission of an original application.

Section 5. Effective January 1, 2017, paragraph (a) of

subsection (1) of section 196.011, Florida Statutes, is amended to read:

196.011 Annual application required for exemption.—

(1)(a) Except as provided in s. 196.081(1)(b), every person or organization who, on January 1, has the legal title to real or personal property, except inventory, which is entitled by law to exemption from taxation as a result of its ownership and use shall, on or before March 1 of each year, file an application for exemption with the county property appraiser, listing and describing the property for which exemption is claimed and certifying its ownership and use. The Department of Revenue shall prescribe the forms upon which the application is made. Failure to make application, when required, on or before March 1 of any year shall constitute a waiver of the exemption privilege for that year, except as provided in subsection (7) or subsection (8).

Section 6. Effective upon this act becoming a law, paragraph (b) of subsection (14) and paragraph (b) of subsection (15) of section 196.012, Florida Statutes, are amended to read:

196.012 Definitions.—For the purpose of this chapter, the following terms are defined as follows, except where the context clearly indicates otherwise:

(14) "New business" means:

(b) Any business or organization located in an area that was designated as an enterprise zone pursuant to chapter 290 as of December 30, 2015, or brownfield area that first begins

operation on a site clearly separate from any other commercial or industrial operation owned by the same business or organization.

(15) "Expansion of an existing business" means:

(b) Any business or organization located in an area that was designated as an enterprise zone pursuant to chapter 290 as of December 30, 2015, or brownfield area that increases operations on a site located within the same zone or area colocated with a commercial or industrial operation owned by the same business or organization under common control with the same business or organization.

Section 7. Effective January 1, 2017, subsections (1) and (4) of section 196.081, Florida Statutes, are amended, subsections (5) and (6) are renumbered as subsections (6) and (7), respectively, and a new subsection (5) is added to that section, to read:

196.081 Exemption for certain permanently and totally disabled veterans and for surviving spouses of veterans; exemption for surviving spouses of first responders who die in the line of duty.—

(1)(a) Any real estate that is owned and used as a homestead by a veteran who was honorably discharged with a service-connected total and permanent disability and for whom a letter from the United States Government or United States Department of Veterans Affairs or its predecessor has been issued certifying that the veteran is totally and permanently

disabled is exempt from taxation, if the veteran is a permanent resident of this state on January 1 of the tax year for which exemption is being claimed or was a permanent resident of this state on January 1 of the year the veteran died.

(b) Notwithstanding s. 196.011(1) and the timing of the residency requirements of s. 196.031(1)(a), a veteran may seek that an exemption under paragraph (a) be applied to a tax year for property that the veteran acquired and used as a homestead after January 1 of that tax year if the veteran received the exemption on another property in the immediately preceding tax year. To receive an exemption under this paragraph, the veteran must file an application with the property appraiser within 30 days after acquiring the new property but no later than the 25th day after the mailing by the property appraiser of the notices required under s. 194.011(1). The application must list and describe both the previous homestead and the new property, and the veteran must certify under oath that he or she:

1. Is otherwise qualified to receive an exemption under this section;

2. Holds legal title to the new property; and

3. Uses or intends to use the new property as his or her homestead.

If the exemption is granted on the new homestead, the previous homestead may not receive the exemption in that tax year unless the subsequent owner of the previous homestead is qualified to

receive the exemption pursuant to paragraph (a).

(4) Any real estate that is owned and used as a homestead by the surviving spouse of a veteran who died from service-connected causes while on active duty as a member of the United States Armed Forces and for whom a letter from the United States Government or United States Department of Veterans Affairs or its predecessor has been issued certifying that the veteran who died from service-connected causes while on active duty is exempt from taxation ~~if the veteran was a permanent resident of this state on January 1 of the year in which the veteran died~~.

(a) The production of the letter by the surviving spouse which attests to the veteran's death while on active duty is prima facie evidence that the surviving spouse is entitled to the exemption.

(b) The tax exemption carries over to the benefit of the veteran's surviving spouse as long as the spouse holds the legal or beneficial title to the homestead, permanently resides thereon as specified in s. 196.031, and does not remarry. If the surviving spouse sells the property, an exemption not to exceed the amount granted under the most recent ad valorem tax roll may be transferred to his or her new residence as long as it is used as his or her primary residence and he or she does not remarry.

(5)(a) The unremarried surviving spouse of a veteran who was honorably discharged with a service-connected total and permanent disability is entitled to the same exemption that would otherwise be granted to a surviving spouse as described in

subsections (1)-(3) if, at the time of the veteran's death, the veteran or the veteran's surviving spouse owned property in another state of the United States and used it in a manner that would have qualified for homestead exemption under s. 196.031 had the property been located in this state on January 1 of the year the veteran died. To qualify for an exemption under this subsection, the unremarried surviving spouse, after the death of the veteran, must hold the legal or beneficial title to homestead property in this state and permanently reside thereon as specified in s. 196.031 as of January 1 of the tax year for which the exemption is being claimed.

(b) The unremarried surviving spouse must provide the documentation described in subsection (2) to the property appraiser in the county in which the property is located.

(c) The tax exemption provided in this subsection:

1. Is available until the surviving spouse remarries.

2. May be transferred to a new residence, in an amount not to exceed the amount granted from the most recent ad valorem tax roll, as long as the property is used as the surviving spouse's homestead property and the surviving spouse does not remarry.

Section 8. Effective January 1, 2017, section 196.1978, Florida Statutes, is amended to read:

196.1978 Affordable housing property exemption.—

(1) Property used to provide affordable housing to eligible persons as defined by s. 159.603 and natural persons or families meeting the extremely-low-income, very-low-income, low-

income, or moderate-income limits specified in s. 420.0004, which is owned entirely by a nonprofit entity that is a corporation not for profit, qualified as charitable under s. 501(c)(3) of the Internal Revenue Code and in compliance with Rev. Proc. 96-32, 1996-1 C.B. 717, is considered property owned by an exempt entity and used for a charitable purpose, and those portions of the affordable housing property that provide housing to natural persons or families classified as extremely low income, very low income, low income, or moderate income under s. 420.0004 are exempt from ad valorem taxation to the extent authorized under s. 196.196. All property identified in this subsection ~~section~~ must comply with the criteria provided under s. 196.195 for determining exempt status and applied by property appraisers on an annual basis. The Legislature intends that any property owned by a limited liability company which is disregarded as an entity for federal income tax purposes pursuant to Treasury Regulation 301.7701-3(b)(1)(ii) be treated as owned by its sole member.

(2)(a) Notwithstanding ss. 196.195 and 196.196, property in a multifamily project that meets the requirements of subparagraphs 1. and 2. is considered property used for a charitable purpose and shall receive a 50-percent discount from the amount of ad valorem tax otherwise owed beginning in the 16th year of the term of the recorded agreement on those portions of the affordable housing property that provide housing to natural persons or families meeting the extremely-low-

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income, very-low-income, or low-income limits specified in s. 420.0004. The multifamily project must:

1. Contain more than 70 units that are used to provide affordable housing to natural persons or families meeting the extremely-low-income, very-low-income, or low-income limits specified in s. 420.0004; and

2. Be subject to an agreement with the Florida Housing Finance Corporation recorded in the official records of the county in which the property is located to provide affordable housing to extremely-low-income, very-low-income, or low-income persons.

This discount terminates if the property no longer serves extremely-low-income, very-low-income, or low-income persons pursuant to the recorded agreement.

(b) To receive the discount under paragraph (a), a qualified applicant must submit an application to the county property appraiser by March 1.

(c) The property appraiser shall apply the discount by reducing the taxable value before certifying the tax roll to the tax collector.

1. The property appraiser shall first ascertain all other applicable exemptions, including exemptions provided pursuant to local option, and deduct all other exemptions from the assessed value.

2. Fifty percent of the remaining value shall be

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subtracted to yield the discounted taxable value.

3. The resulting taxable value shall be included in the certification for use by taxing authorities in setting millage.

4. The property appraiser shall place the discounted amount on the tax roll when it is extended.

Section 9. Effective upon this act becoming a law, subsection (5) of section 196.1995, Florida Statutes, is amended to read:

196.1995 Economic development ad valorem tax exemption.—

(5) Upon a majority vote in favor of such authority, the board of county commissioners or the governing authority of the municipality, at its discretion, by ordinance may exempt from ad valorem taxation up to 100 percent of the assessed value of all improvements to real property made by or for the use of a new business and of all tangible personal property of such new business, or up to 100 percent of the assessed value of all added improvements to real property made to facilitate the expansion of an existing business and of the net increase in all tangible personal property acquired to facilitate such expansion of an existing business. To qualify for this exemption, the improvements to real property must be made or the tangible personal property must be added or increased after approval by motion or resolution of the local governing body, subject to ordinance adoption or on or after the day the ordinance is adopted. However, if the authority to grant exemptions is approved in a referendum in which the ballot question contained

in subsection (3) appears on the ballot, the authority of the board of county commissioners or the governing authority of the municipality to grant exemptions is limited solely to new businesses and expansions of existing businesses that are located in an area which was designated as an enterprise zone pursuant to chapter 290 as of December 30, 2015, or in a brownfield area. New businesses and expansions of existing businesses located in an area that was designated as an enterprise zone pursuant to chapter 290 as of December 30, 2015, but is not in a brownfield area, may qualify for the ad valorem tax exemption only if approved by motion or resolution of the local governing body, subject to ordinance adoption, or by ordinance enacted before December 31, 2015. Property acquired to replace existing property shall not be considered to facilitate a business expansion. The exemption applies only to taxes levied by the respective unit of government granting the exemption. The exemption does not apply, however, to taxes levied for the payment of bonds or to taxes authorized by a vote of the electors pursuant to s. 9(b) or s. 12, Art. VII of the State Constitution. Any such exemption shall remain in effect for up to 10 years with respect to any particular facility, regardless of any change in the authority of the county or municipality to grant such exemptions or the expiration of the Enterprise Zone Act pursuant to chapter 290. The exemption shall not be prolonged or extended by granting exemptions from additional taxes or by virtue of any reorganization or sale of the business

receiving the exemption.

Section 10. Section 201.15, Florida Statutes, is amended to read:

201.15 Distribution of taxes collected.—All taxes collected under this chapter are hereby pledged and shall be first made available to make payments when due on bonds issued pursuant to s. 215.618 or s. 215.619, or any other bonds authorized to be issued on a parity basis with such bonds. Such pledge and availability for the payment of these bonds shall have priority over any requirement for the payment of service charges or costs of collection and enforcement under this section. All taxes collected under this chapter, except taxes distributed to the Land Acquisition Trust Fund pursuant to subsections (1) and (2), are subject to the service charge imposed in s. 215.20(1). Before distribution pursuant to this section, the Department of Revenue shall deduct amounts necessary to pay the costs of the collection and enforcement of the tax levied by this chapter. The costs and service charge may not be levied against any portion of taxes pledged to debt service on bonds to the extent that the costs and service charge are required to pay any amounts relating to the bonds. All of the costs of the collection and enforcement of the tax levied by this chapter and the service charge shall be available and transferred to the extent necessary to pay debt service and any other amounts payable with respect to bonds authorized before January 1, 2017 ~~2015~~, secured by revenues distributed pursuant

to this section. All taxes remaining after deduction of costs shall be distributed as follows:

(1) Amounts necessary to make payments on bonds issued pursuant to s. 215.618 or s. 215.619, as provided under paragraphs (3)(a) and (b), or on any other bonds authorized to be issued on a parity basis with such bonds shall be deposited into the Land Acquisition Trust Fund.

(2) If the amounts deposited pursuant to subsection (1) are less than 33 percent of all taxes collected after first deducting the costs of collection, an amount equal to 33 percent of all taxes collected after first deducting the costs of collection, minus the amounts deposited pursuant to subsection (1), shall be deposited into the Land Acquisition Trust Fund.

(3) Amounts on deposit in the Land Acquisition Trust Fund shall be used in the following order:

(a) Payment of debt service or funding of debt service reserve funds, rebate obligations, or other amounts payable with respect to Florida Forever bonds issued pursuant to s. 215.618. The amount used for such purposes may not exceed $300 million in each fiscal year. It is the intent of the Legislature that all bonds issued to fund the Florida Forever Act be retired by December 31, 2040. Except for bonds issued to refund previously issued bonds, no series of bonds may be issued pursuant to this paragraph unless such bonds are approved and the debt service for the remainder of the fiscal year in which the bonds are issued is specifically appropriated in the General

Appropriations Act.

(b) Payment of debt service or funding of debt service reserve funds, rebate obligations, or other amounts due with respect to Everglades restoration bonds issued pursuant to s. 215.619. Taxes distributed under paragraph (a) and this paragraph must be collectively distributed on a pro rata basis when the available moneys under this subsection are not sufficient to cover the amounts required under paragraph (a) and this paragraph.

Bonds issued pursuant to s. 215.618 or s. 215.619 are equally and ratably secured by moneys distributable to the Land Acquisition Trust Fund.

(4) After the required distributions to the Land Acquisition Trust Fund pursuant to subsections (1) and (2) and deduction of the service charge imposed pursuant to s. 215.20(1), the remainder shall be distributed as follows:

(a) The lesser of 24.18442 percent of the remainder or $541.75 million in each fiscal year shall be paid into the State Treasury to the credit of the State Transportation Trust Fund. Of such funds, $75 million for each fiscal year shall be transferred to the State Economic Enhancement and Development Trust Fund within the Department of Economic Opportunity. Notwithstanding any other law, the remaining amount credited to the State Transportation Trust Fund shall be used for:

1. Capital funding for the New Starts Transit Program,

authorized by Title 49, U.S.C. s. 5309 and specified in s. 341.051, in the amount of 10 percent of the funds;

2. The Small County Outreach Program specified in s. 339.2818, in the amount of 10 percent of the funds;

3. The Strategic Intermodal System specified in ss. 339.61, 339.62, 339.63, and 339.64, in the amount of 75 percent of the funds after deduction of the payments required pursuant to subparagraphs 1. and 2.; and

4. The Transportation Regional Incentive Program specified in s. 339.2819, in the amount of 25 percent of the funds after deduction of the payments required pursuant to subparagraphs 1. and 2. The first $60 million of the funds allocated pursuant to this subparagraph shall be allocated annually to the Florida Rail Enterprise for the purposes established in s. 341.303(5).

(b) The lesser of 0.1456 percent of the remainder or $3.25 million in each fiscal year shall be paid into the State Treasury to the credit of the Grants and Donations Trust Fund in the Department of Economic Opportunity to fund technical assistance to local governments.

Moneys distributed pursuant to paragraphs (a) and (b) may not be pledged for debt service unless such pledge is approved by referendum of the voters.

(c) Eleven and twenty-four hundredths percent of the remainder in each fiscal year shall be paid into the State Treasury to the credit of the State Housing Trust Fund. Of such funds, the first $35 million shall be transferred annually,

subject to any distribution required under subsection (5), to the State Economic Enhancement and Development Trust Fund within the Department of Economic Opportunity. The remainder shall be used as follows:

1. Half of that amount shall be used for the purposes for which the State Housing Trust Fund was created and exists by law.

2. Half of that amount shall be paid into the State Treasury to the credit of the Local Government Housing Trust Fund and used for the purposes for which the Local Government Housing Trust Fund was created and exists by law.

(d) Twelve and ninety-three hundredths percent of the remainder in each fiscal year shall be paid into the State Treasury to the credit of the State Housing Trust Fund. Of such funds, the first $40 million shall be transferred annually, subject to any distribution required under subsection (5), to the State Economic Enhancement and Development Trust Fund within the Department of Economic Opportunity. The remainder shall be used as follows:

1. Twelve and one-half percent of that amount shall be deposited into the State Housing Trust Fund and expended by the Department of Economic Opportunity and the Florida Housing Finance Corporation for the purposes for which the State Housing Trust Fund was created and exists by law.

2. Eighty-seven and one-half percent of that amount shall be distributed to the Local Government Housing Trust Fund and

used for the purposes for which the Local Government Housing Trust Fund was created and exists by law. Funds from this category may also be used to provide for state and local services to assist the homeless.

(e) The lesser of 0.017 percent of the remainder or $300,000 in each fiscal year shall be paid into the State Treasury to the credit of the General Inspection Trust Fund to be used to fund oyster management and restoration programs as provided in s. 379.362(3).

(5) Distributions to the State Housing Trust Fund pursuant to paragraphs (4)(c) and (d) must be sufficient to cover amounts required to be transferred to the Florida Affordable Housing Guarantee Program's annual debt service reserve and guarantee fund pursuant to s. 420.5092(6)(a) and (b) up to the amount required to be transferred to such reserve and fund based on the percentage distribution of documentary stamp tax revenues to the State Housing Trust Fund which is in effect in the 2004-2005 fiscal year.

(6) After the distributions provided in the preceding subsections, any remaining taxes shall be paid into the State Treasury to the credit of the General Revenue Fund.

Section 11. Paragraph (b) of subsection (1) of section 206.9825, Florida Statutes, is amended to read:

206.9825 Aviation fuel tax.—

(1)

(b) Any licensed wholesaler or terminal supplier that

delivers aviation fuel to an air carrier offering transcontinental jet service and that, after January 1, 1996, but before July 1, 2016, increases the air carrier's Florida workforce by more than 1,000 ~~1000~~ percent and by 250 or more full-time equivalent employee positions, may receive a credit or refund as the ultimate vendor of the aviation fuel for the 6.9 cents excise tax previously paid, provided that the air carrier has no facility for fueling highway vehicles from the tank in which the aviation fuel is stored. In calculating the new or additional Florida full-time equivalent employee positions, any full-time equivalent employee positions of parent or subsidiary corporations which existed before January 1, 1996, shall not be counted toward reaching the Florida employment increase thresholds. The refund allowed under this paragraph is in furtherance of the goals and policies of the State Comprehensive Plan set forth in s. 187.201(16)(a), (b)1., 2., (17)(a), (b)1., 4., (19)(a), (b)5., (21)(a), (b)1., 2., 4., 7., 9., and 12.

Section 12. Effective July 1, 2019, section 206.9825, Florida Statutes, as amended by this act, is amended to read:

206.9825 Aviation fuel tax.—

(1)(a) Except as otherwise provided in this part, an excise tax of 4.27 ~~6.9~~ cents per gallon of aviation fuel is imposed upon every gallon of aviation fuel sold in this state, or brought into this state for use, upon which such tax has not been paid or the payment thereof has not been lawfully assumed by some person handling the same in this state. Fuel taxed

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pursuant to this part is ~~shall~~ not ~~be~~ subject to the taxes imposed by ss. 206.41(1)(d), (e), and (f) and 206.87(1)(b), (c), and (d).

~~(b) Any licensed wholesaler or terminal supplier that delivers aviation fuel to an air carrier offering transcontinental jet service and that, after January 1, 1996, but before July 1, 2016, increases the air carrier's Florida workforce by more than 1,000 percent and by 250 or more full-time equivalent employee positions, may receive a credit or refund as the ultimate vendor of the aviation fuel for the 6.9 cents excise tax previously paid, provided that the air carrier has no facility for fueling highway vehicles from the tank in which the aviation fuel is stored. In calculating the new or additional Florida full-time equivalent employee positions, any full-time equivalent employee positions of parent or subsidiary corporations which existed before January 1, 1996, shall not be counted toward reaching the Florida employment increase thresholds. The refund allowed under this paragraph is in furtherance of the goals and policies of the State Comprehensive Plan set forth in s. 187.201(16)(a), (b)1., 2., (17)(a), (b)1., 4., (19)(a), (b)5., (21)(a), (b)1., 2., 4., 7., 9., and 12.~~

~~(c) If, before July 1, 2001, the number of full-time equivalent employee positions created or added to the air carrier's Florida workforce falls below 250, the exemption granted pursuant to this section shall not apply during the period in which the air carrier has fewer than the 250~~

~~additional employees.~~

~~(d) The exemption taken by credit or refund pursuant to paragraph (b) shall apply only under the terms and conditions set forth therein. If any part of that paragraph is judicially declared to be unconstitutional or invalid, the validity of any provisions taxing aviation fuel shall not be affected and all fuel exempted pursuant to paragraph (b) shall be subject to tax as if the exemption was never enacted. Every person benefiting from such exemption shall be liable for and make payment of all taxes for which a credit or refund was granted.~~

(b) ~~(c)~~ 1. Sales of aviation fuel to, and exclusively used for flight training through a school of aeronautics or college of aviation by, a college based in this state which is a tax-exempt organization under s. 501(c)(3) of the Internal Revenue Code or a university based in this state are exempt from the tax imposed by this part if the college or university:

a. Is accredited by or has applied for accreditation by the Aviation Accreditation Board International; and

b. Offers a graduate program in aeronautical or aerospace engineering or offers flight training through a school of aeronautics or college of aviation.

2. A licensed wholesaler or terminal supplier that sells aviation fuel to a college or university qualified under this paragraph and that does not collect the aviation fuel tax from the college or university on such sale may receive an ultimate vendor credit for the 4.27-cent ~~6.9-cent~~ excise tax previously

paid on the aviation fuel delivered to such college or university.

3. A college or university qualified under this paragraph which purchases aviation fuel from a retail supplier, including a fixed-base operator, and pays the 4.27-cent ~~6.9-cent~~ excise tax on the purchase may apply for and receive a refund of the aviation fuel tax paid.

(2)(a) An excise tax of 4.27 ~~6.9~~ cents per gallon is imposed on each gallon of kerosene in the same manner as prescribed for diesel fuel under ss. 206.87(2) and 206.872.

(b) The exemptions provided by s. 206.874 shall apply to kerosene if the dyeing and marking requirements of s. 206.8741 are met.

(c) Kerosene prepackaged in containers of 5 gallons or less and labeled "Not for Use in a Motor Vehicle" is exempt from the taxes imposed by this part when sold for home heating and cooking. Packagers may qualify for a refund of taxes previously paid, as prescribed by the department.

(d) Sales of kerosene in quantities of 5 gallons or less by a person not licensed under this chapter who has no facilities for placing kerosene in the fuel supply system of a motor vehicle may qualify for a refund of taxes paid. Refunds of taxes paid shall be limited to sales for use in home heating or cooking and shall be documented as prescribed by the department.

(3) An excise tax of 4.27 ~~6.9~~ cents per gallon is imposed on each gallon of aviation gasoline in the manner prescribed by

paragraph (2)(a). However, the exemptions allowed by paragraph (2)(b) do not apply to aviation gasoline.

(4) Any licensed wholesaler or terminal supplier that delivers undyed kerosene to a residence for home heating or cooking may receive a credit or refund as the ultimate vendor of the kerosene for the 4.27-cent ~~6.9 cents~~ excise tax previously paid.

(5) Any licensed wholesaler or terminal supplier that delivers undyed kerosene to a retail dealer not licensed as a wholesaler or terminal supplier for sale as a home heating or cooking fuel may receive a credit or refund as the ultimate vendor of the kerosene for the 4.27-cent ~~6.9 cents~~ excise tax previously paid, provided the retail dealer has no facility for fueling highway vehicles from the tank in which the kerosene is stored.

(6) Any person who fails to meet the requirements of this section is subject to a backup tax as provided by s. 206.873.

Section 13. Section 210.13, Florida Statutes, is amended to read:

210.13 Determination of tax on failure to file a return.—If a dealer or other person required to remit the tax under this part fails to file any return required under this part~~,~~ or, having filed an incorrect or insufficient return, fails to file a correct or sufficient return, as the case may require, within 10 days after the giving of notice to the dealer or other person by the Division of Alcoholic Beverages and Tobacco that such

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return or corrected or sufficient return is required, the division shall determine the amount of tax due by such dealer or other person any time within 3 years after the making of the earliest sale included in such determination and give written notice of such determination to such dealer or other person. Such a determination shall finally and irrevocably fix the tax unless the dealer or other person against whom it is assessed ~~shall~~, within 30 days after the giving of notice of such determination, applies ~~apply~~ to the division for a hearing. Judicial review shall not be granted unless the amount of tax stated in the decision, with penalties thereon, if any, is ~~shall have been~~ first deposited with the division, and an undertaking or bond filed in the court in which such cause may be pending in such amount and with such sureties as the court shall approve, conditioned that if such proceeding be dismissed or the decision of the division confirmed, the applicant for review will pay all costs and charges which may accrue against the applicant in the prosecution of the proceeding. At the option of the applicant, such undertaking or bond may be in an additional sum sufficient to cover the tax, penalties, costs, and charges aforesaid, in which event the applicant shall not be required to pay such tax and penalties precedent to the granting of such review by such court.

Section 14. Subsections (1) through (13) of section 210.25, Florida Statutes, are renumbered as subsections (2) through (14), respectively, a new subsection (1) is added to

that section, and present subsections (11) and (13) of that section are amended, to read:

210.25 Definitions.—As used in this part:

(1) "Affiliate" means a manufacturer or other person that directly or indirectly, through one or more intermediaries, controls or is controlled by a distributor or that is under common control with a distributor.

(12)~~(11)~~ "Tobacco products" means ~~loose tobacco suitable for smoking;~~ snuff; snuff flour; loose tobacco; cavendish; plug and twist tobacco; fine cuts ~~and other chewing tobaccos~~; shorts; refuse scraps; clippings, cuttings, and sweepings of tobacco;~~,~~ and all other kinds and forms of products, including wraps, made in whole or in part from tobacco leaves for use ~~prepared~~ in ~~such manner as to be suitable for~~ chewing, smoking, or sniffing. The term~~; but "tobacco products"~~ does not include cigarettes, as defined in ~~by~~ s. 210.01(1), or cigars.

(14)~~(13)~~ "Wholesale sales price" means the sum of:

(a) The full price paid by the distributor to acquire the tobacco products, including charges by the seller for the cost of materials, the cost of labor and service, charges for transportation and delivery, the federal excise tax, and any other charge, even if the charge is listed as a separate item on the invoice paid by the ~~established price for which a manufacturer sells a tobacco product to a~~ distributor, exclusive of any diminution by volume or other discounts, including a discount provided to a distributor by an affiliate; and

(b) The federal excise tax paid by the distributor on the tobacco products if the tax is not included in the full price under paragraph (a).

Section 15. Effective January 1, 2017, paragraphs (c) and (d) of subsection (1) of section 212.031, Florida Statutes, are amended, and paragraph (e) is added to that subsection, to read:

212.031 Tax on rental or license fee for use of real property.—

(1)

(c) For the exercise of such privilege, a tax is levied in an amount equal to 5 ~~6~~ percent, except for the period beginning January 1, 2018, and ending December 31, 2018, during which period the tax shall be levied in an amount equal to 4 percent, of and on the total rent or license fee charged for such real property by the person charging or collecting the rental or license fee. The total rent or license fee charged for such real property shall include payments for the granting of a privilege to use or occupy real property for any purpose and shall include base rent, percentage rents, or similar charges. Such charges shall be included in the total rent or license fee subject to tax under this section whether or not they can be attributed to the ability of the lessor's or licensor's property as used or operated to attract customers. Payments for intrinsically valuable personal property such as franchises, trademarks, service marks, logos, or patents are not subject to tax under this section. In the case of a contractual arrangement that

provides for both payments taxable as total rent or license fee and payments not subject to tax, the tax shall be based on a reasonable allocation of such payments and shall not apply to that portion which is for the nontaxable payments.

(d) When the rental or license fee of any such real property is paid by way of property, goods, wares, merchandise, services, or other thing of value, the tax shall be at the rate of 5 ~~6~~ percent, except for the period beginning January 1, 2018, and ending December 31, 2018, during which period the tax shall be levied in an amount equal to 4 percent, of the value of the property, goods, wares, merchandise, services, or other thing of value.

(e) The tax rate in effect at the time that the tenant or person occupies, uses, or is entitled to the occupancy or use of the real property is the tax rate applicable to a transaction taxable pursuant to this section, regardless of when a rent or license fee payment is due or paid. The applicable tax rate may not be avoided by delaying or accelerating rent or license fee payments.

Section 16. Paragraph (c) of subsection (1) of section 212.04, Florida Statutes, is amended to read:

212.04 Admissions tax; rate, procedure, enforcement.—

(1)

(c)1. The provisions of this chapter that authorize a tax-exempt sale for resale do not apply to sales of admissions. However, if a purchaser of an admission subsequently resells the

admission for more than the amount paid, the purchaser shall collect tax on the full sales price and may take credit for the amount of tax previously paid. If the purchaser of the admission subsequently resells it for an amount equal to or less than the amount paid, the purchaser may ~~shall~~ not collect any additional tax or~~, nor shall the purchaser~~ be allowed to take credit for the amount of tax previously paid.

2. If a purchaser subsequently resells an admission to an entity that has a valid sales tax exemption certificate from the department, excluding an annual resale certificate, the purchaser may seek a refund or credit from the vendor. Upon an adequate showing of the ultimate exempt nature of the transaction, the vendor shall refund or credit the tax paid by the purchaser and may then seek a refund or credit of the tax from the department based on the ultimate exempt nature of the transaction. The refund or credit is allowable only if the vendor can show that the tax on the exempt transaction has been remitted to the department. If the tax has not yet been remitted to the department, the vendor may retain the exemption documentation in lieu of remitting tax to the department. This subparagraph is repealed July 1, 2019.

Section 17. Paragraph (a) of subsection (1) of section 212.05, Florida Statutes, is amended to read:

212.05 Sales, storage, use tax.—It is hereby declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of selling

tangible personal property at retail in this state, including the business of making mail order sales, or who rents or furnishes any of the things or services taxable under this chapter, or who stores for use or consumption in this state any item or article of tangible personal property as defined herein and who leases or rents such property within the state.

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

(a)1.a. At the rate of 6 percent of the sales price of each item or article of tangible personal property when sold at retail in this state, computed on each taxable sale for the purpose of remitting the amount of tax due the state, and including each and every retail sale.

b. Each occasional or isolated sale of an aircraft, boat, mobile home, or motor vehicle of a class or type which is required to be registered, licensed, titled, or documented in this state or by the United States Government shall be subject to tax at the rate provided in this paragraph. The department shall by rule adopt any nationally recognized publication for valuation of used motor vehicles as the reference price list for any used motor vehicle which is required to be licensed pursuant to s. 320.08(1), (2), (3)(a), (b), (c), or (e), or (9). If any party to an occasional or isolated sale of such a vehicle reports to the tax collector a sales price which is less than 80 percent of the average loan price for the specified model and

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year of such vehicle as listed in the most recent reference price list, the tax levied under this paragraph shall be computed by the department on such average loan price unless the parties to the sale have provided to the tax collector an affidavit signed by each party, or other substantial proof, stating the actual sales price. Any party to such sale who reports a sales price less than the actual sales price is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. The department shall collect or attempt to collect from such party any delinquent sales taxes. In addition, such party shall pay any tax due and any penalty and interest assessed plus a penalty equal to twice the amount of the additional tax owed. Notwithstanding any other provision of law, the Department of Revenue may waive or compromise any penalty imposed pursuant to this subparagraph.

2. This paragraph does not apply to the sale of a boat or aircraft by or through a registered dealer under this chapter to a purchaser who, at the time of taking delivery, is a nonresident of this state, does not make his or her permanent place of abode in this state, and is not engaged in carrying on in this state any employment, trade, business, or profession in which the boat or aircraft will be used in this state, or is a corporation none of the officers or directors of which is a resident of, or makes his or her permanent place of abode in, this state, or is a noncorporate entity that has no individual vested with authority to participate in the management,

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direction, or control of the entity's affairs who is a resident of, or makes his or her permanent abode in, this state. For purposes of this exemption, either a registered dealer acting on his or her own behalf as seller, a registered dealer acting as broker on behalf of a seller, or a registered dealer acting as broker on behalf of the purchaser may be deemed to be the selling dealer. This exemption shall not be allowed unless:

a. The purchaser removes a qualifying boat, as described in sub-subparagraph f., from the state within 90 days after the date of purchase or extension, or the purchaser removes a nonqualifying boat or an aircraft from this state within 10 days after the date of purchase or, when the boat or aircraft is repaired or altered, within 20 days after completion of the repairs or alterations; or if the aircraft will be registered in a foreign jurisdiction and:

(I) Application for the aircraft's registration is properly filed with a civil airworthiness authority of a foreign jurisdiction within 10 days after the date of purchase;

(II) The purchaser removes the aircraft from the state to a foreign jurisdiction within 10 days after the date the aircraft is registered by the applicable foreign airworthiness authority; and

(III) The aircraft is operated in the state solely to remove it from the state to a foreign jurisdiction.

For purposes of this sub-subparagraph, the term "foreign

jurisdiction" means any jurisdiction outside of the United States or any of its territories;

b. The purchaser, within 30 days from the date of departure, provides ~~shall provide~~ the department with written proof that the purchaser licensed, registered, titled, or documented the boat or aircraft outside the state. If such written proof is unavailable, within 30 days the purchaser shall provide proof that the purchaser applied for such license, title, registration, or documentation. The purchaser shall forward to the department proof of title, license, registration, or documentation upon receipt;

c. The purchaser, within 10 days of removing the boat or aircraft from Florida, furnishes ~~shall furnish~~ the department with proof of removal in the form of receipts for fuel, dockage, slippage, tie-down, or hangaring from outside of Florida. The information so provided must clearly and specifically identify the boat or aircraft;

d. The selling dealer, within 5 days of the date of sale, provides ~~shall provide~~ to the department a copy of the sales invoice, closing statement, bills of sale, and the original affidavit signed by the purchaser attesting that he or she has read the provisions of this section;

e. The seller makes a copy of the affidavit a part of his or her record for as long as required by s. 213.35; and

f. Unless the nonresident purchaser of a boat of 5 net tons of admeasurement or larger intends to remove the boat from

this state within 10 days after the date of purchase or when the boat is repaired or altered, within 20 days after completion of the repairs or alterations, the nonresident purchaser applies ~~shall apply~~ to the selling dealer for a decal which authorizes 90 days after the date of purchase for removal of the boat. The nonresident purchaser of a qualifying boat may apply to the selling dealer within 60 days after the date of purchase for an extension decal that authorizes the boat to remain in this state for an additional 90 days, but not more than a total of 180 days, before the nonresident purchaser is required to pay the tax imposed by this chapter. The department is authorized to issue decals in advance to dealers. The number of decals issued in advance to a dealer shall be consistent with the volume of the dealer's past sales of boats which qualify under this sub-subparagraph. The selling dealer or his or her agent shall mark and affix the decals to qualifying boats in the manner prescribed by the department, before ~~prior to~~ delivery of the boat.

(I) The department is hereby authorized to charge dealers a fee sufficient to recover the costs of decals issued, except the extension decal shall cost $425.

(II) The proceeds from the sale of decals will be deposited into the administrative trust fund.

(III) Decals shall display information to identify the boat as a qualifying boat under this sub-subparagraph, including, but not limited to, the decal's date of expiration.

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(IV) The department is authorized to require dealers who purchase decals to file reports with the department and may prescribe all necessary records by rule. All such records are subject to inspection by the department.

(V) Any dealer or his or her agent who issues a decal falsely, fails to affix a decal, mismarks the expiration date of a decal, or fails to properly account for decals will be considered prima facie to have committed a fraudulent act to evade the tax and will be liable for payment of the tax plus a mandatory penalty of 200 percent of the tax, and shall be liable for fine and punishment as provided by law for a conviction of a misdemeanor of the first degree, as provided in s. 775.082 or s. 775.083.

(VI) Any nonresident purchaser of a boat who removes a decal before ~~prior to~~ permanently removing the boat from the state, or defaces, changes, modifies, or alters a decal in a manner affecting its expiration date before ~~prior to~~ its expiration, or who causes or allows the same to be done by another, will be considered prima facie to have committed a fraudulent act to evade the tax and will be liable for payment of the tax plus a mandatory penalty of 200 percent of the tax, and shall be liable for fine and punishment as provided by law for a conviction of a misdemeanor of the first degree, as provided in s. 775.082 or s. 775.083.

(VII) The department is authorized to adopt rules necessary to administer and enforce this subparagraph and to

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publish the necessary forms and instructions.

(VIII) The department is hereby authorized to adopt emergency rules pursuant to s. 120.54(4) to administer and enforce the provisions of this subparagraph.

If the purchaser fails to remove the qualifying boat from this state within the maximum 180 days after purchase or a nonqualifying boat or an aircraft from this state within 10 days after purchase or, when the boat or aircraft is repaired or altered, within 20 days after completion of such repairs or alterations, or permits the boat or aircraft to return to this state within 6 months from the date of departure, except as provided in s. 212.08(7)(fff), or if the purchaser fails to furnish the department with any of the documentation required by this subparagraph within the prescribed time period, the purchaser shall be liable for use tax on the cost price of the boat or aircraft and, in addition thereto, payment of a penalty to the Department of Revenue equal to the tax payable. This penalty shall be in lieu of the penalty imposed by s. 212.12(2). The maximum 180-day period following the sale of a qualifying boat tax-exempt to a nonresident may not be tolled for any reason.

Section 18. Paragraphs (r) and (s) are added to subsection (5) of section 212.08, Florida Statutes, and paragraphs (n) and (kkk) of subsection (7) of that section are amended, to read:

212.08 Sales, rental, use, consumption, distribution, and

storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(5) EXEMPTIONS; ACCOUNT OF USE.—

(r) Building materials, rental of tangible personal property, and pest control services used to build new construction located in a rural area of opportunity.—

1. Building materials, rental of tangible personal property, and pest control services used to build new construction located in a rural area of opportunity as designated by the Governor pursuant to s. 288.0656 are exempt from the tax imposed by this chapter if an owner, lessee, or lessor can demonstrate to the satisfaction of the department that the items and services have been used for new construction located in a rural area of opportunity. Except as provided in subparagraph 2., this exemption inures to the owner, lessee, or lessor at the time the new construction occurs, but only through a refund of previously paid taxes. To receive a refund pursuant to this paragraph, the owner, lessee, or lessor of the new construction must file an application under oath with the Rural Economic Development Initiative created pursuant to s. 288.0656. The application must include:

a. The name and address of the person claiming the refund.

b. An address and assessment roll parcel number of the

real property that was improved by the new construction for which a refund of previously paid taxes is being sought.

c. A description of the new construction.

d. A copy of a valid building permit issued by the county or municipal building department for the new construction.

e. A sworn statement, under penalty of perjury, from the general contractor licensed in this state with whom the applicant contracted to build the new construction, which lists the exempt goods and services, the actual cost of the exempt goods and services, and the amount of sales tax paid in this state on the exempt goods and services and which states that the improvement to the real property was new construction. If a general contractor was not used, the applicant, not a general contractor, shall make the sworn statement required by this sub-subparagraph. Copies of the invoices that evidence the purchase of the exempt goods and services and the payment of sales tax thereon must be attached to the sworn statement provided by the general contractor or by the applicant. Unless the actual cost of exempt goods and services and the payment of sales taxes are documented by a general contractor or by the applicant in this manner, the cost of the exempt goods and services is deemed to be an amount equal to 40 percent of the increase in assessed value of the property for ad valorem tax purposes.

f. A certification by the local building code inspector that the new construction is substantially completed and is new construction.

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2. This exemption inures to a municipality, county, other governmental unit or agency, or nonprofit community-based organization through a refund of previously paid taxes if the exempt goods and services are paid for from the funds of a community development block grant, State Housing Initiatives Partnership Program, or similar grant or loan program. To receive a refund, a municipality, county, other governmental unit or agency, or nonprofit community-based organization must file an application that includes the same information required under subparagraph 1. In addition, the application must include a sworn statement signed by the chief executive officer of the municipality, county, other governmental unit or agency, or nonprofit community-based organization seeking a refund which states that the exempt goods and services for which a refund is sought were funded by a community development block grant, State Housing Initiatives Partnership Program, or similar grant or loan program.

3. Within 10 working days after receiving an application, the Rural Economic Development Initiative shall review the application to determine whether it contains all of the information required by subparagraph 1. or subparagraph 2. and meets the criteria set out in this paragraph. The Rural Economic Development Initiative shall certify all applications that contain the required information and are eligible to receive a refund. The certification must be in writing, and a copy shall be transmitted to the executive director of the department. The

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applicant is responsible for forwarding a certified application to the department within the time specified in subparagraph 4.

4. An application for a refund must be submitted to the department within 6 months after the new construction is deemed to be substantially completed by the local building code inspector or by November 1 after the improved property is first subject to assessment.

5. Only one exemption through a refund of previously paid taxes for the new construction is permitted for any single parcel of property unless there is a change in ownership, a new lessor, or a new lessee of the real property. A refund may not be granted unless the amount to be refunded exceeds $500. A refund may not exceed the lesser of 97.5 percent of the Florida sales or use tax paid on the cost of the exempt goods and services as determined pursuant to sub-subparagraph 1.e. or $10,000. A refund shall be made within 30 days after formal approval by the department of the application for the refund.

6. The department may adopt rules governing the manner and format of refund applications and may establish guidelines as to the requisites for an affirmative showing of qualification for exemption under this paragraph.

7. The department shall deduct 10 percent of each refund amount granted under this paragraph from the amount transferred into the Local Government Half-cent Sales Tax Clearing Trust Fund pursuant to s. 212.20 for the county area in which the new construction is located and shall transfer that amount to the

General Revenue Fund.

8. For purposes of the exemption provided in this paragraph, the term:

a. "Building materials" means tangible personal property that becomes a component part of improvements to real property.

b. "Exempt goods and services" means building materials, rental of tangible personal property, and pest control services used to build new construction.

c. "New construction" means improvements to real property which did not previously exist but does not include reconstruction, renovation, restoration, rehabilitation, modification, alteration, or expansion of buildings already located on the parcel on which the new construction is built.

d. "Pest control" has the same meaning as provided in s. 482.021.

e. "Real property" has the same meaning as provided in s. 192.001(12), except that the term does not include a condominium parcel or condominium property as defined in s. 718.103.

f. "Substantially completed" has the same meaning as provided in s. 192.042(1).

(s) Data center equipment and electricity.—

1. The sale of data center equipment to a business certified pursuant to this paragraph is exempt from the tax imposed by this chapter.

2. The sale of electricity for a qualifying data center to a business certified pursuant to this paragraph is exempt from

the tax imposed by this chapter.

3. Building materials purchased for use in constructing or expanding a qualifying data center are exempt from the tax imposed by this chapter.

4. For sales of items that are tax exempt pursuant to this paragraph, possession of a written certification from the purchaser, certifying the purchaser's entitlement to the exemption, relieves the seller of the responsibility of collecting the tax on the sale of such items, and the department shall look solely to the purchaser for recovery of the tax if it determines that the purchaser was not entitled to the exemption.

5.a. To be eligible to receive the exemption provided by subparagraphs 1.-3., the Department of Economic Opportunity must grant an initial certification that a business has made or will make a cumulative capital investment of at least $75 million. To become certified initially, a business shall submit an application to Enterprise Florida, Inc. Enterprise Florida, Inc., must review the application and forward with it to the Department of Economic Opportunity a recommendation whether to approve or disapprove the application. If the Department of Economic Opportunity approves the application, the initial certification is valid for 2 years after the date of approval. Until a business entity has reached the required cumulative capital investment or has applied for a final certification under sub-subparagraph d., in lieu of submitting a new application every 2 years, the Department of Economic

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Opportunity may renew the initial certification biennially if the business entity submits a statement, certified under oath, that there has not been a material change in the conditions or circumstances entitling the business entity to the initial certification. The initial application and the certification renewal statement shall be developed by the Department of Economic Opportunity.

b. The Division of Strategic Business Development of the Department of Economic Opportunity shall review each submitted initial application within 5 working days and determine whether the application is complete. Once complete, the division shall, within 10 working days, evaluate the application and recommend approval or disapproval to the Department of Economic Opportunity.

c. Upon receipt of the initial application and recommendation from the division, or upon receipt of a certification renewal statement, the Department of Economic Opportunity shall certify within 5 working days those applications that meet the requirements of this paragraph and shall notify both the applicant of the original certification or certification renewal and the department. The department shall issue an exemption certificate to the applicant within 5 working days after such notification. If the Department of Economic Opportunity finds that the applicant does not meet the requirements, it shall notify the applicant and Enterprise Florida, Inc., within 10 working days that the application for

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certification has been denied and the reasons for denial. The Department of Economic Opportunity has final approval authority for certification under this section.

d. Within 5 years after the date that a business certified pursuant to this paragraph makes its first qualifying real or tangible property investment in the construction or expansion of a data center, the business shall apply to the Department of Economic opportunity for final certification. The application must contain information sufficient for the Department of Economic Opportunity to verify that the business made the cumulative capital investment required by the threshold in sub-subparagraph a. associated with its initial certification. The Department of Economic Opportunity shall notify the applicant for final certification and the department of its determination. The limitations set forth in s. 95.091(3) shall be tolled from the time the department issues an exemption certificate pursuant to sub-subparagraph c. until the Department of Economic Opportunity makes a final certification determination pursuant to this sub-subparagraph.

e. The initial application and certification renewal statement must indicate, for program evaluation purposes only, the average number of full-time equivalent employees at the facility over the preceding calendar year, the average wage and benefits paid to those employees over the preceding calendar year, the total investment made in real and tangible personal property over the preceding calendar year, and the total value

of tax-exempt purchases and taxes exempted during the previous calendar year. The department shall assist the Department of Economic Opportunity in evaluating and verifying information provided in the application for exemption.

f. The Department of Economic Opportunity may use the information reported on the initial application and certification renewal statement for program evaluation purposes only. The average number of full-time equivalent employees, a specific level of employment creation or maintenance, or the like, is not a prerequisite or requirement to qualify for this exemption.

6. A business is eligible to receive the exemption provided by subparagraph 3. if it has written certification from a business certified pursuant to this paragraph that the building materials purchased tax-exempt will be used in constructing or expanding a qualifying data center. The written certification must include a copy of the eligible business's exemption certificate.

7. The Department of Economic Opportunity and the department may adopt rules to implement this exemption. Purchasers and lessees of data center equipment and purchasers of electricity that qualify for the exemption provided in this paragraph shall furnish the vendor with a copy of the exemption certificate for the item or items eligible for exemption. A person furnishing a false exemption certificate to the vendor for the purpose of evading payment of any tax imposed under this

chapter is subject to the penalties set forth in s. 212.085 and as otherwise provided by law. Purchasers with self-accrual authority shall maintain all documentation necessary to prove the exempt status of purchases.

8. As used in this paragraph, the term:

a. "Cumulative capital investment" means the total capital investment in land, buildings, equipment, including data center equipment, and all other eligible capital costs made in connection with the construction or expansion of a data center in this state. The term does not include expenditures to replace tangible personal property that has reached the end of its useful life or expenditures made to acquire an existing data center. To qualify, such investment must be made on or after January 1, 2016, and within 5 years after the date an owner, operator, user, or tenant of a data center makes its first real or tangible property investment in the construction or expansion of a data center.

b. "Data center" means a facility that:

(I) Is comprised of one or more land parcels in the state, along with the buildings, substations and other infrastructure, fixtures, and personal property located on those parcels;

(II) Is or will be occupied by one or more operators, owners, users, or tenants; and

(III) Is primarily used to house and operate equipment that receives, stores, aggregates, manages, processes, transforms, retrieves, researches, or transmits data and

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services and functions related thereto.

c. "Data center equipment" means equipment used wholly within, wholly at, or wholly in conjunction with a data center to outfit, operate, support, power, secure, or protect a data center, along with component parts, installations, refreshments, replacements, redundancies, operating or enabling software, including any updates and new versions, and upgrades to or for this equipment, regardless of whether any of the equipment is affixed to or incorporated into real property, including:

(I) Equipment necessary to transform, generate, distribute, store, back up, or manage electricity that is required to operate computer server equipment, including generators, transformers, substations, whether located at the facility or off site, uninterruptible power supply systems, power distribution units, power panel conduits, gaseous fuel piping, cabling, wiring, busses, duct banks, switches, switchboards and other switch gear, batteries, and testing equipment.

(II) Equipment necessary to cool and maintain a controlled environment for the operation of computers, servers, and other components of the data center, including mechanical equipment, refrigerant piping, gaseous fuel piping, adiabatic and free cooling systems, cooling towers, chillers, condensers, pumps, fans, water softeners, air handling units, indoor direct exchange units, fans, ducting and filters, and related HVAC equipment.

(III) Water conservation systems, including facilities or mechanisms that are designed to collect, conserve, and reuse water.

(IV) Computers, servers, and related equipment, chassis, networking and telecommunications equipment, switches, racks, cabling, trays, conduits, fiber optics, and routers.

(V) Monitoring equipment and security systems.

(VI) Modular data centers and preassembled components of any item described in this paragraph, including components used in the manufacturing of modular data centers.

(VII) Other tangible personal property, fixtures, and infrastructure that are essential to the operation of a data center.

d. "Eligible capital costs" means all expenses incurred by an owner, operator, user, or tenant of a data center connected with acquiring, constructing, installing, equipping, or expanding a data center, including, but not limited to:

(I) The costs of acquiring, constructing, installing, equipping, and financing a data center, including all obligations incurred for labor and obligations to contractors, subcontractors, builders, and materialmen.

(II) The costs of acquiring land or rights to land and any costs incidental thereto, including recording fees.

(III) The costs of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations, environmental

mitigation, and supervision of construction, as well as the performance of all duties required by or consequent to the acquisition, construction, installation, and equipping of a data center.

(IV) The costs associated with installing fixtures and equipment; surveys, including archaeological and environmental surveys; site tests and inspections; subsurface site work and excavation; removal of structures, roadways, and other surface obstructions; filling, grading, paving, and provision for drainage, storm water retention, and installation of utilities, including water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; and offsite construction of utility extensions to the boundaries of the property.

e. "Qualifying data center" means a data center for which the Department of Economic Opportunity has certified that one or more of the data center's owners, operators, users, or tenants, individually, have made or will make a cumulative capital investment of at least $75 million.

9.a. In addition to its existing audit and investigation authority, the department may perform any additional financial and technical audits and investigations, including examining the accounts, books, and records of the applicant, which are necessary to verify eligibility for the exemptions authorized by this paragraph and to ensure compliance with this paragraph. The Department of Economic Opportunity shall provide technical assistance when requested by the department on any technical

audits or examinations performed pursuant to this subparagraph.

b. If the department determines, as a result of an audit or examination or from information received from the Department of Economic Opportunity, that a certified entity received a tax exemption pursuant to this paragraph to which it was not entitled, the department may, in addition to the remedies provided by this subsection, pursue recovery of such funds pursuant to the laws and rules governing the assessment of taxes.

c. The Department of Economic Opportunity may revoke or modify any written decision certifying eligibility for a tax exemption authorized under this paragraph if it discovers that the tax exemption applicant submitted a false statement, representation, or certification in any application, record, report, plan, or other document filed in an attempt to receive tax exemptions authorized under this paragraph. The Department of Economic Opportunity shall immediately notify the department of any revoked or modified orders affecting previously certified tax exemptions.

(7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any entity by this chapter do not inure to any transaction that is otherwise taxable under this chapter when payment is made by a representative or employee of the entity by any means, including, but not limited to, cash, check, or credit card, even when that representative or employee is subsequently reimbursed by the entity. In addition, exemptions provided to any entity by

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this subsection do not inure to any transaction that is otherwise taxable under this chapter unless the entity has obtained a sales tax exemption certificate from the department or the entity obtains or provides other documentation as required by the department. Eligible purchases or leases made with such a certificate must be in strict compliance with this subsection and departmental rules, and any person who makes an exempt purchase with a certificate that is not in strict compliance with this subsection and the rules is liable for and shall pay the tax. The department may adopt rules to administer this subsection.

(n) Veterans' organizations.—

1. There are exempt from the tax imposed by this chapter transactions involving sales or leases to qualified veterans' organizations and their auxiliaries when used in carrying on their customary veterans' organization activities or sales of food or drink by qualified veterans' organizations in connection with customary veterans' organization activities to members of qualified veterans' organizations.

2. As used in this paragraph, the term "veterans' organizations" means nationally chartered or recognized veterans' organizations, including, but not limited to, the American Legion, Veterans of Foreign Wars of the United States, Florida chapters of the Paralyzed Veterans of America, Catholic War Veterans of the U.S.A., Jewish War Veterans of the U.S.A., and the Disabled American Veterans, Department of Florida, Inc.,

which hold current exemptions from federal income tax under s. 501(c)(4) or (19) of the Internal Revenue Code of 1986, as amended.

(kkk) Certain machinery and equipment.—

1. Industrial machinery and equipment purchased by eligible manufacturing businesses which is used at a fixed location in ~~within~~ this state~~, or a mixer drum affixed to a mixer truck which is used at any location within this state to mix, agitate, and transport freshly mixed concrete in a plastic state,~~ for the manufacture, processing, compounding, or production of items of tangible personal property for sale is ~~shall be~~ exempt from the tax imposed by this chapter. ~~Parts and labor required to affix a mixer drum exempt under this paragraph to a mixer truck are also exempt.~~ If, at the time of purchase, the purchaser furnishes the seller with a signed certificate certifying the purchaser's entitlement to exemption pursuant to this paragraph, the seller is not required to collect ~~is relieved of the responsibility for collecting~~ the tax on the sale of such items, and the department shall look solely to the purchaser for recovery of the tax if it determines that the purchaser was not entitled to the exemption.

2. For purposes of this paragraph, the term:

a. "Eligible manufacturing business" means any business whose primary business activity at the location where the industrial machinery and equipment is located is within the industries classified under NAICS codes 31, 32, ~~and~~ 33, and

423930.

b. "Eligible postharvest activity business" means a business whose primary business activity, at the location where the postharvest machinery and equipment is located, is within the industries classified under NAICS code 115114.

c. ~~As used in this subparagraph,~~ "NAICS" means those classifications contained in the North American Industry Classification System, as published in 2007 by the Office of Management and Budget, Executive Office of the President.

d.~~b.~~ "Primary business activity" means an activity representing more than 50 percent of the activities conducted at the location where the industrial machinery and equipment or postharvest machinery and equipment is located.

e.~~c.~~ "Industrial machinery and equipment" means tangible personal property or other property that has a depreciable life of 3 years or more and that is used as an integral part in the manufacturing, processing, compounding, or production of tangible personal property for sale. The term includes tangible personal property or other property that has a depreciable life of 3 years or more which is used as an integral part in the recycling of metals for sale. A building and its structural components are not industrial machinery and equipment unless the building or structural component is so closely related to the industrial machinery and equipment that it houses or supports that the building or structural component can be expected to be replaced when the machinery and equipment are replaced. Heating

and air conditioning systems are not industrial machinery and equipment unless the sole justification for their installation is to meet the requirements of the production process, even though the system may provide incidental comfort to employees or serve, to an insubstantial degree, nonproduction activities. The term includes parts and accessories for industrial machinery and equipment only to the extent that the parts and accessories are purchased before ~~prior to~~ the date the machinery and equipment are placed in service.

f. "Postharvest activities" means services performed on crops, after their harvest, with the intent of preparing them for market or further processing. Postharvest activities include, but are not limited to, crop cleaning, sun drying, shelling, fumigating, curing, sorting, grading, packing, and cooling.

g. "Postharvest machinery and equipment" means tangible personal property or other property with a depreciable life of 3 years or more which is used primarily for postharvest activities. A building and its structural components are not postharvest industrial machinery and equipment unless the building or structural component is so closely related to the postharvest machinery and equipment that it houses or supports that the building or structural component can be expected to be replaced when the postharvest machinery and equipment is replaced. Heating and air conditioning systems are not postharvest machinery and equipment unless the sole

justification for their installation is to meet the requirements of the postharvest activities process, even though the system may provide incidental comfort to employees or serve, to an insubstantial degree, nonpostharvest activities.

3. Postharvest machinery and equipment purchased by an eligible postharvest activity business which is used at a fixed location in this state is exempt from the tax imposed by this chapter. All labor charges for the repair of, and parts and materials used in the repair of and incorporated into, such postharvest machinery and equipment are also exempt. If, at the time of purchase, the purchaser furnishes the seller with a signed certificate certifying the purchaser's entitlement to exemption pursuant to this subparagraph, the seller is not required to collect the tax on the sale of such items, and the department shall look solely to the purchaser for recovery of the tax if it determines that the purchaser was not entitled to the exemption.

4.~~3.~~ A mixer drum affixed to a mixer truck which is used at any location in this state to mix, agitate, and transport freshly mixed concrete in a plastic state for sale is exempt from the tax imposed by this chapter. Parts and labor required to affix a mixer drum exempt under this subparagraph to a mixer truck are also exempt. If, at the time of purchase, the purchaser furnishes the seller with a signed certificate certifying the purchaser's entitlement to exemption pursuant to this subparagraph, the seller is not required to collect the tax

on the sale of such items, and the department shall look solely to the purchaser for recovery of the tax if it determines that the purchaser was not entitled to the exemption. This subparagraph ~~paragraph~~ is repealed April 30, 2017.

Section 19. Effective upon this act becoming a law and operating retroactively to January 1, 2016, paragraph (n) of subsection (1) and paragraph (c) of subsection (2) of section 220.03, Florida Statutes, are amended to read:

220.03 Definitions.—

(1) SPECIFIC TERMS.—When used in this code, and when not otherwise distinctly expressed or manifestly incompatible with the intent thereof, the following terms shall have the following meanings:

(n) "Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended and in effect on January 1, 2016 ~~2015~~, except as provided in subsection (3).

(2) DEFINITIONAL RULES.—When used in this code and neither otherwise distinctly expressed nor manifestly incompatible with the intent thereof:

(c) Any term used in this code has the same meaning as when used in a comparable context in the Internal Revenue Code and other statutes of the United States relating to federal income taxes, as such code and statutes are in effect on January 1, 2016 ~~2015~~. However, if subsection (3) is implemented, the meaning of a term shall be taken at the time the term is applied under this code.

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Section 20. Effective upon this act becoming a law and operating retroactively to January 1, 2016, paragraph (e) of subsection (1) of section 220.13, Florida Statutes, is amended to read:

220.13 "Adjusted federal income" defined.—

(1) The term "adjusted federal income" means an amount equal to the taxpayer's taxable income as defined in subsection (2), or such taxable income of more than one taxpayer as provided in s. 220.131, for the taxable year, adjusted as follows:

(e) Adjustments related to federal acts.—Taxpayers shall be required to make the adjustments prescribed in this paragraph for Florida tax purposes with respect to certain tax benefits received pursuant to the Economic Stimulus Act of 2008, the American Recovery and Reinvestment Act of 2009, the Small Business Jobs Act of 2010, the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, the American Taxpayer Relief Act of 2012, ~~and~~ the Tax Increase Prevention Act of 2014, and the Consolidated Appropriations Act of 2016.

1. There shall be added to such taxable income an amount equal to 100 percent of any amount deducted for federal income tax purposes as bonus depreciation for the taxable year pursuant to ss. 167 and 168(k) of the Internal Revenue Code of 1986, as amended by s. 103 of Pub. L. No. 110-185, s. 1201 of Pub. L. No. 111-5, s. 2022 of Pub. L. No. 111-240, s. 401 of Pub. L. No.

111-312, s. 331 of Pub. L. No. 112-240, ~~and~~ s. 125 of Pub. L. No. 113-295, and s. 143 of Division Q of Pub. L. No. 114-113, for property placed in service after December 31, 2007, and before January 1, 2021 ~~2015~~. For the taxable year and for each of the 6 subsequent taxable years, there shall be subtracted from such taxable income an amount equal to one-seventh of the amount by which taxable income was increased pursuant to this subparagraph, notwithstanding any sale or other disposition of the property that is the subject of the adjustments and regardless of whether such property remains in service in the hands of the taxpayer.

2. There shall be added to such taxable income an amount equal to 100 percent of any amount in excess of $128,000 deducted for federal income tax purposes for the taxable year pursuant to s. 179 of the Internal Revenue Code of 1986, as amended by s. 102 of Pub. L. No. 110-185, s. 1202 of Pub. L. No. 111-5, s. 2021 of Pub. L. No. 111-240, s. 402 of Pub. L. No. 111-312, s. 315 of Pub. L. No. 112-240, and s. 127 of Pub. L. No. 113-295, for taxable years beginning after December 31, 2007, and before January 1, 2015. For the taxable year and for each of the 6 subsequent taxable years, there shall be subtracted from such taxable income one-seventh of the amount by which taxable income was increased pursuant to this subparagraph, notwithstanding any sale or other disposition of the property that is the subject of the adjustments and regardless of whether such property remains in service in the

hands of the taxpayer.

3. There shall be added to such taxable income an amount equal to the amount of deferred income not included in such taxable income pursuant to s. 108(i)(1) of the Internal Revenue Code of 1986, as amended by s. 1231 of Pub. L. No. 111-5. There shall be subtracted from such taxable income an amount equal to the amount of deferred income included in such taxable income pursuant to s. 108(i)(1) of the Internal Revenue Code of 1986, as amended by s. 1231 of Pub. L. No. 111-5.

4. Subtractions available under this paragraph may be transferred to the surviving or acquiring entity following a merger or acquisition and used in the same manner and with the same limitations as specified by this paragraph.

5. The additions and subtractions specified in this paragraph are intended to adjust taxable income for Florida tax purposes, and, notwithstanding any other provision of this code, such additions and subtractions shall be permitted to change a taxpayer's net operating loss for Florida tax purposes.

Section 21. (1) The Department of Revenue is authorized, and all conditions are deemed to be met, to adopt emergency rules pursuant to s. 120.54(4), Florida Statutes, for the purpose of implementing the amendments made by this act to s. 220.03(1)(n) and (2)(c), Florida Statutes, and s. 220.13(1)(e), Florida Statutes.

(2) Notwithstanding any other provision of law, emergency rules adopted pursuant to subsection (1) are effective for 6

months after adoption and may be renewed during the pendency of procedures to adopt permanent rules addressing the subject of the emergency rules.

(3) This section expires January 1, 2020.

Section 22. Paragraph (f) of subsection (2) of section 220.1845, Florida Statutes, is amended to read:

220.1845 Contaminated site rehabilitation tax credit.—

(2) AUTHORIZATION FOR TAX CREDIT; LIMITATIONS.—

(f) The total amount of the tax credits which may be granted under this section is $21.6 million in the 2015-2016 fiscal year, $10 million in the 2016-2017 fiscal year, and $5 million annually thereafter.

Section 23. Paragraph (c) of subsection (1) and subsection (2) of section 220.192, Florida Statutes, are amended to read:

220.192 Renewable energy technologies investment tax credit.—

(1) DEFINITIONS.—For purposes of this section, the term:

(c) "Eligible costs" means 75 percent of all capital costs, operation and maintenance costs, and research and development costs incurred between July 1, 2012, and June 30, 2017 ~~2016~~, not to exceed $1 million per state fiscal year for each taxpayer and up to a limit of $10 million per state fiscal year for all taxpayers, in connection with an investment in the production, storage, and distribution of biodiesel (B10-B100), ethanol (E10-E100), and other renewable fuel in the state, including the costs of constructing, installing, and equipping

such technologies in the state. Gasoline fueling station pump retrofits for biodiesel (B10-B100), ethanol (E10-E100), and other renewable fuel distribution qualify as an eligible cost under this section.

(2) TAX CREDIT.—For tax years beginning on or after January 1, 2013, a credit against the tax imposed by this chapter shall be granted in an amount equal to the eligible costs. Credits may be used in tax years beginning January 1, 2013, and ending December 31, 2017 ~~2016~~, after which the credit shall expire. If the credit is not fully used in any one tax year because of insufficient tax liability on the part of the corporation, the unused amount may be carried forward and used in tax years beginning January 1, 2013, and ending December 31, 2019 ~~2018~~, after which the credit carryover expires and may not be used. A taxpayer that files a consolidated return in this state as a member of an affiliated group under s. 220.131(1) may be allowed the credit on a consolidated return basis up to the amount of tax imposed upon the consolidated group. Any eligible cost for which a credit is claimed and which is deducted or otherwise reduces federal taxable income shall be added back in computing adjusted federal income under s. 220.13.

Section 24. Paragraph (e) of subsection (2), paragraphs (b) and (g) of subsection (3), and subsection (8) of section 220.193, Florida Statutes, are amended to read:

220.193 Florida renewable energy production credit.—

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

(e) "New facility" means a Florida renewable energy facility that is operationally placed in service after May 1, 2006. The term includes a Florida renewable energy facility that has had an expansion operationally placed in service after May 1, 2006, and whose cost exceeded 50 percent of the assessed value of the facility immediately before the expansion, and includes any nonpublic waste-to-energy facility certified pursuant to ss. 403.501-403.518.

(3) An annual credit against the tax imposed by this section shall be allowed to a taxpayer, based on the taxpayer's production and sale of electricity from a new or expanded Florida renewable energy facility. For a new facility, the credit shall be based on the taxpayer's sale of the facility's entire electrical production. For an expanded facility, the credit shall be based on the increases in the facility's electrical production that are achieved after May 1, 2012.

(b) The credit may be claimed for electricity produced and sold on or after January 1, 2013. ~~Beginning in 2014 and continuing until 2017,~~ Each taxpayer claiming a credit under this section must apply to the Department of Agriculture and Consumer Services by the date established by the Department of Agriculture and Consumer Services for an allocation of available credits for that year. The application form shall be adopted by rule of the Department of Agriculture and Consumer Services in consultation with the commission. The application form shall, at a minimum, require a sworn affidavit from each taxpayer

certifying the increase in production and sales that form the basis of the application and certifying that all information contained in the application is true and correct.

(g) ~~Notwithstanding any other provision of this section, credits for the production and sale of electricity from a new or expanded Florida renewable energy facility may be earned between January 1, 2013, and June 30, 2016.~~ The combined total amount of tax credits which may be granted for all taxpayers under this section is limited to ~~$5 million in state fiscal year 2012-2013 and~~ $10 million per state fiscal year in state fiscal years ~~2013-2014 through~~ 2016-2017 and 2017-2018. If the annual tax credit authorization amount is not exhausted by allocations of credits within that particular state fiscal year, any authorized but unallocated credit amounts may be used to grant credits that were earned pursuant to s. 220.192 but unallocated due to a lack of authorized funds.

~~(8) This section shall take effect upon becoming law and shall apply to tax years beginning on and after January 1, 2013.~~

Section 25. Paragraph (e) of subsection (2) of section 220.196, Florida Statutes, is amended to read:

220.196 Research and development tax credit.—

(2) TAX CREDIT.—

(e) The combined total amount of tax credits which may be granted to all business enterprises under this section during any calendar year is $9 million, except that the total amount that may be granted ~~awarded~~ in the 2016 calendar year is $23

million and the total amount that may be granted in the 2017 calendar year is $18 million. Applications may be filed with the department on or after March 20 and before March 27 for qualified research expenses incurred within the preceding calendar year. If the total credits for all applicants exceed the maximum amount allowed under this paragraph, the credits shall be allocated on a prorated basis.

Section 26. Effective upon this act becoming a law and applicable to taxable years beginning on or after January 1, 2016, section 220.222, Florida Statutes, is amended to read:

220.222 Returns; time and place for filing.—

(1)(a) Returns required by this code shall be filed with the office of the department in Leon County or at such other place as the department may by regulation prescribe. All returns required for a DISC (Domestic International Sales Corporation) under paragraph 6011(c)(2) of the Internal Revenue Code shall be filed on or before the 1st day of the 10th month after ~~following~~ the close of the taxable year; all partnership information returns shall be filed on or before the 1st day of the 4th ~~5th~~ month after ~~following~~ the close of the taxable year; and all other returns shall be filed on or before the 1st day of the 5th ~~4th~~ month after ~~following~~ the close of the taxable year or the 15th day after ~~following~~ the due date, without extension, for the filing of the related federal return for the taxable year, unless under subsection (2) one or more extensions of time, not to exceed 6 months in the aggregate, for any such filing is

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granted.

(b) Notwithstanding paragraph (a), for taxable years beginning before January 1, 2026, returns of taxpayers with a taxable year ending on June 30 shall be filed on or before the 1st day of the 4th month after the close of the taxable year or the 15th day after the due date, without extension, for the filing of the related federal return for the taxable year, unless under subsection (2) one or more extensions of time for any such filing is granted.

(2)(a) When a taxpayer has been granted an extension or extensions of time within which to file its federal income tax return for any taxable year, and if the requirements of s. 220.32 are met, the filing of a request for such extension or extensions with the department shall automatically extend the due date of the return required under this code until ~~15 days after the expiration of the federal extension or until~~ the expiration of 6 months from the original due date~~, whichever first occurs~~.

(b) The department may grant an extension or extensions of time for the filing of any return required under this code upon receiving a prior request therefor if good cause for an extension is shown. However, the aggregate extensions of time under paragraph ~~paragraphs~~ (a) and this paragraph must ~~(b) shall~~ not exceed 6 months. An ~~No~~ extension granted under this paragraph is not ~~shall be~~ valid unless the taxpayer complies with ~~the requirements of~~ s. 220.32.

(c) For purposes of this subsection, a taxpayer is not in compliance with ~~the requirements of~~ s. 220.32 if the taxpayer underpays the required payment by more than the greater of $2,000 or 30 percent of the tax shown on the return when filed.

(d) For taxable years beginning before January 1, 2026, the 6-month time period in paragraphs (a) and (b) shall be 7 months for taxpayers with a taxable year ending June 30 and shall be 5 months for taxpayers with a taxable year ending December 31.

Section 27. Effective upon this act becoming a law and applicable to taxable years beginning on or after January 1, 2017, section 220.241, Florida Statutes, is amended to read:

220.241 Declaration; time for filing.—

(1) A declaration of estimated tax under this code shall be filed before the 1st day of the 6th ~~5th~~ month of each taxable year, except that if the minimum tax requirement of s. 220.24(1) is first met:

(a) ~~(1)~~ After the 3rd month and before the 6th month of the taxable year, the declaration shall be filed before the 1st day of the 7th month;

(b) ~~(2)~~ After the 5th month and before the 9th month of the taxable year, the declaration shall be filed before the 1st day of the 10th month; or

(c) ~~(3)~~ After the 8th month and before the 12th month of the taxable year, the declaration shall be filed for the taxable year before the 1st day of the succeeding taxable year.

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(2) Notwithstanding subsection (1), for taxable years beginning before January 1, 2026, taxpayers with a taxable year ending on June 30 shall file declarations before the 1st day of the 5th month of each taxable year, unless paragraph (1)(a), paragraph (1)(b), or paragraph (1)(c) applies.

Section 28. Effective upon this act becoming a law and applicable to taxable years beginning on or after January 1, 2017, subsection (1) of section 220.33, Florida Statutes, is amended to read:

220.33 Payments of estimated tax.—A taxpayer required to file a declaration of estimated tax pursuant to s. 220.24 shall pay such estimated tax as follows:

(1) If the declaration is required to be filed before the 1st day of the 6th ~~5th~~ month of the taxable year, the estimated tax shall be paid in four equal installments. The first installment shall be paid at the time of the required filing of the declaration; the second and third installments shall be paid before the 1st day of the 7th month and before the 1st day of the 10th month of the taxable year, respectively; and the fourth installment shall be paid before the 1st day of the next taxable year.

Section 29. Effective upon this act becoming a law and applicable to taxable years beginning on or after January 1, 2017, paragraph (c) of subsection (2) of section 220.34, Florida Statutes, is amended to read:

220.34 Special rules relating to estimated tax.—

(2) No interest or penalty shall be due or paid with respect to a failure to pay estimated taxes except the following:

(c) The period of the underpayment for which interest and penalties apply shall commence on the date the installment was required to be paid, determined without regard to any extensions of time, and shall terminate on the earlier of the following dates:

1. The 1st ~~first~~ day of the 5th ~~fourth~~ month after ~~following~~ the close of the taxable year;

2. For taxable years beginning before January 1, 2026, for taxpayers with a taxable year ending June 30, the 1st day of the 4th month after the close of the taxable year; or

3.~~2.~~ With respect to any portion of the underpayment, the date on which such portion is paid.

For purposes of this paragraph, a payment of estimated tax on any installment date shall be considered a payment of any previous underpayment only to the extent such payment exceeds the amount of the installment determined under subparagraph (b)1. for such installment date.

Section 30. Subsection (4) of section 376.30781, Florida Statutes, is amended to read:

376.30781 Tax credits for rehabilitation of drycleaning-solvent-contaminated sites and brownfield sites in designated brownfield areas; application process; rulemaking authority;

revocation authority.—

(4) The Department of Environmental Protection is responsible for allocating the tax credits provided for in s. 220.1845, which may not exceed a total of $21.6 million in tax credits in the 2015-2016 fiscal year, $10 million in tax credits in the 2016-2017 fiscal year, and $5 million in tax credits annually thereafter.

Section 31. Subsections (1) and (2) of section 561.121, Florida Statutes, are amended to read:

561.121 Deposit of revenue.—

(1) All state funds collected pursuant to ss. 563.05, 564.06, 565.02(9), and 565.12 shall be paid into the State Treasury and disbursed in the following manner:

(a) Two percent of monthly collections of the excise taxes on alcoholic beverages established in ss. 563.05, 564.06, and 565.12 and the tax on alcoholic beverages, cigarettes, and other tobacco products established in s. 565.02(9) shall be deposited into the Alcoholic Beverage and Tobacco Trust Fund to meet the division's appropriation for the state fiscal year.

(b) The remainder of the funds collected pursuant to ss. 563.05, 564.06, and 565.12 and the tax on alcoholic beverages, cigarettes, and other tobacco products established in s. 565.02(9) shall be credited to the General Revenue Fund.

(2) The unencumbered balance in the Alcoholic Beverage and Tobacco Trust Fund at the close of each fiscal year may not exceed $2 million. These funds shall be held in reserve for use

in the event that trust fund revenues are unable to meet the division's appropriation for the next fiscal year. In the event of a revenue shortfall, these funds shall be spent pursuant to subsection (3). Notwithstanding subsection (1), if the unencumbered balance on June 30 in any fiscal year is less than $2 million, the department is authorized to retain the difference between the June 30 unencumbered balance in the trust fund and $2 million from the July collections of state funds collected pursuant to ss. 563.05, 564.06, and 565.12 and the tax on alcoholic beverages, cigarettes, and other tobacco products established in s. 565.02(9). Any unencumbered funds in excess of reserve funds shall be transferred unallocated to the General Revenue Fund by August 31 of the next fiscal year.

Section 32. Subsection (4) of section 564.06, Florida Statutes, is amended to read:

564.06 Excise taxes on wines and beverages.—

(4) As to cider, which is made from the normal alcoholic fermentation of the juice of sound, ripe apples or pears, including but not limited to flavored, sparkling, or carbonated cider and cider made from condensed apple or pear must, that contain not less than one-half of 1 percent of alcohol by volume and not more than 7 percent of alcohol by volume, there shall be paid by all manufacturers and distributors a tax at the rate of $.89 per gallon. With the sole exception of the excise tax rate, cider shall be considered wine and shall be subject to the provisions of this chapter.

Section 33. Subsection (9) of section 565.02, Florida Statutes, is amended to read:

565.02 License fees; vendors; clubs; caterers; and others.—

(9)(a) As used in this subsection, the term:

1. "Annual capacity" means an amount equal to the number of lower berths on a vessel multiplied by the number of embarkations of that vessel during a calendar year.

2. "Base rate" means an amount equal to the total taxes and surcharges paid by all permittees pursuant to the Beverage Law and chapter 210 for sales of alcoholic beverages, cigarettes, and other tobacco products taking place between January 1, 2015, and December 31, 2015, inclusive, divided by the sum of the annual capacities of all vessels permitted pursuant to former s. 565.02(9), Florida Statutes 2015, for calendar year 2015.

3. "Embarkation" means an instance in which a vessel departs from a port in this state.

4. "Lower berth" means a bed that is:

a. Affixed to a vessel;

b. Not located above another bed in the same cabin; and

c. Located in a cabin not in use by employees of the operator of the vessel or its contractors.

5. "Quarterly capacity" means an amount equal to the number of lower berths on a vessel multiplied by the number of embarkations of that vessel during a calendar quarter.

(b) It is the finding of the Legislature that passenger vessels engaged exclusively in foreign commerce are susceptible to a distinct and separate classification for purposes of the sale of alcoholic beverages, cigarettes, and other tobacco products under the Beverage Law and chapter 210.

(c) Upon the filing of an application and payment of an annual fee of $1,100, the director is authorized to issue a permit authorizing the operator, or, if applicable, his or her concessionaire, of a passenger vessel which has cabin-berth capacity for at least 75 passengers, and which is engaged exclusively in foreign commerce, to sell alcoholic beverages, cigarettes, and other tobacco products on the vessel for consumption on board only:

1.~~(a)~~ For no more than ~~During a period not in excess of~~ 24 hours before ~~prior to~~ departure while the vessel is moored at a dock or wharf in a port of this state; or

2.~~(b)~~ At any time while the vessel is located in Florida territorial waters and is in transit to or from international waters.

One such permit shall be required for each such vessel and shall name the vessel for which it is issued. No license shall be required or tax levied by any municipality or county for the privilege of selling beverages, cigarettes, or other tobacco products for consumption on board such vessels. The beverages, cigarettes, or other tobacco products so sold may be purchased

outside the state by the permittee, and the same shall not be considered as imported for the purposes of s. 561.14(3) solely because of such sale. The permittee is not required to obtain its beverages, cigarettes, or other tobacco products from licensees under the Beverage Law or chapter 210. Each permittee~~,~~ ~~but it~~ shall keep a strict account of the quarterly capacity of each of its vessels ~~all such beverages sold within this state~~ and shall make quarterly ~~monthly~~ reports to the division on forms prepared and furnished by the division. ~~A permittee who sells on board the vessel beverages withdrawn from United States Bureau of Customs and Border Protection bonded storage on board the vessel may satisfy such accounting requirement by supplying the division with copies of the appropriate United States Bureau of Customs and Border Protection forms evidencing such withdrawals as importations under United States customs laws.~~

(d) Each ~~Such~~ permittee shall pay to the state a ~~an excise~~ tax for beverages, cigarettes, and other tobacco products sold pursuant to this subsection in an amount equal to the base rate multiplied by the permittee's quarterly capacity during the calendar quarter, less any tax or surcharge already paid by a licensed manufacturer or distributor pursuant to the Beverage Law or chapter 210 on beverages, cigarettes, and other tobacco products sold by the permittee pursuant to this subsection during the quarter for which tax is due ~~section, if such excise tax has not previously been paid, in an amount equal to the tax which would be required to be paid on such sales by a licensed~~

~~manufacturer or distributor~~.

(e) A vendor holding such permit shall pay the tax quarterly ~~monthly~~ to the division at the same time he or she furnishes the required report. Such report shall be filed on or before the 15th day of each calendar quarter ~~month~~ for the quarterly capacity ~~sales occurring~~ during the previous calendar quarter ~~month~~.

(f) No later than August 1, 2016, each permittee shall report the annual capacity for each of its vessels for calendar year 2015 to the division on forms prepared and furnished by the division. No later than September 1, 2016, the division shall calculate the base rate and report it to each permittee. The base rate shall also be published in the Florida Administrative Register and on the department's website.

(g) Revenues collected pursuant to this subsection shall be distributed pursuant to s. 561.121(1).

Section 34. Subsection (1) of section 951.22, Florida Statutes, is amended to read:

951.22 County detention facilities; contraband articles.—

(1) It is unlawful, except through regular channels as duly authorized by the sheriff or officer in charge, to introduce into or possess upon the grounds of any county detention facility as defined in s. 951.23 or to give to or receive from any inmate of any such facility wherever said inmate is located at the time or to take or to attempt to take or send therefrom any of the following articles which are hereby

declared to be contraband for the purposes of this act, to wit: Any written or recorded communication; any currency or coin; any article of food or clothing; any tobacco products as defined in s. 210.25(12) ~~210.25(11)~~; any cigarette as defined in s. 210.01(1); any cigar; any intoxicating beverage or beverage which causes or may cause an intoxicating effect; any narcotic, hypnotic, or excitative drug or drug of any kind or nature, including nasal inhalators, sleeping pills, barbiturates, and controlled substances as defined in s. 893.02(4); any firearm or any instrumentality customarily used or which is intended to be used as a dangerous weapon; and any instrumentality of any nature that may be or is intended to be used as an aid in effecting or attempting to effect an escape from a county facility.

Section 35. Clothing, school supplies, personal computers, and personal computer-related accessories; sales tax holiday.—

(1) The tax levied under chapter 212, Florida Statutes, may not be collected during the period from 12:01 a.m. on August 5, 2016, through 11:59 p.m. on August 14, 2016, on the retail sale of:

(a) Clothing, wallets, or bags, including handbags, backpacks, fanny packs, and diaper bags, but excluding briefcases, suitcases, and other garment bags, having a sales price of $100 or less per item. As used in this paragraph, the term "clothing" means:

1. Any article of wearing apparel intended to be worn on

or about the human body, excluding watches, watchbands, jewelry, umbrellas, and handkerchiefs; and

2. All footwear, excluding skis, swim fins, roller blades, and skates.

(b) School supplies having a sales price of $15 or less per item. As used in this paragraph, the term "school supplies" means pens, pencils, erasers, crayons, notebooks, notebook filler paper, legal pads, binders, lunch boxes, construction paper, markers, folders, poster board, composition books, poster paper, scissors, cellophane tape, glue or paste, rulers, computer disks, protractors, compasses, and calculators.

(2) The tax levied under chapter 212, Florida Statutes, may not be collected during the period from 12:01 a.m. on August 5, 2016, through 11:59 p.m. on August 14, 2016, on the first $750 of the sales price of personal computers or personal computer-related accessories purchased for noncommercial home or personal use. For purposes of this subsection, the term:

(a) "Personal computers" includes electronic book readers, laptops, desktops, handhelds, tablets, and tower computers. The term does not include cellular telephones, video game consoles, digital media receivers, or devices that are not primarily designed to process data.

(b) "Personal computer-related accessories" includes keyboards, mice, personal digital assistants, monitors, other peripheral devices, modems, routers, and nonrecreational software, regardless of whether the accessories are used in

association with a personal computer base unit. The term does not include furniture or systems, devices, software, or peripherals that are designed or intended primarily for recreational use.

(c) "Monitors" does not include devices that include a television tuner.

(3) The tax exemptions provided in this section do not apply to sales within a theme park or entertainment complex as defined in s. 509.013(9), Florida Statutes, within a public lodging establishment as defined in s. 509.013(4), Florida Statutes, or within an airport as defined in s. 330.27(2), Florida Statutes.

(4) The Department of Revenue may, and all conditions are deemed met to, adopt emergency rules pursuant to s. 120.54(4), Florida Statutes, to administer this section.

(5) For the 2016-2017 fiscal year, the sum of $229,982 in nonrecurring funds is appropriated from the General Revenue Fund to the Department of Revenue for the purpose of implementing this section.

Section 36. Small business Saturday sales tax holiday.—

(1) As used in this section, the term "small business" means a dealer, as defined in s. 212.06, Florida Statutes, that registered with the Department of Revenue and began operation no later than January 11, 2016, and that owed and remitted to the Department of Revenue less than $200,000 in total tax under chapter 212, Florida Statutes, for the 1-year period ending

September 30, 2016. If the dealer has not been in operation for a 1-year period as of September 30, 2016, the dealer must have owed and remitted less than $200,000 in total tax under chapter 212, Florida Statutes, for the period beginning on the day that the dealer began operation and ending September 30, 2016, in order to qualify as a small business under this section. If the dealer is eligible to file a consolidated return pursuant to s. 212.11(1)(e), Florida Statutes, the total tax under chapter 212, Florida Statutes, owed and remitted from all of the dealer's places of business must be less than $200,000 for the applicable period ending September 30, 2016.

(2) The tax levied under chapter 212, Florida Statutes, may not be collected by a small business during the period from 12:01 a.m. on November 26, 2016, through 11:59 p.m. on November 26, 2016, on the retail sale, as defined in s. 212.02(14), Florida Statutes, of any item or article of tangible personal property, as defined in s. 212.02(19), Florida Statutes, having a sales price of $1,000 or less per item.

(3) The Department of Revenue may, and all conditions are deemed to be met to, adopt emergency rules pursuant to ss. 120.536(1) and 120.54, Florida Statutes, to administer this section.

Section 37. Hunting and fishing sales tax holiday.—

(1) The tax levied under chapter 212, Florida Statutes, may not be collected during the period from 12:01 a.m. on August 20, 2016, through 11:59 p.m. on August 20, 2016, on the retail

sale, as defined in s. 212.02(14), Florida Statutes, of:

(a) Firearms. For purposes of this section, the term "firearms" means rifles, shotguns, spearguns, crossbows, and bows. The term does not include destructive devices as defined in s. 790.001(4), Florida Statutes.

(b) Ammunition for firearms.

(c) Camping tents.

(d) Fishing supplies. For purposes of this section, the term "fishing supplies" means rods, reels, bait, and fishing tackle. The term does not include supplies used for commercial fishing purposes.

(2) The tax exemptions provided in this section do not apply to sales within a theme park or entertainment complex as defined in s. 509.013(9), Florida Statutes, within a public lodging establishment as defined in s. 509.013(4), Florida Statutes, or within an airport as defined in s. 330.27(2), Florida Statutes.

(3) The Department of Revenue may, and all conditions are deemed to be met to, adopt emergency rules pursuant to ss. 120.536(1) and 120.54, Florida Statutes, to administer this section.

(4) For the 2016-2017 fiscal year, the sum of $91,470 in nonrecurring funds is appropriated from the General Revenue Fund to the Department of Revenue for the purpose of implementing this section.

Section 38. Technology sales tax holiday.—

(1) The tax levied under chapter 212, Florida Statutes, may not be collected during the period from 12:01 a.m. on April 22, 2017, through 11:59 p.m. on April 22, 2017, on the first $1,000 of the sales price of personal computers or personal computer-related accessories. For purposes of this subsection, the term:

(a) "Personal computers" includes electronic book readers, laptops, desktops, handhelds, tablets, cellular telephones, and tower computers. The term does not include video game consoles, digital media receivers, or devices that are not primarily designed to process data.

(b) "Personal computer-related accessories" includes keyboards, mice, personal digital assistants, monitors, other peripheral devices, modems, routers, and nonrecreational software, regardless of whether the accessories are used in association with a personal computer base unit. The term does not include furniture or systems, devices, software, or peripherals that are designed or intended primarily for recreational use.

(c) "Monitors" does not include devices that include a television tuner.

(2) The tax exemptions provided in this section do not apply to sales within a theme park or entertainment complex as defined in s. 509.013(9), Florida Statutes, within a public lodging establishment as defined in s. 509.013(4), Florida Statutes, or within an airport as defined in s. 330.27(2),

Florida Statutes.

(3) The Department of Revenue may, and all conditions are deemed met to, adopt emergency rules pursuant to ss. 120.536(1) and 120.54, Florida Statutes, to administer this section.

(4) For the 2016-2017 fiscal year, the sum of $104,937 in nonrecurring funds is appropriated from the General Revenue Fund to the Department of Revenue for the purpose of implementing this section.

Section 39. Book fairs.—

(1) The tax levied under chapter 212, Florida Statutes, may not be collected on the retail sale of books and other reading materials when sold:

(a) On the premises of a public, parochial, or nonprofit school operated for and attended by students in grades K through 12; and

(b) On the premises of a nonpermanent retail establishment that operates for less than 10 days per location each calendar year.

If such sales are made by a third-party vendor, the vendor must commit some or all of the profits from the sales to the public, parochial, or nonprofit school where the sales were made. The profits may be distributed to the school in the form of cash, in-store credits, in-kind contributions, or similar methods.

(2) The Department of Revenue may, and all conditions are deemed met to, adopt emergency rules pursuant to ss. 120.536(1)

and 120.54, Florida Statutes, to administer this section.

(3) This section is repealed July 1, 2017.

Section 40. Section 29 of chapter 2015-221, Laws of Florida, is amended to read:

Section 29. (1) The tax levied under chapter 212, Florida Statutes, may not be collected on the retail sale of textbooks that are required or recommended for use in a course offered by a public postsecondary educational institution as described in s. 1000.04, Florida Statutes, or a nonpublic postsecondary educational institution that is eligible to participate in a tuition assistance program authorized by s. 1009.89 or s. 1009.891, Florida Statutes. As used in this section, the term "textbook" means any required or recommended manual of instruction or any instructional materials for any field of study. As used in this section, the term "instructional materials" means any educational materials, in printed or digital format, that are required or recommended for use in a course in any field of study. To demonstrate that a sale is not subject to tax, the student must provide a physical or an electronic copy of the following to the vendor:

(a) The student's identification number; and

(b) An applicable course syllabus or list of required and recommended textbooks and instructional materials that meet the criteria in s. 1004.085(3), Florida Statutes.

The vendor must maintain proper documentation, as prescribed by

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department rule, to identify the complete transaction or portion of the transaction that involves the sale of textbooks that are not subject to tax.

(2) The tax exemptions provided in this section do not apply to sales within a theme park or entertainment complex as defined in s. 509.013(9), Florida Statutes, within a public lodging establishment as defined in s. 509.013(4), Florida Statutes, or within an airport as defined in s. 330.27(2), Florida Statutes.

(3) The Department of Revenue may, and all conditions are deemed met to, adopt emergency rules pursuant to ss. 120.536(1) and 120.54, Florida Statutes, to administer this section.

(4) This section is repealed June 30, 2017 ~~2016~~.

Section 41. For the 2016-2017 fiscal year, the sum of $55,908 in nonrecurring funds is appropriated from the General Revenue Fund to the Department of Revenue for the purpose of implementing s. 212.031, as amended by this act.

Section 42. For the 2016-2017 fiscal year, the sum of $279,857 in nonrecurring funds is appropriated from the General Revenue Fund to the Property Tax Oversight Program within the Department of Revenue for the purpose of providing aerial photographs and maps to counties that meet the increased population thresholds as required by s. 195.022, Florida Statutes, as amended by this act. These funds are in addition to any funds that may be provided in the 2016-2017 General Appropriations Act for providing aerial photographs and maps to

counties with a population of 50,000 or fewer.

Section 43. The amendments made by this act to ss. 196.012 and 196.1995, Florida Statutes, are remedial in nature and apply retroactively to December 31, 2015.

Section 44. Section 196.1955, Florida Statutes, is created to read:

196.1955 Preparing property for educational, literary, scientific, religious, or charitable use.—

(1) Property owned by an exempt entity is used for an exempt purpose if the owner has taken affirmative steps to prepare the property for an exempt educational, literary, scientific, religious, or charitable use and no portion of the property is being used for a nonexempt purpose. The term "charitable use" means, but is not limited to, providing affordable housing to extremely-low-income, very-low-income, low-income, or moderate-income persons and families as defined in s. 420.0004. The term "affirmative steps" means environmental or land use permitting activities, creation of architectural plans or schematic drawings, land clearing or site preparation, construction or renovation activities, or other similar activities that demonstrate a commitment to preparing the property for an exempt use.

(2)(a) If property owned by an organization that has been granted an exemption under this section is transferred for a purpose other than an exempt use or is not in actual exempt use within 5 years after the date the organization is granted an

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exemption, the property appraiser making such determination may serve upon the organization that received the exemption a notice of intent to record in the public records of the county a notice of tax lien against any property owned by that organization in that county, and such property must be identified in the notice of tax lien. The organization owning such property is subject to the taxes otherwise due as a result of the failure to use the property in an exempt manner plus 15 percent interest per annum.

1. The lien, when filed, attaches to any property identified in the notice of tax lien owned by the organization that received the exemption. If the organization no longer owns property in the county but owns property in any other county in the state, the property appraiser shall record in each such county a notice of tax lien identifying the property owned by the organization in each respective county, which shall become a lien against the identified property.

2. Before such lien may be filed, the organization so notified must be given 30 days to pay the taxes and interest.

3. If an exemption is improperly granted as a result of a clerical mistake or an omission by the property appraiser, the organization improperly receiving the exemption may not be assessed interest.

4. The 5-year limitation specified in this subsection may be extended by the property appraiser if the organization holding the exemption continues to take affirmative steps to develop the property for the purposes specified in this section.

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(b) This subsection does not apply to property being prepared for use as a house of public worship. The term "public worship" means religious worship services and activities that are incidental to religious worship services, such as educational activities, parking, recreation, partaking of meals, and fellowship.

Section 45. Subsections (3), (4), and (5) of section 196.196, Florida Statutes, are amended to read:

196.196 Determining whether property is entitled to charitable, religious, scientific, or literary exemption.—

~~(3) Property owned by an exempt organization is used for a religious purpose if the institution has taken affirmative steps to prepare the property for use as a house of public worship. The term "affirmative steps" means environmental or land use permitting activities, creation of architectural plans or schematic drawings, land clearing or site preparation, construction or renovation activities, or other similar activities that demonstrate a commitment of the property to a religious use as a house of public worship. For purposes of this subsection, the term "public worship" means religious worship services and those other activities that are incidental to religious worship services, such as educational activities, parking, recreation, partaking of meals, and fellowship.~~

(3)~~(4)~~ Except as otherwise provided in this section ~~herein~~, property claimed as exempt for literary, scientific, religious, or charitable purposes which is used for profitmaking

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purposes is ~~shall be~~ subject to ad valorem taxation. Use of property for functions not requiring a business or occupational license conducted by the organization at its primary residence, the revenue of which is used wholly for exempt purposes, is ~~shall~~ not ~~be~~ considered profitmaking ~~profit making~~. In this connection, the playing of bingo on such property is ~~shall~~ not ~~be~~ considered as using such property in such a manner as would impair its exempt status.

~~(5)(a) Property owned by an exempt organization qualified as charitable under s. 501(c)(3) of the Internal Revenue Code is used for a charitable purpose if the organization has taken affirmative steps to prepare the property to provide affordable housing to persons or families that meet the extremely-low-income, very-low-income, low-income, or moderate-income limits, as specified in s. 420.0004. The term "affirmative steps" means environmental or land use permitting activities, creation of architectural plans or schematic drawings, land clearing or site preparation, construction or renovation activities, or other similar activities that demonstrate a commitment of the property to providing affordable housing.~~

~~(b)1. If property owned by an organization granted an exemption under this subsection is transferred for a purpose other than directly providing affordable homeownership or rental housing to persons or families who meet the extremely-low-income, very-low-income, low-income, or moderate-income limits, as specified in s. 420.0004, or is not in actual use to provide~~

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~~such affordable housing within 5 years after the date the organization is granted the exemption, the property appraiser making such determination shall serve upon the organization that illegally or improperly received the exemption a notice of intent to record in the public records of the county a notice of tax lien against any property owned by that organization in the county, and such property shall be identified in the notice of tax lien. The organization owning such property is subject to the taxes otherwise due and owing as a result of the failure to use the property to provide affordable housing plus 15 percent interest per annum and a penalty of 50 percent of the taxes owed.~~

~~2. Such lien, when filed, attaches to any property identified in the notice of tax lien owned by the organization that illegally or improperly received the exemption. If such organization no longer owns property in the county but owns property in any other county in the state, the property appraiser shall record in each such other county a notice of tax lien identifying the property owned by such organization in such county which shall become a lien against the identified property. Before any such lien may be filed, the organization so notified must be given 30 days to pay the taxes, penalties, and interest.~~

~~3. If an exemption is improperly granted as a result of a clerical mistake or an omission by the property appraiser, the organization improperly receiving the exemption shall not be~~

~~assessed a penalty or interest.~~

~~4. The 5-year limitation specified in this subsection may be extended if the holder of the exemption continues to take affirmative steps to develop the property for the purposes specified in this subsection.~~

Section 46. Section 196.198, Florida Statutes, is amended to read:

196.198 Educational property exemption.—

(1) Educational institutions within this state and their property used by them or by any other exempt entity or educational institution exclusively for educational purposes are exempt from taxation.

(a) Sheltered workshops providing rehabilitation and retraining of individuals who have disabilities and exempted by a certificate under s. (d) of the federal Fair Labor Standards Act of 1938, as amended, are declared wholly educational in purpose and are exempt from certification, accreditation, and membership requirements set forth in s. 196.012.

(b) Those portions of property of college fraternities and sororities certified by the president of the college or university to the appropriate property appraiser as being essential to the educational process are exempt from ad valorem taxation.

(c) The use of property by public fairs and expositions chartered by chapter 616 is presumed to be an educational use of such property and is exempt from ad valorem taxation to the

extent of such use.

(2) Property used exclusively for educational purposes shall be deemed owned by an educational institution if the entity owning 100 percent of the educational institution is owned by the identical persons who own the property, or if the entity owning 100 percent of the educational institution and the entity owning the property are owned by the identical natural persons.

(a) Land, buildings, and other improvements to real property used exclusively for educational purposes shall be deemed owned by an educational institution if the entity owning 100 percent of the land is a nonprofit entity and the land is used, under a ground lease or other contractual arrangement, by an educational institution that owns the buildings and other improvements to the real property, is a nonprofit entity under s. 501(c)(3) of the Internal Revenue Code, and provides education limited to students in prekindergarten through grade 8.

(b) If legal title to property is held by a governmental agency that leases the property to a lessee, the property shall be deemed to be owned by the governmental agency and used exclusively for educational purposes if the governmental agency continues to use such property exclusively for educational purposes pursuant to a sublease or other contractual agreement with that lessee.

(c) If the title to land is held by the trustee of an

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irrevocable inter vivos trust and if the trust grantor owns 100 percent of the entity that owns an educational institution that is using the land exclusively for educational purposes, the land is deemed to be property owned by the educational institution for purposes of this exemption. ~~Property owned by an educational institution shall be deemed to be used for an educational purpose if the institution has taken affirmative steps to prepare the property for educational use. The term "affirmative steps" means environmental or land use permitting activities, creation of architectural plans or schematic drawings, land clearing or site preparation, construction or renovation activities, or other similar activities that demonstrate commitment of the property to an educational use.~~

Section 47. The Legislature finds that this act fulfills an important state interest.

Section 48. Except as otherwise expressly provided in this act and except for this section, which shall take effect upon this act becoming a law, this act shall take effect July 1, 2016.

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LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/04/2016	.	
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The Committee on Appropriations (Hukill and Lee) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Paragraph (c) of subsection (5) of section 125.0104, Florida Statutes, is redesignated as paragraph (d), present paragraph (d) of that subsection is amended, and a new paragraph (c) is added to that subsection, to read:

125.0104 Tourist development tax; procedure for levying; authorized uses; referendum; enforcement.—

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(5) AUTHORIZED USES OF REVENUE.—

(c) A county located adjacent to the Gulf of Mexico or the Atlantic Ocean, except a county that receives revenue from taxes levied pursuant to s. 125.0108, which meets the following criteria may use up to 10 percent of the tax revenue received pursuant to this section to reimburse expenses incurred in providing public safety services, including emergency medical services as defined in s. 401.107(3), and law enforcement services, which are needed to address impacts related to increased tourism and visitors to an area. However, if taxes collected pursuant to this section are used to reimburse emergency medical services or public safety services for tourism or special events, the governing board of a county or municipality may not use such taxes to supplant the normal operating expenses of an emergency medical services department, a fire department, a sheriff's office, or a police department. To receive reimbursement, the county must:

1. Generate a minimum of $10 million in annual proceeds from any tax, or any combination of taxes, authorized to be levied pursuant to this section;

2. Have at least three municipalities; and

3. Have an estimated population of less than 225,000, according to the most recent population estimate prepared pursuant to s. 186.901, excluding the inmate population.

The board of county commissioners must by majority vote approve reimbursement made pursuant to this paragraph upon receipt of a recommendation from the tourist development council.

(e) ~~(d)~~ Any use of the local option tourist development tax

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revenues collected pursuant to this section for a purpose not expressly authorized by paragraph (3)(l) or paragraph (3)(n) or paragraphs (a)-(d) ~~paragraph (a), paragraph (b), or paragraph (c)~~ of this subsection is expressly prohibited.

Section 2. Effective upon this act becoming a law, paragraph (b) of subsection (14) and paragraph (b) of subsection (15) of section 196.012, Florida Statutes, are amended to read:

196.012 Definitions.—For the purpose of this chapter, the following terms are defined as follows, except where the context clearly indicates otherwise:

(14) "New business" means:

(b) Any business or organization located in an area that was designated as an enterprise zone pursuant to chapter 290 as of December 30, 2015, or brownfield area that first begins operation on a site clearly separate from any other commercial or industrial operation owned by the same business or organization.

(15) "Expansion of an existing business" means:

(b) Any business or organization located in an area that was designated as an enterprise zone pursuant to chapter 290 as of December 30, 2015, or brownfield area that increases operations on a site located within the same zone or area colocated with a commercial or industrial operation owned by the same business or organization under common control with the same business or organization.

Section 3. Effective upon this act becoming a law, subsections (5) and (11) of section 196.1995, Florida Statutes, are amended to read:

196.1995 Economic development ad valorem tax exemption.—

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(5) Upon a majority vote in favor of such authority, the board of county commissioners or the governing authority of the municipality, at its discretion, by ordinance may exempt from ad valorem taxation up to 100 percent of the assessed value of all improvements to real property made by or for the use of a new business and of all tangible personal property of such new business, or up to 100 percent of the assessed value of all added improvements to real property made to facilitate the expansion of an existing business and of the net increase in all tangible personal property acquired to facilitate such expansion of an existing business. To qualify for this exemption, the improvements to real property must be made or the tangible personal property must be added or increased after approval by motion or resolution of the local governing body, subject to ordinance adoption or on or after the day the ordinance is adopted. However, if the authority to grant exemptions is approved in a referendum in which the ballot question contained in subsection (3) appears on the ballot, the authority of the board of county commissioners or the governing authority of the municipality to grant exemptions is limited solely to new businesses and expansions of existing businesses that are located in an area which was designated as an enterprise zone pursuant to chapter 290 as of December 30, 2015, or in a brownfield area. New businesses and expansions of existing businesses located in an area that was designated as an enterprise zone pursuant to chapter 290 as of December 30, 2015, but is not in a brownfield area, may qualify for the ad valorem tax exemption only if approved by motion or resolution of the local governing body, subject to ordinance adoption, or by


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ordinance, enacted before December 31, 2015. Property acquired to replace existing property shall not be considered to facilitate a business expansion. All data center equipment for a data center shall be exempt from ad valorem taxation for the term of the approved exemption. The exemption applies only to taxes levied by the respective unit of government granting the exemption. The exemption does not apply, however, to taxes levied for the payment of bonds or to taxes authorized by a vote of the electors pursuant to s. 9(b) or s. 12, Art. VII of the State Constitution. Any such exemption shall remain in effect for up to 10 years with respect to any particular facility, or up to 20 years for a data center, regardless of any change in the authority of the county or municipality to grant such exemptions or the expiration of the Enterprise Zone Act pursuant to chapter 290. The exemption shall not be prolonged or extended by granting exemptions from additional taxes or by virtue of any reorganization or sale of the business receiving the exemption.

(11) An ordinance granting an exemption under this section shall be adopted in the same manner as any other ordinance of the county or municipality and shall include the following:

(a) The name and address of the new business or expansion of an existing business to which the exemption is granted;

(b) The total amount of revenue available to the county or municipality from ad valorem tax sources for the current fiscal year, the total amount of revenue lost to the county or municipality for the current fiscal year by virtue of economic development ad valorem tax exemptions currently in effect, and the estimated revenue loss to the county or municipality for the current fiscal year attributable to the exemption of the

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business named in the ordinance;

(c) The period of time for which the exemption will remain in effect and the expiration date of the exemption, which may be any period of time up to 10 years, or up to 20 years for a data center; and

(d) A finding that the business named in the ordinance meets the requirements of s. 196.012(14) or (15).

Section 4. The amendments made by this act to ss. 196.012 and 196.1995, Florida Statutes, which relate to the ad valorem tax exemption for certain enterprise zone businesses are remedial in nature and apply retroactively to December 31, 2015, and the amendments to s. 196.1995, Florida Statutes, made by this act which relate to the ad valorem tax exemption for data center equipment apply upon this act becoming a law.

Section 5. Section 201.15, Florida Statutes, is amended to read:

201.15 Distribution of taxes collected.—All taxes collected under this chapter are hereby pledged and shall be first made available to make payments when due on bonds issued pursuant to s. 215.618 or s. 215.619, or any other bonds authorized to be issued on a parity basis with such bonds. Such pledge and availability for the payment of these bonds shall have priority over any requirement for the payment of service charges or costs of collection and enforcement under this section. All taxes collected under this chapter, except taxes distributed to the Land Acquisition Trust Fund pursuant to subsections (1) and (2), are subject to the service charge imposed in s. 215.20(1). Before distribution pursuant to this section, the Department of Revenue shall deduct amounts necessary to pay the costs of the

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collection and enforcement of the tax levied by this chapter. The costs and service charge may not be levied against any portion of taxes pledged to debt service on bonds to the extent that the costs and service charge are required to pay any amounts relating to the bonds. All of the costs of the collection and enforcement of the tax levied by this chapter and the service charge shall be available and transferred to the extent necessary to pay debt service and any other amounts payable with respect to bonds authorized before January 1, 2017 ~~2015~~, secured by revenues distributed pursuant to this section. All taxes remaining after deduction of costs shall be distributed as follows:

(1) Amounts necessary to make payments on bonds issued pursuant to s. 215.618 or s. 215.619, as provided under paragraphs (3)(a) and (b), or on any other bonds authorized to be issued on a parity basis with such bonds shall be deposited into the Land Acquisition Trust Fund.

(2) If the amounts deposited pursuant to subsection (1) are less than 33 percent of all taxes collected after first deducting the costs of collection, an amount equal to 33 percent of all taxes collected after first deducting the costs of collection, minus the amounts deposited pursuant to subsection (1), shall be deposited into the Land Acquisition Trust Fund.

(3) Amounts on deposit in the Land Acquisition Trust Fund shall be used in the following order:

(a) Payment of debt service or funding of debt service reserve funds, rebate obligations, or other amounts payable with respect to Florida Forever bonds issued pursuant to s. 215.618. The amount used for such purposes may not exceed $300 million in

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each fiscal year. It is the intent of the Legislature that all bonds issued to fund the Florida Forever Act be retired by December 31, 2040. Except for bonds issued to refund previously issued bonds, no series of bonds may be issued pursuant to this paragraph unless such bonds are approved and the debt service for the remainder of the fiscal year in which the bonds are issued is specifically appropriated in the General Appropriations Act.

(b) Payment of debt service or funding of debt service reserve funds, rebate obligations, or other amounts due with respect to Everglades restoration bonds issued pursuant to s. 215.619. Taxes distributed under paragraph (a) and this paragraph must be collectively distributed on a pro rata basis when the available moneys under this subsection are not sufficient to cover the amounts required under paragraph (a) and this paragraph.

Bonds issued pursuant to s. 215.618 or s. 215.619 are equally and ratably secured by moneys distributable to the Land Acquisition Trust Fund.

(4) After the required distributions to the Land Acquisition Trust Fund pursuant to subsections (1) and (2) and deduction of the service charge imposed pursuant to s. 215.20(1), the remainder shall be distributed as follows:

(a) The lesser of 24.18442 percent of the remainder or $541.75 million in each fiscal year shall be paid into the State Treasury to the credit of the State Transportation Trust Fund. Of such funds, $75 million for each fiscal year shall be transferred to the State Economic Enhancement and Development

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Trust Fund within the Department of Economic Opportunity. Notwithstanding any other law, the remaining amount credited to the State Transportation Trust Fund shall be used for:

1. Capital funding for the New Starts Transit Program, authorized by Title 49, U.S.C. s. 5309 and specified in s. 341.051, in the amount of 10 percent of the funds;

2. The Small County Outreach Program specified in s. 339.2818, in the amount of 10 percent of the funds;

3. The Strategic Intermodal System specified in ss. 339.61, 339.62, 339.63, and 339.64, in the amount of 75 percent of the funds after deduction of the payments required pursuant to subparagraphs 1. and 2.; and

4. The Transportation Regional Incentive Program specified in s. 339.2819, in the amount of 25 percent of the funds after deduction of the payments required pursuant to subparagraphs 1. and 2. The first $60 million of the funds allocated pursuant to this subparagraph shall be allocated annually to the Florida Rail Enterprise for the purposes established in s. 341.303(5).

(b) The lesser of 0.1456 percent of the remainder or $3.25 million in each fiscal year shall be paid into the State Treasury to the credit of the Grants and Donations Trust Fund in the Department of Economic Opportunity to fund technical assistance to local governments.

Moneys distributed pursuant to paragraphs (a) and (b) may not be pledged for debt service unless such pledge is approved by referendum of the voters.

(c) Eleven and twenty-four hundredths percent of the remainder in each fiscal year shall be paid into the State Treasury to the credit of the State Housing Trust Fund. Of such

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funds, the first $35 million shall be transferred annually, subject to any distribution required under subsection (5), to the State Economic Enhancement and Development Trust Fund within the Department of Economic Opportunity. The remainder shall be used as follows:

1. Half of that amount shall be used for the purposes for which the State Housing Trust Fund was created and exists by law.

2. Half of that amount shall be paid into the State Treasury to the credit of the Local Government Housing Trust Fund and used for the purposes for which the Local Government Housing Trust Fund was created and exists by law.

(d) Twelve and ninety-three hundredths percent of the remainder in each fiscal year shall be paid into the State Treasury to the credit of the State Housing Trust Fund. Of such funds, the first $40 million shall be transferred annually, subject to any distribution required under subsection (5), to the State Economic Enhancement and Development Trust Fund within the Department of Economic Opportunity. The remainder shall be used as follows:

1. Twelve and one-half percent of that amount shall be deposited into the State Housing Trust Fund and expended by the Department of Economic Opportunity and the Florida Housing Finance Corporation for the purposes for which the State Housing Trust Fund was created and exists by law.

2. Eighty-seven and one-half percent of that amount shall be distributed to the Local Government Housing Trust Fund and used for the purposes for which the Local Government Housing Trust Fund was created and exists by law. Funds from this

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category may also be used to provide for state and local services to assist the homeless.

(e) The lesser of 0.017 percent of the remainder or $300,000 in each fiscal year shall be paid into the State Treasury to the credit of the General Inspection Trust Fund to be used to fund oyster management and restoration programs as provided in s. 379.362(3).

(5) Distributions to the State Housing Trust Fund pursuant to paragraphs (4)(c) and (d) must be sufficient to cover amounts required to be transferred to the Florida Affordable Housing Guarantee Program's annual debt service reserve and guarantee fund pursuant to s. 420.5092(6)(a) and (b) up to the amount required to be transferred to such reserve and fund based on the percentage distribution of documentary stamp tax revenues to the State Housing Trust Fund which is in effect in the 2004-2005 fiscal year.

(6) After the distributions provided in the preceding subsections, any remaining taxes shall be paid into the State Treasury to the credit of the General Revenue Fund.

Section 6. Paragraph (b) of subsection (1) of section 206.9825, Florida Statutes, is amended to read:

206.9825 Aviation fuel tax.—

(1)

(b) Any licensed wholesaler or terminal supplier that delivers aviation fuel to an air carrier offering transcontinental jet service and that, after January 1, 1996, but before July 1, 2016, increases the air carrier's Florida workforce by more than 1,000 ~~1000~~ percent and by 250 or more full-time equivalent employee positions, may receive a credit or

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refund as the ultimate vendor of the aviation fuel for the 6.9 cents excise tax previously paid, provided that the air carrier has no facility for fueling highway vehicles from the tank in which the aviation fuel is stored. In calculating the new or additional Florida full-time equivalent employee positions, any full-time equivalent employee positions of parent or subsidiary corporations which existed before January 1, 1996, shall not be counted toward reaching the Florida employment increase thresholds. The refund allowed under this paragraph is in furtherance of the goals and policies of the State Comprehensive Plan set forth in s. 187.201(16)(a), (b)1., 2., (17)(a), (b)1., 4., (19)(a), (b)5., (21)(a), (b)1., 2., 4., 7., 9., and 12.

Section 7. Effective July 1, 2019, section 206.9825, Florida Statutes, as amended by this act, is amended to read:

206.9825 Aviation fuel tax.—

(1)(a) Except as otherwise provided in this part, an excise tax of 4.27 ~~6.9~~ cents per gallon of aviation fuel is imposed upon every gallon of aviation fuel sold in this state, or brought into this state for use, upon which such tax has not been paid or the payment thereof has not been lawfully assumed by some person handling the same in this state. Fuel taxed pursuant to this part is ~~shall~~ not ~~be~~ subject to the taxes imposed by ss. 206.41(1)(d), (e), and (f) and 206.87(1)(b), (c), and (d).

~~(b) Any licensed wholesaler or terminal supplier that delivers aviation fuel to an air carrier offering transcontinental jet service and that, after January 1, 1996, but before July 1, 2016, increases the air carrier's Florida workforce by more than 1,000 percent and by 250 or more full-~~

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~~time equivalent employee positions, may receive a credit or refund as the ultimate vendor of the aviation fuel for the 6.9 cents excise tax previously paid, provided that the air carrier has no facility for fueling highway vehicles from the tank in which the aviation fuel is stored. In calculating the new or additional Florida full-time equivalent employee positions, any full-time equivalent employee positions of parent or subsidiary corporations which existed before January 1, 1996, shall not be counted toward reaching the Florida employment increase thresholds. The refund allowed under this paragraph is in furtherance of the goals and policies of the State Comprehensive Plan set forth in s. 187.201(16)(a), (b)1., 2., (17)(a), (b)1., 4., (19)(a), (b)5., (21)(a), (b)1., 2., 4., 7., 9., and 12.~~

~~(c) If, before July 1, 2001, the number of full-time equivalent employee positions created or added to the air carrier's Florida workforce falls below 250, the exemption granted pursuant to this section shall not apply during the period in which the air carrier has fewer than the 250 additional employees.~~

~~(d) The exemption taken by credit or refund pursuant to paragraph (b) shall apply only under the terms and conditions set forth therein. If any part of that paragraph is judicially declared to be unconstitutional or invalid, the validity of any provisions taxing aviation fuel shall not be affected and all fuel exempted pursuant to paragraph (b) shall be subject to tax as if the exemption was never enacted. Every person benefiting from such exemption shall be liable for and make payment of all taxes for which a credit or refund was granted.~~

(b) ~~(e)~~ 1. Sales of aviation fuel to, and exclusively used

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for flight training through a school of aeronautics or college of aviation by, a college based in this state which is a tax-exempt organization under s. 501(c)(3) of the Internal Revenue Code or a university based in this state are exempt from the tax imposed by this part if the college or university:

a. Is accredited by or has applied for accreditation by the Aviation Accreditation Board International; and

b. Offers a graduate program in aeronautical or aerospace engineering or offers flight training through a school of aeronautics or college of aviation.

2. A licensed wholesaler or terminal supplier that sells aviation fuel to a college or university qualified under this paragraph and that does not collect the aviation fuel tax from the college or university on such sale may receive an ultimate vendor credit for the 4.27-cent ~~6.9-cent~~ excise tax previously paid on the aviation fuel delivered to such college or university.

3. A college or university qualified under this paragraph which purchases aviation fuel from a retail supplier, including a fixed-base operator, and pays the 4.27-cent ~~6.9-cent~~ excise tax on the purchase may apply for and receive a refund of the aviation fuel tax paid.

(2)(a) An excise tax of 4.27 ~~6.9~~ cents per gallon is imposed on each gallon of kerosene in the same manner as prescribed for diesel fuel under ss. 206.87(2) and 206.872.

(b) The exemptions provided by s. 206.874 shall apply to kerosene if the dyeing and marking requirements of s. 206.8741 are met.

(c) Kerosene prepackaged in containers of 5 gallons or less

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and labeled "Not for Use in a Motor Vehicle" is exempt from the taxes imposed by this part when sold for home heating and cooking. Packagers may qualify for a refund of taxes previously paid, as prescribed by the department.

(d) Sales of kerosene in quantities of 5 gallons or less by a person not licensed under this chapter who has no facilities for placing kerosene in the fuel supply system of a motor vehicle may qualify for a refund of taxes paid. Refunds of taxes paid shall be limited to sales for use in home heating or cooking and shall be documented as prescribed by the department.

(3) An excise tax of 4.27 ~~6.9~~ cents per gallon is imposed on each gallon of aviation gasoline in the manner prescribed by paragraph (2)(a). However, the exemptions allowed by paragraph (2)(b) do not apply to aviation gasoline.

(4) Any licensed wholesaler or terminal supplier that delivers undyed kerosene to a residence for home heating or cooking may receive a credit or refund as the ultimate vendor of the kerosene for the 4.27-cent ~~6.9 cents~~ excise tax previously paid.

(5) Any licensed wholesaler or terminal supplier that delivers undyed kerosene to a retail dealer not licensed as a wholesaler or terminal supplier for sale as a home heating or cooking fuel may receive a credit or refund as the ultimate vendor of the kerosene for the 4.27-cent ~~6.9 cents~~ excise tax previously paid, provided the retail dealer has no facility for fueling highway vehicles from the tank in which the kerosene is stored.

(6) Any person who fails to meet the requirements of this section is subject to a backup tax as provided by s. 206.873.

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Section 8. Section 210.13, Florida Statutes, is amended to read:

210.13 Determination of tax on failure to file a return.—If a dealer or other person required to remit the tax under this part fails to file any return required under this part~~,~~ or, having filed an incorrect or insufficient return, fails to file a correct or sufficient return, as the case may require, within 10 days after the giving of notice to the dealer or other person by the Division of Alcoholic Beverages and Tobacco that such return or corrected or sufficient return is required, the division shall determine the amount of tax due by such dealer or other person any time within 3 years after the making of the earliest sale included in such determination and give written notice of such determination to such dealer or other person. Such a determination shall finally and irrevocably fix the tax unless the dealer or other person against whom it is assessed ~~shall~~, within 30 days after the giving of notice of such determination, applies ~~apply~~ to the division for a hearing. Judicial review shall not be granted unless the amount of tax stated in the decision, with penalties thereon, if any, is ~~shall have been~~ first deposited with the division, and an undertaking or bond filed in the court in which such cause may be pending in such amount and with such sureties as the court shall approve, conditioned that if such proceeding be dismissed or the decision of the division confirmed, the applicant for review will pay all costs and charges which may accrue against the applicant in the prosecution of the proceeding. At the option of the applicant, such undertaking or bond may be in an additional sum sufficient to cover the tax, penalties, costs, and charges aforesaid, in

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which event the applicant shall not be required to pay such tax and penalties precedent to the granting of such review by such court.

Section 9. Subsections (1) through (13) of section 210.25, Florida Statutes, are renumbered as subsections (2) through (14), respectively, a new subsection (1) is added to that section, and present subsection (13) of that section is amended, to read:

210.25 Definitions.—As used in this part:

(1) "Affiliate" means a manufacturer or other person that directly or indirectly, through one or more intermediaries, controls or is controlled by a distributor or that is under common control with a distributor.

(14) ~~(13)~~ "Wholesale sales price" means the sum of:

(a) The full price paid by the distributor to acquire the tobacco products, including charges by the seller for the cost of materials, the cost of labor and service, charges for transportation and delivery, the federal excise tax, and any other charge, even if the charge is listed as a separate item on the invoice paid by the ~~established price for which a manufacturer sells a tobacco product to a~~ distributor, exclusive of any diminution by volume or other discounts, including a discount provided to a distributor by an affiliate; and

(b) The federal excise tax paid by the distributor on the tobacco products if the tax is not included in the full price under paragraph (a).

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

212.05 Sales, storage, use tax.—It is hereby declared to be

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the legislative intent that every person is exercising a taxable privilege who engages in the business of selling tangible personal property at retail in this state, including the business of making mail order sales, or who rents or furnishes any of the things or services taxable under this chapter, or who stores for use or consumption in this state any item or article of tangible personal property as defined herein and who leases or rents such property within the state.

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

(a)1.a. At the rate of 6 percent of the sales price of each item or article of tangible personal property when sold at retail in this state, computed on each taxable sale for the purpose of remitting the amount of tax due the state, and including each and every retail sale.

b. Each occasional or isolated sale of an aircraft, boat, mobile home, or motor vehicle of a class or type which is required to be registered, licensed, titled, or documented in this state or by the United States Government shall be subject to tax at the rate provided in this paragraph. The department shall by rule adopt any nationally recognized publication for valuation of used motor vehicles as the reference price list for any used motor vehicle which is required to be licensed pursuant to s. 320.08(1), (2), (3)(a), (b), (c), or (e), or (9). If any party to an occasional or isolated sale of such a vehicle reports to the tax collector a sales price which is less than 80 percent of the average loan price for the specified model and year of such vehicle as listed in the most recent reference

price list, the tax levied under this paragraph shall be computed by the department on such average loan price unless the parties to the sale have provided to the tax collector an affidavit signed by each party, or other substantial proof, stating the actual sales price. Any party to such sale who reports a sales price less than the actual sales price is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. The department shall collect or attempt to collect from such party any delinquent sales taxes. In addition, such party shall pay any tax due and any penalty and interest assessed plus a penalty equal to twice the amount of the additional tax owed. Notwithstanding any other provision of law, the Department of Revenue may waive or compromise any penalty imposed pursuant to this subparagraph.

2. This paragraph does not apply to the sale of a boat or aircraft by or through a registered dealer under this chapter to a purchaser who, at the time of taking delivery, is a nonresident of this state, does not make his or her permanent place of abode in this state, and is not engaged in carrying on in this state any employment, trade, business, or profession in which the boat or aircraft will be used in this state, or is a corporation none of the officers or directors of which is a resident of, or makes his or her permanent place of abode in, this state, or is a noncorporate entity that has no individual vested with authority to participate in the management, direction, or control of the entity's affairs who is a resident of, or makes his or her permanent abode in, this state. For purposes of this exemption, either a registered dealer acting on his or her own behalf as seller, a registered dealer acting as

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broker on behalf of a seller, or a registered dealer acting as broker on behalf of the purchaser may be deemed to be the selling dealer. This exemption shall not be allowed unless:

a. The purchaser removes a qualifying boat, as described in sub-subparagraph f., from the state within 90 days after the date of purchase or extension, or the purchaser removes a nonqualifying boat or an aircraft from this state within 10 days after the date of purchase or, when the boat or aircraft is repaired or altered, within 20 days after completion of the repairs or alterations; or if the aircraft will be registered in a foreign jurisdiction and:

(I) Application for the aircraft's registration is properly filed with a civil airworthiness authority of a foreign jurisdiction within 10 days after the date of purchase;

(II) The purchaser removes the aircraft from the state to a foreign jurisdiction within 10 days after the date the aircraft is registered by the applicable foreign airworthiness authority; and

(III) The aircraft is operated in the state solely to remove it from the state to a foreign jurisdiction.

For purposes of this sub-subparagraph, the term "foreign jurisdiction" means any jurisdiction outside of the United States or any of its territories;

b. The purchaser, within 30 days from the date of departure, provides ~~shall provide~~ the department with written proof that the purchaser licensed, registered, titled, or documented the boat or aircraft outside the state. If such written proof is unavailable, within 30 days the purchaser shall

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provide proof that the purchaser applied for such license, title, registration, or documentation. The purchaser shall forward to the department proof of title, license, registration, or documentation upon receipt;

c. The purchaser, within 10 days of removing the boat or aircraft from Florida, furnishes ~~shall furnish~~ the department with proof of removal in the form of receipts for fuel, dockage, slippage, tie-down, or hangaring from outside of Florida. The information so provided must clearly and specifically identify the boat or aircraft;

d. The selling dealer, within 5 days of the date of sale, provides ~~shall provide~~ to the department a copy of the sales invoice, closing statement, bills of sale, and the original affidavit signed by the purchaser attesting that he or she has read the provisions of this section;

e. The seller makes a copy of the affidavit a part of his or her record for as long as required by s. 213.35; and

f. Unless the nonresident purchaser of a boat of 5 net tons of admeasurement or larger intends to remove the boat from this state within 10 days after the date of purchase or when the boat is repaired or altered, within 20 days after completion of the repairs or alterations, the nonresident purchaser applies ~~shall apply~~ to the selling dealer for a decal which authorizes 90 days after the date of purchase for removal of the boat. The nonresident purchaser of a qualifying boat may apply to the selling dealer within 60 days after the date of purchase for an extension decal that authorizes the boat to remain in this state for an additional 90 days, but not more than a total of 180 days, before the nonresident purchaser is required to pay the

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tax imposed by this chapter. The department is authorized to issue decals in advance to dealers. The number of decals issued in advance to a dealer shall be consistent with the volume of the dealer's past sales of boats which qualify under this sub-subparagraph. The selling dealer or his or her agent shall mark and affix the decals to qualifying boats in the manner prescribed by the department, before ~~prior to~~ delivery of the boat.

(I) The department is hereby authorized to charge dealers a fee sufficient to recover the costs of decals issued, except the extension decal shall cost $425.

(II) The proceeds from the sale of decals will be deposited into the administrative trust fund.

(III) Decals shall display information to identify the boat as a qualifying boat under this sub-subparagraph, including, but not limited to, the decal's date of expiration.

(IV) The department is authorized to require dealers who purchase decals to file reports with the department and may prescribe all necessary records by rule. All such records are subject to inspection by the department.

(V) Any dealer or his or her agent who issues a decal falsely, fails to affix a decal, mismarks the expiration date of a decal, or fails to properly account for decals will be considered prima facie to have committed a fraudulent act to evade the tax and will be liable for payment of the tax plus a mandatory penalty of 200 percent of the tax, and shall be liable for fine and punishment as provided by law for a conviction of a misdemeanor of the first degree, as provided in s. 775.082 or s. 775.083.

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(VI) Any nonresident purchaser of a boat who removes a decal before ~~prior to~~ permanently removing the boat from the state, or defaces, changes, modifies, or alters a decal in a manner affecting its expiration date before ~~prior to~~ its expiration, or who causes or allows the same to be done by another, will be considered prima facie to have committed a fraudulent act to evade the tax and will be liable for payment of the tax plus a mandatory penalty of 200 percent of the tax, and shall be liable for fine and punishment as provided by law for a conviction of a misdemeanor of the first degree, as provided in s. 775.082 or s. 775.083.

(VII) The department is authorized to adopt rules necessary to administer and enforce this subparagraph and to publish the necessary forms and instructions.

(VIII) The department is hereby authorized to adopt emergency rules pursuant to s. 120.54(4) to administer and enforce the provisions of this subparagraph.

If the purchaser fails to remove the qualifying boat from this state within the maximum 180 days after purchase or a nonqualifying boat or an aircraft from this state within 10 days after purchase or, when the boat or aircraft is repaired or altered, within 20 days after completion of such repairs or alterations, or permits the boat or aircraft to return to this state within 6 months from the date of departure, except as provided in s. 212.08(7)(fff), or if the purchaser fails to furnish the department with any of the documentation required by this subparagraph within the prescribed time period, the purchaser shall be liable for use tax on the cost price of the

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boat or aircraft and, in addition thereto, payment of a penalty to the Department of Revenue equal to the tax payable. This penalty shall be in lieu of the penalty imposed by s. 212.12(2). The maximum 180-day period following the sale of a qualifying boat tax-exempt to a nonresident may not be tolled for any reason.

Section 11. Paragraph (c) of subsection (1) of section 212.06, Florida Statutes, is amended to read:

212.06 Sales, storage, use tax; collectible from dealers; "dealer" defined; dealers to collect from purchasers; legislative intent as to scope of tax.—

(1)

(c)1. Notwithstanding the provisions of paragraph (b), the use tax on asphalt manufactured for one's own use shall be calculated with respect to paragraph (b) only upon the cost of materials which become a component part or which are an ingredient of the finished asphalt and upon the cost of the transportation of such components and ingredients. In addition, an indexed tax of 38 cents per ton of such manufactured asphalt shall be due at the same time and in the same manner as taxes due pursuant to paragraph (b). Beginning July 1, 1989, the indexed tax shall be adjusted each July 1 to an amount, rounded to the nearest cent, equal to the product of 38 cents multiplied by a fraction, the numerator of which is the annual average of the "materials and components for construction" series of the producer price index, as calculated and published by the United States Department of Labor, Bureau of Statistics, for the previous calendar year, and the denominator of which is the annual average of said series for calendar year 1988.

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2.a. Beginning July 1, 1999, the indexed tax imposed by this paragraph on manufactured asphalt which is used for any federal, state, or local government public works project shall be reduced by 20 percent.

b. Beginning July 1, 2000, the indexed tax imposed by this paragraph on manufactured asphalt which is used for any federal, state, or local government public works project shall be reduced by 40 percent.

c. Beginning July 1, 2016, the indexed tax imposed by this paragraph on manufactured asphalt which is used for any federal, state, or local government public works project shall be reduced by 60 percent.

d. Beginning July 1, 2017, the indexed tax imposed by this paragraph on manufactured asphalt which is used for any federal, state, or local government public works project shall be reduced by 80 percent.

e. Beginning July 1, 2018, manufactured asphalt used for any federal, state, or local government public works project shall be exempt from the indexed tax imposed by this paragraph.

Section 12. Paragraphs (n) and (kkk) of subsection (7) of section 212.08, Florida Statutes, are amended to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any entity by this chapter do not inure to any transaction that is

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otherwise taxable under this chapter when payment is made by a representative or employee of the entity by any means, including, but not limited to, cash, check, or credit card, even when that representative or employee is subsequently reimbursed by the entity. In addition, exemptions provided to any entity by this subsection do not inure to any transaction that is otherwise taxable under this chapter unless the entity has obtained a sales tax exemption certificate from the department or the entity obtains or provides other documentation as required by the department. Eligible purchases or leases made with such a certificate must be in strict compliance with this subsection and departmental rules, and any person who makes an exempt purchase with a certificate that is not in strict compliance with this subsection and the rules is liable for and shall pay the tax. The department may adopt rules to administer this subsection.

(n) *Veterans' organizations.*—

1. There are exempt from the tax imposed by this chapter transactions involving sales or leases to qualified veterans' organizations and their auxiliaries when used in carrying on their customary veterans' organization activities or sales of food or drink by qualified veterans' organizations in connection with customary veterans' organization activities to members of qualified veterans' organizations.

2. As used in this paragraph, the term "veterans' organizations" means nationally chartered or recognized veterans' organizations, including, but not limited to, the American Legion, Veterans of Foreign Wars of the United States, Florida chapters of the Paralyzed Veterans of America, Catholic

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War Veterans of the U.S.A., Jewish War Veterans of the U.S.A., and the Disabled American Veterans, Department of Florida, Inc., which hold current exemptions from federal income tax under s. 501(c)(4) or (19) of the Internal Revenue Code of 1986, as amended.

(kkk) *Certain machinery and equipment.*—

1. Industrial machinery and equipment purchased by eligible manufacturing businesses which is used at a fixed location in ~~within~~ this state~~, or a mixer drum affixed to a mixer truck which is used at any location within this state to mix, agitate, and transport freshly mixed concrete in a plastic state,~~ for the manufacture, processing, compounding, or production of items of tangible personal property for sale is ~~shall be~~ exempt from the tax imposed by this chapter. ~~Parts and labor required to affix a mixer drum exempt under this paragraph to a mixer truck are also exempt.~~ If, at the time of purchase, the purchaser furnishes the seller with a signed certificate certifying the purchaser's entitlement to exemption pursuant to this paragraph, the seller is not required to collect ~~is relieved of the responsibility for collecting~~ the tax on the sale of such items, and the department shall look solely to the purchaser for recovery of the tax if it determines that the purchaser was not entitled to the exemption.

2. For purposes of this paragraph, the term:

a. "Eligible manufacturing business" means any business whose primary business activity at the location where the industrial machinery and equipment is located is within the industries classified under NAICS codes 31, 32, ~~and~~ 33, and 423930.

b. "Eligible postharvest activity business" means a

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business whose primary business activity, at the location where the postharvest machinery and equipment is located, is within the industries classified under NAICS code 115114.

c. ~~As used in this subparagraph,~~ "NAICS" means those classifications contained in the North American Industry Classification System, as published in 2007 by the Office of Management and Budget, Executive Office of the President.

d.~~b.~~ "Primary business activity" means an activity representing more than 50 percent of the activities conducted at the location where the industrial machinery and equipment or postharvest machinery and equipment is located.

e.~~c.~~ "Industrial machinery and equipment" means tangible personal property or other property that has a depreciable life of 3 years or more and that is used as an integral part in the manufacturing, processing, compounding, or production of tangible personal property for sale. The term includes tangible personal property or other property that has a depreciable life of 3 years or more which is used as an integral part in the recycling of metals for sale. A building and its structural components are not industrial machinery and equipment unless the building or structural component is so closely related to the industrial machinery and equipment that it houses or supports that the building or structural component can be expected to be replaced when the machinery and equipment are replaced. Heating and air conditioning systems are not industrial machinery and equipment unless the sole justification for their installation is to meet the requirements of the production process, even though the system may provide incidental comfort to employees or serve, to an insubstantial degree, nonproduction activities. The

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term includes parts and accessories for industrial machinery and equipment only to the extent that the parts and accessories are purchased before ~~prior to~~ the date the machinery and equipment are placed in service.

f. "Postharvest activities" means services performed on crops, after their harvest, with the intent of preparing them for market or further processing. Postharvest activities include, but are not limited to, crop cleaning, sun drying, shelling, fumigating, curing, sorting, grading, packing, and cooling.

g. "Postharvest machinery and equipment" means tangible personal property or other property with a depreciable life of 3 years or more which is used primarily for postharvest activities. A building and its structural components are not postharvest industrial machinery and equipment unless the building or structural component is so closely related to the postharvest machinery and equipment that it houses or supports that the building or structural component can be expected to be replaced when the postharvest machinery and equipment is replaced. Heating and air conditioning systems are not postharvest machinery and equipment unless the sole justification for their installation is to meet the requirements of the postharvest activities process, even though the system may provide incidental comfort to employees or serve, to an insubstantial degree, nonpostharvest activities.

3. Postharvest machinery and equipment purchased by an eligible postharvest activity business which is used at a fixed location in this state is exempt from the tax imposed by this chapter. All labor charges for the repair of, and parts and

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materials used in the repair of and incorporated into, such postharvest machinery and equipment are also exempt. If, at the time of purchase, the purchaser furnishes the seller with a signed certificate certifying the purchaser's entitlement to exemption pursuant to this subparagraph, the seller is not required to collect the tax on the sale of such items, and the department shall look solely to the purchaser for recovery of the tax if it determines that the purchaser was not entitled to the exemption.

4.~~3.~~ A mixer drum affixed to a mixer truck which is used at any location in this state to mix, agitate, and transport freshly mixed concrete in a plastic state for sale is exempt from the tax imposed by this chapter. Parts and labor required to affix a mixer drum exempt under this subparagraph to a mixer truck are also exempt. If, at the time of purchase, the purchaser furnishes the seller with a signed certificate certifying the purchaser's entitlement to exemption pursuant to this subparagraph, the seller is not required to collect the tax on the sale of such items, and the department shall look solely to the purchaser for recovery of the tax if it determines that the purchaser was not entitled to the exemption. This subparagraph ~~paragraph~~ is repealed April 30, 2017.

Section 13. Effective upon this act becoming a law and operating retroactively to January 1, 2016, paragraph (n) of subsection (1) and paragraph (c) of subsection (2) of section 220.03, Florida Statutes, are amended to read:

220.03 Definitions.—

(1) SPECIFIC TERMS.—When used in this code, and when not otherwise distinctly expressed or manifestly incompatible with

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the intent thereof, the following terms shall have the following meanings:

(n) "Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended and in effect on January 1, 2016 ~~2015~~, except as provided in subsection (3).

(2) DEFINITIONAL RULES.—When used in this code and neither otherwise distinctly expressed nor manifestly incompatible with the intent thereof:

(c) Any term used in this code has the same meaning as when used in a comparable context in the Internal Revenue Code and other statutes of the United States relating to federal income taxes, as such code and statutes are in effect on January 1, 2016 ~~2015~~. However, if subsection (3) is implemented, the meaning of a term shall be taken at the time the term is applied under this code.

Section 14. Effective upon this act becoming a law and operating retroactively to January 1, 2016, paragraph (e) of subsection (1) of section 220.13, Florida Statutes, is amended to read:

220.13 "Adjusted federal income" defined.—

(1) The term "adjusted federal income" means an amount equal to the taxpayer's taxable income as defined in subsection (2), or such taxable income of more than one taxpayer as provided in s. 220.131, for the taxable year, adjusted as follows:

(e) *Adjustments related to federal acts.*—Taxpayers shall be required to make the adjustments prescribed in this paragraph for Florida tax purposes with respect to certain tax benefits received pursuant to the Economic Stimulus Act of 2008, the

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American Recovery and Reinvestment Act of 2009, the Small Business Jobs Act of 2010, the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, the American Taxpayer Relief Act of 2012, ~~and~~ the Tax Increase Prevention Act of 2014, and the Consolidated Appropriations Act, 2016.

1. There shall be added to such taxable income an amount equal to 100 percent of any amount deducted for federal income tax purposes as bonus depreciation for the taxable year pursuant to ss. 167 and 168(k) of the Internal Revenue Code of 1986, as amended by s. 103 of Pub. L. No. 110-185, s. 1201 of Pub. L. No. 111-5, s. 2022 of Pub. L. No. 111-240, s. 401 of Pub. L. No. 111-312, s. 331 of Pub. L. No. 112-240, ~~and~~ s. 125 of Pub. L. No. 113-295, and s. 143 of Division Q of Pub. L. No. 114-113, for property placed in service after December 31, 2007, and before January 1, 2021 ~~2015~~. For the taxable year and for each of the 6 subsequent taxable years, there shall be subtracted from such taxable income an amount equal to one-seventh of the amount by which taxable income was increased pursuant to this subparagraph, notwithstanding any sale or other disposition of the property that is the subject of the adjustments and regardless of whether such property remains in service in the hands of the taxpayer.

2. There shall be added to such taxable income an amount equal to 100 percent of any amount in excess of $128,000 deducted for federal income tax purposes for the taxable year pursuant to s. 179 of the Internal Revenue Code of 1986, as amended by s. 102 of Pub. L. No. 110-185, s. 1202 of Pub. L. No. 111-5, s. 2021 of Pub. L. No. 111-240, s. 402 of Pub. L. No.

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111-312, s. 315 of Pub. L. No. 112-240, and s. 127 of Pub. L. No. 113-295, for taxable years beginning after December 31, 2007, and before January 1, 2015. For the taxable year and for each of the 6 subsequent taxable years, there shall be subtracted from such taxable income one-seventh of the amount by which taxable income was increased pursuant to this subparagraph, notwithstanding any sale or other disposition of the property that is the subject of the adjustments and regardless of whether such property remains in service in the hands of the taxpayer.

3. There shall be added to such taxable income an amount equal to the amount of deferred income not included in such taxable income pursuant to s. 108(i)(1) of the Internal Revenue Code of 1986, as amended by s. 1231 of Pub. L. No. 111-5. There shall be subtracted from such taxable income an amount equal to the amount of deferred income included in such taxable income pursuant to s. 108(i)(1) of the Internal Revenue Code of 1986, as amended by s. 1231 of Pub. L. No. 111-5.

4. Subtractions available under this paragraph may be transferred to the surviving or acquiring entity following a merger or acquisition and used in the same manner and with the same limitations as specified by this paragraph.

5. The additions and subtractions specified in this paragraph are intended to adjust taxable income for Florida tax purposes, and, notwithstanding any other provision of this code, such additions and subtractions shall be permitted to change a taxpayer’s net operating loss for Florida tax purposes.

Section 15. (1) The Department of Revenue is authorized, and all conditions are deemed to be met, to adopt emergency

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rules pursuant to s. 120.54(4), Florida Statutes, for the purpose of implementing the amendments made by this act to s. 220.03(1)(n) and (2)(c), Florida Statutes, and s. 220.13(1)(e), Florida Statutes.

(2) Notwithstanding any other provision of law, emergency rules adopted pursuant to subsection (1) are effective for 6 months after adoption and may be renewed during the pendency of procedures to adopt permanent rules addressing the subject of the emergency rules.

(3) This section expires January 1, 2020.

Section 16. Effective upon this act becoming a law and applicable to taxable years beginning on or after January 1, 2016, section 220.222, Florida Statutes, is amended to read:

220.222 Returns; time and place for filing.—

(1)(a) Returns required by this code shall be filed with the office of the department in Leon County or at such other place as the department may by regulation prescribe. All returns required for a DISC (Domestic International Sales Corporation) under paragraph 6011(c)(2) of the Internal Revenue Code shall be filed on or before the 1st day of the 10th month after ~~following~~ the close of the taxable year; all partnership information returns shall be filed on or before the 1st day of the 4th ~~5th~~ month after ~~following~~ the close of the taxable year; and all other returns shall be filed on or before the 1st day of the 5th ~~4th~~ month after ~~following~~ the close of the taxable year or the 15th day after ~~following~~ the due date, without extension, for the filing of the related federal return for the taxable year, unless under subsection (2) one or more extensions of time, not to exceed 6 months in the aggregate, for any such filing is

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granted.

(b) Notwithstanding paragraph (a), for taxable years beginning before January 1, 2026, returns of taxpayers with a taxable year ending on June 30 shall be filed on or before the 1st day of the 4th month after the close of the taxable year or the 15th day after the due date, without extension, for the filing of the related federal return for the taxable year, unless under subsection (2) one or more extensions of time for any such filing is granted.

(2)(a) When a taxpayer has been granted an extension or extensions of time within which to file its federal income tax return for any taxable year, and if the requirements of s. 220.32 are met, the filing of a request for such extension or extensions with the department shall automatically extend the due date of the return required under this code until ~~15 days after the expiration of the federal extension or until~~ the expiration of 6 months from the original due date~~, whichever first occurs~~.

(b) The department may grant an extension or extensions of time for the filing of any return required under this code upon receiving a prior request therefor if good cause for an extension is shown. However, the aggregate extensions of time under paragraph ~~paragraphs~~ (a) and this paragraph must ~~(b) shall~~ not exceed 6 months. An ~~No~~ extension granted under this paragraph is not ~~shall be~~ valid unless the taxpayer complies with ~~the requirements of~~ s. 220.32.

(c) For purposes of this subsection, a taxpayer is not in compliance with ~~the requirements of~~ s. 220.32 if the taxpayer underpays the required payment by more than the greater of

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$2,000 or 30 percent of the tax shown on the return when filed.

(d) For taxable years beginning before January 1, 2026, the 6-month time period in paragraphs (a) and (b) shall be 7 months for taxpayers with a taxable year ending June 30 and shall be 5 months for taxpayers with a taxable year ending December 31.

Section 17. Effective upon this act becoming a law and applicable to taxable years beginning on or after January 1, 2017, section 220.241, Florida Statutes, is amended to read:

220.241 Declaration; time for filing.—

(1) A declaration of estimated tax under this code shall be filed before the 1st day of the 6th ~~5th~~ month of each taxable year, except that if the minimum tax requirement of s. 220.24(1) is first met:

(a) ~~(1)~~ After the 3rd month and before the 6th month of the taxable year, the declaration shall be filed before the 1st day of the 7th month;

(b) ~~(2)~~ After the 5th month and before the 9th month of the taxable year, the declaration shall be filed before the 1st day of the 10th month; or

(c) ~~(3)~~ After the 8th month and before the 12th month of the taxable year, the declaration shall be filed for the taxable year before the 1st day of the succeeding taxable year.

(2) Notwithstanding subsection (1), for taxable years beginning before January 1, 2026, taxpayers with a taxable year ending on June 30 shall file declarations before the 1st day of the 5th month of each taxable year, unless paragraph (1)(a), paragraph (1)(b), or paragraph (1)(c) applies.

Section 18. Effective upon this act becoming a law and applicable to taxable years beginning on or after January 1,

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2017, subsection (1) of section 220.33, Florida Statutes, is amended to read:

220.33 Payments of estimated tax.—A taxpayer required to file a declaration of estimated tax pursuant to s. 220.24 shall pay such estimated tax as follows:

(1) If the declaration is required to be filed before the 1st day of the 6th ~~5th~~ month of the taxable year, the estimated tax shall be paid in four equal installments. The first installment shall be paid at the time of the required filing of the declaration; the second and third installments shall be paid before the 1st day of the 7th month and before the 1st day of the 10th month of the taxable year, respectively; and the fourth installment shall be paid before the 1st day of the next taxable year.

Section 19. Effective upon this act becoming a law and applicable to taxable years beginning on or after January 1, 2017, paragraph (c) of subsection (2) of section 220.34, Florida Statutes, is amended to read:

220.34 Special rules relating to estimated tax.—

(2) No interest or penalty shall be due or paid with respect to a failure to pay estimated taxes except the following:

(c) The period of the underpayment for which interest and penalties apply shall commence on the date the installment was required to be paid, determined without regard to any extensions of time, and shall terminate on the earlier of the following dates:

1. The 1st ~~first~~ day of the 5th ~~fourth~~ month after ~~following~~ the close of the taxable year;

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2. For taxable years beginning before January 1, 2026, for taxpayers with a taxable year ending June 30, the 1st day of the 4th month after the close of the taxable year; or

3.~~2.~~ With respect to any portion of the underpayment, the date on which such portion is paid.

For purposes of this paragraph, a payment of estimated tax on any installment date shall be considered a payment of any previous underpayment only to the extent such payment exceeds the amount of the installment determined under subparagraph (b)1. for such installment date.

Section 20. Subsections (1) and (2) of section 561.121, Florida Statutes, are amended to read:

561.121 Deposit of revenue.—

(1) All state funds collected pursuant to ss. 563.05, 564.06, 565.02(9), and 565.12 shall be paid into the State Treasury and disbursed in the following manner:

(a) Two percent of monthly collections of the excise taxes on alcoholic beverages established in ss. 563.05, 564.06, and 565.12 and the tax on alcoholic beverages, cigarettes, and other tobacco products established in s. 565.02(9) shall be deposited into the Alcoholic Beverage and Tobacco Trust Fund to meet the division's appropriation for the state fiscal year.

(b) The remainder of the funds collected pursuant to ss. 563.05, 564.06, and 565.12 and the tax on alcoholic beverages, cigarettes, and other tobacco products established in s. 565.02(9) shall be credited to the General Revenue Fund.

(2) The unencumbered balance in the Alcoholic Beverage and Tobacco Trust Fund at the close of each fiscal year may not

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exceed $2 million. These funds shall be held in reserve for use in the event that trust fund revenues are unable to meet the division's appropriation for the next fiscal year. In the event of a revenue shortfall, these funds shall be spent pursuant to subsection (3). Notwithstanding subsection (1), if the unencumbered balance on June 30 in any fiscal year is less than $2 million, the department is authorized to retain the difference between the June 30 unencumbered balance in the trust fund and $2 million from the July collections of state funds collected pursuant to ss. 563.05, 564.06, and 565.12 and the tax on alcoholic beverages, cigarettes, and other tobacco products established in s. 565.02(9). Any unencumbered funds in excess of reserve funds shall be transferred unallocated to the General Revenue Fund by August 31 of the next fiscal year.

Section 21. Subsection (4) of section 564.06, Florida Statutes, is amended to read:

564.06 Excise taxes on wines and beverages.—

(4) As to cider, which is made from the normal alcoholic fermentation of the juice of sound, ripe apples or pears, including but not limited to flavored, sparkling, or carbonated cider and cider made from condensed apple or pear must, that contain not less than one-half of 1 percent of alcohol by volume and not more than 7 percent of alcohol by volume, there shall be paid by all manufacturers and distributors a tax at the rate of $.89 per gallon. With the sole exception of the excise tax rate, cider shall be considered wine and shall be subject to the provisions of this chapter.

Section 22. Subsection (9) of section 565.02, Florida Statutes, is amended to read:

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565.02 License fees; vendors; clubs; caterers; and others.—

(9)(a) As used in this subsection, the term:

1. "Annual capacity" means an amount equal to the number of lower berths on a vessel multiplied by the number of embarkations of that vessel during a calendar year.

2. "Base rate" means an amount equal to the total taxes and surcharges paid by all permittees pursuant to the Beverage Law and chapter 210 for sales of alcoholic beverages, cigarettes, and other tobacco products taking place between January 1, 2015, and December 31, 2015, inclusive, divided by the sum of the annual capacities of all vessels permitted pursuant to former s. 565.02(9), Florida Statutes 2015, for calendar year 2015.

3. "Embarkation" means an instance in which a vessel departs from a port in this state.

4. "Lower berth" means a bed that is:

a. Affixed to a vessel;

b. Not located above another bed in the same cabin; and

c. Located in a cabin not in use by employees of the operator of the vessel or its contractors.

5. "Quarterly capacity" means an amount equal to the number of lower berths on a vessel multiplied by the number of embarkations of that vessel during a calendar quarter.

(b) It is the finding of the Legislature that passenger vessels engaged exclusively in foreign commerce are susceptible to a distinct and separate classification for purposes of the sale of alcoholic beverages, cigarettes, and other tobacco products under the Beverage Law and chapter 210.

(c) Upon the filing of an application and payment of an annual fee of $1,100, the director is authorized to issue a

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permit authorizing the operator, or, if applicable, his or her concessionaire, of a passenger vessel which has cabin-berth capacity for at least 75 passengers, and which is engaged exclusively in foreign commerce, to sell alcoholic beverages, cigarettes, and other tobacco products on the vessel for consumption on board only:

1. ~~(a)~~ For no more than ~~During a period not in excess of~~ 24 hours before ~~prior to~~ departure while the vessel is moored at a dock or wharf in a port of this state; or

2. ~~(b)~~ At any time while the vessel is located in Florida territorial waters and is in transit to or from international waters.

One such permit shall be required for each such vessel and shall name the vessel for which it is issued. No license shall be required or tax levied by any municipality or county for the privilege of selling beverages, cigarettes, or other tobacco products for consumption on board such vessels. The beverages, cigarettes, or other tobacco products so sold may be purchased outside the state by the permittee, and the same shall not be considered as imported for the purposes of s. 561.14(3) solely because of such sale. The permittee is not required to obtain its beverages, cigarettes, or other tobacco products from licensees under the Beverage Law or chapter 210. Each permittee~~,~~ ~~but it~~ shall keep a strict account of the quarterly capacity of each of its vessels ~~all such beverages sold within this state~~ and shall make quarterly ~~monthly~~ reports to the division on forms prepared and furnished by the division. ~~A permittee who sells on board the vessel beverages withdrawn from United States~~

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~~Bureau of Customs and Border Protection bonded storage on board the vessel may satisfy such accounting requirement by supplying the division with copies of the appropriate United States Bureau of Customs and Border Protection forms evidencing such withdrawals as importations under United States customs laws.~~

(d) Each ~~Such~~ permittee shall pay to the state a ~~an excise~~ tax for beverages, cigarettes, and other tobacco products sold pursuant to this subsection in an amount equal to the base rate multiplied by the permittee's quarterly capacity during the calendar quarter, less any tax or surcharge already paid by a licensed manufacturer or distributor pursuant to the Beverage Law or chapter 210 on beverages, cigarettes, and other tobacco products sold by the permittee pursuant to this subsection during the quarter for which tax is due ~~section, if such excise tax has not previously been paid, in an amount equal to the tax which would be required to be paid on such sales by a licensed manufacturer or distributor~~.

(e) A vendor holding such permit shall pay the tax quarterly ~~monthly~~ to the division at the same time he or she furnishes the required report. Such report shall be filed on or before the 15th day of each calendar quarter ~~month~~ for the quarterly capacity ~~sales occurring~~ during the previous calendar quarter ~~month~~.

(f) No later than August 1, 2016, each permittee shall report the annual capacity for each of its vessels for calendar year 2015 to the division on forms prepared and furnished by the division. No later than September 1, 2016, the division shall calculate the base rate and report it to each permittee. The base rate shall also be published in the Florida Administrative

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Register and on the department's website. The division may verify independently the information provided under this paragraph.

(g) Revenues collected pursuant to this subsection shall be distributed pursuant to s. 561.121(1).

Section 23. Subsection (1) of section 951.22, Florida Statutes, is amended to read:

951.22 County detention facilities; contraband articles.—

(1) It is unlawful, except through regular channels as duly authorized by the sheriff or officer in charge, to introduce into or possess upon the grounds of any county detention facility as defined in s. 951.23 or to give to or receive from any inmate of any such facility wherever said inmate is located at the time or to take or to attempt to take or send therefrom any of the following articles which are hereby declared to be contraband for the purposes of this act, to wit: Any written or recorded communication; any currency or coin; any article of food or clothing; any tobacco products as defined in s. 210.25(12) ~~210.25(11)~~; any cigarette as defined in s. 210.01(1); any cigar; any intoxicating beverage or beverage which causes or may cause an intoxicating effect; any narcotic, hypnotic, or excitative drug or drug of any kind or nature, including nasal inhalators, sleeping pills, barbiturates, and controlled substances as defined in s. 893.02(4); any firearm or any instrumentality customarily used or which is intended to be used as a dangerous weapon; and any instrumentality of any nature that may be or is intended to be used as an aid in effecting or attempting to effect an escape from a county facility.

Section 24. Clothing and school supplies; sales tax

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holiday.—

(1) The tax levied under chapter 212, Florida Statutes, may not be collected during the period from 12:01 a.m. on August 5, 2016, through 11:59 p.m. on August 7, 2016, on the retail sale of:

(a) Clothing, wallets, or bags, including handbags, backpacks, fanny packs, and diaper bags, but excluding briefcases, suitcases, and other garment bags, having a sales price of $60 or less per item. As used in this paragraph, the term "clothing" means:

1. Any article of wearing apparel intended to be worn on or about the human body, excluding watches, watchbands, jewelry, umbrellas, and handkerchiefs; and

2. All footwear, excluding skis, swim fins, roller blades, and skates.

(b) School supplies having a sales price of $15 or less per item. As used in this paragraph, the term "school supplies" means pens, pencils, erasers, crayons, notebooks, notebook filler paper, legal pads, binders, lunch boxes, construction paper, markers, folders, poster board, composition books, poster paper, scissors, cellophane tape, glue or paste, rulers, computer disks, protractors, compasses, and calculators.

(2) The tax exemptions provided in this section do not apply to sales within a theme park or entertainment complex as defined in s. 509.013(9), Florida Statutes, within a public lodging establishment as defined in s. 509.013(4), Florida Statutes, or within an airport as defined in s. 330.27(2), Florida Statutes.

(3) The tax exemptions provided in this section apply at

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the option of a dealer if less than 5 percent of the dealer's gross sales of tangible personal property in the prior calendar year are comprised of items that would be exempt under this section. If a qualifying dealer chooses not to participate in the tax holiday, by August 1, 2016, the dealer must notify the Department of Revenue in writing of its election to collect sales tax during the holiday and must post a copy of that notice in a conspicuous location at its place of business.

(4) The Department of Revenue may, and all conditions are deemed met to, adopt emergency rules pursuant to s. 120.54(4), Florida Statutes, to administer this section.

(5) For the 2016-2017 fiscal year, the sum of $229,982 in nonrecurring funds is appropriated from the General Revenue Fund to the Department of Revenue for the purpose of implementing this section.

Section 25. For the 2016-2017 fiscal year, the sum of $100,374 in nonrecurring funds is appropriated from the General Revenue Fund to the Department of Revenue for the purpose of implementing ss. 220.03, 220.13, 220.222, 220.241, 220.33, and 220.34, as amended by this act.

Section 26. Except as otherwise expressly provided in this act and except for this section, which shall take effect upon this act becoming a law, this act shall take effect July 1, 2016.

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

And the title is amended as follows:

Delete everything before the enacting clause

and insert:

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A bill to be entitled

An act relating to taxation; amending s. 125.0104, F.S.; specifying additional uses for revenues received from tourist development taxes for certain coastal counties; conforming a cross-reference; amending s. 196.012, F.S.; revising definitions related to certain businesses; amending s. 196.1995, F.S.; revising an economic development ad valorem tax exemption for certain enterprise zone businesses; providing applicability of the exemption to data centers; providing retroactive applicability for certain provisions; amending s. 201.15, F.S.; revising a date relating to the payment of debt service for certain bonds; amending s. 206.9825, F.S.; revising eligibility criteria for wholesalers and terminal suppliers to receive aviation fuel tax refunds or credits of previously paid excise taxes; providing for future repeal of such refunds or credits; revising the rate of the excise tax on certain aviation fuels on a specified date; amending s. 210.13, F.S.; providing procedures to be used when a person, other than a dealer, is required but fails to remit certain taxes; amending s. 210.25, F.S.; revising definitions related to tobacco; amending s. 212.05, F.S.; clarifying the requirements for the exemption from tax on certain sales of aircraft that will be registered in a foreign jurisdiction; amending s. 212.06, F.S.; reducing by a specified percentage over time an indexed tax on manufactured asphalt used for a government public

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works project; exempting such manufactured asphalt from the indexed tax beginning on a specified date; amending s. 212.08, F.S.; exempting the sales of food or drinks by certain qualified veterans' organizations; revising definitions regarding certain industrial machinery and equipment; removing the expiration date on the exemption for purchases of certain machinery and equipment; revising the definition of the term "eligible manufacturing business" for purposes of qualification for the sales and use tax exemption; providing definitions for certain postharvest machinery and equipment, postharvest activities, and eligible postharvest activity businesses; providing an exemption for the purchase of such machinery and equipment; amending s. 220.03, F.S.; adopting the 2016 version of the Internal Revenue Code; providing retroactive applicability; amending s. 220.13, F.S.; incorporating a reference to a recent federal act into state law for the purpose of defining the term "adjusted federal income"; revising the treatment by this state of certain depreciation of assets allowed for federal income tax purposes; providing retroactive applicability; authorizing the Department of Revenue to adopt emergency rules; providing for expiration; amending s. 220.222, F.S.; revising due dates for partnership information returns and corporate tax returns; amending s. 220.241, F.S.; revising due dates to file a declaration of estimated corporate income

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tax; amending s. 220.33, F.S.; revising the due date of estimated payments of corporate income tax; amending s. 220.34, F.S.; revising the dates for purposes of calculating interest and penalties on underpayments of estimated corporate income tax; amending s. 561.121, F.S.; requiring that certain taxes related to alcoholic beverages and tobacco products sold on cruise ships be deposited into specified funds; amending s. 564.06, F.S.; specifying the excise tax that is applicable to cider made from pears; amending s. 565.02, F.S.; creating an alternative method of taxation for alcoholic beverages and tobacco products sold on certain cruise ships; requiring the reporting of certain information by each permittee for purposes of determining the base rate applicable to the taxpayers; authorizing the Division of Alcoholic Beverages and Tobacco within the Department of Business and Professional Regulation to independently verify certain reported information; amending s. 951.22, F.S.; conforming a cross-reference; providing an exemption from the sales and use tax for the retail sale of certain clothes and school supplies during a specified period; providing exceptions; authorizing certain dealers to elect not to participate in such tax exemptions; providing requirements for such dealers; authorizing the Department of Revenue to adopt emergency rules; providing appropriations; providing effective dates.

THE FLORIDA SENATE

APPEARANCE RECORD

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

March 1 2016
Meeting Date

HB 7099
Bill Number (if applicable)

266252 ~~941552~~
Amendment Barcode (if applicable)

Topic Craft Distillery license fee/tax

Name Jason Unger

Job Title

Address 301 South Bronough Street
Street

Phone 577-9090

TLH FL 32301
City *State* *Zip*

Email junger@gray-robinson.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Craft Distillers Guild

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)

3/1/16
Meeting Date

7099
Bill Number (if applicable)

299122
Amendment Barcode (if applicable)

Topic Eliminate changes to TDT from 7099

Name Armando Ibarra

Job Title Lobbyist

Address 951 Brickell Ave. #701
Street

Phone 786-514-2965

Miami FL 33131
City *State* *Zip*

Email armando@aiadvisory.co

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Greater Miami and the Beaches Hotel Association

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/16
Meeting Date

HB 7099
Bill Number (if applicable)

Topic TAXES

Amendment Barcode (if applicable)

Name NANCY STEPHENS

SUPPORT HB 7099
SUPPORT AM 941552
by Hukill and Lee

Job Title EXECUTIVE DIRECTOR

Address 1625 SUMMIT LAKE DR, STE 300
Street

Phone 850 445 1607

TALLAHASSEE FL 32317
City *State* *Zip*

Email

Speaking: ☐ For ☐ Against ☒ Information

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

Representing MANUFACTURERS ASSOCIATION OF FLORIDA

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/16
Meeting Date

7099
Bill Number (if applicable)

941552
Amendment Barcode (if applicable)

Topic Eliminate changes to TDT from 7099

Name Armando Ibarra

Job Title Lobbyist

Address 951 Brickell Ave #701
Street
Miami FL 33131
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Phone 7865142965

Email armando@aiadvisory.co

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Greater Miami and the Beaches Hotel Association

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/2016
Meeting Date

HB7099
Bill Number (if applicable)

Topic Taxation

Amendment Barcode (if applicable)

Name Susan Blake

Job Title Infrastructure Information Coordinator

Address 3517 Blechnum Fern Lane
Street
Sarasota, FL 34235
City *State* *Zip*

Phone (941) 284-7298

Email blakesonboard@aol.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing myself

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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)

3-1-2016
Meeting Date

HB 7099
Bill Number (if applicable)

Topic TAXATION

Amendment Barcode (if applicable)

Name Paul Loyd

Job Title PUBLIC SECTOR MECHANIC

Address 646 Linden Rd
Street

Sarasota FL 34293
City *State* *Zip*

Phone 941-376-0330

Email floyd9770@comcast.net

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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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)

1 MARCH 2016
Meeting Date

HB 7099
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic TAXATION

Name RONALD G. CLEARY

Job Title UAW (UNITED AUTO WORKER RETIREE)

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Phone 3529781441

Email ronlaur71@embarqmail.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing SECF

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/16
Meeting Date

HB 7099
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Taxation

Name Jeremiah Tattersall

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Phone 407-617-7060

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Speaking: ☐ For ☒ Against ☐ Information

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

Representing

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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3/1/16
Meeting Date

HB 7099
Bill Number (if applicable)

Topic TAXATION

Amendment Barcode (if applicable)

Name GLENDA ABICHT

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Email GLENDA.ABICHT@GMAIL.COM

Speaking: ☐ For ☐ Against ☐ Information

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

Representing SELF

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

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3/1/16
Meeting Date

HB 7099
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic TAXATION

Name JUAN SATTIEWHITE

Job Title

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FORT WALTON BEACH FL 32548
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Email LL20TREASURER@GMAIL.COM

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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3/1/2016
Meeting Date

7099
Bill Number (if applicable)

Topic TAXATION

Amendment Barcode (if applicable)

Name GAIL MARIE PERRY

Job Title CHAIR

Address PO BOX 1766
Street
POMPANO BEACH FLORIDA 33061
City *State* *Zip*

Phone 954 850 4055

Email workingfolk@hotmail.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing COMMUNICATIONS WORKERS OF AMERICA COUNCIL OF FLORIDA

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/16
Meeting Date

HB 7099
Bill Number (if applicable)

Topic Taxation

Amendment Barcode (if applicable)

Name Micheal Dickens

Job Title VP ATU Local 1596 Orlando, fl

Address _____ Phone _____
Street

_____ Email _____
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

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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)

03-01-2016
Meeting Date

HB 7099
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name ROBERT CHAPMAN

Job Title TAXATION

Address 41219 LYNBROOK DRIVE
Street

Phone _____

ZEPHYRHILLS FLORIDA 33540
City *State* *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

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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)

3/1/16
Meeting Date

7099
Bill Number (if applicable)

Topic Taxation

Amendment Barcode (if applicable)

Name Carolyn Johnson

Job Title Policy Director

Address 136 S Bronough St
Street
Tallahassee FL 32301
City *State* *Zip*

Phone 850-521-1235

Email cjohnson@flchamber.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FL Chamber of Commerce

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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3/1/16
Meeting Date

7099
Bill Number (if applicable)

246252
Amendment Barcode (if applicable)

Topic Taxation - Craft Distilleries

Name Carolyn Johnson

Job Title Policy Director

Address 136 S Bronough St
Street

Tallahassee FL
City *State* *Zip*

Phone

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FL Chamber of Commerce

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3 / 1 /2016
Meeting Date

Topic _____ Bill Number 7099 *(if applicable)*

Name BRIAN PITTS Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

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

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

Speaking: ☐ For ☐ Against ☑ Information

Representing JUSTICE-2-JESUS

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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3/1/16
Meeting Date

HB 7099
Bill Number (if applicable)

Topic TAXATION

Amendment Barcode (if applicable)

Name ZEFNIA DURHAM III

Job Title Transit Dispatcher

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Street

Phone 352-260-3524

GAINESVILLE FL 32609
City *State* *Zip*

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Zefnia Durham III

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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3/1/2016
Meeting Date

Bill Number (if applicable)

Topic Taxation

Amendment Barcode (if applicable)

Name Sherry DeSafe

Job Title Transit Driver

Address 2334 SW 34th pl Apt A
Street

Phone (352) 872-6782

Gainesville FL 32608
City *State* *Zip*

Email Sherrydesue36@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Self

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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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)

3/1/16
Meeting Date

Bill Number (if applicable)

Topic Taxation

Amendment Barcode (if applicable)

Name Tara Bryant

Job Title Dispatch Clerk - Transit

Address 205 NE 44th Street
Street

Phone 352-219-7784

Gainesville FL 32641
City *State* *Zip*

Email bryant1985@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Self

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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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)

3/1/16
Meeting Date

HB 7099
Bill Number (if applicable)

Topic Taxation

Amendment Barcode (if applicable)

Name Brewster Bevis

Job Title Senior Vice President

Address 516 N. Adams St
Street

Phone 224-7173

Tallahassee FL 32301
City *State* *Zip*

Email bbevis@aif.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Associated Industries of Florida

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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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)

3/1/16
Meeting Date

7099
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Taxation

Name Martha Cleaver

Job Title Governmental Consultant

Address P.O. Box 11275
Street
Tallahassee, FL 32302
City *State* *Zip*

Phone 850/491-1945

Email marthacleaver@fapa.net

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Association of Property Appraisers

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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S-001 (10/14/14)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL:	PCS/CS/SB 318 (508372)
INTRODUCER:	Appropriations Committee (Recommended by Appropriations Subcommittee on General Government); Environmental Preservation and Conservation Committee; and Senator Richter
SUBJECT:	Regulation of Oil and Gas Resources
DATE:	February 24, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Istler	Rogers	EP	**Fav/CS**
2.	Howard	DeLoach	AGG	**Recommend: Fav/CS**
3.	Howard	Kynoch	AP	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 318 revises Florida's oil and gas regulations to define the term "high-pressure well stimulation" and requires a separate permit for the performance of high-pressure well stimulations. The bill directs the Department of Environmental Protection (DEP) to conduct a study analyzing the potential impacts that high-pressure well stimulations may have on Florida's underlying geologic features. The bill prohibits permits for high-pressure well stimulations from being issued until the DEP adopts rules regulating high-pressure well stimulations and such rules take effect.

Additionally, the bill:

- Preempts to the state all matters relating to the regulation of the exploration, development, production, processing, storage, and transportation of oil and gas;
- Requires inspections during the testing of blowout preventers, the pressure testing of the casing and casing shoe, and the integrity testing of cement plugs in plugging and abandonment operations;
- Requires notice to be given, a fee to be paid, and a permit to be granted before performing a high-pressure well stimulation;
- Requires the DEP to consider groundwater contamination as a result of high-pressure well stimulations and public policy when reviewing a permit application for high-pressure well stimulations;

- Specifies that a permit may be denied or specific permitting conditions may be applied based on the past history of prior adjudicated, uncontested, or settled violations committed by the permit applicant or an affiliated entity of the applicant of any substantive and material rule or law pertaining to the regulation of oil or gas, including violations that occurred outside the state;
- Clarifies the inspection authority of the DEP;
- Requires the permit applicant to provide surety to the DEP that the high-pressure well stimulation will be conducted in a safe and environmentally compatible manner;
- Increases the civil penalty from $10,000 per day to $25,000 per day for violations; and
- Designates FracFocus as the state's registry for chemical disclosure for all wells on which high-pressure well stimulations are performed.

The bill provides a $1 million nonrecurring appropriation from the General Revenue Fund to the DEP to conduct a study on high-pressure well stimulations. According to the DEP, the increased workload related to the regulatory and rulemaking process can be handled within existing resources. The remaining fiscal impact of the bill is indeterminate.

The bill provides an effective date of July 1, 2016.

II. Present Situation:

Production of conventional versus unconventional oil and gas resources: the use of well stimulation techniques

Conventional oil and gas resources are found in permeable sandstone and carbonate reservoirs.[1] To extract conventional resources, wells have historically been drilled vertically, straight down into a rock formation. Whereas conventional resources are found in concentrated underground locations, unconventional resources are highly dispersed through impermeable or "tight" rock formations such as shales and tight sands. To extract unconventional resources, drilling has shifted from vertical to horizontal or directional away from the reservoir to the source rock, and well stimulation techniques have been developed to increase the production at such oil or gas wells. The profitable extraction of unconventional resources is relatively new.[2]

Well stimulation techniques are used in the production of both conventional and unconventional resources. The techniques can be focused solely on the wellbore for maintenance and remedial purposes or can be used to increase production from the reservoir.[3] The three most commonly used well stimulation techniques include matrix acidizing, acid fracturing, and hydraulic fracturing. Dating back to 1895, matrix acidizing is the oldest well stimulation technique. It involves pumping acid into the well at a pressure that does not exceed the fracture gradient to dissolve some of the rock to bypass wellbore damage or to stimulate carbonate formations.[4] Acid

[1] Michael Ratner & Mary Tiemann, Cong. Research Serv., R 43148, *An Overview of Unconventional Oil and Natural Gas: Resources and Federal Actions*, pg. 2 (Apr. 22, 2015), *available at* https://www.fas.org/sgp/crs/misc/R43148.pdf.
[2] *Id*. at 3.
[3] California Council on Science and Technology Lawrence Berkeley National Laboratory, *An Independent Assessment of Well Stimulation in California* (CA Study), Vol. 1, Well stimulation technologies and their past, present, and potential future use in California, January 2015, pg. 14, *available at* http://ccst.us/publications/2015/2015SB4-v1.php.
[4] *Id*. at 69.

fracturing is a well stimulation technique that involves pumping acidic fluids into a well at a pressure that fractures the rock. The acid etches the walls of the fracture so the fractures remain open after the pressure is released. These types of acid stimulations are preferred in carbonate reservoirs.[5]

Hydraulic fracturing was developed in the 1940s to increase production of conventional resources. While the technique is not new, the composition of the fracturing fluids has evolved over time. Initially the technique used very little water and relied on a mixture of petroleum compounds, such as napalm and diesel fuels.[6] Modern hydraulic fracturing involves a fracturing fluid that is composed of a base fluid, in most cases water; additives, each designed to serve a particular function; and a proppant, such as sand, to hold the fractures open. The composition of the fracturing fluid varies depending on the property of the reservoir rock, specifically the rock's permeability and brittleness.[7] A hydraulic fracturing operation at a horizontal well involves four stages. The first is the "stage" during which a portion of the well is isolated to focus the fracture fluid pressure. The second is the "pad" in which fracture fluid is injected without proppant to initiate and propagate the fracture. The proppant is then added to keep the fractures open. The third stage is the "flush" during which fluid is injected without proppant to push any remaining proppant into the fractures. The fourth is the "flowback" during which the hydraulic fracturing fluids are removed and the fluid pressure dissipates.[8]

The Environmental Protection Agency (EPA) estimates that between 25,000-30,000 new wells were drilled and hydraulically fractured annually in the United States between 2011 and 2014.[9] Horizontal or directional drilling techniques in conjunction with hydraulic fracturing has led to a surge in domestic production of oil and gas resources in the recent decade and, in 2014, the United States was the world's top producer of petroleum and natural gas hydrocarbons.[10]

Production of oil and gas resources in Florida

Northwest and South Florida are the major oil and gas producing areas in the state. The first producing oil well was discovered in 1943 at a wellsite located in Big Cypress Preserve.[11] It was not until 1970 that oil and gas resources were first discovered in Northwest Florida. There are

[5] *Id*. at 56.
[6] Gallegos, T.J., and Varela, B.A., *Trends in hydraulic fracturing distributions and treatment fluids, additives, proppants, and water volumes applied to wells drilled in the United States from 1947 through 2010—Data analysis and comparison to the literature: U.S. Geological Survey Scientific Investigations Report 2014–5131*, pg. 7 (2015), *available at* http://pubs.usgs.gov/sir/2014/5131/pdf/sir2014-5131.pdf.
[7] CA Study at 48.
[8] *Id*. at 42.
[9] U.S. Environmental Protection Agency (EPA), *DRAFT An Assessment of the Potential Impacts of Hydraulic Fracturing for Oil and Gas on Drinking Water Resources, Executive Summary*, ES-5 (2015), *available at* http://www2.epa.gov/sites/production/files/2015-07/documents/hf_es_erd_jun2015.pdf. This draft document is undergoing peer review by the Scientific Advisory Board (SAB) Hydraulic Fracturing Research Advisory Panel. A SAB Draft Report is available at http://yosemite.epa.gov/sab/sabproduct.nsf/LookupWebProjectsCurrentBOARD/f7a9db9abbac015785257e540052dd54!OpenDocument&TableRow=2.2#2.
[10] U.S. Energy Information Administration (EIA), *Today in Energy*, http://www.eia.gov/todayinenergy/detail.cfm?id=20692 (last visited Jan. 11, 2016).
[11] American Oil & Gas Historical Society, *First Florida Oil Well*, http://aoghs.org/states/first-florida-oil-well/ (last visited Jan. 11, 2016).

seven active fields in South Florida, specifically in Lee, Hendry, Collier, and Dade Counties, and three active fields in Northwest Florida, specifically in Escambia and Santa Rosa Counties.[12] While geologists believe that there may be large oil and natural gas deposits off Florida's western coast, the state enacted a drilling ban for state waters in 1990 and, in 2006, Congress banned the leasing of federal offshore blocks within 125 miles of Florida's western coast until at least 2022.[13]

There are approximately 163 active wells in Florida.[14] The Department of Environmental Protection's (DEP) 2014 Annual Production Report totaled natural gas production at 728,884 million cubic feet (MMcf) and oil production totals at 614,668 thousand barrels (MBbls).[15]

Proven oil and gas reserves both in Northwest and South Florida are composed of carbonate formations and reservoirs that have relatively high permeability.[16] Because acid easily dissolves carbonate materials, techniques such as matrix acidizing and acid fracturing are preferred in carbonate reservoirs.[17] In December 2013, the DEP received a workover notice proposing use of an enhanced extraction procedure at a well site located in Collier County, Florida. The DEP requested that the company not complete the proposed workover, until additional review could be performed.[18] The company commenced with the workover procedure, and the DEP issued a cease and desist order. After failing to comply with the order, the company withdrew its permit application.[19] The DEP reported that the last use of hydraulic fracturing on record was in the Jay oilfield in 2003.[20]

Regulation of well stimulation techniques

Federal

There is limited direct federal regulation over the use of well stimulation techniques. In 2005, Congress passed the Energy Policy Act amending the Safe Water Drinking Act (SWDA) and the Clean Water Act (CWA).[21] The SWDA was amended to revise the definition of the term "underground injection" to specifically exclude the underground injection of fluids or propping agents (other than diesel fuels) pursuant to hydraulic fracturing operations. The CWA was amended to characterize oil and gas exploration and production as "construction activities,"

[12] DEP, *Oil and Gas Annual Production Reports, 2014*, *available at* http://www.dep.state.fl.us/water/mines/oil_gas/production.htm.
[13] EIA, Florida State Profile and Energy Estimates, *Analysis*, http://www.eia.gov/state/analysis.cfm?sid=FL (last visited Jan. 11, 2016). *See also*, s. 377.242(1), F.S.
[14] Email from Andrew Ketchel, Director, Office of Legislative Affairs, DEP (Jan. 7, 2016) (on file with the Senate Committee on Environmental Preservation and Conservation).
[15] DEP, *Oil and Gas Annual Production Reports, 2014*, *available at* http://www.dep.state.fl.us/water/mines/oil_gas/production.htm.
[16] DEP, *Hydraulic Fracturing Background and Recommendations* (Sept. 29, 2015) *available at* http://archive.news-press.com/assets/pdf/A4195556107.PDF.
[17] California Council on Science and Technology Lawrence Berkeley National Laboratory, *An Independent Assessment of Well Stimulation in California* (CA Study), Vol. 1, Well stimulation technologies and their past, present, and potential future use in California, January 2015, pg. 56 and pg. 69, *available at* http://ccst.us/publications/2015/2015SB4-v1.php.
[18] DEP, *Collier Oil Drilling*, http://www.dep.state.fl.us/secretary/oil/collier_oil.htm (last visited Jan. 11, 2016).
[19] *Id*.
[20] DEP, *Frequently Asked Questions Regarding the Oil and Gas Permitting Process*, http://www.dep.state.fl.us/water/mines/oil_gas/docs/faq_og.pdf (last visited Jan. 11, 2016).
[21] Energy Policy Act of 2005, H.R. 6, 109th Cong. (2005-2006).

thereby removing these operations from the scope of the CWA.[22] Thus, the Energy Policy Act effectively exempted non-diesel hydraulic fracturing from federal law.[23]

In an attempt to regulate hydraulic fracturing on federal and tribal lands, the Bureau of Land Management (BLM) in March 2015, published final rules governing hydraulic fracturing.[24] The rules were to take effect on June 24, 2015, however, the United States District Court for the District of Wyoming granted a preliminary injunction, holding that the BLM lacked the authority to regulate hydraulic fracturing.[25] The BLM is enjoined from enforcing the final rules pending the finality of the rule challenge.

While direct regulation over well stimulation techniques at the federal level is limited, there are several federal statutes that have been applied to regulate the impacts of oil and gas extraction more generally. The Oil and Gas Extraction Effluent Guidelines and Standards regulate wastewater discharges from field exploration, drilling, production, well treatment, and well completion activities.[26] The regulations apply to conventional and unconventional extraction with the exception of extractions of coalbed methane.[27] These standards are incorporated in the National Pollutant Discharge Elimination System (NPDES).

Because it is possible that oil and gas activities could result in the release of hazardous substances into the environment at or under the surface in a manner that may endanger public health or the environment, these activities are regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).[28] While any recovered petroleum or natural gas is exempt, other hazardous substances that result from oil or gas production, including fracturing fluids, fall under the act and if a release were to occur, the facility owner and operator could face liability under CERCLA.[29]

To ensure that employees who may be exposed to hazardous chemicals in the workplace are aware of the chemicals' potential dangers, manufacturers and importers must obtain or develop

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[22] The EPA rule implementing the CWA amendment was challenged and the Ninth Circuit Court of Appeals vacated the rule. Oil and gas construction facilities remain subject to stormwater permitting requirements, as well as, NPDES permit requirements. *See* William J. Brady, *Hydraulic Fracturing Regulation in the United States: The Laissez-faire approach of the Federal government and varying state regulations* at 8 (Unv. of Denver Sturm College of Law), *available at* http://www.law.du.edu/documents/faculty-highlights/Intersol-2012-HydroFracking.pdf.

[23] Hannah Wiseman, *Untested Waters: The Rise of Hydraulic Fracturing in Oil and Gas Production and the Need to Revisit Regulation*, 20 FORDHAM ENVTL. L. REV. 115 (2009), *available at* http://law.uh.edu/faculty/thester/courses/Emerging%20Tech%202011/Wiseman%20on%20Fracking.pdf.

[24] Under the final BLM regulations, the term "hydraulic fracturing" is defined as "those operations conducted in an individual wellbore designed to increase the flow of hydrocarbons from the rock formation to the wellbore through modifying the permeability of reservoir rock by applying fluids under pressure to fracture it. Hydraulic fracturing does not include enhanced secondary recovery such as water flooding, tertiary recovery, recovery through steam injection, or other types of well stimulation operations such as acidizing."

[25] State of Wyo. vs. U.S. Dept. of the Int., No. 2: 15-CB-043-SWS (D. Wyo. Sept. 30, 2015) (order granting preliminary injunction), *available at* http://www.wyd.uscourts.gov/pdfforms/orders/15-cv-043%20130%20order.pdf.

[26] EPA, *Oil and Gas Extraction Effluent Guidelines*, http://www.epa.gov/eg/oil-and-gas-extraction-effluent-guidelines (last visited Jan. 11, 2016).

[27] *Id*.

[28] Adam Vann, Brandon J. Murrill, & Mary Tiemann, Cong. Research Serv., R 43152, *Hydraulic Fracturing: Selected Legal Issues*, pg. 12 (Sept. 26, 2014), *available at* https://www.fas.org/sgp/crs/misc/R43152.pdf.

[29] *Id*. at 13.

Material Safety Data Sheets (MSDS) for hydraulic fracturing chemicals that are hazardous according to the Occupational Safety and Health Administration (OSHA) standards. MSDS sheets must be maintained for hazardous chemicals at each job site and must, at a minimum, include the chemical names of substances that are considered hazardous under OSHA regulations.[30]

State

States have primary jurisdiction and authority over the regulation of oil and gas activities. Almost all states with economically viable production wells have extensive regulatory programs in place for permitting and monitoring oil and gas activities. Recent advances in technology and the widespread use of well stimulation techniques, particularly hydraulic fracturing, have motivated some states to update and revise their oil and gas regulations to specifically address such techniques or to ban certain techniques altogether.[31]

The DEP has regulatory authority over oil and gas resources in Florida. The Division of Water Resource Management (Division) within DEP oversees the permitting process for drilling production and exploration. The DEP adopted Rule Chapters 62C-25 through 62C-30 of the Florida Administrative Code to implement and enforce the regulation of oil and gas resources. The Division has jurisdiction and authority over all persons and property necessary to administer and enforce all laws relating to the conservation of oil and gas.[32] Drilling and exploration is not authorized or is subject to local governmental approval in tidal waters, near improved beaches, and within municipal boundaries.[33]

When issuing permits for oil or gas exploration or extraction, the Division is required to consider the nature, character, and location of the lands involved; the nature, type, and extent of ownership of the applicant; and the proven or indicated likelihood of the presence of oil, gas, or related minerals on a commercially viable basis.[34] The DEP is required to ensure that all precautions are taken to prevent the spillage of oil or other pollutants in all phases of the drilling for, and extracting of, oil, gas, or other petroleum products.[35] Additionally, the DEP is authorized to issue rules to require the drilling, casing, and plugging of wells to be done in such a manner as to prevent the escape of oil or other petroleum products from one stratum to another.[36]

Before any person begins work other than environmental assessments or surveying at the site of a proposed drilling operation, a permit to drill is required and a preliminary site inspection must be conducted by the DEP.[37] An application for a permit to drill must include a proposed casing

[30] *Id*. at 22.
[31] Hannah Wiseman, *Untested Waters: The Rise of Hydraulic Fracturing in Oil and Gas Production and the Need to Revisit Regulation*, 20 FORDHAM ENVTL. L. REV. 115 (2009). *See also* State of Wyo. vs. U.S. Dept. of the Int., No. 2: 15-CB-043-SWS, pg. 40 (D. Wyo. Sept. 30, 2015) listing Wyoming, Colorado, Utah, North Dakota, Alaska, Illinois, Michigan, New Mexico, Ohio, Oklahoma, Pennsylvania, Texas, California, Montana, and Nevada as states with regulations in places addressing hydraulic fracturing.
[32] Section 377.21(1), F.S.
[33] Section 377.24, F.S.
[34] Section 377.241, F.S.
[35] Section 377.22, F.S.
[36] *Id*.
[37] Fla. Admin. Code R. 62C-26.003.

and cementing program and a location plat survey.[38] Each drilling permit is valid for one year and may be extended for an additional year.[39] Before a well is used for its intended purpose, a permit to operate the well must be obtained.[40] Operating permits are valid for the life of the well; however, every five years the DEP is required to perform a comprehensive field inspection and the permit must be re-certified.[41] Each application and subsequent re-certification must include the appropriate fee; bond or security coverage; a spill prevention and cleanup plan; flowline specification and an installation plan; containment facility certification; and additional reporting and data submissions, such as a driller's logs and monthly well reports.[42] Before a permit is granted, the owner or operator is required to post a bond or other form of security for each well. The amounts vary depending upon the well depth.[43] In lieu of posting a bond or security for each well, the owner or operator may file a blanket bond for multiple operations in the amount of $1,000,000, which may cover up to ten wells.[44]

A separate permit is not required for the performance of well stimulation techniques, the techniques are regulated as workovers.[45] Rule 62C-25.002(61) of the Florida Administrative Code defines the term "workover" as "an operation involving a deepening, plug back, repair, cement squeeze, perforation, hydraulic fracturing, acidizing, or other chemical treatment which is performed in a production, disposal, or injection well in order to restore, sustain, or increase production, disposal, or injection rates." An operator is required to notify the DEP before commencing a workover procedure and must submit a revised Well Record[46] to the DEP within 30 days after the workover.[47]

A person that violates any statute, rule, regulation, order, or permit of the Division relating to the regulation of oil or gas resources or who refuses inspection by the Division is liable for damages caused to the air, waters, or property of the state; for reasonable costs in tracing the source of the discharge, in controlling and abating the source and the pollutants; and in restoring the air, waters, and property.[48] Such persons are also subject to judicial imposition of a civil penalty up to $10,000 for each offense.[49] Each day during any portion of which a violation occurs constitutes a separate offense.[50]

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[38] *Id*.
[39] *Id*.
[40] Fla. Admin. Code R. 62C-26.008.
[41] Fla. Admin. Code Rules 62C-25.006 and 62C-26.008.
[42] Fla. Admin. Code Rule 62C-26.008.
[43] Fla. Admin. Code Rule 62C-26.002.
[44] *Id*.
[45] *See e.g.*, s. 377.22, F.S., requiring the Division to adopt rules to "regulate the shooting, perforating, and chemical treatment of wells" and to "regulate secondary recovery methods, in the introduction of gas, air, water, or other substance in producing formations." *See also*, s. 377.26, F.S., requiring the Division to "take into account technological advances in drilling and production technology, including, but not limited to, horizontal well completions in the producing formation using directional drilling methods."
[46] Fla. Admin. Code R. 62C-26.008.
[47] Fla. Admin. Code R. 62C-29.006.
[48] Section 377.37(1)(a), F.S.
[49] *Id*.
[50] *Id*.

Local

As most states with oil and gas interests have extensive regulatory programs governing oil and gas activities, the issue relating to what extent local governments may regulate oil and gas activities within their boundaries has arisen. In some areas local governments have banned or limited certain well stimulation techniques within their boundaries with varying success. In Colorado a number of municipalities passed bans on hydraulic fracturing within their city limits, but state courts have overturned the bans recognizing that the state's interest in the efficient and fair development of its resources may otherwise be threatened by inconsistent ordinances.[51] In Pennsylvania similar bans have been passed, and Pennsylvania state courts have held that municipalities retain their authority to limit oil and gas development within their borders, effectively authorizing them to regulate the "where, but not the how, of hydrocarbon recovery."[52]

While cities and counties do not operate oil and gas permitting programs in Florida, some through their land use regulations or zoning ordinances require special exceptions for oil and gas activities or limit oil and gas activities to certain zoning classifications.[53] When authorizing oil and gas activities, local governments consider factors such as consistency with their comprehensive plan, injuries to communities or the public welfare, and compliance with zoning ordinances.[54]

Section 377.24(5), F. S., restricts the DEP from issuing a permit for drilling within the corporate limits of a municipality unless the municipality adopts a resolution approving the permit. Three municipalities, Estero, Bonita Springs, and Coconut Creek have banned well stimulation techniques by ordinance.[55] Additionally, many counties and cities have passed resolutions supporting various types of bans and moratoriums relating to well stimulation techniques.[56]

Environmental Concerns

There are a variety of environmental concerns relating to well stimulation techniques. Potential impacts and concerns include: groundwater or surface water contamination; stress on water supplies; inadequate wastewater management and disposal; and air quality degradation.[57] Because well stimulation techniques are applied to so many types of formations using a variety of methods and fluids, environmental impacts vary depending on factors such as toxicity of the

[51] David L. Schwan, *Preemption Update: Local Attempts to Preempt State Regulation of Hydraulic Fracturing*, pg. 5, *available at* http://www.americanbar.org/content/dam/aba/administrative/litigation/materials/2015-joint-cle/written_materials/01_fracked_up_preemption_update.authcheckdam.pdf/.
[52] *Id*. at 6.
[53] Florida League of Cities, *Legislative Issue Briefs, Hydraulic Fracturing (Fracking)*, http://www.floridaleagueofcities.com/Assets/Files/Advocacy/2016_IB_Fracking.pdf (last visited Jan. 7, 2016). *Also see e.g.*, Lee County's Land Development Code s. 34-145(c).
[54] *Id*.
[55] Ordinance No. 2015-19 bans well stimulation within and below the corporate boundaries of the Village of Estero; Article IV, Section 13-1000 of Coconut Creek's Land Development Code bans well stimulation in Coconut Creek; and Chapter 4, Article VI, Division 15, Section 4-1380 of Bonita Spring's Land Development Code bans well stimulation in Bonita Springs, Florida.
[56] See Food & Water Watch, *Local Regulations Against Fracking*, http://www.foodandwaterwatch.org/insight/local-resolutions-against-fracking#florida (last visited Jan. 7, 2016).
[57] EPA, Natural Gas Extraction - Hydraulic Fracturing, http://www.epa.gov/hydraulicfracturing (last visited Jan. 11, 2016).

fluid used; the closeness of the fracture zone to underground drinking water; the existence of a barrier between the fracture formation and other formations; and how wastewater is disposed.[58]

Water Quality

A major environmental concern is the impact well stimulation techniques may have on drinking water quality. The EPA estimated that 6,800 sources of drinking water are within one mile of a well that has been hydraulically fractured.[59] Sources of drinking water may be contaminated through the release of gas-phase hydrocarbons, in what is known as stray gas migration, through the movement of liquid or gases out of the well if the well casing or cementing is too weak or if it fails.[60] While concerns related to inadequate well casing or cementing are not unique to hydraulic fracturing, horizontally drilled, hydraulically fractured wells pose more production challenges because they are subject to greater pressures.[61]

Mitigating measures, such as extending the casing farther below groundwater resources and pressure testing the well casing before the injection of fluids, may work to prevent well casing failures. Blowout preventers also help control and prevent pressure build-ups. Furthermore, hydraulically fractured wells in shale formations are usually drilled deeper than vertical wells and, therefore, the vertical separation between the formation and the drinking water resource is greater.[62] Thousands of feet of rock layers typically overlay the produced portion of shale and serve as a barrier to contamination.[63] The vast majority of Florida's public water supply is obtained from groundwater sources, specifically from the Floridan aquifer system which underlies the state of Florida.[64] Areas in which oil and gas have been extracted have an upper confining unit that is generally greater than 100 feet, which serves as a barrier to contamination.[65]

Fractures created during hydraulic fracturing can intersect nearby wells or their fracture networks, resulting in the flow of fluids into those wells and to underground drinking water resources. These "frac-hits" are more likely to occur if wells are close to each other or are on the same well pad.[66] In Florida, horizontal wells deeper than 7,000 feet have more stringent spacing requirements.[67]

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[58] Hannah Wiseman, *Untested Waters: The Rise of Hydraulic Fracturing in Oil and Gas Production and the Need to Revisit Regulation*, 20 FORDHAM ENVTL. L. REV. 115 (2009), *available at* http://law.uh.edu/faculty/thester/courses/Emerging%20Tech%202011/Wiseman%20on%20Fracking.pdf.

[59] U.S. Environmental Protection Agency (EPA), *DRAFT Assessment of the Potential Impacts of Hydraulic Fracturing for Oil and Gas on Drinking Water Resources, Executive Summary*, pg. 6 (2015), *available at* http://www2.epa.gov/sites/production/files/2015-07/documents/hf_es_erd_jun2015.pdf.

[60] Avner Vengosh, Robert B. Jackson, Nathaniel Warner, Thomas Darrah, & Andrew Kondash, *A Critical Review of the Risks to Water Resources from Unconventional Shale Gas Development and Hydraulic Fracturing in the United States*, American Chemical Society, 48 Env. Sci. & Techol. 8334-8348, 8336 (2014).

[61] Michael Ratner & Mary Tiemann, Cong. Research Serv., R 43148, *An Overview of Unconventional Oil and Natural Gas: Resources and Federal Actions*, pg. 8 (Apr. 22, 2015), *available at* https://www.fas.org/sgp/crs/misc/R43148.pdf.

[62] *Id*. at 7.

[63] *Id*.

[64] DEP, *Aquifers*, https://fldep.dep.state.fl.us/swapp/Aquifer.asp (last visited Jan. 11, 2016).

[65] U.S. Geological Survey (USGS), *Conceptual Model of the Floridan*, http://fl.water.usgs.gov/floridan/conceptual-model.html (last visited Dec. 18, 2015).

[66] U.S. Environmental Protection Agency (EPA), *DRAFT Assessment of the Potential Impacts of Hydraulic Fracturing for Oil and Gas on Drinking Water Resources, Executive Summary*, ES-16 (2015).

[67] Fla. Admin. Code R. 62C-26.004(5).

Surface water contamination may occur as a result of the inadequate storage and disposal of produced waters, which includes fractured fluids or "flowback." Approximately 10-40 percent of the volume of the injected fracturing fluids returns to the surface after hydraulic fracturing.[68] In most produced waters the concentrations of toxic elements, such as radioactive radium, are positively correlated with salinity, which suggests that many of the potential water quality issues associated with produced waters may be attributable to the geochemistry of the brines within the shale formations.[69] In Florida, all spills of waste material must be immediately reported to the Division and the appropriate federal agencies, and the owner or operator is responsible for the costs of cleanup or other damage incurred by the state.[70]

Water Supply

The amount of water used during the performance of a well stimulation depends on the well depth, formation geology, and the composition of the fracturing fluid. In some cases, over 90 percent of the fracturing fluid is made up of water and each hydraulically fractured well could require thousands to millions of gallons.[71] While the total water use for well stimulation techniques is relatively low compared to other water users,[72] wells that are good candidates for such techniques are usually located near the same source and as a result the collective impact of water withdrawals could result in increased competition among users.[73] To decrease the competition among users, some states have implemented pilot projects evaluating the feasibility of reusing produced waters or other brackish or wastewaters.[74]

Wastewater Management and Disposal

As the use of hydraulic fracturing has increased, so has the volume of wastewaters that are generated. Produced water is the water that comes to the surface naturally, as part of the oil and natural gas production process, and for a hydraulically fractured well, includes flowback. The vast majority of produced water is disposed of using injection wells. Injection wells are permitted under the Underground Injection Control (UIC) program.[75] The goal of the UIC program is the effective isolation of injected fluids from underground sources of drinking water.[76] Class II injection wells are designed to inject fluids associated with the production of oil and natural gas or fluids used to enhance hydrocarbon recovery. As unconventional oil and gas wells are being drilled at rapid rates, space for underground injection wells is becoming limited in some areas. Another issue that is developing with the increase in injection wells is the concern

[68] Avner Vengosh, Robert B. Jackson, Nathaniel Warner, Thomas Darrah, & Andrew Kondash, *A Critical Review of the Risks to Water Resources from Unconventional Shale Gas Development and Hydraulic Fracturing in the United States*, American Chemical Society, 48 Env. Sci. & Techol. 8334-8348, 8340 (2014).
[69] *Id*.
[70] Section 377.371, F.S.
[71] EPA, *Executive Summary* at 6.
[72] Avner Vengosh, Robert B. Jackson, Nathaniel Warner, Thomas Darrah, & Andrew Kondash, *A Critical Review of the Risks to Water Resources from Unconventional Shale Gas Development and Hydraulic Fracturing in the United States*, American Chemical Society, 48 Env. Sci. & Techol. 8348, 8343 (2014).
[73] Hannah Wiseman, *Risk and Response in Fracturing Policy*, 84 Unv. of Col. L. Rev. 729-817, 776 (2009), *available at* http://lawreview.colorado.edu/wp-content/uploads/2013/11/11.-Wiseman_For-Printer_s.pdf.
[74] *Id*. at 770.
[75] EPA, Underground Injection Control Program, http://water.epa.gov/type/groundwater/uic/ (last visited Jan. 11, 2016).
[76] *Id*.

that the deep-well disposal of oil and gas production wastewater is responsible for seismic activity in certain areas.[77] The Oklahoma Geological Survey determined that the primary suspected source of triggered seismicity is from the injection of produced water associated with oil and gas production in disposal wells.[78]

Additionally, in some states the produced waters are being sent to treatment facilities that are not equipped to treat wastewater from hydraulically fractured wells.[79] In April 2015, the EPA under the authority of the Clean Water Act published proposed rules for the oil and gas extraction category which would set pretreatment standards for discharges of wastewater from unconventional oil and gas operations to a publicly owned treatment works plant.[80]

Air Quality

The key emissions associated with unconventional oil and natural gas production include methane, volatile organic compounds (VOCs), nitrogen oxides, sulfur dioxide, particulate matter, and various hazardous air pollutants.[81] In 2012, the EPA issued New Source Performance Standards that require reductions in emissions from VOCs from hydraulically fractured natural gas wells.[82] These rules were the first federal air standards for natural gas wells that were hydraulically fractured.[83] In August 2015, the EPA proposed additional requirements that would complement the 2012 standards, including requiring operators of hydraulically fractured oil wells, in addition to natural gas wells, to use "green completion" and a proposal to require owners or operators to find and repair leaks, which can be significant causes of methane and VOC pollution.[84]

Chemical Disclosure

Fracturing fluids vary in composition based on a variety of factors, including, but not limited to, the geologic type of formation being fractured, temperature, the sensitivity of the reservoir system to water.[85] Fracturing fluids are commonly composed of water, sand, a friction reducer, acid, biocide, a breaker, a stabilizer, a cross linker, gel, a non-emulsifier, a scale inhibitor, a surfactant, a pH adjuster agent, a gelling agent, and an iron control.[86] FracFocus is a publicly

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[77] *See* Peter Folger & Mary Tiemann, Cong. Research Serv., R 43836, *Human-Induced Earthquakes from Deep-Well Injection: A Brief Overview*, (May 12, 2015) *available at* https://www.fas.org/sgp/crs/misc/R43836.pdf.
[78] Oklahoma Geological Survey, *Statement on Oklahoma Seismicity* (Apr. 21, 2015), http://wichita.ogs.ou.edu/documents/OGS_Statement-Earthquakes-4-21-15.pdf (last visited Jan. 12, 2016).
[79] Wiseman, *Risk and Response in Fracturing Policy* at 768-769.
[80] EPA, *Unconventional Extraction in the Oil and Gas Industry*, http://www2.epa.gov/eg/unconventional-extraction-oil-and-gas-industry (last visited Jan. 11, 2016).
[81] Ratner & Tiemann, R 43148 at 9.
[82] EPA, *Oil and Natural Gas Air Pollution Standards, Regulatory Actions*, http://www3.epa.gov/airquality/oilandgas/actions.html (last visited Jan. 7, 2016).
[83] *Id*.
[84] *EPA, Overview of Final Amendments to Air Regulations for the Oil and Natural Gas Industry: Fact Sheet*, August 2015, http://www3.epa.gov/airquality/oilandgas/pdfs/og_fs_081815.pdf.
[85] Gallegos, T.J., and Varela, B.A., *Trends in hydraulic fracturing distributions and treatment fluids, additives, proppants, and water volumes applied to wells drilled in the United States from 1947 through 2010—Data analysis and comparison to the literature: U.S. Geological Survey Scientific Investigations Report 2014–5131*, pg. 1 (2015), *available at* http://pubs.usgs.gov/sir/2014/5131/pdf/sir2014-5131.pdf.
[86] FracFocus Chemical Disclosure Registry, *Why Chemicals are Used*, https://fracfocus.org/chemical-use/why-chemicals-are-used (last visited Jan. 11, 2016).

accessible database managed by the Ground Water Protection Council and the Interstate Oil and Gas Compact Commission and was created to provide public access to reported chemicals used for hydraulic fracturing.[87] There are 106,132 well sites registered and the website lists over 50 chemicals that are used most often.[88] In February 2015, the Ground Water Protection Council reported that 27 states require chemical disclosure relating to hydraulic fracturing operations, and at least 18 of these states allow or require companies to use FracFocus.[89]

Because unique formulas are used based on the geology of each formation, the exact contents and proportions of various chemicals within the mixtures may not be common knowledge within the industry and could possibly be claimed as trade secret.[90] Therefore, while some states require specific fracturing fluid compositions to be disclosed to the state agencies, confidentiality provisions are provided to protect such trade secret information.

III. Effect of Proposed Changes:

Section 1 amends s. 377.06, F.S., to preempt all matters relating to the regulation of the exploration, development, production, processing, storage, and transportation of oil and gas to the state. The bill declares that any such existing ordinance or regulation regulating such matters is void. The bill authorizes a county or municipality to adopt and enforce zoning or land use requirements which affect the use of property for the exploration, development, production, processing, storage or transportation of oil and gas, except zoning or land use requirements that affect geophysical operations, so long as such zoning or land use requirements do not impose a moratorium on, effectively prohibit, or inordinately burden one or more of these activities on a subject property. Geophysical operations are activities, such as seismic surveys using off-road vibratory vehicles, specialized microphones, or explosives, which are utilized in the exploration for oil, gas, or other minerals.[91]

Currently, three municipalities have banned well stimulation techniques within their boundaries and under the bill such ordinances would be declared void.

Section 2 amends s. 377.19, F.S., to define the term "high-pressure well stimulation" as "all stages of a well intervention performed by injecting fluids into a rock formation at high pressure that exceeds the fracture gradient of the rock formation in order to propagate fractures in such formation to increase production at an oil or gas well by improving the flow of hydrocarbons from the formation into the wellbore." The bill specifies that the term does not include "well stimulation or conventional workover procedures that may incidentally fracture the formation near the wellbore."

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[87] *Id*.
[88] *Id*.
[89] Michael Ratner & Mary Tiemann, Cong. Research Serv., R 43148, *An Overview of Unconventional Oil and Natural Gas: Resources and Federal Actions*, pg. 12 (Apr. 22, 2015), *available at* https://www.fas.org/sgp/crs/misc/R43148.pdf.
[90] Hannah Wiseman, *Trade Secrets, Disclosure, and Dissent in a Fracturing Energy Revolution*, 111 COLUM. L. REV. SIDEBAR 1, 6-7 (2011), *available at* http://www.columbialawreview.org/wp-content/uploads/2011/01/1_Wiseman.pdf.
[91] DEP, *Geophysical Prospecting*, http://www.dep.state.fl.us/water/mines/oil_gas/docs/OilGasGeophysicalProspectingFactSheet.pdf (last visited Jan. 26, 2016).

As defined, the term "high-pressure well stimulation" includes both hydraulic fracturing and acid fracturing and, consequently, a permit will be required before the performance of either technique. However, matrix acidizing, as it is performed at a pressure that does not exceed the fracture gradient, is outside the scope of the definition and would remain regulated as a workover.

Section 3 amends s. 377.22, F.S., to require the Department of Environmental Protection (DEP) to adopt rules for the regulation of high-pressure well stimulations, as well as rules relating to oil and gas well operations generally. The bill:

- Requires a bond or other form of security to be conditioned upon properly drilling, casing, producing, and operating each well and upon restoration of the area.
- Specifies that inspections are required during the testing of blowout preventers, during the pressure testing of the casing and casing shoe, and during the integrity testing of the cement plugs in plugging and abandonment operations.
- Authorizes the DEP to evaluate the history of prior adjudicated, uncontested, or settled violations committed by the permit applicant or the applicant's affiliated entities of any substantive and material rule or law pertaining to the regulation of oil or gas.

Section 4 amends s. 377.24, F.S., to require a person who desires to perform a high-pressure well stimulation to provide notice to the DEP, pay a fee, and receive a permit before the performance of a high-pressure well stimulation. The bill provides that a permit may authorize a single activity or multiple activities. The bill provides that an application for permission to perform a high-pressure well stimulation may only be denied by the Division of Water Resource Management (Division) for just and lawful cause.

The bill removes the prohibition against the granting of permits for drilling a gas or oil well within the corporate limits of a municipality without the approval of the governing authority of the municipality by resolution. The bill prohibits a permit to drill a gas or oil well from being granted within the jurisdictional boundaries of any municipality or county, unless the applicant provides notice of the permit application by certified mail to the governing authority of the county or municipality. The applicant is required to include a copy of the notice with the permit application.

The bill prohibits the DEP from approving a permit authorizing high-pressure well stimulations until rules are adopted for high-pressure well stimulations which are based upon the findings of the study on high-pressure well stimulations and such rules take effect. The bill requires the rules for high-pressure well stimulation to be submitted to the President of the Senate and the Speaker of the House of Representatives and prohibits such rules from taking effect until they are ratified by the Legislature.

Section 5 amends s. 377.241, F.S., to add criteria the DEP must consider and be guided by relating to the issuance of permits for high-pressure well stimulations; specifically, whether the high-pressure well stimulation as proposed is designed to ensure that the groundwater near the well location or through which the well will be or has been drilled is not contaminated as a result of the high-pressure well stimulation and whether the performance of the high-pressure well

stimulation is consistent with the public policy of the state to safeguard the health, property, and public welfare of the citizens of the state.[92]

The bill specifies that a permit may be denied or specific conditions of a permit may be required, including increased bonding and monitoring, if the permit applicant or affiliated entity has a history of prior adjudicated, uncontested, or settled violations of any substantive and material rule or law pertaining to the regulation of oil and gas, including violations that occurred outside of Florida.

The bill adds matters raised in comments timely submitted by a municipality or county to the Division of Water Resource Management to the list of criteria that the Division must give consideration to and be guided by when issuing permits for oil and gas activities.

Section 6 amends s. 377.242, F.S., to specify that the DEP has the authority to issue permits for the performance of a high-pressure well stimulation. The bill clarifies that a permittee agrees to inspections during the installation and cementing of the casing, during the testing of blowout preventers, during the pressure testing of the casing and casing shoe, and during the integrity testing of the cement plugs in plugging and abandonment operations.

Section 7 amends s. 377.2425, F.S., to require the permit applicant or operator to provide surety that the performance of a high-pressure well stimulation will be conducted in a safe and environmentally compatible manner.

Section 8 creates s. 377.2436, F.S., to require the DEP to conduct a study on high-pressure well stimulations. The study must include all of the following:

- An evaluation of the underlying geologic features in the counties where oil wells have been permitted and an analysis of the potential impact that high-pressure well stimulations and wellbore construction may have on the underlying geologic features;
- An evaluation of the potential hazards and risks that high-pressure well stimulations pose to surface water or groundwater resources;
- An assessment of the potential impact of high-pressure well stimulations on drinking water resources and an identification of the main factors affecting the severity and frequency of impacts;
- An analysis of the potential for the use or reuse of recycled water in well stimulation fluids, while meeting the appropriate water quality standards;
- A review and evaluation of the potential for groundwater contamination from conducting high-pressure well stimulations under or near wells that have been previously abandoned and plugged;
- An identification of a setback radius from plugged and abandoned wells that could be impacted by high-pressure well stimulations;
- A review and evaluation of the ultimate disposition of high-pressure well stimulation fluids after use in high-pressure well stimulation processes;
- A review and evaluation of the potential direct and indirect economic benefits resulting from the use of high-pressure well stimulations, including effects on state and local tax revenues, royalty payments, employment opportunities, and demand for goods and services;

[92] Section 377.06, F.S.

- A review and evaluation of the potential seismic activity associated with high-pressure well stimulation and the deep-well disposal of oil and gas production wastewater; and
- A review and evaluation of the feasibility and impact of waterless fracturing technologies to perform high-pressure well stimulation.

The bill specifies that the DEP must continue conventional oil and gas business operations during the performance of the study and that there is not a moratorium on the evaluation and issuance of permits for conventional drilling, explorations, conventional completions, or conventional workovers during the performance of the study.

The bill requires the study to be subject to an independent scientific peer review, and the findings of the study to be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by June 30, 2017. It also requires the results of the study to be posted to the DEP's website.

The bill prohibits the DEP from adopting rules for high-pressure well stimulations until the findings of the study have been submitted to the Legislature. The bill requires the DEP to adopt rules by March 1, 2018, to implement the findings of the study if such rules are warranted to protect public health, safety, and the environment.

Section 9 amends s. 377.37, F.S., to increase the civil penalty from $10,000 per offense per day to $25,000 per offense per day.

Section 10 creates s. 377.45, F.S., to require the DEP to designate the national chemical registry FracFocus as the state's registry for chemical disclosure for all wells on which high-pressure well stimulations are performed. In addition to providing the following information to the DEP as part of the permitting process, the bill requires a service provider, vendor, or owner or operator to report all of the following information, at a minimum, to the DEP for submission to FracFocus:

- The service provider, vendor, or owner or operator's name;
- The date of completion of the high-pressure well stimulation;
- The county in which the well is located;
- The American Petroleum Institute (API) well number;
- The well name and number;
- The longitude and latitude of the wellhead;
- The total vertical depth of the well;
- The total volume of water used in the high-pressure well stimulation;
- Each chemical ingredient that is subject to the Occupational Safety and Health Administration (OSHA) regulations set forth in 29 C.F.R. s. 1910.1200(g)(2)[93] and the ingredient concentration in the high-pressure well stimulation fluid by mass for each well on which a high-pressure well stimulation is performed; and
- The trade or common name and the Chemical Abstract Service (CAS) number for each chemical ingredient.

[93] 29 C.F.R. s. 1910.1200(g)(2) requires chemical manufacturers and importers to insure that the safety data sheets have the required information. See Appendix D to s. 1910.1200 - Safety Data Sheets, *available at* https://www.osha.gov/dsg/hazcom/hazcom-appendix-d.html.

The bill requires the DEP to report this information to FracFocus, excluding any information that is subject to the Uniform Trade Secrets Protection Act as set forth in chapter 688, F.S. If FracFocus cannot accept and make publicly available such information, the DEP is required to post the information, excluding trade secret information, on its website.

The service provider, vendor, owner or operator is required to report the chemical disclosure information within 60 days of the initiation of the high-pressure well stimulation. The service provider, vendor, well owner, or operator must also notify the DEP if any chemical ingredient not previously reported was intentionally included and used for the purpose of performing a high-pressure well stimulation.

The new section created by the bill (s. 377.45, F.S.) does not apply to ingredients that are unintentionally added to the high-pressure well stimulation, occur incidentally, or are otherwise unintentionally present in the high-pressure well stimulation.

The bill provides the DEP with rule authority to administer this section.

Section 11 amends s. 377.07, F.S., to rename the Division of Resource Management to the Division of Water Resource Management.

Section 12 amends s. 377.10, F.S., to make technical changes.

Section 13 amends s. 377.243, F.S., to make technical changes.

Section 14 amends s. 377.244, F.S., to make technical changes.

Section 15 provides an appropriation of $1,000,000 in nonrecurring funds from the General Revenue Fund for the 2016-2017 fiscal year to the DEP to conduct a study on high-pressure well stimulations.

Section 16 provides an effective date of July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The county/municipality mandates provision of Art. VII, s. (18)(b) of the Florida Constitution may apply because the bill restricts the authority of counties and municipalities to establish programs that regulate any activity related to oil and gas exploration, production, processing, storage, and transportation. No county or municipality currently operates such permitting program.[94] Therefore, the mandates exception for insignificant fiscal impact may apply.

[94] Florida League of Cities, *Legislative Issue Briefs, Hydraulic Fracturing (Fracking)*, http://www.floridaleagueofcities.com/Assets/Files/Advocacy/2016_IB_Fracking.pdf (last visited Jan. 7, 2016).

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

PCS/CS/SB 318 authorizes a new permit fee for high-pressure well stimulations and increases fines from $10,000 per offense per day to $25,000 per offense per day. The increased revenue associated with the new permit fee is indeterminate. Should violations occur, the increased revenue associated with the increased fine will have a positive indeterminate fiscal impact to the Minerals Trust Fund within the DEP.

B. Private Sector Impact:

The bill increases penalties from $10,000 to $25,000 per offense, which will have a negative fiscal impact on private companies that are found in violation of the law.

C. Government Sector Impact:

The Department of Environmental Protection (DEP) will incur additional costs associated with permitting high-pressure well stimulation techniques. The regulatory costs and permit fee(s) will be based on the permitting requirements to be established through the rulemaking process. According to the DEP, existing staff is sufficient to handle the anticipated workload increases.[95] The increased revenues associated with permit fees is indeterminate.

The bill increases the penalty for violations from $10,000 per offense to $25,000 per offense. Should violations occur, the increased revenue will have a positive fiscal impact to the Minerals Trust Fund within the DEP.

According to the DEP, the costs associated to amend Rules 62C-25 through 30, of the Florida Administrative Code, can be absorbed within the DEP's existing budget.

The estimated cost for the study on high pressure well stimulations is $1 million.[96] The bill provides an appropriation of $1 million from nonrecurring general revenue for the study.

[95] DEP, *Senate Bill 318 Agency Legislative Bill Analysis*, pg. 4 (Nov. 6, 2015) (on file with the Senate Committee on Environmental Preservation and Conservation).
[96] *Id*.

VI. Technical Deficiencies:

The bill requires the Division of Water Resource Management (Division) to consider and be guided by matters raised in comments timely submitted by a municipality or county, related to the issuance of permits to drill a gas or oil well, which are submitted to the Division pursuant to s. 377.24(5), F.S, when reviewing a permit application. The cross-referenced subsection requires a permit applicant to provide notice to the county or municipality of the permit application, it does not provide a process for counties or municipalities to submit comments on the permit application to the Division.

VII. Related Issues:

The bill requires the DEP to conduct a study evaluating underlying geologic features. The language refers only to counties in which oil wells have been permitted and, therefore, may not include counties that have only permitted gas wells or counties where applications have been submitted for exploratory permits. The DEP has represented that any variation in the underlying geologic features between the counties where oil wells have been permitted and counties where gas wells or exploratory permits have been applied for are negligible for the purposes of the study.[97]

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 377.06, 377.19, 377.22, 377.24, 377.241, 377.242, 377.2425, 377.37, 377.07, 377.10, 377.243, and 377.244.

This bill creates the following sections of the Florida Statutes: 377.2436 and 377.45.

IX. Additional Information:

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

Recommended CS/CS by Appropriations Subcommittee on General Government on January 25, 2016:
The committee substitute:

- Authorizes a county or municipality to adopt and enforce zoning or land use requirements which affect the use of property for the exploration, development, production, processing, storage or transportation of oil and gas, with the exception of geophysical operations, so long as such zoning or land use requirements do not impose a moratorium on, effectively prohibit, or inordinately burden one or more of these activities on a subject property.
- Removes the ability for counties or municipalities to enforce existing zone ordinances passed before January 1, 2015, related to oil and gas exploration, development, production, processing, storage, and transportation if the ordinance is otherwise valid.

[97] Email from Andrew Ketchel, Director, Office of Legislative Affairs, DEP (Jan. 7, 2016) (on file with the Senate Committee on Environmental Preservation and Conservation).

- Requires applicants for permits to drill a gas or oil well to provide notice of the permit application to any municipality or county within which the permit would authorize drilling a gas or oil well and requires matters raised by a municipality or county in response to such permit which are timely submitted to the Division of Water Resource Management to be considered as criteria for the issuance of the permit.
- Expands the scope of the study to include the economic benefits resulting from the use of high-pressure well stimulations, potential seismic activity associated with high-pressure well stimulation and the deep-well disposal of oil and gas production wastewater, and the impact of waterless fracking technologies.

CS by Environmental Preservation and Conservation on January 13, 2016:

- The CS authorizes the DEP to evaluate the prior adjudicated, uncontested, or settled violations committed by permit applicants as a basis for permit denial or imposition of specific permit conditions.
- The CS authorizes the DEP to consider as a criterion for issuing a permit for a high-pressure well stimulation, whether the high-pressure well stimulation as proposed is designed to ensure that the groundwater near the well location is not contaminated as a result of the high-pressure well stimulation. Additionally, the CS clarifies that the study provide a review and evaluation of the potential for groundwater contamination from conducting high-pressure well stimulations near well that have been previously abandoned and plugged.
- The CS prohibits the DEP from adopting rules for high-pressure well stimulations until the findings of the study have been submitted to the Legislature and the CS clarifies that the rules are to be based upon the findings of the study. Additionally, the CS requires legislative ratification of the rules prior to such rules taking effect and prohibits the DEP from issuing permits for high-pressure well stimulations until such rules take effect.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/01/2016	.	
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The Committee on Appropriations (Simmons) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Section 377.06, Florida Statutes, is amended to read:

377.06 Public policy of state concerning natural resources of oil and gas; preemption.—

(1) It is ~~hereby declared~~ the public policy of this state to conserve and control the natural resources of oil and gas in

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this state, and the products made from oil and gas in this state; to prevent waste of natural resources; to provide for the protection and adjustment of the correlative rights of the owners of the land in which the natural resources lie, of the owners and producers of oil and gas resources and the products made from oil and gas, and of others interested in these resources and products; and to safeguard the health, property, and public welfare of the residents of this state and other interested persons ~~and for all purposes indicated by the provisions in this section~~.

(2) ~~Further,~~ It is the public policy of this state ~~declared~~ that underground storage of natural gas is in the public interest because underground storage promotes conservation of natural gas, ~~;~~ makes gas more readily available to the domestic, commercial, and industrial consumers of this state, ~~;~~ and allows the accumulation of large quantities of gas in reserve for orderly withdrawal during emergencies or periods of peak demand. It is not the intention of this section to limit, restrict, or modify in any way the provisions of this law.

(3) The Legislature declares that all matters relating to the regulation of the exploration, development, production, processing, storage, and transportation of oil and gas are preempted to the state, to the exclusion of all existing and future ordinances or regulations relating thereto adopted by any county, municipality, or other political subdivision of the state. All such ordinances or regulations are hereby declared void as a matter of law, including those that impose a moratorium or effect a ban on one or more of these activities. A county or municipality may, however, adopt and enforce zoning or


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land use requirements which affect the use of property for the exploration, development, production, processing, storage or transportation of oil and gas, with the exception of geophysical operations pursuant to s. 377.2424(3), so long as such zoning or land use requirements would not impose a moratorium on, effectively prohibit, or inordinately burden one or more of these activities on a subject property.

Section 2. Section 377.19, Florida Statutes, is amended to read:

377.19 Definitions.—As used in ss. 377.06, 377.07, and 377.10-377.45 ~~377.10-377.40~~, the term:

(1) "Completion date" means the day, month, and year that a new productive well, a previously shut-in well, or a temporarily abandoned well is completed, repaired, or recompleted and the operator begins producing oil or gas in commercial quantities.

(2) "Department" means the Department of Environmental Protection.

(3) "Division" means the Division of Water Resource Management of the Department of Environmental Protection.

(4) "Field" means the general area that is underlaid, or appears to be underlaid, by at least one pool. The term includes the underground reservoir, or reservoirs, containing oil or gas, or both. The terms "field" and "pool" mean the same thing if only one underground reservoir is involved; however, the term "field," unlike the term "pool," may relate to two or more pools.

(5) "Gas" means all natural gas, including casinghead gas, and all other hydrocarbons not defined as oil in subsection (16) ~~(15)~~.

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(6) "Fracturing well stimulation" means all stages of a well intervention performed by injecting fluids into a rock formation at high pressure that exceeds the fracture gradient of the rock formation in order to propagate fractures in such formation to increase production at an oil or gas well by improving the flow of hydrocarbons from the formation into the wellbore. The term also means any other well intervention, whether or not at high pressure, whose purpose or effect is to fracture such formation to increase production of an oil or gas well by improving the flow of hydrocarbons from the formation into the wellbore, but does not include conventional workover procedures that may incidentally fracture the formation in close proximity to the wellbore, such as those normal procedures used for cleaning the wellbore.

(7) ~~(6)~~ "Horizontal well" means a well completed with the wellbore in a horizontal or nearly horizontal orientation within 10 degrees of horizontal within the producing formation.

(8) ~~(7)~~ "Illegal gas" means gas that has been produced within the state from any well or wells in excess of the amount allowed by any rule, regulation, or order of the division, as distinguished from gas produced within the State of Florida from a well not producing in excess of the amount so allowed, which is "legal gas."

(9) ~~(8)~~ "Illegal oil" means oil that has been produced within the state from any well or wells in excess of the amount allowed by rule, regulation, or order of the division, as distinguished from oil produced within the state from a well not producing in excess of the amount so allowed, which is "legal oil."


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(10)~~(9)~~ "Illegal product" means a product of oil or gas, any part of which was processed or derived, in whole or in part, from illegal gas or illegal oil or from any product thereof, as distinguished from "legal product," which is a product processed or derived to no extent from illegal oil or illegal gas.

(11)~~(10)~~ "Lateral storage reservoir boundary" means the projection up to the land surface of the maximum horizontal extent of the gas volume contained in a natural gas storage reservoir.

(12)~~(11)~~ "Native gas" means gas that occurs naturally within this state and does not include gas produced outside the state, transported to this state, and injected into a permitted natural gas storage facility.

(13)~~(12)~~ "Natural gas storage facility" means an underground reservoir from which oil or gas has previously been produced and which is used or to be used for the underground storage of natural gas, and any surface or subsurface structure, or infrastructure, except wells. The term also includes a right or appurtenance necessary or useful in the operation of the facility for the underground storage of natural gas, including any necessary or reasonable reservoir protective area as designated for the purpose of ensuring the safe operation of the storage of natural gas or protecting the natural gas storage facility from pollution, invasion, escape, or migration of gas, or any subsequent extension thereof. The term does not mean a transmission, distribution, or gathering pipeline or system that is not used primarily as integral piping for a natural gas storage facility.

(14)~~(13)~~ "Natural gas storage reservoir" means a pool or


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field from which gas or oil has previously been produced and which is suitable for or capable of being made suitable for the injection, storage, and recovery of gas, as identified in a permit application submitted to the department under s. 377.2407.

(15) ~~(14)~~ "New field well" means an oil or gas well completed after July 1, 1997, in a new field as designated by the Department of Environmental Protection.

(16) ~~(15)~~ "Oil" means crude petroleum oil and other hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary production methods, and which are not the result of condensation of gas after it leaves the reservoir.

(17) ~~(16)~~ "Oil and gas" has the same meaning as the term "oil or gas."

(18) ~~(17)~~ "Oil and gas administrator" means the State Geologist.

(19) ~~(18)~~ "Operator" means the entity ~~who~~ that:

(a) Has the right to drill and to produce a well; or

(b) As part of a natural gas storage facility, injects, or is engaged in the work of preparing to inject, gas into a natural gas storage reservoir; or stores gas in, or removes gas from, a natural gas storage reservoir.

(20) ~~(19)~~ "Owner" means the person who has the right to drill into and to produce from any pool and to appropriate the production for the person or for the person and another, or others.

(21) ~~(20)~~ "Person" means a natural person, corporation, association, partnership, receiver, trustee, guardian, executor,

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administrator, fiduciary, or representative of any kind.

(22)~~(21)~~ "Pool" means an underground reservoir containing or appearing to contain a common accumulation of oil or gas or both. Each zone of a general structure which is completely separated from any other zone on the structure is considered a separate pool as used herein.

(23)~~(22)~~ "Producer" means the owner or operator of a well or wells capable of producing oil or gas, or both.

(24)~~(23)~~ "Product" means a commodity made from oil or gas and includes refined crude oil, crude tops, topped crude, processed crude petroleum, residue from crude petroleum, cracking stock, uncracked fuel oil, fuel oil, treated crude oil, residuum, gas oil, casinghead gasoline, natural gas gasoline, naphtha, distillate, condensate, gasoline, waste oil, kerosene, benzine, wash oil, blended gasoline, lubricating oil, blends or mixtures of oil with one or more liquid products or byproducts derived from oil or gas, and blends or mixtures of two or more liquid products or byproducts derived from oil or gas, whether hereinabove enumerated or not.

(25)~~(24)~~ "Reasonable market demand" means the amount of oil reasonably needed for current consumption, together with a reasonable amount of oil for storage and working stocks.

(26)~~(25)~~ "Reservoir protective area" means the area extending up to and including 2,000 feet surrounding a natural gas storage reservoir.

(27)~~(26)~~ "Shut-in bottom hole pressure" means the pressure at the bottom of a well when all valves are closed and no oil or gas has been allowed to escape for at least 24 hours.

(28)~~(27)~~ "Shut-in well" means an oil or gas well that has


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been taken out of service for economic reasons or mechanical repairs.

(29)~~(28)~~ "State" means the State of Florida.

(30)~~(29)~~ "Temporarily abandoned well" means a permitted well or wellbore that has been abandoned by plugging in a manner that allows reentry and redevelopment in accordance with oil or gas rules of the Department of Environmental Protection.

(31)~~(30)~~ "Tender" means a permit or certificate of clearance for the transportation or the delivery of oil, gas, or products, approved and issued or registered under the authority of the division.

(32)~~(31)~~ "Waste," in addition to its ordinary meaning, means "physical waste" as that term is generally understood in the oil and gas industry. The term "waste" includes:

(a) The inefficient, excessive, or improper use or dissipation of reservoir energy; and the locating, spacing, drilling, equipping, operating, or producing of any oil or gas well or wells in a manner that results, or tends to result, in reducing the quantity of oil or gas ultimately to be stored or recovered from any pool in this state.

(b) The inefficient storing of oil; and the locating, spacing, drilling, equipping, operating, or producing of any oil or gas well or wells in a manner that causes, or tends to cause, unnecessary or excessive surface loss or destruction of oil or gas.

(c) The producing of oil or gas in a manner that causes unnecessary water channeling or coning.

(d) The operation of any oil well or wells with an inefficient gas-oil ratio.


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(e) The drowning with water of any stratum or part thereof capable of producing oil or gas.

(f) The underground waste, however caused and whether or not defined.

(g) The creation of unnecessary fire hazards.

(h) The escape into the open air, from a well producing both oil and gas, of gas in excess of the amount that is necessary in the efficient drilling or operation of the well.

(i) The use of gas for the manufacture of carbon black.

(j) Permitting gas produced from a gas well to escape into the air.

(k) The abuse of the correlative rights and opportunities of each owner of oil and gas in a common reservoir due to nonuniform, disproportionate, and unratable withdrawals, causing undue drainage between tracts of land.

(33) ~~(32)~~ "Well site" means the general area around a well, which area has been disturbed from its natural or existing condition, as well as the drilling or production pad, mud and water circulation pits, and other operation areas necessary to drill for or produce oil or gas, or to inject gas into and recover gas from a natural gas storage facility.

Section 3. Subsection (2) of section 377.22, Florida Statutes, is amended to read:

377.22 Rules and orders.—

(2) The department shall issue orders and adopt rules pursuant to ss. 120.536 and 120.54 to implement and enforce ~~the provisions of~~ this chapter. Such rules and orders shall ensure that all precautions are taken to prevent the spillage of oil or any other pollutant in all phases of the drilling for, and

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extracting of, oil, gas, or other petroleum products, including fracturing well stimulations, or during the injection of gas into and recovery of gas from a natural gas storage reservoir. The department shall revise such rules from time to time as necessary for the proper administration and enforcement of this chapter. Rules adopted and orders issued in accordance with this section are for, but not limited to, the following purposes:

(a) To require the drilling, casing, and plugging of wells to be done in such a manner as to prevent the pollution of the fresh, salt, or brackish waters or the lands of the state and to protect the integrity of natural gas storage reservoirs.

(b) To prevent the alteration of the sheet flow of water in any area.

(c) To require that appropriate safety equipment be installed to minimize the possibility of an escape of oil or other petroleum products in the event of accident, human error, or a natural disaster during drilling, casing, or plugging of any well and during extraction operations.

(d) To require the drilling, casing, and plugging of wells to be done in such a manner as to prevent the escape of oil or other petroleum products from one stratum to another.

(e) To prevent the intrusion of water into an oil or gas stratum from a separate stratum, except as provided by rules of the division relating to the injection of water for proper reservoir conservation and brine disposal.

(f) To require a reasonable bond, or other form of security acceptable to the department, conditioned upon properly drilling, casing, producing, and operating each well and properly plugging ~~the performance of the duty to plug properly~~

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each dry and abandoned well and upon the full and complete restoration by the applicant of the area over which geophysical exploration, drilling, or production is conducted to the similar contour and general condition in existence before ~~prior to~~ such operation.

(g) To require and carry out a reasonable program of monitoring and inspecting ~~or inspection of~~ all drilling operations, fracturing well stimulations, producing wells, ~~or~~ injecting wells, and well sites, including regular inspections by division personnel. Inspections are required during the testing of blowout preventers, during the pressure testing of the casing and casing shoe, and during the integrity testing of the cement plugs in plugging and abandonment operations.

(h) To require the making of reports showing the location of all oil and gas wells; the making and filing of logs; the taking and filing of directional surveys; the filing of electrical, sonic, radioactive, and mechanical logs of oil and gas wells; if taken, the saving of cutting and cores, the cuts of which shall be given to the Bureau of Geology; and the making of reports with respect to drilling and production records. However, such information, or any part thereof, at the request of the operator, shall be exempt from ~~the provisions of~~ s. 119.07(1) and held confidential by the division for ~~a period of~~ 1 year after the completion of a well.

(i) To prevent wells from being drilled, operated, or produced in such a manner as to cause injury to neighboring leases, property, or natural gas storage reservoirs.

(j) To prevent the drowning by water of any stratum, or part thereof, capable of producing oil or gas in paying

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quantities and to prevent the premature and irregular encroachment of water which reduces, or tends to reduce, the total ultimate recovery of oil or gas from any pool.

(k) To require the operation of wells with efficient gas-oil ratio, and to fix such ratios.

(l) To prevent "blowouts," "caving," and "seepage," in the sense that conditions indicated by such terms are generally understood in the oil and gas business.

(m) To prevent fires.

(n) To identify the ownership of all oil or gas wells, producing leases, refineries, tanks, plants, structures, and storage and transportation equipment and facilities.

(o) To regulate the "shooting," perforating, ~~and~~ chemical treatment, and fracturing stimulations of wells.

(p) To regulate secondary recovery methods, including the introduction of gas, air, water, or other substance into producing formations.

(q) To regulate gas cycling operations.

(r) To regulate the storage and recovery of gas injected into natural gas storage facilities.

(s) If necessary for the prevention of waste, as herein defined, to determine, limit, and prorate the production of oil or gas, or both, from any pool or field in the state.

(t) To require, either generally or in or from particular areas, certificates of clearance or tenders in connection with the transportation or delivery of oil or gas, or any product.

(u) To regulate the spacing of wells and to establish drilling units.

(v) To prevent, so far as is practicable, reasonably

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avoidable drainage from each developed unit which is not equalized by counterdrainage.

(w) To require that geophysical operations requiring a permit be conducted in a manner which will minimize the impact on hydrology and biota of the area, especially environmentally sensitive lands and coastal areas.

(x) To regulate aboveground crude oil storage tanks in a manner which will protect the water resources of the state.

(y) To act in a receivership capacity for fractional mineral interests for which the owners are unknown or unlocated and to administratively designate the operator as the lessee.

(z) To evaluate the history of prior adjudicated, uncontested, or settled violations committed by permit applicants or the applicants' affiliated entities of any substantive and material rule or law pertaining to the regulation of oil or gas.

Section 4. Subsections (1), (2), (4), and (5) of section 377.24, Florida Statutes, are amended, and subsections (10) and (11) are added to that section, to read:

377.24 Notice of intention to drill well; permits; abandoned wells and dry holes.—

(1) Before drilling a well in search of oil or gas, before performing a fracturing well stimulation, or before storing gas in or recovering gas from a natural gas storage reservoir, the person who desires to drill for, store, or recover gas, ~~or~~ drill for oil or gas, or perform a fracturing well stimulation shall notify the division upon such form as it may prescribe and shall pay a reasonable fee set by rule of the department not to exceed the actual cost of processing and inspecting for each well or


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reservoir. The drilling of any well, the performance of any fracturing well stimulation, and the storing and recovering of gas are prohibited until such notice is given, the fee is paid, and a ~~the~~ permit is granted. A permit may authorize a single activity or multiple activities.

(2) An application for the drilling of a well in search of oil or gas, for the performance of a fracturing well stimulation, or for the storing of gas in and recovering of gas from a natural gas storage reservoir~~,~~ in this state must include the address of the residence of the applicant~~,~~ or applicants, which must be the address of each person involved in accordance with the records of the Division of Water Resource Management until such address is changed on the records of the division after written request.

(4) Application for permission to drill or abandon any well or perform a fracturing well stimulation may be denied by the division for only just and lawful cause.

(5) No permit to drill a gas or oil well shall be granted within the jurisdictional boundaries of any municipality or county, unless the applicant provides notice of the permit application, by certified mail, to ~~the corporate limits of any municipality, unless~~ the governing authority of the county or municipality. The applicant shall include a copy of the notice with the permit application ~~shall have first duly approved the application for such permit by resolution~~.

(10) The department may not approve a permit to authorize a fracturing well stimulation until the department adopts rules for fracturing well stimulations which are based upon the findings of the study required pursuant to s. 377.2436 and such

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rules take effect.

(11) The rules for fracturing well stimulation shall be submitted to the President of the Senate and Speaker of the House of Representatives and such rules may not take effect until they are ratified by the Legislature.

Section 5. Subsections (5), (6), and 7 are added to section 377.241, Florida Statutes, to read:

377.241 Criteria for issuance of permits.—The division, in the exercise of its authority to issue permits as hereinafter provided, shall give consideration to and be guided by the following criteria:

(5) For fracturing well stimulations, whether the fracturing well stimulation as proposed is designed to ensure that:

(a) The groundwater near the well location, including groundwater through which the well will be or has been drilled, is not contaminated as a result of the fracturing well stimulation; and

(b) The fracturing well stimulation is consistent with the public policy of this state as specified in s. 377.06.

(6) As a basis for permit denial or imposition of specific permit conditions, including increased bonding up to five times the applicable limits and increased monitoring, the history of prior adjudicated, uncontested, or settled violations committed by the applicant or an affiliated entity of the applicant of any substantive and material rule or law pertaining to the regulation of oil or gas, including violations that occurred outside the state.

(7) Matters raised in comments timely submitted by a

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municipality or county to the division pursuant to s. 377.24(5).

Section 6. Section 377.242, Florida Statutes, is amended to read:

377.242 Permits for drilling or exploring and extracting through well holes or by other means.—The department is vested with the power and authority:

(1)(a) To issue permits for the performance of a fracturing well stimulation or the drilling for, exploring for, or production of oil, gas, or other petroleum products that ~~which~~ are to be extracted from below the surface of the land, including submerged land, only through the well hole drilled for oil, gas, and other petroleum products.

1. A ~~No~~ structure intended for the drilling for, or production of, oil, gas, or other petroleum products may not be permitted or constructed on any submerged land within any bay or estuary.

2. A ~~No~~ structure intended for the drilling for, or production of, oil, gas, or other petroleum products may not be permitted or constructed within 1 mile seaward of the coastline of the state.

3. A ~~No~~ structure intended for the drilling for, or production of, oil, gas, or other petroleum products may not be permitted or constructed within 1 mile of the seaward boundary of any state, local, or federal park or aquatic or wildlife preserve or on the surface of a freshwater lake, river, or stream.

4. A ~~No~~ structure intended for the drilling for, or production of, oil, gas, or other petroleum products may not be permitted or constructed within 1 mile inland from the shoreline

of the Gulf of Mexico, the Atlantic Ocean, or any bay or estuary or within 1 mile of any freshwater lake, river, or stream unless the department is satisfied that the natural resources of such bodies of water and shore areas of the state will be adequately protected in the event of accident or blowout.

5. Without exception, after July 1, 1989, a ~~no~~ structure intended for the drilling for, or production of, oil, gas, or other petroleum products may not be permitted or constructed south of 26°00′00″ north latitude off Florida's west coast and south of 27°00′00″ north latitude off Florida's east coast, within the boundaries of Florida's territorial seas as defined in 43 U.S.C. s. 1301. After July 31, 1990, a ~~no~~ structure intended for the drilling for, or production of, oil, gas, or other petroleum products may not be permitted or constructed north of 26°00′00″ north latitude off Florida's west coast to the western boundary of the state bordering Alabama as set forth in s. 1, Art. II of the State Constitution, or located north of 27°00′00″ north latitude off Florida's east coast to the northern boundary of the state bordering Georgia as set forth in s. 1, Art. II of the State Constitution, within the boundaries of Florida's territorial seas as defined in 43 U.S.C. s. 1301.

(b) Subparagraphs (a)1. and 4. do not apply to permitting or construction of structures intended for the drilling for, or production of, oil, gas, or other petroleum products pursuant to an oil, gas, or mineral lease of such lands by the state under which lease any valid drilling permits are in effect on the effective date of this act. In the event that such permits contain conditions or stipulations, such conditions and stipulations shall govern and supersede subparagraphs (a)1. and

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4.

(c) The prohibitions of subparagraphs (a)1.-4. ~~in this subsection~~ do not include "infield gathering lines," provided no other placement is reasonably available and all other required permits have been obtained.

(2) To issue permits to explore for and extract minerals which are subject to extraction from the land by means other than through a well hole.

(3) To issue permits to establish natural gas storage facilities or construct wells for the injection and recovery of any natural gas for storage in natural gas storage reservoirs.

Each permit shall contain an agreement by the permitholder that the permitholder will not prevent inspection by division personnel at any time, including during installation and cementing of casing, during the testing of blowout preventers, during the pressure testing of the casing and casing shoe, and during the integrity testing of the cement plugs in plugging and abandonment operations. The provisions of this section prohibiting permits for drilling or exploring for oil in coastal waters do not apply to any leases entered into before June 7, 1991.

Section 7. Subsection (1) of section 377.2425, Florida Statutes, is amended to read:

377.2425 Manner of providing security for geophysical exploration, drilling, and production.—

(1) Before ~~Prior to~~ granting a permit for conducting ~~to conduct~~ geophysical operations; drilling of exploratory, injection, or production wells; producing oil and gas from a

wellhead; performing a fracturing well stimulation; or transporting oil and gas through a field-gathering system, the department shall require the applicant or operator to provide surety that these operations will be conducted in a safe and environmentally compatible manner.

(a) The applicant for a drilling, production, fracturing well stimulation, or injection well permit or a geophysical permit may provide the following types of surety to the department for this purpose:

1. A deposit of cash or other securities made payable to the Minerals Trust Fund. Such cash or securities so deposited shall be held at interest by the Chief Financial Officer to satisfy safety and environmental performance provisions of this chapter. The interest shall be credited to the Minerals Trust Fund. Such cash or other securities shall be released by the Chief Financial Officer upon request of the applicant and certification by the department that all safety and environmental performance provisions established by the department for permitted activities have been fulfilled.

2. A bond of a surety company authorized to do business in the state in an amount as provided by rule.

3. A surety in the form of an irrevocable letter of credit in an amount as provided by rule guaranteed by an acceptable financial institution.

(b) An applicant for a drilling, production, fracturing well stimulation, or injection well permit, or a permittee who intends to continue participating in long-term production activities of such wells, has the option to provide surety to the department by paying an annual fee to the Minerals Trust


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Fund. For an applicant or permittee choosing this option the following shall apply:

1. For the first year, or part of a year, of a drilling, production, or injection well permit, or change of operator, the fee is $4,000 per permitted well.

2. For each subsequent year, or part of a year, the fee is $1,500 per permitted well.

3. The maximum fee that an applicant or permittee may be required to pay into the trust fund is $30,000 per calendar year, regardless of the number of permits applied for or in effect.

4. The fees set forth in subparagraphs 1., 2., and 3. shall be reviewed by the department on a biennial basis and adjusted for the cost of inflation. The department shall establish by rule a suitable index for implementing such fee revisions.

(c) An applicant for a drilling or operating permit for operations planned in coastal waters that by their nature warrant greater surety shall provide surety only in accordance with paragraph (a), or similar proof of financial responsibility other than as provided in paragraph (b). For all such applications, including applications pending at the effective date of this act and notwithstanding ~~the provisions of~~ paragraph (b), the Governor and Cabinet in their capacity as the Administration Commission, at the recommendation of the department ~~of Environmental Protection~~, shall set a reasonable amount of surety required under this subsection. The surety amount shall be based on the projected cleanup costs and natural resources damages resulting from a maximum oil spill and adverse hydrographic and atmospheric conditions that would tend to


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transport the oil into environmentally sensitive areas, as determined by the department ~~of Environmental Protection~~.

Section 8. Section 377.2436, Florida Statutes, is created to read:

377.2436 Study on fracturing well stimulations.—

(1) The department shall conduct a study on fracturing well stimulations. The study must:

(a) Evaluate the underlying geologic features present in the counties where oil wells have been permitted and analyze the potential impact that fracturing well stimulation and wellbore construction may have on the underlying geologic features.

(b) Evaluate the potential hazards and risks that fracturing well stimulation poses to surface water or groundwater resources. The study must assess the potential impacts of fracturing well stimulation on drinking water resources and identify the main factors affecting the severity and frequency of impacts and must analyze the potential for the use or reuse of recycled water in well stimulation fluids while meeting appropriate water quality standards.

(c) Review and evaluate the potential for groundwater contamination from conducting fracturing well stimulation under or near wells that have been previously plugged and abandoned and identify a setback radius from previously plugged and abandoned wells that could be impacted by fracturing well stimulation.

(d) Review and evaluate the ultimate disposition of fracturing well stimulation fluids after use in fracturing well stimulation processes.

(e) Review and evaluate the potential direct and indirect

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economic benefits resulting from the use of fracturing well stimulation, including effects on state and local tax revenues, royalty payments, employment opportunities, and demand for goods and services.

(f) Review and evaluate potential seismic activity associated with fracturing well stimulation and the deep-well disposal of oil and gas production wastewater.

(g) Review and evaluate the feasibility and impact of waterless fracturing technologies to perform fracturing well stimulation.

(2) The department shall continue conventional oil and gas business operations during the performance of the study. There may not be a moratorium on the evaluation and issuance of permits for conventional drilling, exploration, conventional completions, or conventional workovers during the performance of the study.

(3) The study is subject to independent scientific peer review.

(4) The department shall submit the findings of the study to the Governor, the President of the Senate, and the Speaker of the House of Representatives by June 30, 2017, and shall prominently post the findings on its website.

(5) The department may not adopt rules for fracturing well stimulation until the findings of the study have been submitted to the Legislature. However, by March 1, 2018, the department must adopt rules to implement the findings of the study, if such rules are warranted to protect public health, safety, and the environment.

Section 9. Paragraph (a) of subsection (1) of section

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377.37, Florida Statutes, is amended to read:

377.37 Penalties.—

(1)(a) A ~~Any~~ person who violates any provision of this chapter ~~law~~ or any rule, regulation, or order of the division made under this chapter or who violates the terms of any permit to drill for or produce oil, gas, or other petroleum products referred to in s. 377.242(1) or to store gas in a natural gas storage facility, or any lessee, permitholder, or operator of equipment or facilities used in the exploration for, drilling for, or production of oil, gas, or other petroleum products, or storage of gas in a natural gas storage facility, who refuses inspection by the division as provided in this chapter, is liable to the state for any damage caused to the air, waters, or property, including animal, plant, or aquatic life, of the state and for reasonable costs and expenses of the state in tracing the source of the discharge, in controlling and abating the source and the pollutants, and in restoring the air, waters, and property, including animal, plant, and aquatic life, of the state. Furthermore, such person, lessee, permitholder, or operator is subject to the judicial imposition of a civil penalty ~~in an amount~~ of not more than $25,000 ~~$10,000~~ for each offense. However, the court may receive evidence in mitigation. Each day during any portion of which such violation occurs constitutes a separate offense. This paragraph does not ~~Nothing herein shall~~ give the department the right to bring an action on behalf of a ~~any~~ private person.

Section 10. Section 377.45, Florida Statutes, is created to read:

377.45 Fracturing well stimulation chemical disclosure

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registry.—

(1)(a) The department shall designate the national chemical disclosure registry, known as FracFocus, developed by the Ground Water Protection Council and the Interstate Oil and Gas Compact Commission, as the state's registry for chemical disclosure for all wells on which fracturing well stimulations are performed, if and to the extent permitted by the department. The department shall provide a link to FracFocus through its website.

(b) In addition to providing the following information to the department as part of the permitting process, a service provider, vendor, or well owner or operator shall report, as established by department rule, to the department, at a minimum, the following information:

1. The name of the service provider, vendor, or owner or operator.

2. The date of completion of the fracturing well stimulation.

3. The county in which the well is located.

4. The API Well Number.

5. The well name and number.

6. The longitude and latitude of the wellhead.

7. The total vertical depth of the well.

8. The total volume of water used in the fracturing well stimulation.

9. Each chemical ingredient that is subject to 29 C.F.R. s. 1910.1200(g)(2) and the ingredient concentration in the fracturing well stimulation fluid by mass for each well on which a fracturing well stimulation is performed.

10. The trade or common name and the CAS Registry Number

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for each chemical ingredient.

(c) The department shall report to FracFocus all information received under paragraph (b), excluding any information subject to chapter 688.

(d) If FracFocus cannot accept and make publicly available any information specified in this section, the department shall post the information on its website, excluding any information subject to chapter 688.

(2) A service provider, vendor, or well owner or operator shall:

(a) Report the information required under subsection (1) to the department within 60 days after the initiation of the fracturing well stimulation for each well on which such fracturing well stimulation is performed.

(b) Notify the department if any chemical ingredient not previously reported is intentionally included and used for the purpose of performing a fracturing well stimulation.

(3) This section does not apply to an ingredient that:

(a) Is not intentionally added to the fracturing well stimulation; or

(b) Occurs incidentally or is otherwise unintentionally present in a fracturing well stimulation.

(4) The department shall adopt rules to administer this section.

Section 11. Section 377.07, Florida Statutes, is amended to read:

377.07 Division of Water Resource Management; powers, duties, and authority.—The Division of Water Resource Management of the Department of Environmental Protection is ~~hereby~~ vested


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with power, authority, and duty to administer, carry out, and enforce ~~the provisions of~~ this part ~~law as directed in s. 370.02(3)~~.

Section 12. Section 377.10, Florida Statutes, is amended to read:

377.10 Certain persons not to be employed by division.—A ~~No~~ person in the employ of, or holding any official connection or position with any person, firm, partnership, corporation, or association of any kind, engaged in the business of buying or selling mineral leases, drilling wells in the search of oil or gas, producing, transporting, refining, or distributing oil or gas may not ~~shall~~ hold any position under, or be employed by, the Division of Water Resource Management in the prosecution of its duties under this part ~~law~~.

Section 13. Subsection (1) of section 377.243, Florida Statutes, is amended to read:

377.243 Conditions for granting permits for extraction through well holes.—

(1) Before applying ~~Prior to the application~~ to the Division of Water Resource Management for the permit to drill for oil, gas, and related products referred to in s. 377.242(1), the applicant must own a valid deed, or other muniment of title, or lease granting the ~~said~~ applicant the privilege to explore for oil, gas, or related mineral products to be extracted only through the well hole on the land or lands included in the application. However, unallocated interests may be unitized according to s. 377.27.

Section 14. Subsection (1) of section 377.244, Florida Statutes, is amended to read:

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377.244 Conditions for granting permits for surface exploratory and extraction operations.—

(1) Exploration for and extraction of minerals under ~~and by virtue of~~ the authority of a grant of oil, gas, or mineral rights, or which, subsequent to such grant, may ~~be interpreted to~~ include the right to explore for and extract minerals which are subject to extraction from the land by means other than through a well hole, that is by means of surface exploratory and extraction operations such as sifting of the sands, dragline, open pit mining, or other type of surface operation, which would include movement of sands, dirt, rock, or minerals, shall be exercised only pursuant to a permit issued by the Division of Water Resource Management upon the applicant's compliance ~~applicant complying~~ with the following conditions:

(a) The applicant must own a valid deed, or other muniment of title, or lease granting the applicant the right to explore for and extract oil, gas, and other minerals from the ~~said~~ lands.

(b) The applicant shall post a good and sufficient surety bond with the division in such amount as the division determines ~~may determine~~ is adequate to afford full and complete protection for the owner of the surface rights of the lands described in the application, conditioned upon the full and complete restoration, by the applicant, of the area over which the exploratory and extraction operations are conducted to the same condition and contour in existence before ~~prior to~~ such operations.

Section 15. For the 2016-2017 fiscal year, the sum of $1 million in nonrecurring funds is appropriated from the General

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Revenue Fund to the Department of Environmental Protection to conduct a fracturing well stimulation study pursuant to s. 377.2436, Florida Statutes.

Section 16. This act shall take effect July 1, 2016.

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

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to the regulation of oil and gas resources; amending s. 377.06, F.S.; preempting the regulation of all matters relating to the exploration, development, production, processing, storage, and transportation of oil and gas; declaring ordinances and regulations relating thereto void; providing an exception for certain zoning or land use requirements; ordinances and regulations relating thereto void; providing an exception for certain zoning ordinances; amending s. 377.19, F.S.; applying the definitions of certain terms to additional sections of ch. 377, F.S.; revising the definition of the term "division"; conforming a cross-reference; defining the term "fracturing well stimulation"; amending s. 377.22, F.S.; revising the rulemaking authority of the Department of Environmental Protection; amending s. 377.24, F.S.; requiring that a permit be obtained before the performance of a fracturing well stimulation; specifying that a permit may authorize


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single or multiple activities; revising provisions that prohibit the Division of Water Resource Management from granting permits to drill gas or oil wells; providing notice requirements for an application of such permit; prohibiting the department from approving permits for fracturing well stimulation until certain rules are adopted and take effect; requiring legislative ratification of such rules; amending s. 377.241, F.S.; requiring the Division of Water Resource Management to give consideration to and be guided by certain additional criteria when issuing permits; amending s. 377.242, F.S.; authorizing the department to issue permits for the performance of a fracturing well stimulation; revising permit requirements that permitholders agree not to prevent division inspections; amending s. 377.2425, F.S.; requiring an applicant or operator to provide surety that performance of a fracturing well stimulation will be conducted in a safe and environmentally compatible manner; creating s. 377.2436, F.S.; requiring the department to conduct a study on fracturing well stimulation; providing study criteria; requiring the study to be submitted to the Governor and Legislature and posted on the department website; prohibiting the department from adopting rules until the study has been submitted to the Legislature; requiring the department to adopt rules under certain conditions by a specified date; amending s. 377.37, F.S.; increasing the maximum amount of a civil penalty; creating s.

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377.45, F.S.; requiring the department to designate the national chemical disclosure registry as the state's registry; requiring service providers, vendors, and well owners or operators to report certain information to the department; requiring the department to report certain information to the national chemical registry; providing applicability; requiring the department to adopt rules; amending ss. 377.07, 377.10, 377.243, and 377.244, F.S.; making technical changes; conforming provisions to changes made by the act; providing an appropriation; providing an effective date.

304532

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/01/2016	.	
	.	
	.	
	.	

The Committee on Appropriations (Lee) recommended the following:

Senate Amendment to Amendment (790270) (with title amendment)

Delete line 46
and insert:
these activities on a subject property. This subsection expires on the date the rules for fracturing well stimulation take effect.

(4) On or after the date that the rules for fracturing well stimulation take effect, a county or municipality may adopt an ordinance that imposes a moratorium or effects a ban on

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fracturing well stimulation within its boundaries. This subsection in no way limits the authority of a county or municipality to adopt and enforce zoning or land use requirements that affect the use of property for the exploration, development, production, processing, storage, or transportation of oil and gas.

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

And the title is amended as follows:

Between lines 783 and 784

insert:

providing for expiration; authorizing counties or municipalities to adopt certain ordinances on or after a specified time;

792528

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/25/2016	.	
	.	
	.	
	.	

The Committee on Appropriations (Lee) recommended the following:

Senate Amendment (with title amendment)

Delete line 106
and insert:
these activities on a subject property. This subsection expires on the date the rules for high-pressure well stimulation take effect.

(4) On or after the date that the rules for high-pressure well stimulation take effect, a county or municipality may adopt an ordinance that imposes a moratorium or effects a ban on high-pressure well stimulation within its boundaries. This subsection

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in no way limits the authority of a county or municipality to adopt and enforce zoning or land use requirements that affect the use of property for the exploration, development, production, processing, storage, or transportation of oil and gas.

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

And the title is amended as follows:

Between lines 10 and 11

insert:

providing for expiration; authorizing counties or municipalities to adopt certain ordinances on or after a specified time;


508372

576-02578-16

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on General Government)

A bill to be entitled

An act relating to the regulation of oil and gas resources; amending s. 377.06, F.S.; preempting the regulation of all matters relating to the exploration, development, production, processing, storage, and transportation of oil and gas; declaring ordinances and regulations relating thereto void; providing an exception for certain zoning or land use requirements; ordinances and regulations relating thereto void; providing an exception for certain zoning ordinances; amending s. 377.19, F.S.; applying the definitions of certain terms to additional sections of ch. 377, F.S.; revising the definition of the term "division"; conforming a cross-reference; defining the term "high-pressure well stimulation"; amending s. 377.22, F.S.; revising the rulemaking authority of the Department of Environmental Protection; amending s. 377.24, F.S.; requiring that a permit be obtained before the performance of a high-pressure well stimulation; specifying that a permit may authorize single or multiple activities; revising provisions that prohibit the Division of Water Resource Management from granting permits to drill gas or oil wells; providing notice requirements for an application of such permit; prohibiting the department from approving permits for high-pressure well stimulation until certain rules are adopted and take effect; requiring legislative


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576-02578-16

ratification of such rules; amending s. 377.241, F.S.; requiring the Division of Water Resource Management to give consideration to and be guided by certain additional criteria when issuing permits; amending s. 377.242, F.S.; authorizing the department to issue permits for the performance of a high-pressure well stimulation; revising permit requirements that permitholders agree not to prevent division inspections; amending s. 377.2425, F.S.; requiring an applicant or operator to provide surety that performance of a high-pressure well stimulation will be conducted in a safe and environmentally compatible manner; creating s. 377.2436, F.S.; requiring the department to conduct a study on high-pressure well stimulation; providing study criteria; requiring the study to be submitted to the Governor and Legislature and posted on the department website; prohibiting the department from adopting rules until the study has been submitted to the Legislature; requiring the department to adopt rules under certain conditions by a specified date; amending s. 377.37, F.S.; increasing the maximum amount of a civil penalty; creating s. 377.45, F.S.; requiring the department to designate the national chemical disclosure registry as the state's registry; requiring service providers, vendors, and well owners or operators to report certain information to the department; requiring the department to report certain information to the national chemical registry; providing applicability;

requiring the department to adopt rules; amending ss. 377.07, 377.10, 377.243, and 377.244, F.S.; making technical changes; conforming provisions to changes made by the act; providing an appropriation; providing an effective date.

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

Section 1. Section 377.06, Florida Statutes, is amended to read:

377.06 Public policy of state concerning natural resources of oil and gas; preemption.—

(1) It is ~~hereby declared~~ the public policy of this state to conserve and control the natural resources of oil and gas in this state, and the products made from oil and gas in this state; to prevent waste of natural resources; to provide for the protection and adjustment of the correlative rights of the owners of the land in which the natural resources lie, of the owners and producers of oil and gas resources and the products made from oil and gas, and of others interested in these resources and products; and to safeguard the health, property, and public welfare of the residents of this state and other interested persons ~~and for all purposes indicated by the provisions in this section~~.

(2) ~~Further,~~ It is the public policy of this state ~~declared~~ that underground storage of natural gas is in the public interest because underground storage promotes conservation of natural gas~~,~~ makes gas more readily available to the domestic, commercial, and industrial consumers of this state~~,~~ and allows

the accumulation of large quantities of gas in reserve for orderly withdrawal during emergencies or periods of peak demand. It is not the intention of this section to limit, restrict, or modify in any way the provisions of this law.

(3) The Legislature declares that all matters relating to the regulation of the exploration, development, production, processing, storage, and transportation of oil and gas are preempted to the state, to the exclusion of all existing and future ordinances or regulations relating thereto adopted by any county, municipality, or other political subdivision of the state. All such ordinances or regulations are hereby declared void as a matter of law, including those that impose a moratorium or effect a ban on one or more of these activities. A county or municipality may, however, adopt and enforce zoning or land use requirements which affect the use of property for the exploration, development, production, processing, storage or transportation of oil and gas, with the exception of geophysical operations pursuant to s. 377.2424(3), so long as such zoning or land use requirements would not impose a moratorium on, effectively prohibit, or inordinately burden one or more of these activities on a subject property.

Section 2. Section 377.19, Florida Statutes, is amended to read:

377.19 Definitions.—As used in ss. 377.06, 377.07, and 377.10-377.45 ~~377.10-377.40~~, the term:

(1) "Completion date" means the day, month, and year that a new productive well, a previously shut-in well, or a temporarily abandoned well is completed, repaired, or recompleted and the operator begins producing oil or gas in commercial quantities.

(2) "Department" means the Department of Environmental Protection.

(3) "Division" means the Division of Water Resource Management of the Department of Environmental Protection.

(4) "Field" means the general area that is underlaid, or appears to be underlaid, by at least one pool. The term includes the underground reservoir, or reservoirs, containing oil or gas, or both. The terms "field" and "pool" mean the same thing if only one underground reservoir is involved; however, the term "field," unlike the term "pool," may relate to two or more pools.

(5) "Gas" means all natural gas, including casinghead gas, and all other hydrocarbons not defined as oil in subsection (16) ~~(15)~~.

(6) "High-pressure well stimulation" means all stages of a well intervention performed by injecting fluids into a rock formation at high pressure that exceeds the fracture gradient of the rock formation in order to propagate fractures in such formation to increase production at an oil or gas well by improving the flow of hydrocarbons from the formation into the wellbore. The term does not include well stimulation or conventional workover procedures that may incidentally fracture the formation near the wellbore.

(7) ~~(6)~~ "Horizontal well" means a well completed with the wellbore in a horizontal or nearly horizontal orientation within 10 degrees of horizontal within the producing formation.

(8) ~~(7)~~ "Illegal gas" means gas that has been produced within the state from any well or wells in excess of the amount allowed by any rule, regulation, or order of the division, as

distinguished from gas produced within the State of Florida from a well not producing in excess of the amount so allowed, which is "legal gas."

(9) ~~(8)~~ "Illegal oil" means oil that has been produced within the state from any well or wells in excess of the amount allowed by rule, regulation, or order of the division, as distinguished from oil produced within the state from a well not producing in excess of the amount so allowed, which is "legal oil."

(10) ~~(9)~~ "Illegal product" means a product of oil or gas, any part of which was processed or derived, in whole or in part, from illegal gas or illegal oil or from any product thereof, as distinguished from "legal product," which is a product processed or derived to no extent from illegal oil or illegal gas.

(11) ~~(10)~~ "Lateral storage reservoir boundary" means the projection up to the land surface of the maximum horizontal extent of the gas volume contained in a natural gas storage reservoir.

(12) ~~(11)~~ "Native gas" means gas that occurs naturally within this state and does not include gas produced outside the state, transported to this state, and injected into a permitted natural gas storage facility.

(13) ~~(12)~~ "Natural gas storage facility" means an underground reservoir from which oil or gas has previously been produced and which is used or to be used for the underground storage of natural gas, and any surface or subsurface structure, or infrastructure, except wells. The term also includes a right or appurtenance necessary or useful in the operation of the facility for the underground storage of natural gas, including

any necessary or reasonable reservoir protective area as designated for the purpose of ensuring the safe operation of the storage of natural gas or protecting the natural gas storage facility from pollution, invasion, escape, or migration of gas, or any subsequent extension thereof. The term does not mean a transmission, distribution, or gathering pipeline or system that is not used primarily as integral piping for a natural gas storage facility.

(14) ~~(13)~~ "Natural gas storage reservoir" means a pool or field from which gas or oil has previously been produced and which is suitable for or capable of being made suitable for the injection, storage, and recovery of gas, as identified in a permit application submitted to the department under s. 377.2407.

(15) ~~(14)~~ "New field well" means an oil or gas well completed after July 1, 1997, in a new field as designated by the Department of Environmental Protection.

(16) ~~(15)~~ "Oil" means crude petroleum oil and other hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary production methods, and which are not the result of condensation of gas after it leaves the reservoir.

(17) ~~(16)~~ "Oil and gas" has the same meaning as the term "oil or gas."

(18) ~~(17)~~ "Oil and gas administrator" means the State Geologist.

(19) ~~(18)~~ "Operator" means the entity who:

(a) Has the right to drill and to produce a well; or

(b) As part of a natural gas storage facility, injects, or

is engaged in the work of preparing to inject, gas into a natural gas storage reservoir; or stores gas in, or removes gas from, a natural gas storage reservoir.

(20) ~~(19)~~ "Owner" means the person who has the right to drill into and to produce from any pool and to appropriate the production for the person or for the person and another, or others.

(21) ~~(20)~~ "Person" means a natural person, corporation, association, partnership, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind.

(22) ~~(21)~~ "Pool" means an underground reservoir containing or appearing to contain a common accumulation of oil or gas or both. Each zone of a general structure which is completely separated from any other zone on the structure is considered a separate pool as used herein.

(23) ~~(22)~~ "Producer" means the owner or operator of a well or wells capable of producing oil or gas, or both.

(24) ~~(23)~~ "Product" means a commodity made from oil or gas and includes refined crude oil, crude tops, topped crude, processed crude petroleum, residue from crude petroleum, cracking stock, uncracked fuel oil, fuel oil, treated crude oil, residuum, gas oil, casinghead gasoline, natural gas gasoline, naphtha, distillate, condensate, gasoline, waste oil, kerosene, benzine, wash oil, blended gasoline, lubricating oil, blends or mixtures of oil with one or more liquid products or byproducts derived from oil or gas, and blends or mixtures of two or more liquid products or byproducts derived from oil or gas, whether hereinabove enumerated or not.

(25) ~~(24)~~ "Reasonable market demand" means the amount of oil

reasonably needed for current consumption, together with a reasonable amount of oil for storage and working stocks.

(26) ~~(25)~~ "Reservoir protective area" means the area extending up to and including 2,000 feet surrounding a natural gas storage reservoir.

(27) ~~(26)~~ "Shut-in bottom hole pressure" means the pressure at the bottom of a well when all valves are closed and no oil or gas has been allowed to escape for at least 24 hours.

(28) ~~(27)~~ "Shut-in well" means an oil or gas well that has been taken out of service for economic reasons or mechanical repairs.

(29) ~~(28)~~ "State" means the State of Florida.

(30) ~~(29)~~ "Temporarily abandoned well" means a permitted well or wellbore that has been abandoned by plugging in a manner that allows reentry and redevelopment in accordance with oil or gas rules of the Department of Environmental Protection.

(31) ~~(30)~~ "Tender" means a permit or certificate of clearance for the transportation or the delivery of oil, gas, or products, approved and issued or registered under the authority of the division.

(32) ~~(31)~~ "Waste," in addition to its ordinary meaning, means "physical waste" as that term is generally understood in the oil and gas industry. The term "waste" includes:

(a) The inefficient, excessive, or improper use or dissipation of reservoir energy; and the locating, spacing, drilling, equipping, operating, or producing of any oil or gas well or wells in a manner that results, or tends to result, in reducing the quantity of oil or gas ultimately to be stored or recovered from any pool in this state.

(b) The inefficient storing of oil; and the locating, spacing, drilling, equipping, operating, or producing of any oil or gas well or wells in a manner that causes, or tends to cause, unnecessary or excessive surface loss or destruction of oil or gas.

(c) The producing of oil or gas in a manner that causes unnecessary water channeling or coning.

(d) The operation of any oil well or wells with an inefficient gas-oil ratio.

(e) The drowning with water of any stratum or part thereof capable of producing oil or gas.

(f) The underground waste, however caused and whether or not defined.

(g) The creation of unnecessary fire hazards.

(h) The escape into the open air, from a well producing both oil and gas, of gas in excess of the amount that is necessary in the efficient drilling or operation of the well.

(i) The use of gas for the manufacture of carbon black.

(j) Permitting gas produced from a gas well to escape into the air.

(k) The abuse of the correlative rights and opportunities of each owner of oil and gas in a common reservoir due to nonuniform, disproportionate, and unratable withdrawals, causing undue drainage between tracts of land.

(33) ~~(32)~~ "Well site" means the general area around a well, which area has been disturbed from its natural or existing condition, as well as the drilling or production pad, mud and water circulation pits, and other operation areas necessary to drill for or produce oil or gas, or to inject gas into and

recover gas from a natural gas storage facility.

Section 3. Subsection (2) of section 377.22, Florida Statutes, is amended to read:

377.22 Rules and orders.—

(2) The department shall issue orders and adopt rules pursuant to ss. 120.536 and 120.54 to implement and enforce ~~the provisions of~~ this chapter. Such rules and orders shall ensure that all precautions are taken to prevent the spillage of oil or any other pollutant in all phases of the drilling for, and extracting of, oil, gas, or other petroleum products, including high-pressure well stimulations, or during the injection of gas into and recovery of gas from a natural gas storage reservoir. The department shall revise such rules from time to time as necessary for the proper administration and enforcement of this chapter. Rules adopted and orders issued in accordance with this section are for, but not limited to, the following purposes:

(a) To require the drilling, casing, and plugging of wells to be done in such a manner as to prevent the pollution of the fresh, salt, or brackish waters or the lands of the state and to protect the integrity of natural gas storage reservoirs.

(b) To prevent the alteration of the sheet flow of water in any area.

(c) To require that appropriate safety equipment be installed to minimize the possibility of an escape of oil or other petroleum products in the event of accident, human error, or a natural disaster during drilling, casing, or plugging of any well and during extraction operations.

(d) To require the drilling, casing, and plugging of wells to be done in such a manner as to prevent the escape of oil or

other petroleum products from one stratum to another.

(e) To prevent the intrusion of water into an oil or gas stratum from a separate stratum, except as provided by rules of the division relating to the injection of water for proper reservoir conservation and brine disposal.

(f) To require a reasonable bond, or other form of security acceptable to the department, conditioned upon properly drilling, casing, producing, and operating each well and properly plugging ~~the performance of the duty to plug properly~~ each dry and abandoned well and upon the full and complete restoration by the applicant of the area over which geophysical exploration, drilling, or production is conducted to the similar contour and general condition in existence before ~~prior to~~ such operation.

(g) To require and carry out a reasonable program of monitoring and inspecting ~~or inspection of~~ all drilling operations, high-pressure well stimulations, producing wells, ~~or~~ injecting wells, and well sites, including regular inspections by division personnel. Inspections are required during the testing of blowout preventers, during the pressure testing of the casing and casing shoe, and during the integrity testing of the cement plugs in plugging and abandonment operations.

(h) To require the making of reports showing the location of all oil and gas wells; the making and filing of logs; the taking and filing of directional surveys; the filing of electrical, sonic, radioactive, and mechanical logs of oil and gas wells; if taken, the saving of cutting and cores, the cuts of which shall be given to the Bureau of Geology; and the making of reports with respect to drilling and production records.

However, such information, or any part thereof, at the request of the operator, shall be exempt from ~~the provisions of~~ s. 119.07(1) and held confidential by the division for ~~a period of~~ 1 year after the completion of a well.

(i) To prevent wells from being drilled, operated, or produced in such a manner as to cause injury to neighboring leases, property, or natural gas storage reservoirs.

(j) To prevent the drowning by water of any stratum, or part thereof, capable of producing oil or gas in paying quantities and to prevent the premature and irregular encroachment of water which reduces, or tends to reduce, the total ultimate recovery of oil or gas from any pool.

(k) To require the operation of wells with efficient gas-oil ratio, and to fix such ratios.

(l) To prevent "blowouts," "caving," and "seepage," in the sense that conditions indicated by such terms are generally understood in the oil and gas business.

(m) To prevent fires.

(n) To identify the ownership of all oil or gas wells, producing leases, refineries, tanks, plants, structures, and storage and transportation equipment and facilities.

(o) To regulate the "shooting," perforating, ~~and~~ chemical treatment, and high-pressure stimulations of wells.

(p) To regulate secondary recovery methods, including the introduction of gas, air, water, or other substance into producing formations.

(q) To regulate gas cycling operations.

(r) To regulate the storage and recovery of gas injected into natural gas storage facilities.

(s) If necessary for the prevention of waste, as herein defined, to determine, limit, and prorate the production of oil or gas, or both, from any pool or field in the state.

(t) To require, either generally or in or from particular areas, certificates of clearance or tenders in connection with the transportation or delivery of oil or gas, or any product.

(u) To regulate the spacing of wells and to establish drilling units.

(v) To prevent, so far as is practicable, reasonably avoidable drainage from each developed unit which is not equalized by counterdrainage.

(w) To require that geophysical operations requiring a permit be conducted in a manner which will minimize the impact on hydrology and biota of the area, especially environmentally sensitive lands and coastal areas.

(x) To regulate aboveground crude oil storage tanks in a manner which will protect the water resources of the state.

(y) To act in a receivership capacity for fractional mineral interests for which the owners are unknown or unlocated and to administratively designate the operator as the lessee.

(z) To evaluate the history of prior adjudicated, uncontested, or settled violations committed by permit applicants or the applicants' affiliated entities of any substantive and material rule or law pertaining to the regulation of oil or gas.

Section 4. Subsections (1), (2), (4), and (5) of section 377.24, Florida Statutes, are amended, and subsections (10) and (11) are added to that section, to read:

377.24 Notice of intention to drill well; permits;

abandoned wells and dry holes.—

(1) Before drilling a well in search of oil or gas, before performing a high-pressure well stimulation, or before storing gas in or recovering gas from a natural gas storage reservoir, the person who desires to drill for, store, or recover gas, ~~or~~ drill for oil or gas, or perform a high-pressure well stimulation shall notify the division upon such form as it may prescribe and shall pay a reasonable fee set by rule of the department not to exceed the actual cost of processing and inspecting for each well or reservoir. The drilling of any well, the performance of any high-pressure well stimulation, and the storing and recovering of gas are prohibited until such notice is given, the fee is paid, and a ~~the~~ permit is granted. A permit may authorize a single activity or multiple activities.

(2) An application for the drilling of a well in search of oil or gas, for the performance of a high-pressure well stimulation, or for the storing of gas in and recovering of gas from a natural gas storage reservoir~~,~~ in this state must include the address of the residence of the applicant~~,~~ or applicants, which must be the address of each person involved in accordance with the records of the Division of Water Resource Management until such address is changed on the records of the division after written request.

(4) Application for permission to drill or abandon any well or perform a high-pressure well stimulation may be denied by the division for only just and lawful cause.

(5) No permit to drill a gas or oil well shall be granted within the jurisdictional boundaries of any municipality or county, unless the applicant provides notice of the permit

application, by certified mail, to ~~the corporate limits of any municipality, unless~~ the governing authority of the county or municipality. The applicant shall include a copy of the notice with the permit application ~~shall have first duly approved the application for such permit by resolution~~.

(10) The department may not approve a permit to authorize a high-pressure well stimulation until the department adopts rules for high-pressure well stimulations which are based upon the findings of the study required pursuant to s. 377.2436 and such rules take effect.

(11) The rules for high-pressure well stimulation shall be submitted to the President of the Senate and Speaker of the House of Representatives and such rules may not take effect until they are ratified by the Legislature.

Section 5. Subsections (5), (6), and 7 are added to section 377.241, Florida Statutes, to read:

377.241 Criteria for issuance of permits.—The division, in the exercise of its authority to issue permits as hereinafter provided, shall give consideration to and be guided by the following criteria:

(5) For high-pressure well stimulations, whether the high-pressure well stimulation as proposed is designed to ensure that:

(a) The groundwater near the well location, including groundwater through which the well will be or has been drilled, is not contaminated as a result of the high-pressure well stimulation; and

(b) The high-pressure well stimulation is consistent with the public policy of this state as specified in s. 377.06.

(6) As a basis for permit denial or imposition of specific permit conditions, including increased bonding up to five times the applicable limits and increased monitoring, the history of prior adjudicated, uncontested, or settled violations committed by the applicant or an affiliated entity of the applicant of any substantive and material rule or law pertaining to the regulation of oil or gas, including violations that occurred outside the state.

(7) Matters raised in comments timely submitted by a municipality or county to the division pursuant to s. 377.24(5).

Section 6. Section 377.242, Florida Statutes, is amended to read:

377.242 Permits for drilling or exploring and extracting through well holes or by other means.—The department is vested with the power and authority:

(1)(a) To issue permits for the performance of a high-pressure well stimulation or the drilling for, exploring for, or production of oil, gas, or other petroleum products that ~~which~~ are to be extracted from below the surface of the land, including submerged land, only through the well hole drilled for oil, gas, and other petroleum products.

1. A ~~No~~ structure intended for the drilling for, or production of, oil, gas, or other petroleum products may not be permitted or constructed on any submerged land within any bay or estuary.

2. A ~~No~~ structure intended for the drilling for, or production of, oil, gas, or other petroleum products may not be permitted or constructed within 1 mile seaward of the coastline of the state.

3. A ~~No~~ structure intended for the drilling for, or production of, oil, gas, or other petroleum products may not be permitted or constructed within 1 mile of the seaward boundary of any state, local, or federal park or aquatic or wildlife preserve or on the surface of a freshwater lake, river, or stream.

4. A ~~No~~ structure intended for the drilling for, or production of, oil, gas, or other petroleum products may not be permitted or constructed within 1 mile inland from the shoreline of the Gulf of Mexico, the Atlantic Ocean, or any bay or estuary or within 1 mile of any freshwater lake, river, or stream unless the department is satisfied that the natural resources of such bodies of water and shore areas of the state will be adequately protected in the event of accident or blowout.

5. Without exception, after July 1, 1989, a ~~no~~ structure intended for the drilling for, or production of, oil, gas, or other petroleum products may not be permitted or constructed south of 26°00′00″ north latitude off Florida's west coast and south of 27°00′00″ north latitude off Florida's east coast, within the boundaries of Florida's territorial seas as defined in 43 U.S.C. s. 1301. After July 31, 1990, a ~~no~~ structure intended for the drilling for, or production of, oil, gas, or other petroleum products may not be permitted or constructed north of 26°00′00″ north latitude off Florida's west coast to the western boundary of the state bordering Alabama as set forth in s. 1, Art. II of the State Constitution, or located north of 27°00′00″ north latitude off Florida's east coast to the northern boundary of the state bordering Georgia as set forth in s. 1, Art. II of the State Constitution, within the boundaries

of Florida's territorial seas as defined in 43 U.S.C. s. 1301.

(b) Subparagraphs (a)1. and 4. do not apply to permitting or construction of structures intended for the drilling for, or production of, oil, gas, or other petroleum products pursuant to an oil, gas, or mineral lease of such lands by the state under which lease any valid drilling permits are in effect on the effective date of this act. In the event that such permits contain conditions or stipulations, such conditions and stipulations shall govern and supersede subparagraphs (a)1. and 4.

(c) The prohibitions of subparagraphs (a)1.-4. ~~in this subsection~~ do not include "infield gathering lines," provided no other placement is reasonably available and all other required permits have been obtained.

(2) To issue permits to explore for and extract minerals which are subject to extraction from the land by means other than through a well hole.

(3) To issue permits to establish natural gas storage facilities or construct wells for the injection and recovery of any natural gas for storage in natural gas storage reservoirs.

Each permit shall contain an agreement by the permitholder that the permitholder will not prevent inspection by division personnel at any time, including during installation and cementing of casing, during the testing of blowout preventers, during the pressure testing of the casing and casing shoe, and during the integrity testing of the cement plugs in plugging and abandonment operations. The provisions of this section prohibiting permits for drilling or exploring for oil in coastal

waters do not apply to any leases entered into before June 7, 1991.

Section 7. Subsection (1) of section 377.2425, Florida Statutes, is amended to read:

377.2425 Manner of providing security for geophysical exploration, drilling, and production.—

(1) Before ~~Prior to~~ granting a permit for conducting ~~to conduct~~ geophysical operations; drilling of exploratory, injection, or production wells; producing oil and gas from a wellhead; performing a high-pressure well stimulation; or transporting oil and gas through a field-gathering system, the department shall require the applicant or operator to provide surety that these operations will be conducted in a safe and environmentally compatible manner.

(a) The applicant for a drilling, production, high-pressure well stimulation, or injection well permit or a geophysical permit may provide the following types of surety to the department for this purpose:

1. A deposit of cash or other securities made payable to the Minerals Trust Fund. Such cash or securities so deposited shall be held at interest by the Chief Financial Officer to satisfy safety and environmental performance provisions of this chapter. The interest shall be credited to the Minerals Trust Fund. Such cash or other securities shall be released by the Chief Financial Officer upon request of the applicant and certification by the department that all safety and environmental performance provisions established by the department for permitted activities have been fulfilled.

2. A bond of a surety company authorized to do business in

the state in an amount as provided by rule.

3. A surety in the form of an irrevocable letter of credit in an amount as provided by rule guaranteed by an acceptable financial institution.

(b) An applicant for a drilling, production, high-pressure well stimulation, or injection well permit, or a permittee who intends to continue participating in long-term production activities of such wells, has the option to provide surety to the department by paying an annual fee to the Minerals Trust Fund. For an applicant or permittee choosing this option the following shall apply:

1. For the first year, or part of a year, of a drilling, production, or injection well permit, or change of operator, the fee is $4,000 per permitted well.

2. For each subsequent year, or part of a year, the fee is $1,500 per permitted well.

3. The maximum fee that an applicant or permittee may be required to pay into the trust fund is $30,000 per calendar year, regardless of the number of permits applied for or in effect.

4. The fees set forth in subparagraphs 1., 2., and 3. shall be reviewed by the department on a biennial basis and adjusted for the cost of inflation. The department shall establish by rule a suitable index for implementing such fee revisions.

(c) An applicant for a drilling or operating permit for operations planned in coastal waters that by their nature warrant greater surety shall provide surety only in accordance with paragraph (a), or similar proof of financial responsibility other than as provided in paragraph (b). For all such

applications, including applications pending at the effective date of this act and notwithstanding ~~the provisions of~~ paragraph (b), the Governor and Cabinet in their capacity as the Administration Commission, at the recommendation of the department ~~of Environmental Protection~~, shall set a reasonable amount of surety required under this subsection. The surety amount shall be based on the projected cleanup costs and natural resources damages resulting from a maximum oil spill and adverse hydrographic and atmospheric conditions that would tend to transport the oil into environmentally sensitive areas, as determined by the department ~~of Environmental Protection~~.

Section 8. Section 377.2436, Florida Statutes, is created to read:

377.2436 Study on high-pressure well stimulations.—

(1) The department shall conduct a study on high-pressure well stimulations. The study must:

(a) Evaluate the underlying geologic features present in the counties where oil wells have been permitted and analyze the potential impact that high-pressure well stimulation and wellbore construction may have on the underlying geologic features.

(b) Evaluate the potential hazards and risks that high-pressure well stimulation poses to surface water or groundwater resources. The study must assess the potential impacts of high-pressure well stimulation on drinking water resources and identify the main factors affecting the severity and frequency of impacts and must analyze the potential for the use or reuse of recycled water in well stimulation fluids while meeting appropriate water quality standards.

(c) Review and evaluate the potential for groundwater contamination from conducting high-pressure well stimulation under or near wells that have been previously plugged and abandoned and identify a setback radius from previously plugged and abandoned wells that could be impacted by high-pressure well stimulation.

(d) Review and evaluate the ultimate disposition of high-pressure well stimulation fluids after use in high-pressure well stimulation processes.

(e) Review and evaluate the potential direct and indirect economic benefits resulting from the use of high-pressure well stimulation, including effects on state and local tax revenues, royalty payments, employment opportunities, and demand for goods and services.

(f) Review and evaluate potential seismic activity associated with high-pressure well stimulation and the deep-well disposal of oil and gas production wastewater.

(g) Review and evaluate the feasibility and impact of waterless fracturing technologies to perform high-pressure well stimulation.

(2) The department shall continue conventional oil and gas business operations during the performance of the study. There may not be a moratorium on the evaluation and issuance of permits for conventional drilling, exploration, conventional completions, or conventional workovers during the performance of the study.

(3) The study is subject to independent scientific peer review.

(4) The department shall submit the findings of the study

to the Governor, the President of the Senate, and the Speaker of the House of Representatives by June 30, 2017, and shall prominently post the findings on its website.

(5) The department may not adopt rules for high-pressure well stimulation until the findings of the study have been submitted to the Legislature. However, by March 1, 2018, the department must adopt rules to implement the findings of the study, if such rules are warranted to protect public health, safety, and the environment.

Section 9. Paragraph (a) of subsection (1) of section 377.37, Florida Statutes, is amended to read:

377.37 Penalties.—

(1)(a) A ~~Any~~ person who violates any provision of this chapter ~~law~~ or any rule, regulation, or order of the division made under this chapter or who violates the terms of any permit to drill for or produce oil, gas, or other petroleum products referred to in s. 377.242(1) or to store gas in a natural gas storage facility, or any lessee, permitholder, or operator of equipment or facilities used in the exploration for, drilling for, or production of oil, gas, or other petroleum products, or storage of gas in a natural gas storage facility, who refuses inspection by the division as provided in this chapter, is liable to the state for any damage caused to the air, waters, or property, including animal, plant, or aquatic life, of the state and for reasonable costs and expenses of the state in tracing the source of the discharge, in controlling and abating the source and the pollutants, and in restoring the air, waters, and property, including animal, plant, and aquatic life, of the state. Furthermore, such person, lessee, permitholder, or

operator is subject to the judicial imposition of a civil penalty ~~in an amount~~ of not more than $25,000 ~~$10,000~~ for each offense. However, the court may receive evidence in mitigation. Each day during any portion of which such violation occurs constitutes a separate offense. This paragraph does not ~~Nothing herein shall~~ give the department the right to bring an action on behalf of a ~~any~~ private person.

Section 10. Section 377.45, Florida Statutes, is created to read:

377.45 High-pressure well stimulation chemical disclosure registry.—

(1)(a) The department shall designate the national chemical disclosure registry, known as FracFocus, developed by the Ground Water Protection Council and the Interstate Oil and Gas Compact Commission, as the state's registry for chemical disclosure for all wells on which high-pressure well stimulations are performed. The department shall provide a link to FracFocus through its website.

(b) In addition to providing the following information to the department as part of the permitting process, a service provider, vendor, or well owner or operator shall report, as established by department rule, to the department, at a minimum, the following information:

1. The name of the service provider, vendor, or owner or operator.

2. The date of completion of the high-pressure well stimulation.

3. The county in which the well is located.

4. The API Well Number.

5. The well name and number.

6. The longitude and latitude of the wellhead.

7. The total vertical depth of the well.

8. The total volume of water used in the high-pressure well stimulation.

9. Each chemical ingredient that is subject to 29 C.F.R. s. 1910.1200(g)(2) and the ingredient concentration in the high-pressure well stimulation fluid by mass for each well on which a high-pressure well stimulation is performed.

10. The trade or common name and the CAS Registry Number for each chemical ingredient.

(c) The department shall report to FracFocus all information received under paragraph (b), excluding any information subject to chapter 688.

(d) If FracFocus cannot accept and make publicly available any information specified in this section, the department shall post the information on its website, excluding any information subject to chapter 688.

(2) A service provider, vendor, or well owner or operator shall:

(a) Report the information required under subsection (1) to the department within 60 days after the initiation of the high-pressure well stimulation for each well on which such high-pressure well stimulation is performed.

(b) Notify the department if any chemical ingredient not previously reported is intentionally included and used for the purpose of performing a high-pressure well stimulation.

(3) This section does not apply to an ingredient that:

(a) Is not intentionally added to the high-pressure well

stimulation; or

(b) Occurs incidentally or is otherwise unintentionally present in a high-pressure well stimulation.

(4) The department shall adopt rules to administer this section.

Section 11. Section 377.07, Florida Statutes, is amended to read:

377.07 Division of Water Resource Management; powers, duties, and authority.—The Division of Water Resource Management of the Department of Environmental Protection is ~~hereby~~ vested with power, authority, and duty to administer, carry out, and enforce ~~the provisions of~~ this part ~~law as directed in s. 370.02(3)~~.

Section 12. Section 377.10, Florida Statutes, is amended to read:

377.10 Certain persons not to be employed by division.—A ~~No~~ person in the employ of, or holding any official connection or position with any person, firm, partnership, corporation, or association of any kind, engaged in the business of buying or selling mineral leases, drilling wells in the search of oil or gas, producing, transporting, refining, or distributing oil or gas may not ~~shall~~ hold any position under, or be employed by, the Division of Water Resource Management in the prosecution of its duties under this part ~~law~~.

Section 13. Subsection (1) of section 377.243, Florida Statutes, is amended to read:

377.243 Conditions for granting permits for extraction through well holes.—

(1) Before applying ~~Prior to the application~~ to the

Division of Water Resource Management for the permit to drill for oil, gas, and related products referred to in s. 377.242(1), the applicant must own a valid deed, or other muniment of title, or lease granting the ~~said~~ applicant the privilege to explore for oil, gas, or related mineral products to be extracted only through the well hole on the land or lands included in the application. However, unallocated interests may be unitized according to s. 377.27.

Section 14. Subsection (1) of section 377.244, Florida Statutes, is amended to read:

377.244 Conditions for granting permits for surface exploratory and extraction operations.—

(1) Exploration for and extraction of minerals under ~~and by virtue of~~ the authority of a grant of oil, gas, or mineral rights, or which, subsequent to such grant, may ~~be interpreted to~~ include the right to explore for and extract minerals which are subject to extraction from the land by means other than through a well hole, that is by means of surface exploratory and extraction operations such as sifting of the sands, dragline, open pit mining, or other type of surface operation, which would include movement of sands, dirt, rock, or minerals, shall be exercised only pursuant to a permit issued by the Division of Water Resource Management upon the applicant's compliance ~~applicant complying~~ with the following conditions:

(a) The applicant must own a valid deed, or other muniment of title, or lease granting the applicant the right to explore for and extract oil, gas, and other minerals from the ~~said~~ lands.

(b) The applicant shall post a good and sufficient surety

bond with the division in such amount as the division determines ~~may determine~~ is adequate to afford full and complete protection for the owner of the surface rights of the lands described in the application, conditioned upon the full and complete restoration, by the applicant, of the area over which the exploratory and extraction operations are conducted to the same condition and contour in existence before ~~prior to~~ such operations.

Section 15. For the 2016-2017 fiscal year, the sum of $1 million in nonrecurring funds is appropriated from the General Revenue Fund to the Department of Environmental Protection to conduct a high-pressure well stimulation study pursuant to s. 377.2436, Florida Statutes.

Section 16. This act shall take effect July 1, 2016.

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 318
INTRODUCER:	Environmental Preservation and Conservation Committee and Senator Richter
SUBJECT:	Regulation of Oil and Gas Resources
DATE:	February 24, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Istler	Rogers	EP	**Fav/CS**
2.	Howard	DeLoach	AGG	**Recommend: Fav/CS**
3.	Howard	Kynoch	AP	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 318 revises Florida's oil and gas regulations to define the term "high-pressure well stimulation" and requires a separate permit for the performance of high-pressure well stimulations. The bill directs the Department of Environmental Protection (DEP) to conduct a study analyzing the potential impacts that high-pressure well stimulations may have on Florida's underlying geologic features. The bill prohibits permits for high-pressure well stimulations from being issued until the DEP adopts rules regulating high-pressure well stimulations and such rules take effect.

Additionally, the bill:

- Preempts to the state all matters relating to the regulation of the exploration, development, production, processing, storage, and transportation of oil and gas;
- Requires inspections during the testing of blowout preventers, the pressure testing of the casing and casing shoe, and the integrity testing of cement plugs in plugging and abandonment operations;
- Requires notice to be given, a fee to be paid, and a permit to be granted before performing a high-pressure well stimulation;
- Requires the DEP to consider groundwater contamination as a result of high-pressure well stimulations and public policy when reviewing a permit application for high-pressure well stimulations;
- Specifies that a permit may be denied or specific permitting conditions may be applied based on the past history of prior adjudicated, uncontested, or settled violations committed by the

permit applicant or an affiliated entity of the applicant of any substantive and material rule or law pertaining to the regulation of oil or gas, including violations that occurred outside the state;
- Clarifies the inspection authority of the DEP;
- Requires the permit applicant to provide surety to the DEP that the high-pressure well stimulation will be conducted in a safe and environmentally compatible manner;
- Increases the civil penalty from $10,000 per day to $25,000 per day for violations; and
- Designates FracFocus as the state's registry for chemical disclosure for all wells on which high-pressure well stimulations are performed.

The bill provides a $1 million nonrecurring appropriation from the General Revenue Fund to the DEP to conduct a study on high-pressure well stimulations. According to the DEP, the increased workload related to the regulatory and rulemaking process can be handled within existing resources. The remaining fiscal impact of the bill is indeterminate.

The bill provides an effective date of July 1, 2016.

II. Present Situation:

Production of conventional versus unconventional oil and gas resources: the use of well stimulation techniques

Conventional oil and gas resources are found in permeable sandstone and carbonate reservoirs.[1] To extract conventional resources, wells have historically been drilled vertically, straight down into a rock formation. Whereas conventional resources are found in concentrated underground locations, unconventional resources are highly dispersed through impermeable or "tight" rock formations such as shales and tight sands. To extract unconventional resources, drilling has shifted from vertical to horizontal or directional away from the reservoir to the source rock, and well stimulation techniques have been developed to increase the production at such oil or gas wells. The profitable extraction of unconventional resources is relatively new.[2]

Well stimulation techniques are used in the production of both conventional and unconventional resources. The techniques can be focused solely on the wellbore for maintenance and remedial purposes or can be used to increase production from the reservoir.[3] The three most commonly used well stimulation techniques include matrix acidizing, acid fracturing, and hydraulic fracturing. Dating back to 1895, matrix acidizing is the oldest well stimulation technique. It involves pumping acid into the well at a pressure that does not exceed the fracture gradient to dissolve some of the rock to bypass wellbore damage or to stimulate carbonate formations.[4] Acid fracturing is a well stimulation technique that involves pumping acidic fluids into a well at a pressure that fractures the rock. The acid etches the walls of the fracture so the fractures remain

[1] Michael Ratner & Mary Tiemann, Cong. Research Serv., R 43148, *An Overview of Unconventional Oil and Natural Gas: Resources and Federal Actions*, pg. 2 (Apr. 22, 2015), *available at* https://www.fas.org/sgp/crs/misc/R43148.pdf.
[2] *Id*. at 3.
[3] California Council on Science and Technology Lawrence Berkeley National Laboratory, *An Independent Assessment of Well Stimulation in California* (CA Study), Vol. 1, Well stimulation technologies and their past, present, and potential future use in California, January 2015, pg. 14, *available at* http://ccst.us/publications/2015/2015SB4-v1.php.
[4] *Id*. at 69.

open after the pressure is released. These types of acid stimulations are preferred in carbonate reservoirs.[5]

Hydraulic fracturing was developed in the 1940s to increase production of conventional resources. While the technique is not new, the composition of the fracturing fluids has evolved over time. Initially the technique used very little water and relied on a mixture of petroleum compounds, such as napalm and diesel fuels.[6] Modern hydraulic fracturing involves a fracturing fluid that is composed of a base fluid, in most cases water; additives, each designed to serve a particular function; and a proppant, such as sand, to hold the fractures open. The composition of the fracturing fluid varies depending on the property of the reservoir rock, specifically the rock's permeability and brittleness.[7] A hydraulic fracturing operation at a horizontal well involves four stages. The first is the "stage" during which a portion of the well is isolated to focus the fracture fluid pressure. The second is the "pad" in which fracture fluid is injected without proppant to initiate and propagate the fracture. The proppant is then added to keep the fractures open. The third stage is the "flush" during which fluid is injected without proppant to push any remaining proppant into the fractures. The fourth is the "flowback" during which the hydraulic fracturing fluids are removed and the fluid pressure dissipates.[8]

The Environmental Protection Agency (EPA) estimates that between 25,000-30,000 new wells were drilled and hydraulically fractured annually in the United States between 2011 and 2014.[9] Horizontal or directional drilling techniques in conjunction with hydraulic fracturing has led to a surge in domestic production of oil and gas resources in the recent decade and, in 2014, the United States was the world's top producer of petroleum and natural gas hydrocarbons.[10]

Production of oil and gas resources in Florida

Northwest and South Florida are the major oil and gas producing areas in the state. The first producing oil well was discovered in 1943 at a wellsite located in Big Cypress Preserve.[11] It was not until 1970 that oil and gas resources were first discovered in Northwest Florida. There are seven active fields in South Florida, specifically in Lee, Hendry, Collier, and Dade Counties, and

[5] *Id*. at 56.
[6] Gallegos, T.J., and Varela, B.A., *Trends in hydraulic fracturing distributions and treatment fluids, additives, proppants, and water volumes applied to wells drilled in the United States from 1947 through 2010—Data analysis and comparison to the literature: U.S. Geological Survey Scientific Investigations Report 2014–5131*, pg. 7 (2015), *available at* http://pubs.usgs.gov/sir/2014/5131/pdf/sir2014-5131.pdf.
[7] CA Study at 48.
[8] *Id*. at 42.
[9] U.S. Environmental Protection Agency (EPA), *DRAFT An Assessment of the Potential Impacts of Hydraulic Fracturing for Oil and Gas on Drinking Water Resources, Executive Summary*, ES-5 (2015), *available at* http://www2.epa.gov/sites/production/files/2015-07/documents/hf_es_erd_jun2015.pdf. This draft document is undergoing peer review by the Scientific Advisory Board (SAB) Hydraulic Fracturing Research Advisory Panel. A SAB Draft Report is available at http://yosemite.epa.gov/sab/sabproduct.nsf/LookupWebProjectsCurrentBOARD/f7a9db9abbac015785257e540052dd54!OpenDocument&TableRow=2.2#2.
[10] U.S. Energy Information Administration (EIA), *Today in Energy*, http://www.eia.gov/todayinenergy/detail.cfm?id=20692 (last visited Jan. 11, 2016).
[11] American Oil & Gas Historical Society, *First Florida Oil Well*, http://aoghs.org/states/first-florida-oil-well/ (last visited Jan. 11, 2016).

three active fields in Northwest Florida, specifically in Escambia and Santa Rosa Counties.[12] While geologists believe that there may be large oil and natural gas deposits off Florida's western coast, the state enacted a drilling ban for state waters in 1990 and, in 2006, Congress banned the leasing of federal offshore blocks within 125 miles of Florida's western coast until at least 2022.[13]

There are approximately 163 active wells in Florida.[14] The Department of Environmental Protection's (DEP) 2014 Annual Production Report totaled natural gas production at 728,884 million cubic feet (MMcf) and oil production totals at 614,668 thousand barrels (MBbls).[15]

Proven oil and gas reserves both in Northwest and South Florida are composed of carbonate formations and reservoirs that have relatively high permeability.[16] Because acid easily dissolves carbonate materials, techniques such as matrix acidizing and acid fracturing are preferred in carbonate reservoirs.[17] In December 2013, the DEP received a workover notice proposing use of an enhanced extraction procedure and requested that the company not complete until additional review could be performed.[18] The company commenced with the workover procedure, and the DEP issued a cease and desist order. After failing to comply with the order, the company withdrew its permit application.[19] The DEP reported that the last use of hydraulic fracturing on record was in the Jay oilfield in 2003.[20]

Regulation of well stimulation techniques

Federal

There is limited direct federal regulation over the use of well stimulation techniques. In 2005, Congress passed the Energy Policy Act amending the Safe Water Drinking Act (SWDA) and the Clean Water Act (CWA).[21] The SWDA was amended to revise the definition of the term "underground injection" to specifically exclude the underground injection of fluids or propping agents (other than diesel fuels) pursuant to hydraulic fracturing operations. The CWA was amended to characterize oil and gas exploration and production as "construction activities,"

[12] DEP, *Oil and Gas Annual Production Reports, 2014*, *available at* http://www.dep.state.fl.us/water/mines/oil_gas/production.htm.
[13] EIA, Florida State Profile and Energy Estimates, *Analysis*, http://www.eia.gov/state/analysis.cfm?sid=FL (last visited Jan. 11, 2016). *See also*, s. 377.242(1), F.S.
[14] Email from Andrew Ketchel, Director, Office of Legislative Affairs, DEP (Jan. 7, 2016) (on file with the Senate Committee on Environmental Preservation and Conservation).
[15] DEP, *Oil and Gas Annual Production Reports, 2014*, *available at* http://www.dep.state.fl.us/water/mines/oil_gas/production.htm.
[16] DEP, *Hydraulic Fracturing Background and Recommendations* (Sept. 29, 2015) *available at* http://archive.news-press.com/assets/pdf/A4195556107.PDF.
[17] California Council on Science and Technology Lawrence Berkeley National Laboratory, *An Independent Assessment of Well Stimulation in California* (CA Study), Vol. 1, Well stimulation technologies and their past, present, and potential future use in California, January 2015, pg. 56 and pg. 69, *available at* http://ccst.us/publications/2015/2015SB4-v1.php.
[18] DEP, *Collier Oil Drilling*, http://www.dep.state.fl.us/secretary/oil/collier_oil.htm (last visited Jan. 11, 2016).
[19] *Id*.
[20] DEP, *Frequently Asked Questions Regarding the Oil and Gas Permitting Process*, http://www.dep.state.fl.us/water/mines/oil_gas/docs/faq_og.pdf (last visited Jan. 11, 2016).
[21] Energy Policy Act of 2005, H.R. 6, 109th Cong. (2005-2006).

thereby removing these operations from the scope of the CWA.[22] Thus, the Energy Policy Act effectively exempted non-diesel hydraulic fracturing from federal law.[23]

In an attempt to regulate hydraulic fracturing on federal and tribal lands, the Bureau of Land Management (BLM) in March 2015, published final rules governing hydraulic fracturing.[24] The rules were to take effect on June 24, 2015, however, the United States District Court for the District of Wyoming granted a preliminary injunction, holding that the BLM lacked the authority to regulate hydraulic fracturing.[25] The BLM is enjoined from enforcing the final rules pending the finality of the rule challenge.

While direct regulation over well stimulation techniques at the federal level is limited, there are several federal statutes that have been applied to regulate the impacts of oil and gas extraction more generally. The Oil and Gas Extraction Effluent Guidelines and Standards regulate wastewater discharges from field exploration, drilling, production, well treatment, and well completion activities.[26] The regulations apply to conventional and unconventional extraction with the exception of extractions of coalbed methane.[27] These standards are incorporated in the National Pollutant Discharge Elimination System (NPDES).

Because it is possible that oil and gas activities could result in the release of hazardous substances into the environment at or under the surface in a manner that may endanger public health or the environment, these activities are regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).[28] While any recovered petroleum or natural gas is exempt, other hazardous substances that result from oil or gas production, including fracturing fluids, fall under the act and if a release were to occur, the facility owner and operator could face liability under CERCLA.[29]

To ensure that employees who may be exposed to hazardous chemicals in the workplace are aware of the chemicals' potential dangers, manufacturers and importers must obtain or develop

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[22] The EPA rule implementing the CWA amendment was challenged and the Ninth Circuit Court of Appeals vacated the rule. Oil and gas construction facilities remain subject to stormwater permitting requirements, as well as, NPDES permit requirements. *See* William J. Brady, *Hydraulic Fracturing Regulation in the United States: The Laissez-faire approach of the Federal government and varying state regulations* at 8 (Unv. of Denver Sturm College of Law), *available at* http://www.law.du.edu/documents/faculty-highlights/Intersol-2012-HydroFracking.pdf.

[23] Hannah Wiseman, *Untested Waters: The Rise of Hydraulic Fracturing in Oil and Gas Production and the Need to Revisit Regulation*, 20 FORDHAM ENVTL. L. REV. 115 (2009), *available at* http://law.uh.edu/faculty/thester/courses/Emerging%20Tech%202011/Wiseman%20on%20Fracking.pdf.

[24] Under the final BLM regulations, the term "hydraulic fracturing" is defined as "those operations conducted in an individual wellbore designed to increase the flow of hydrocarbons from the rock formation to the wellbore through modifying the permeability of reservoir rock by applying fluids under pressure to fracture it. Hydraulic fracturing does not include enhanced secondary recovery such as water flooding, tertiary recovery, recovery through steam injection, or other types of well stimulation operations such as acidizing."

[25] State of Wyo. vs. U.S. Dept. of the Int., No. 2: 15-CB-043-SWS (D. Wyo. Sept. 30, 2015) (order granting preliminary injunction), *available at* http://www.wyd.uscourts.gov/pdfforms/orders/15-cv-043%20130%20order.pdf.

[26] EPA, *Oil and Gas Extraction Effluent Guidelines*, http://www.epa.gov/eg/oil-and-gas-extraction-effluent-guidelines (last visited Jan. 11, 2016).

[27] *Id*.

[28] Adam Vann, Brandon J. Murrill, & Mary Tiemann, Cong. Research Serv., R 43152, *Hydraulic Fracturing: Selected Legal Issues*, pg. 12 (Sept. 26, 2014), *available at* https://www.fas.org/sgp/crs/misc/R43152.pdf.

[29] *Id*. at 13.

Material Safety Data Sheets (MSDS) for hydraulic fracturing chemicals that are hazardous according to the Occupational Safety and Health Administration (OSHA) standards. MSDS sheets must be maintained for hazardous chemicals at each job site and must, at a minimum, include the chemical names of substances that are considered hazardous under OSHA regulations.[30]

State

States have primary jurisdiction and authority over the regulation of oil and gas activities. Almost all states with economically viable production wells have extensive regulatory programs in place for permitting and monitoring oil and gas activities. Recent advances in technology and the widespread use of well stimulation techniques, particularly hydraulic fracturing, have motivated some states to update and revise their oil and gas regulations to specifically address such techniques or to ban certain techniques altogether.[31]

The DEP has regulatory authority over oil and gas resources in Florida. The Division of Water Resource Management (Division) within DEP oversees the permitting process for drilling production and exploration. The DEP adopted Rule Chapters 62C-25 through 62C-30 of the Florida Administrative Code to implement and enforce the regulation of oil and gas resources. The Division has jurisdiction and authority over all persons and property necessary to administer and enforce all laws relating to the conservation of oil and gas.[32] Drilling and exploration is not authorized or is subject to local governmental approval in tidal waters, near improved beaches, and within municipal boundaries.[33]

When issuing permits for oil or gas exploration or extraction, the Division is required to consider the nature, character, and location of the lands involved; the nature, type, and extent of ownership of the applicant; and the proven or indicated likelihood of the presence of oil, gas, or related minerals on a commercially viable basis.[34] The DEP is required to ensure that all precautions are taken to prevent the spillage of oil or other pollutants in all phases of the drilling for, and extracting of, oil, gas, or other petroleum products.[35] Additionally, the DEP is authorized to issue rules to require the drilling, casing, and plugging of wells to be done in such a manner as to prevent the escape of oil or other petroleum products from one stratum to another.[36]

Before any person begins work other than environmental assessments or surveying at the site of a proposed drilling operation, a permit to drill is required and a preliminary site inspection must be conducted by the DEP.[37] An application for a permit to drill must include a proposed casing

[30] *Id*. at 22.
[31] Hannah Wiseman, *Untested Waters: The Rise of Hydraulic Fracturing in Oil and Gas Production and the Need to Revisit Regulation*, 20 FORDHAM ENVTL. L. REV. 115 (2009). *See also* State of Wyo. vs. U.S. Dept. of the Int., No. 2: 15-CB-043-SWS, pg. 40 (D. Wyo. Sept. 30, 2015) listing Wyoming, Colorado, Utah, North Dakota, Alaska, Illinois, Michigan, New Mexico, Ohio, Oklahoma, Pennsylvania, Texas, California, Montana, and Nevada as states with regulations in places addressing hydraulic fracturing.
[32] Section 377.21(1), F.S.
[33] Section 377.24, F.S.
[34] Section 377.241, F.S.
[35] Section 377.22, F.S.
[36] *Id*.
[37] Fla. Admin. Code R. 62C-26.003.

and cementing program and a location plat survey.[38] Each drilling permit is valid for one year and may be extended for an additional year.[39] Before a well is used for its intended purpose, a permit to operate the well must be obtained.[40] Operating permits are valid for the life of the well; however, every five years the DEP is required to perform a comprehensive field inspection and the permit must be re-certified.[41] Each application and subsequent re-certification must include the appropriate fee; bond or security coverage; a spill prevention and cleanup plan; flowline specification and an installation plan; containment facility certification; and additional reporting and data submissions, such as a driller's logs and monthly well reports.[42] Before a permit is granted, the owner or operator is required to post a bond or other form of security for each well. The amounts vary depending upon the well depth.[43] In lieu of posting a bond or security for each well, the owner or operator may file a blanket bond for multiple operations in the amount of $1,000,000, which may cover up to ten wells.[44]

A separate permit is not required for the performance of well stimulation techniques, the techniques are regulated as workovers.[45] Rule 62C-25.002(61) of the Florida Administrative Code defines the term "workover" as "an operation involving a deepening, plug back, repair, cement squeeze, perforation, hydraulic fracturing, acidizing, or other chemical treatment which is performed in a production, disposal, or injection well in order to restore, sustain, or increase production, disposal, or injection rates." An operator is required to notify the DEP before commencing a workover procedure and must submit a revised Well Record[46] to the DEP within 30 days after the workover.[47]

A person that violates any statute, rule, regulation, order, or permit of the Division relating to the regulation of oil or gas resources or who refuses inspection by the Division is liable for damages caused to the air, waters, or property of the state; for reasonable costs in tracing the source of the discharge, in controlling and abating the source and the pollutants; and in restoring the air, waters, and property.[48] Such persons are also subject to judicial imposition of a civil penalty up to $10,000 for each offense.[49] Each day during any portion of which a violation occurs constitutes a separate offense.[50]

[38] *Id*.
[39] *Id*.
[40] Fla. Admin. Code R. 62C-26.008.
[41] Fla. Admin. Code Rules 62C-25.006 and 62C-26.008.
[42] Fla. Admin. Code Rule 62C-26.008.
[43] Fla. Admin. Code Rule 62C-26.002.
[44] *Id*.
[45] *See e.g.*, s. 377.22, F.S., requiring the Division to adopt rules to "regulate the shooting, perforating, and chemical treatment of wells" and to "regulate secondary recovery methods, in the introduction of gas, air, water, or other substance in producing formations." *See also*, s. 377.26, F.S., requiring the Division to "take into account technological advances in drilling and production technology, including, but not limited to, horizontal well completions in the producing formation using directional drilling methods."
[46] Fla. Admin. Code R. 62C-26.008.
[47] Fla. Admin. Code R. 62C-29.006.
[48] Section 377.37(1)(a), F.S.
[49] *Id*.
[50] *Id*.

Local

As most states with oil and gas interests have extensive regulatory programs governing oil and gas activities, the issue relating to what extent local governments may regulate oil and gas activities within their boundaries has arisen. In some areas local governments have banned or limited certain well stimulation techniques within their boundaries with varying success. In Colorado a number of municipalities passed bans on hydraulic fracturing within their city limits, but state courts have overturned the bans recognizing that the state's interest in the efficient and fair development of its resources may otherwise be threatened by inconsistent ordinances.[51] In Pennsylvania similar bans have been passed, and Pennsylvania state courts have held that municipalities retain their authority to limit oil and gas development within their borders, effectively authorizing them to regulate the "where, but not the how, of hydrocarbon recovery."[52]

While cities and counties do not operate oil and gas permitting programs in Florida, some through their land use regulations or zoning ordinances require special exceptions for oil and gas activities or limit oil and gas activities to certain zoning classifications.[53] When authorizing oil and gas activities, local governments consider factors such as consistency with their comprehensive plan, injuries to communities or the public welfare, and compliance with zoning ordinances.[54]

Section 377.24(5), F. S., restricts the DEP from issuing a permit for drilling within the corporate limits of a municipality unless the municipality adopts a resolution approving the permit. Three municipalities, Estero, Bonita Springs, and Coconut Creek have banned well stimulation techniques by ordinance.[55] Additionally, many counties and cities have passed resolutions supporting various types of bans and moratoriums relating to well stimulation techniques.[56]

Environmental Concerns

There are a variety of environmental concerns relating to well stimulation techniques. Potential impacts and concerns include: groundwater or surface water contamination; stress on water supplies; inadequate wastewater management and disposal; and air quality degradation.[57] Because well stimulation techniques are applied to so many types of formations using a variety of methods and fluids, environmental impacts vary depending on factors such as toxicity of the

[51] David L. Schwan, *Preemption Update: Local Attempts to Preempt State Regulation of Hydraulic Fracturing*, pg. 5, *available at* http://www.americanbar.org/content/dam/aba/administrative/litigation/materials/2015-joint-cle/written_materials/01_fracked_up_preemption_update.authcheckdam.pdf/.
[52] *Id*. at 6.
[53] Florida League of Cities, *Legislative Issue Briefs, Hydraulic Fracturing (Fracking)*, http://www.floridaleagueofcities.com/Assets/Files/Advocacy/2016_IB_Fracking.pdf (last visited Jan. 7, 2016). *Also see e.g.*, Lee County's Land Development Code s. 34-145(c).
[54] *Id*.
[55] Ordinance No. 2015-19 bans well stimulation within and below the corporate boundaries of the Village of Estero; Article IV, Section 13-1000 of Coconut Creek's Land Development Code bans well stimulation in Coconut Creek; and Chapter 4, Article VI, Division 15, Section 4-1380 of Bonita Spring's Land Development Code bans well stimulation in Bonita Springs, Florida.
[56] See Food & Water Watch, *Local Regulations Against Fracking*, http://www.foodandwaterwatch.org/insight/local-resolutions-against-fracking#florida (last visited Jan. 7, 2016).
[57] EPA, Natural Gas Extraction - Hydraulic Fracturing, http://www.epa.gov/hydraulicfracturing (last visited Jan. 11, 2016).

fluid used; the closeness of the fracture zone to underground drinking water; the existence of a barrier between the fracture formation and other formations; and how wastewater is disposed.[58]

Water Quality

A major environmental concern is the impact well stimulation techniques may have on drinking water quality. The EPA estimated that 6,800 sources of drinking water are within one mile of a well that has been hydraulically fractured.[59] Sources of drinking water may be contaminated through the release of gas-phase hydrocarbons, in what is known as stray gas migration, through the movement of liquid or gases out of the well if well casing or cementing is too weak or if it fails.[60] While concerns related to inadequate well casing or cementing are not unique to hydraulic fracturing, horizontally drilled, hydraulically fractured wells pose more production challenges because they are subject to greater pressures.[61]

Mitigating measures, such as extending the casing farther below groundwater resources and pressure testing the well casing before the injection of fluids, may work to prevent well casing failures. Blowout preventers also help control and prevent pressure build-ups. Furthermore, hydraulically fractured wells in shale formations are usually drilled deeper than vertical wells and, therefore, the vertical separation between the formation and the drinking water resource is greater.[62] Thousands of feet of rock layers typically overlay the produced portion of shale and serve as a barrier to contamination.[63] The vast majority of Florida's public water supply is obtained from groundwater sources, specifically from the Floridan aquifer system which underlies the state of Florida.[64] Areas in which oil and gas have been extracted have an upper confining unit that is generally greater than 100 feet, which serves as a barrier to contamination.[65]

Fractures created during hydraulic fracturing can intersect nearby wells or their fracture networks, resulting in the flow of fluids into those wells and to underground drinking water resources. These "frac-hits" are more likely to occur if wells are close to each other or are on the same well pad.[66] In Florida, horizontal wells deeper than 7,000 feet have more stringent spacing requirements.[67]

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[58] Hannah Wiseman, *Untested Waters: The Rise of Hydraulic Fracturing in Oil and Gas Production and the Need to Revisit Regulation*, 20 FORDHAM ENVTL. L. REV. 115 (2009), *available at* http://law.uh.edu/faculty/thester/courses/Emerging%20Tech%202011/Wiseman%20on%20Fracking.pdf.

[59] U.S. Environmental Protection Agency (EPA), *DRAFT Assessment of the Potential Impacts of Hydraulic Fracturing for Oil and Gas on Drinking Water Resources, Executive Summary*, pg. 6 (2015), *available at* http://www2.epa.gov/sites/production/files/2015-07/documents/hf_es_erd_jun2015.pdf.

[60] Avner Vengosh, Robert B. Jackson, Nathaniel Warner, Thomas Darrah, & Andrew Kondash, *A Critical Review of the Risks to Water Resources from Unconventional Shale Gas Development and Hydraulic Fracturing in the United States*, American Chemical Society, 48 Env. Sci. & Techol. 8334-8348, 8336 (2014).

[61] Michael Ratner & Mary Tiemann, Cong. Research Serv., R 43148, *An Overview of Unconventional Oil and Natural Gas: Resources and Federal Actions*, pg. 8 (Apr. 22, 2015), *available at* https://www.fas.org/sgp/crs/misc/R43148.pdf.

[62] *Id*. at 7.

[63] *Id*.

[64] DEP, *Aquifers*, https://fldep.dep.state.fl.us/swapp/Aquifer.asp (last visited Jan. 11, 2016).

[65] U.S. Geological Survey (USGS), *Conceptual Model of the Floridan*, http://fl.water.usgs.gov/floridan/conceptual-model.html (last visited Dec. 18, 2015).

[66] U.S. Environmental Protection Agency (EPA), *DRAFT Assessment of the Potential Impacts of Hydraulic Fracturing for Oil and Gas on Drinking Water Resources, Executive Summary*, ES-16 (2015).

[67] Fla. Admin. Code R. 62C-26.004(5).

Surface water contamination may occur as a result of the inadequate storage and disposal of produced waters, which includes fractured fluids or "flowback." Approximately 10-40 percent of the volume of the injected fracturing fluids returns to the surface after hydraulic fracturing.[68] In most produced waters the concentrations of toxic elements, such as radioactive radium, are positively correlated with salinity, which suggests that many of the potential water quality issues associated with produced waters may be attributable to the geochemistry of the brines within the shale formations.[69] In Florida, all spills of waste material must be immediately reported to the Division and the appropriate federal agencies, and the owner or operator is responsible for the costs of cleanup or other damage incurred by the state.[70]

Water Supply

The amount of water used during the performance of a well stimulation depends on the well depth, formation geology, and the composition of the fracturing fluid. In some cases, over 90 percent of the fracturing fluid is made up of water and each hydraulically fractured well could require thousands to millions of gallons.[71] While the total water use for well stimulation techniques is relatively low compared to other water users,[72] wells that are good candidates for such techniques are usually located near the same source and as a result the collective impact of water withdrawals could result in increased competition among users.[73] To decrease the competition among users, some states have implemented pilot projects evaluating the feasibility of reusing produced waters or other brackish or wastewaters.[74]

Wastewater Management and Disposal

As the use of hydraulic fracturing has increased, so has the volume of wastewaters that are generated. Produced water is the water that comes to the surface naturally, as part of the oil and natural gas production process, and for a hydraulically fractured well, includes flowback. The vast majority of produced water is disposed of using injection wells. Injection wells are permitted under the Underground Injection Control (UIC) program.[75] The goal of the UIC program is the effective isolation of injected fluids from underground sources of drinking water.[76] Class II injection wells are designed to inject fluids associated with the production of oil and natural gas or fluids used to enhance hydrocarbon recovery. As unconventional oil and gas wells are being drilled at rapid rates, space for underground injection wells is becoming limited in some areas. Another issue that is developing with the increase in injection wells is the concern

[68] Avner Vengosh, Robert B. Jackson, Nathaniel Warner, Thomas Darrah, & Andrew Kondash, *A Critical Review of the Risks to Water Resources from Unconventional Shale Gas Development and Hydraulic Fracturing in the United States*, American Chemical Society, 48 Env. Sci. & Techol. 8334-8348, 8340 (2014).
[69] *Id*.
[70] Section 377.371, F.S.
[71] EPA, *Executive Summary* at 6.
[72] Avner Vengosh, Robert B. Jackson, Nathaniel Warner, Thomas Darrah, & Andrew Kondash, *A Critical Review of the Risks to Water Resources from Unconventional Shale Gas Development and Hydraulic Fracturing in the United States*, American Chemical Society, 48 Env. Sci. & Techol. 8348, 8343 (2014).
[73] Hannah Wiseman, *Risk and Response in Fracturing Policy*, 84 Unv. of Col. L. Rev. 729-817, 776 (2009), *available at* http://lawreview.colorado.edu/wp-content/uploads/2013/11/11.-Wiseman_For-Printer_s.pdf.
[74] *Id*. at 770.
[75] EPA, Underground Injection Control Program, http://water.epa.gov/type/groundwater/uic/ (last visited Jan. 11, 2016).
[76] *Id*.

that the deep-well disposal of oil and gas production wastewater is responsible for seismic activity in certain areas.[77] The Oklahoma Geological Survey determined that the primary suspected source of triggered seismicity is from the injection of produced water associated with oil and gas production in disposal wells.[78]

Additionally, in some states the produced waters are being sent to treatment facilities that are not equipped to treat wastewater from hydraulically fractured wells.[79] In April 2015, the EPA under the authority of the Clean Water Act published proposed rules for the oil and gas extraction category which would set pretreatment standards for discharges of wastewater from unconventional oil and gas operations to a publicly owned treatment works plant.[80]

Air Quality

The key emissions associated with unconventional oil and natural gas production include methane, volatile organic compounds (VOCs), nitrogen oxides, sulfur dioxide, particulate matter, and various hazardous air pollutants.[81] In 2012, the EPA issued New Source Performance Standards that require reductions in emissions from VOCs from hydraulically fractured natural gas wells.[82] These rules were the first federal air standards for natural gas wells that were hydraulically fractured.[83] In August 2015, the EPA proposed additional requirements that would complement the 2012 standards, including requiring operators of hydraulically fractured oil wells, in addition to natural gas wells, to use "green completion" and a proposal to require owners or operators to find and repair leaks, which can be significant causes of methane and VOC pollution.[84]

Chemical Disclosure

Fracturing fluids vary in composition based on a variety of factors, including, but not limited to, the geologic type of formation being fractured, temperature, the sensitivity of the reservoir system to water.[85] Fracturing fluids are commonly composed of water, sand, a friction reducer, acid, biocide, a breaker, a stabilizer, a cross linker, gel, a non-emulsifier, a scale inhibitor, a surfactant, a pH adjuster agent, a gelling agent, and an iron control.[86] FracFocus is a publicly

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[77] *See* Peter Folger & Mary Tiemann, Cong. Research Serv., R 43836, *Human-Induced Earthquakes from Deep-Well Injection: A Brief Overview*, (May 12, 2015) *available at* https://www.fas.org/sgp/crs/misc/R43836.pdf.
[78] Oklahoma Geological Survey, *Statement on Oklahoma Seismicity* (Apr. 21, 2015), http://wichita.ogs.ou.edu/documents/OGS_Statement-Earthquakes-4-21-15.pdf (last visited Jan. 12, 2016).
[79] Wiseman, *Risk and Response in Fracturing Policy* at 768-769.
[80] EPA, *Unconventional Extraction in the Oil and Gas Industry*, http://www2.epa.gov/eg/unconventional-extraction-oil-and-gas-industry (last visited Jan. 11, 2016).
[81] Ratner & Tiemann, R 43148 at 9.
[82] EPA, *Oil and Natural Gas Air Pollution Standards, Regulatory Actions*, http://www3.epa.gov/airquality/oilandgas/actions.html (last visited Jan. 7, 2016).
[83] *Id*.
[84] *EPA, Overview of Final Amendments to Air Regulations for the Oil and Natural Gas Industry: Fact Sheet*, August 2015, http://www3.epa.gov/airquality/oilandgas/pdfs/og_fs_081815.pdf.
[85] Gallegos, T.J., and Varela, B.A., *Trends in hydraulic fracturing distributions and treatment fluids, additives, proppants, and water volumes applied to wells drilled in the United States from 1947 through 2010—Data analysis and comparison to the literature: U.S. Geological Survey Scientific Investigations Report 2014–5131*, pg. 1 (2015), *available at* http://pubs.usgs.gov/sir/2014/5131/pdf/sir2014-5131.pdf.
[86] FracFocus Chemical Disclosure Registry, *Why Chemicals are Used*, https://fracfocus.org/chemical-use/why-chemicals-are-used (last visited Jan. 11, 2016).

accessible database managed by the Ground Water Protection Council and the Interstate Oil and Gas Compact Commission and was created to provide public access to reported chemicals used for hydraulic fracturing.[87] There are 106,132 well sites registered and the website lists over 50 chemicals that are used most often.[88] In February 2015, the Ground Water Protection Council reported that 27 states require chemical disclosure relating to hydraulic fracturing operations, and at least 18 of these states allow or require companies to use FracFocus.[89]

Because unique formulas are used based on the geology of each formation, the exact contents and proportions of various chemicals within the mixtures may not be common knowledge within the industry and could possibly be claimed as trade secret.[90] Therefore, while some states require specific fracturing fluid compositions to be disclosed to the state agencies, confidentiality provisions are provided to protect such trade secret information.

III. Effect of Proposed Changes:

Section 1 amends s. 377.06, F.S., to preempt all matters relating to the regulation of the exploration, development, production, processing, storage, and transportation of oil and gas to the state. The bill declares that any such existing ordinance or regulation is void, with the exception of zoning ordinances adopted before January 1, 2015.

Currently, three municipalities have banned well stimulation techniques within their boundaries and because these ordinances were adopted after January 1, 2015, the ordinances would be void.

Section 2 amends s. 377.19, F.S., to define the term "high-pressure well stimulation" as "all stages of a well intervention performed by injecting fluids into a rock formation at high pressure that exceeds the fracture gradient of the rock formation in order to propagate fractures in such formation to increase production at an oil or gas well by improving the flow of hydrocarbons from the formation into the wellbore." The bill specifies that the term does not include "well stimulation or conventional workover procedures that may incidentally fracture the formation near the wellbore."

As defined, the term "high-pressure well stimulation" includes both hydraulic fracturing and acid fracturing and, consequently, a permit will be required before the performance of either technique. However, matrix acidizing, as it is performed at a pressure that does not exceed the fracture gradient, is outside the scope of the definition and would remain regulated as a workover.

Section 3 amends s. 377.22, F.S., to require the Department of Environmental Protection (DEP) to adopt rules for the regulation of high-pressure well stimulations, as well as rules relating to oil and gas well operations generally. The bill:

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[87] *Id*.
[88] *Id*.
[89] Michael Ratner & Mary Tiemann, Cong. Research Serv., R 43148, *An Overview of Unconventional Oil and Natural Gas: Resources and Federal Actions*, pg. 12 (Apr. 22, 2015), *available at* https://www.fas.org/sgp/crs/misc/R43148.pdf.
[90] Hannah Wiseman, *Trade Secrets, Disclosure, and Dissent in a Fracturing Energy Revolution*, 111 COLUM. L. REV. SIDEBAR 1, 6-7 (2011), *available at* http://www.columbialawreview.org/wp-content/uploads/2011/01/1_Wiseman.pdf.

- Requires a bond or other form of security to be conditioned upon properly drilling, casing, producing, and operating each well and upon restoration of the area.
- Specifies that inspections are required during the testing of blowout preventers, during the pressure testing of the casing and casing shoe, and during the integrity testing of the cement plugs in plugging and abandonment operations.
- Authorizes the DEP to evaluate the history of prior adjudicated, uncontested, or settled violations committed by the permit applicant or the applicant's affiliated entities of any substantive and material rule or law pertaining to the regulation of oil or gas.

Section 4 amends s. 377.24, F.S., to require a person who desires to perform a high-pressure well stimulation to provide notice to the DEP, pay a fee, and receive a permit before the performance of a high-pressure well stimulation. The bill provides that a permit may authorize a single activity or multiple activities. The bill provides that an application for permission to perform a high-pressure well stimulation may only be denied by the Division for just and lawful cause.

The bill removes the prohibition against the granting of permits for drilling a gas or oil well within the corporate limits of a municipality without the approval of the governing authority of the municipality by resolution.

The bill prohibits the DEP from approving a permit authorizing high-pressure well stimulations until rules are adopted for high-pressure well stimulations which are based upon the findings of the study on high-pressure well stimulations and such rules take effect. The bill requires the rules for high-pressure well stimulation to be submitted to the President of the Senate and the Speaker of the House of Representatives and prohibits such rules from taking effect until they are ratified by the Legislature.

Section 5 amends s. 377.241, F.S., to add criteria the DEP must consider and be guided by relating to the issuance of permits for high-pressure well stimulations; specifically, whether the high-pressure well stimulation as proposed is designed to ensure that the groundwater near the well location or through which the well will be or has been drilled is not contaminated as a result of the high-pressure well stimulation and whether the performance of the high-pressure well stimulation is consistent with the public policy of the state to safeguard the health, property, and public welfare of the citizens of the state.[91]

The bill specifies that a permit may be denied or specific conditions of a permit may be required, including increased bonding and monitoring, if the permit applicant or affiliated entity has a history of prior adjudicated, uncontested, or settled violations of any substantive and material rule or law pertaining to the regulation of oil and gas, including violations that occurred outside of Florida.

Section 6 amends s. 377.242, F.S., to specify that the DEP has the authority to issue permits for the performance of a high-pressure well stimulation. The bill clarifies that a permittee agrees to inspections during the installation and cementing of the casing, during the testing of blowout preventers, during the pressure testing of the casing and casing shoe, and during the integrity testing of the cement plugs in plugging and abandonment operations.

[91] Section 377.06, F.S.

Section 7 amends s. 377.2425, F.S., to require the permit applicant or operator to provide surety that the performance of a high-pressure well stimulation will be conducted in a safe and environmentally compatible manner.

Section 8 creates s. 377.2436, F.S., to require the DEP to conduct a study on high-pressure well stimulations. The study must include all of the following:

- An evaluation of the underlying geologic features in the counties where oil wells have been permitted and an analysis of the potential impact that high-pressure well stimulations and wellbore construction may have on the underlying geologic features;
- An evaluation of the potential hazards and risks that high-pressure well stimulations pose to surface water or groundwater resources;
- An assessment of the potential impact of high-pressure well stimulations on drinking water resources and an identification of the main factors affecting the severity and frequency of impacts;
- An analysis of the potential for the use or reuse of recycled water in well stimulation fluids, while meeting the appropriate water quality standards;
- A review and evaluation of the potential for groundwater contamination from conducting high-pressure well stimulations under or near wells that have been previously abandoned and plugged;
- An identification of a setback radius from plugged and abandoned wells that could be impacted by high-pressure well stimulations; and
- A review and evaluation of the ultimate disposition of high-pressure well stimulation fluids after use in high-pressure well stimulation processes.

The bill specifies that the DEP must continue conventional oil and gas business operations during the performance of the study and that there is not a moratorium on the evaluation and issuance of permits for conventional drilling, explorations, conventional completions, or conventional workovers during the performance of the study.

The bill requires the study to be subject to an independent scientific peer review, and the findings of the study to be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by June 30, 2017. It also requires the results of the study to be posted to the DEP's website.

The bill prohibits the DEP from adopting rules for high-pressure well stimulations until the findings of the study have been submitted to the Legislature. The bill requires the DEP to adopt rules by March 1, 2018, to implement the findings of the study if such rules are warranted to protect public health, safety, and the environment.

Section 9 amends s. 377.37, F.S., to increase the civil penalty from $10,000 per offense per day to $25,000 per offense per day.

Section 10 creates s. 377.45, F.S., to require the DEP to designate the national chemical registry FracFocus as the state's registry for chemical disclosure for all wells on which high-pressure well stimulations are performed. In addition to providing the following information to the DEP

as part of the permitting process, the bill requires a service provider, vendor, or owner or operator to report all of the following information, at a minimum, to the DEP for submission to FracFocus:

- The service provider, vendor, or owner or operator's name;
- The date of completion of the high-pressure well stimulation;
- The county in which the well is located;
- The American Petroleum Institute (API) well number;
- The well name and number;
- The longitude and latitude of the wellhead;
- The total vertical depth of the well;
- The total volume of water used in the high-pressure well stimulation;
- Each chemical ingredient that is subject to the Occupational Safety and Health Administration (OSHA) regulations set forth in 29 C.F.R. s. 1910.1200(g)(2)[92] and the ingredient concentration in the high-pressure well stimulation fluid by mass for each well on which a high-pressure well stimulation is performed; and
- The trade or common name and the Chemical Abstract Service (CAS) number for each chemical ingredient.

The bill requires the DEP to report this information to FracFocus, excluding any information that is subject to the Uniform Trade Secrets Protection Act as set forth in chapter 688, F.S. If FracFocus cannot accept and make publicly available such information, the DEP is required to post the information, excluding trade secret information, on its website.

The service provider, vendor, owner or operator is required to report the chemical disclosure information within 60 days of the initiation of the high-pressure well stimulation. The service provider, vendor, well owner, or operator must also notify the DEP if any chemical ingredient not previously reported was intentionally included and used for the purpose of performing a high-pressure well stimulation.

The new section created by the bill (s. 377.45, F.S.) does not apply to ingredients that are unintentionally added to the high-pressure well stimulation, occur incidentally, or are otherwise unintentionally present in the high-pressure well stimulation.

The bill provides the DEP with rule authority to administer this section.

Section 11 amends s. 377.07, F.S., to rename the Division of Resource Management to the Division of Water Resource Management.

Section 12 amends s. 377.10, F.S., to make technical changes.

Section 13 amends s. 377.243, F.S., to make technical changes.

Section 14 amends s. 377.244, F.S., to make technical changes.

[92] 29 C.F.R. s. 1910.1200(g)(2) requires chemical manufacturers and importers to insure that the safety data sheets have the required information. See Appendix D to s. 1910.1200 - Safety Data Sheets, *available at* https://www.osha.gov/dsg/hazcom/hazcom-appendix-d.html.

Section 15 provides an appropriation of $1,000,000 in nonrecurring funds from the General Revenue Fund for the 2016-2017 fiscal year to the DEP to conduct a study on high-pressure well stimulations.

Section 16 provides an effective date of July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The county/municipality mandates provision of Art. VII, s. (18)(b) of the Florida Constitution may apply because the bill restricts the authority of counties and municipalities to establish programs that regulate any activity related to oil and gas exploration, production, processing, storage, and transportation. No county or municipality currently operates such permitting program.[93] Therefore, the mandates exception for insignificant fiscal impact may apply.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

CS/SB 318 authorizes a new permit fee for high-pressure well stimulations and increases fines from $10,000 per offense per day to $25,000 per offense per day. The increased revenue associated with the new permit fee is indeterminate. Should violations occur, the increased revenue associated with the increased fine will have a positive indeterminate fiscal impact to the Minerals Trust Fund within the DEP.

B. Private Sector Impact:

The bill increases penalties from $10,000 to $25,000 per offense, which will have a negative fiscal impact on private companies that are found in violation of the law.

C. Government Sector Impact:

The Department of Environmental Protection (DEP) will incur additional costs associated with permitting high-pressure well stimulation techniques. The regulatory costs and permit fee(s) will be based on the permitting requirements to be established through the

[93] Florida League of Cities, *Legislative Issue Briefs, Hydraulic Fracturing (Fracking)*, http://www.floridaleagueofcities.com/Assets/Files/Advocacy/2016_IB_Fracking.pdf (last visited Jan. 7, 2016).

rulemaking process. According to the DEP, existing staff is sufficient to handle the anticipated workload increases.[94] The increased revenues associated with permit fees is indeterminate.

The bill increases the penalty for violations from $10,000 per offense to $25,000 per offense. Should violations occur, the increased revenue will have a positive fiscal impact to the Minerals Trust Fund within the DEP.

According to the DEP, the costs associated to amend Rules 62C-25 through 30, of the Florida Administrative Code, can be absorbed within the DEP's existing budget.

The estimated cost for the study on high pressure well stimulations is $1 million.[95] CS/SB 318 provides an appropriation of $1 million from nonrecurring general revenue for the study.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill requires the DEP to conduct a study evaluating underlying geologic features. The language refers only to counties in which oil wells have been permitted and, therefore, may not include counties that have only permitted gas wells or counties where applications have been submitted for exploratory permits. The DEP has represented that any variation in the underlying geologic features between the counties where oil wells have been permitted and counties where gas wells or exploratory permits have been applied for are negligible for the purposes of the study.[96]

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 377.06, 377.19, 377.22, 377.24, 377.241, 377.242, 377.2425, 377.37, 377.07, 377.10, 377.243, and 377.244.

This bill creates the following sections of the Florida Statutes: 377.2436 and 377.45.

IX. Additional Information:

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

CS by Environmental Preservation and Conservation on January 13, 2016:
The CS authorizes the DEP to evaluate the prior adjudicated, uncontested, or settled

[94] DEP, *Senate Bill 318 Agency Legislative Bill Analysis*, pg. 4 (Nov. 6, 2015) (on file with the Senate Committee on Environmental Preservation and Conservation).
[95] *Id*.
[96] Email from Andrew Ketchel, Director, Office of Legislative Affairs, DEP (Jan. 7, 2016) (on file with the Senate Committee on Environmental Preservation and Conservation).

violations committed by permit applicants as a basis for permit denial or imposition of specific permit conditions.

- The CS authorizes the DEP to consider as a criterion for issuing a permit for a high-pressure well stimulation, whether the high-pressure well stimulation as proposed is designed to ensure that the groundwater near the well location is not contaminated as a result of the high-pressure well stimulation. Additionally, the CS clarifies that the study provide a review and evaluation of the potential for groundwater contamination from conducting high-pressure well stimulations near well that have been previously abandoned and plugged.
- The CS prohibits the DEP from adopting rules for high-pressure well stimulations until the findings of the study have been submitted to the Legislature and the CS clarifies that the rules are to be based upon the findings of the study. Additionally, the CS requires legislative ratification of the rules prior to such rules taking effect and prohibits the DEP from issuing permits for high-pressure well stimulations until such rules take effect.

B. Amendments:

None.

By the Committee on Environmental Preservation and Conservation; and Senator Richter

592-02111-16 2016318c1

A bill to be entitled

An act relating to the regulation of oil and gas resources; amending s. 377.06, F.S.; preempting the regulation of all matters relating to the exploration, development, production, processing, storage, and transportation of oil and gas; declaring existing ordinances and regulations relating thereto void; providing an exception for certain zoning ordinances; amending s. 377.19, F.S.; applying the definitions of certain terms to additional sections of ch. 377, F.S.; revising the definition of the term "division"; conforming a cross-reference; defining the term "high-pressure well stimulation"; amending s. 377.22, F.S.; revising the rulemaking authority of the Department of Environmental Protection; amending s. 377.24, F.S.; requiring that a permit be obtained before the performance of a high-pressure well stimulation; specifying that a permit may authorize single or multiple activities; deleting provisions that prohibit the Division of Water Resource Management from granting permits to drill gas or oil wells within the limits of a municipality without approval of the governing authority of the municipality; prohibiting the department from approving permits for high-pressure well stimulation until certain rules are adopted and take effect; requiring legislative ratification of such rules; amending s. 377.241, F.S.; requiring the Division of Water Resource Management to give consideration to and be guided by certain additional criteria when issuing permits; amending s. 377.242, F.S.; authorizing the department to issue

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permits for the performance of a high-pressure well stimulation; revising permit requirements that permitholders agree not to prevent division inspections; amending s. 377.2425, F.S.; requiring an applicant or operator to provide surety that performance of a high-pressure well stimulation will be conducted in a safe and environmentally compatible manner; creating s. 377.2436, F.S.; requiring the department to conduct a study on high-pressure well stimulation; providing study criteria; requiring the study to be submitted to the Governor and Legislature and posted on the department website; prohibiting the department from adopting rules until the study has been submitted to the Legislature; requiring the department to adopt rules under certain conditions by a specified date; amending s. 377.37, F.S.; increasing the maximum amount of a civil penalty; creating s. 377.45, F.S.; requiring the department to designate the national chemical disclosure registry as the state's registry; requiring service providers, vendors, and well owners or operators to report certain information to the department; requiring the department to report certain information to the national chemical registry; providing applicability; requiring the department to adopt rules; amending ss. 377.07, 377.10, 377.243, and 377.244, F.S.; making technical changes; conforming provisions to changes made by the act; providing an appropriation; providing an effective date.

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

Section 1. Section 377.06, Florida Statutes, is amended to read:

377.06 Public policy of state concerning natural resources of oil and gas; preemption.—

(1) It is ~~hereby declared~~ the public policy of this state to conserve and control the natural resources of oil and gas in this state, and the products made from oil and gas in this state; to prevent waste of natural resources; to provide for the protection and adjustment of the correlative rights of the owners of the land in which the natural resources lie, of the owners and producers of oil and gas resources and the products made from oil and gas, and of others interested in these resources and products; and to safeguard the health, property, and public welfare of the residents of this state and other interested persons ~~and for all purposes indicated by the provisions in this section~~.

(2) ~~Further,~~ It is the public policy of this state ~~declared~~ that underground storage of natural gas is in the public interest because underground storage promotes conservation of natural gas~~,~~ ~~,~~ makes gas more readily available to the domestic, commercial, and industrial consumers of this state~~,~~ ~~,~~ and allows the accumulation of large quantities of gas in reserve for orderly withdrawal during emergencies or periods of peak demand. It is not the intention of this section to limit, restrict, or modify in any way the provisions of this law.

(3) The Legislature declares that all matters relating to

the regulation of the exploration, development, production, processing, storage, and transportation of oil and gas are preempted to the state, to the exclusion of all existing and future ordinances or regulations relating thereto adopted by any county, municipality, or other political subdivision of the state. Any such existing ordinance or regulation is void. A county or municipality may, however, enforce an existing zoning ordinance adopted before January 1, 2015, if the ordinance is otherwise valid.

Section 2. Section 377.19, Florida Statutes, is amended to read:

377.19 Definitions.—As used in ss. 377.06, 377.07, and 377.10-377.45 ~~377.10-377.40~~, the term:

(1) "Completion date" means the day, month, and year that a new productive well, a previously shut-in well, or a temporarily abandoned well is completed, repaired, or recompleted and the operator begins producing oil or gas in commercial quantities.

(2) "Department" means the Department of Environmental Protection.

(3) "Division" means the Division of Water Resource Management of the Department of Environmental Protection.

(4) "Field" means the general area that is underlaid, or appears to be underlaid, by at least one pool. The term includes the underground reservoir, or reservoirs, containing oil or gas, or both. The terms "field" and "pool" mean the same thing if only one underground reservoir is involved; however, the term "field," unlike the term "pool," may relate to two or more pools.

(5) "Gas" means all natural gas, including casinghead gas,

and all other hydrocarbons not defined as oil in subsection (16) ~~(15)~~.

(6) "High-pressure well stimulation" means all stages of a well intervention performed by injecting fluids into a rock formation at high pressure that exceeds the fracture gradient of the rock formation in order to propagate fractures in such formation to increase production at an oil or gas well by improving the flow of hydrocarbons from the formation into the wellbore. The term does not include well stimulation or conventional workover procedures that may incidentally fracture the formation near the wellbore.

(7) ~~(6)~~ "Horizontal well" means a well completed with the wellbore in a horizontal or nearly horizontal orientation within 10 degrees of horizontal within the producing formation.

(8) ~~(7)~~ "Illegal gas" means gas that has been produced within the state from any well or wells in excess of the amount allowed by any rule, regulation, or order of the division, as distinguished from gas produced within the State of Florida from a well not producing in excess of the amount so allowed, which is "legal gas."

(9) ~~(8)~~ "Illegal oil" means oil that has been produced within the state from any well or wells in excess of the amount allowed by rule, regulation, or order of the division, as distinguished from oil produced within the state from a well not producing in excess of the amount so allowed, which is "legal oil."

(10) ~~(9)~~ "Illegal product" means a product of oil or gas, any part of which was processed or derived, in whole or in part, from illegal gas or illegal oil or from any product thereof, as

distinguished from "legal product," which is a product processed or derived to no extent from illegal oil or illegal gas.

(11) ~~(10)~~ "Lateral storage reservoir boundary" means the projection up to the land surface of the maximum horizontal extent of the gas volume contained in a natural gas storage reservoir.

(12) ~~(11)~~ "Native gas" means gas that occurs naturally within this state and does not include gas produced outside the state, transported to this state, and injected into a permitted natural gas storage facility.

(13) ~~(12)~~ "Natural gas storage facility" means an underground reservoir from which oil or gas has previously been produced and which is used or to be used for the underground storage of natural gas, and any surface or subsurface structure, or infrastructure, except wells. The term also includes a right or appurtenance necessary or useful in the operation of the facility for the underground storage of natural gas, including any necessary or reasonable reservoir protective area as designated for the purpose of ensuring the safe operation of the storage of natural gas or protecting the natural gas storage facility from pollution, invasion, escape, or migration of gas, or any subsequent extension thereof. The term does not mean a transmission, distribution, or gathering pipeline or system that is not used primarily as integral piping for a natural gas storage facility.

(14) ~~(13)~~ "Natural gas storage reservoir" means a pool or field from which gas or oil has previously been produced and which is suitable for or capable of being made suitable for the injection, storage, and recovery of gas, as identified in a

permit application submitted to the department under s. 377.2407.

(15) ~~(14)~~ "New field well" means an oil or gas well completed after July 1, 1997, in a new field as designated by the Department of Environmental Protection.

(16) ~~(15)~~ "Oil" means crude petroleum oil and other hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary production methods, and which are not the result of condensation of gas after it leaves the reservoir.

(17) ~~(16)~~ "Oil and gas" has the same meaning as the term "oil or gas."

(18) ~~(17)~~ "Oil and gas administrator" means the State Geologist.

(19) ~~(18)~~ "Operator" means the entity who:

(a) Has the right to drill and to produce a well; or

(b) As part of a natural gas storage facility, injects, or is engaged in the work of preparing to inject, gas into a natural gas storage reservoir; or stores gas in, or removes gas from, a natural gas storage reservoir.

(20) ~~(19)~~ "Owner" means the person who has the right to drill into and to produce from any pool and to appropriate the production for the person or for the person and another, or others.

(21) ~~(20)~~ "Person" means a natural person, corporation, association, partnership, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind.

(22) ~~(21)~~ "Pool" means an underground reservoir containing or appearing to contain a common accumulation of oil or gas or

both. Each zone of a general structure which is completely separated from any other zone on the structure is considered a separate pool as used herein.

(23) ~~(22)~~ "Producer" means the owner or operator of a well or wells capable of producing oil or gas, or both.

(24) ~~(23)~~ "Product" means a commodity made from oil or gas and includes refined crude oil, crude tops, topped crude, processed crude petroleum, residue from crude petroleum, cracking stock, uncracked fuel oil, fuel oil, treated crude oil, residuum, gas oil, casinghead gasoline, natural gas gasoline, naphtha, distillate, condensate, gasoline, waste oil, kerosene, benzine, wash oil, blended gasoline, lubricating oil, blends or mixtures of oil with one or more liquid products or byproducts derived from oil or gas, and blends or mixtures of two or more liquid products or byproducts derived from oil or gas, whether hereinabove enumerated or not.

(25) ~~(24)~~ "Reasonable market demand" means the amount of oil reasonably needed for current consumption, together with a reasonable amount of oil for storage and working stocks.

(26) ~~(25)~~ "Reservoir protective area" means the area extending up to and including 2,000 feet surrounding a natural gas storage reservoir.

(27) ~~(26)~~ "Shut-in bottom hole pressure" means the pressure at the bottom of a well when all valves are closed and no oil or gas has been allowed to escape for at least 24 hours.

(28) ~~(27)~~ "Shut-in well" means an oil or gas well that has been taken out of service for economic reasons or mechanical repairs.

(29) ~~(28)~~ "State" means the State of Florida.

(30)~~(29)~~ "Temporarily abandoned well" means a permitted well or wellbore that has been abandoned by plugging in a manner that allows reentry and redevelopment in accordance with oil or gas rules of the Department of Environmental Protection.

(31)~~(30)~~ "Tender" means a permit or certificate of clearance for the transportation or the delivery of oil, gas, or products, approved and issued or registered under the authority of the division.

(32)~~(31)~~ "Waste," in addition to its ordinary meaning, means "physical waste" as that term is generally understood in the oil and gas industry. The term "waste" includes:

(a) The inefficient, excessive, or improper use or dissipation of reservoir energy; and the locating, spacing, drilling, equipping, operating, or producing of any oil or gas well or wells in a manner that results, or tends to result, in reducing the quantity of oil or gas ultimately to be stored or recovered from any pool in this state.

(b) The inefficient storing of oil; and the locating, spacing, drilling, equipping, operating, or producing of any oil or gas well or wells in a manner that causes, or tends to cause, unnecessary or excessive surface loss or destruction of oil or gas.

(c) The producing of oil or gas in a manner that causes unnecessary water channeling or coning.

(d) The operation of any oil well or wells with an inefficient gas-oil ratio.

(e) The drowning with water of any stratum or part thereof capable of producing oil or gas.

(f) The underground waste, however caused and whether or

not defined.

(g) The creation of unnecessary fire hazards.

(h) The escape into the open air, from a well producing both oil and gas, of gas in excess of the amount that is necessary in the efficient drilling or operation of the well.

(i) The use of gas for the manufacture of carbon black.

(j) Permitting gas produced from a gas well to escape into the air.

(k) The abuse of the correlative rights and opportunities of each owner of oil and gas in a common reservoir due to nonuniform, disproportionate, and unratable withdrawals, causing undue drainage between tracts of land.

(33)~~(32)~~ "Well site" means the general area around a well, which area has been disturbed from its natural or existing condition, as well as the drilling or production pad, mud and water circulation pits, and other operation areas necessary to drill for or produce oil or gas, or to inject gas into and recover gas from a natural gas storage facility.

Section 3. Subsection (2) of section 377.22, Florida Statutes, is amended to read:

377.22 Rules and orders.—

(2) The department shall issue orders and adopt rules pursuant to ss. 120.536 and 120.54 to implement and enforce ~~the provisions of~~ this chapter. Such rules and orders shall ensure that all precautions are taken to prevent the spillage of oil or any other pollutant in all phases of the drilling for, and extracting of, oil, gas, or other petroleum products, including high-pressure well stimulations, or during the injection of gas into and recovery of gas from a natural gas storage reservoir.

The department shall revise such rules from time to time as necessary for the proper administration and enforcement of this chapter. Rules adopted and orders issued in accordance with this section are for, but not limited to, the following purposes:

(a) To require the drilling, casing, and plugging of wells to be done in such a manner as to prevent the pollution of the fresh, salt, or brackish waters or the lands of the state and to protect the integrity of natural gas storage reservoirs.

(b) To prevent the alteration of the sheet flow of water in any area.

(c) To require that appropriate safety equipment be installed to minimize the possibility of an escape of oil or other petroleum products in the event of accident, human error, or a natural disaster during drilling, casing, or plugging of any well and during extraction operations.

(d) To require the drilling, casing, and plugging of wells to be done in such a manner as to prevent the escape of oil or other petroleum products from one stratum to another.

(e) To prevent the intrusion of water into an oil or gas stratum from a separate stratum, except as provided by rules of the division relating to the injection of water for proper reservoir conservation and brine disposal.

(f) To require a reasonable bond, or other form of security acceptable to the department, conditioned upon properly drilling, casing, producing, and operating each well and properly plugging ~~the performance of the duty to plug properly~~ each dry and abandoned well and upon the full and complete restoration by the applicant of the area over which geophysical exploration, drilling, or production is conducted to the similar

contour and general condition in existence before ~~prior to~~ such operation.

(g) To require and carry out a reasonable program of monitoring and inspecting ~~or inspection of~~ all drilling operations, high-pressure well stimulations, producing wells, ~~or~~ injecting wells, and well sites, including regular inspections by division personnel. Inspections are required during the testing of blowout preventers, during the pressure testing of the casing and casing shoe, and during the integrity testing of the cement plugs in plugging and abandonment operations.

(h) To require the making of reports showing the location of all oil and gas wells; the making and filing of logs; the taking and filing of directional surveys; the filing of electrical, sonic, radioactive, and mechanical logs of oil and gas wells; if taken, the saving of cutting and cores, the cuts of which shall be given to the Bureau of Geology; and the making of reports with respect to drilling and production records. However, such information, or any part thereof, at the request of the operator, shall be exempt from ~~the provisions of~~ s. 119.07(1) and held confidential by the division for ~~a period of~~ 1 year after the completion of a well.

(i) To prevent wells from being drilled, operated, or produced in such a manner as to cause injury to neighboring leases, property, or natural gas storage reservoirs.

(j) To prevent the drowning by water of any stratum, or part thereof, capable of producing oil or gas in paying quantities and to prevent the premature and irregular encroachment of water which reduces, or tends to reduce, the total ultimate recovery of oil or gas from any pool.

(k) To require the operation of wells with efficient gas-oil ratio, and to fix such ratios.

(l) To prevent "blowouts," "caving," and "seepage," in the sense that conditions indicated by such terms are generally understood in the oil and gas business.

(m) To prevent fires.

(n) To identify the ownership of all oil or gas wells, producing leases, refineries, tanks, plants, structures, and storage and transportation equipment and facilities.

(o) To regulate the "shooting," perforating, ~~and~~ chemical treatment, and high-pressure stimulations of wells.

(p) To regulate secondary recovery methods, including the introduction of gas, air, water, or other substance into producing formations.

(q) To regulate gas cycling operations.

(r) To regulate the storage and recovery of gas injected into natural gas storage facilities.

(s) If necessary for the prevention of waste, as herein defined, to determine, limit, and prorate the production of oil or gas, or both, from any pool or field in the state.

(t) To require, either generally or in or from particular areas, certificates of clearance or tenders in connection with the transportation or delivery of oil or gas, or any product.

(u) To regulate the spacing of wells and to establish drilling units.

(v) To prevent, so far as is practicable, reasonably avoidable drainage from each developed unit which is not equalized by counterdrainage.

(w) To require that geophysical operations requiring a

permit be conducted in a manner which will minimize the impact on hydrology and biota of the area, especially environmentally sensitive lands and coastal areas.

(x) To regulate aboveground crude oil storage tanks in a manner which will protect the water resources of the state.

(y) To act in a receivership capacity for fractional mineral interests for which the owners are unknown or unlocated and to administratively designate the operator as the lessee.

(z) To evaluate the history of prior adjudicated, uncontested, or settled violations committed by permit applicants or the applicants' affiliated entities of any substantive and material rule or law pertaining to the regulation of oil or gas.

Section 4. Subsections (1), (2), (4), and (5) of section 377.24, Florida Statutes, are amended, present subsections (6) through (9) of that section are redesignated as subsections (5) through (8), respectively, and a new subsection (9) and subsection (10) are added to that section, to read:

377.24 Notice of intention to drill well; permits; abandoned wells and dry holes.—

(1) Before drilling a well in search of oil or gas, before performing a high-pressure well stimulation, or before storing gas in or recovering gas from a natural gas storage reservoir, the person who desires to drill for, store, or recover gas, ~~or~~ drill for oil or gas, or perform a high-pressure well stimulation shall notify the division upon such form as it may prescribe and shall pay a reasonable fee set by rule of the department not to exceed the actual cost of processing and inspecting for each well or reservoir. The drilling of any well,

the performance of any high-pressure well stimulation, and the storing and recovering of gas are prohibited until such notice is given, the fee is paid, and a ~~the~~ permit is granted. A permit may authorize a single activity or multiple activities.

(2) An application for the drilling of a well in search of oil or gas, for the performance of a high-pressure well stimulation, or for the storing of gas in and recovering of gas from a natural gas storage reservoir~~,~~ in this state must include the address of the residence of the applicant~~,~~ or applicants, which must be the address of each person involved in accordance with the records of the Division of Water Resource Management until such address is changed on the records of the division after written request.

(4) Application for permission to drill or abandon any well or perform a high-pressure well stimulation may be denied by the division for only just and lawful cause.

~~(5) No permit to drill a gas or oil well shall be granted within the corporate limits of any municipality, unless the governing authority of the municipality shall have first duly approved the application for such permit by resolution.~~

(9) The department may not approve a permit to authorize a high-pressure well stimulation until the department adopts rules for high-pressure well stimulations which are based upon the findings of the study required pursuant to s. 377.2436 and such rules take effect.

(10) The rules for high-pressure well stimulation shall be submitted to the President of the Senate and Speaker of the House of Representatives and such rules may not take effect until they are ratified by the Legislature.

Section 5. Subsections (5) and (6) are added to section 377.241, Florida Statutes, to read:

377.241 Criteria for issuance of permits.—The division, in the exercise of its authority to issue permits as hereinafter provided, shall give consideration to and be guided by the following criteria:

(5) For high-pressure well stimulations, whether the high-pressure well stimulation as proposed is designed to ensure that:

(a) The groundwater near the well location, including groundwater through which the well will be or has been drilled, is not contaminated as a result of the high-pressure well stimulation; and

(b) The high-pressure well stimulation is consistent with the public policy of this state as specified in s. 377.06.

(6) As a basis for permit denial or imposition of specific permit conditions, including increased bonding up to five times the applicable limits and increased monitoring, the history of prior adjudicated, uncontested, or settled violations committed by the applicant or an affiliated entity of the applicant of any substantive and material rule or law pertaining to the regulation of oil or gas, including violations that occurred outside the state.

Section 6. Section 377.242, Florida Statutes, is amended to read:

377.242 Permits for drilling or exploring and extracting through well holes or by other means.—The department is vested with the power and authority:

(1)(a) To issue permits for the performance of a high-

pressure well stimulation or the drilling for, exploring for, or production of oil, gas, or other petroleum products that ~~which~~ are to be extracted from below the surface of the land, including submerged land, only through the well hole drilled for oil, gas, and other petroleum products.

1. A ~~No~~ structure intended for the drilling for, or production of, oil, gas, or other petroleum products may not be permitted or constructed on any submerged land within any bay or estuary.

2. A ~~No~~ structure intended for the drilling for, or production of, oil, gas, or other petroleum products may not be permitted or constructed within 1 mile seaward of the coastline of the state.

3. A ~~No~~ structure intended for the drilling for, or production of, oil, gas, or other petroleum products may not be permitted or constructed within 1 mile of the seaward boundary of any state, local, or federal park or aquatic or wildlife preserve or on the surface of a freshwater lake, river, or stream.

4. A ~~No~~ structure intended for the drilling for, or production of, oil, gas, or other petroleum products may not be permitted or constructed within 1 mile inland from the shoreline of the Gulf of Mexico, the Atlantic Ocean, or any bay or estuary or within 1 mile of any freshwater lake, river, or stream unless the department is satisfied that the natural resources of such bodies of water and shore areas of the state will be adequately protected in the event of accident or blowout.

5. Without exception, after July 1, 1989, a ~~no~~ structure intended for the drilling for, or production of, oil, gas, or

other petroleum products may not be permitted or constructed south of 26°00′00″ north latitude off Florida's west coast and south of 27°00′00″ north latitude off Florida's east coast, within the boundaries of Florida's territorial seas as defined in 43 U.S.C. s. 1301. After July 31, 1990, a ~~no~~ structure intended for the drilling for, or production of, oil, gas, or other petroleum products may not be permitted or constructed north of 26°00′00″ north latitude off Florida's west coast to the western boundary of the state bordering Alabama as set forth in s. 1, Art. II of the State Constitution, or located north of 27°00′00″ north latitude off Florida's east coast to the northern boundary of the state bordering Georgia as set forth in s. 1, Art. II of the State Constitution, within the boundaries of Florida's territorial seas as defined in 43 U.S.C. s. 1301.

(b) Subparagraphs (a)1. and 4. do not apply to permitting or construction of structures intended for the drilling for, or production of, oil, gas, or other petroleum products pursuant to an oil, gas, or mineral lease of such lands by the state under which lease any valid drilling permits are in effect on the effective date of this act. In the event that such permits contain conditions or stipulations, such conditions and stipulations shall govern and supersede subparagraphs (a)1. and 4.

(c) The prohibitions of subparagraphs (a)1.-4. ~~in this subsection~~ do not include "infield gathering lines," provided no other placement is reasonably available and all other required permits have been obtained.

(2) To issue permits to explore for and extract minerals which are subject to extraction from the land by means other

than through a well hole.

(3) To issue permits to establish natural gas storage facilities or construct wells for the injection and recovery of any natural gas for storage in natural gas storage reservoirs.

Each permit shall contain an agreement by the permitholder that the permitholder will not prevent inspection by division personnel at any time, including during installation and cementing of casing, during the testing of blowout preventers, during the pressure testing of the casing and casing shoe, and during the integrity testing of the cement plugs in plugging and abandonment operations. The provisions of this section prohibiting permits for drilling or exploring for oil in coastal waters do not apply to any leases entered into before June 7, 1991.

Section 7. Subsection (1) of section 377.2425, Florida Statutes, is amended to read:

377.2425 Manner of providing security for geophysical exploration, drilling, and production.—

(1) Before ~~Prior to~~ granting a permit for conducting ~~to conduct~~ geophysical operations; drilling of exploratory, injection, or production wells; producing oil and gas from a wellhead; performing a high-pressure well stimulation; or transporting oil and gas through a field-gathering system, the department shall require the applicant or operator to provide surety that these operations will be conducted in a safe and environmentally compatible manner.

(a) The applicant for a drilling, production, high-pressure well stimulation, or injection well permit or a geophysical

permit may provide the following types of surety to the department for this purpose:

1. A deposit of cash or other securities made payable to the Minerals Trust Fund. Such cash or securities so deposited shall be held at interest by the Chief Financial Officer to satisfy safety and environmental performance provisions of this chapter. The interest shall be credited to the Minerals Trust Fund. Such cash or other securities shall be released by the Chief Financial Officer upon request of the applicant and certification by the department that all safety and environmental performance provisions established by the department for permitted activities have been fulfilled.

2. A bond of a surety company authorized to do business in the state in an amount as provided by rule.

3. A surety in the form of an irrevocable letter of credit in an amount as provided by rule guaranteed by an acceptable financial institution.

(b) An applicant for a drilling, production, high-pressure well stimulation, or injection well permit, or a permittee who intends to continue participating in long-term production activities of such wells, has the option to provide surety to the department by paying an annual fee to the Minerals Trust Fund. For an applicant or permittee choosing this option the following shall apply:

1. For the first year, or part of a year, of a drilling, production, or injection well permit, or change of operator, the fee is $4,000 per permitted well.

2. For each subsequent year, or part of a year, the fee is $1,500 per permitted well.

3. The maximum fee that an applicant or permittee may be required to pay into the trust fund is $30,000 per calendar year, regardless of the number of permits applied for or in effect.

4. The fees set forth in subparagraphs 1., 2., and 3. shall be reviewed by the department on a biennial basis and adjusted for the cost of inflation. The department shall establish by rule a suitable index for implementing such fee revisions.

(c) An applicant for a drilling or operating permit for operations planned in coastal waters that by their nature warrant greater surety shall provide surety only in accordance with paragraph (a), or similar proof of financial responsibility other than as provided in paragraph (b). For all such applications, including applications pending at the effective date of this act and notwithstanding ~~the provisions of~~ paragraph (b), the Governor and Cabinet in their capacity as the Administration Commission, at the recommendation of the department ~~of Environmental Protection~~, shall set a reasonable amount of surety required under this subsection. The surety amount shall be based on the projected cleanup costs and natural resources damages resulting from a maximum oil spill and adverse hydrographic and atmospheric conditions that would tend to transport the oil into environmentally sensitive areas, as determined by the department ~~of Environmental Protection~~.

Section 8. Section 377.2436, Florida Statutes, is created to read:

377.2436 Study on high-pressure well stimulations.—

(1) The department shall conduct a study on high-pressure well stimulations. The study must:

(a) Evaluate the underlying geologic features present in the counties where oil wells have been permitted and analyze the potential impact that high-pressure well stimulation and wellbore construction may have on the underlying geologic features.

(b) Evaluate the potential hazards and risks that high-pressure well stimulation poses to surface water or groundwater resources. The study must assess the potential impacts of high-pressure well stimulation on drinking water resources and identify the main factors affecting the severity and frequency of impacts and must analyze the potential for the use or reuse of recycled water in well stimulation fluids while meeting appropriate water quality standards.

(c) Review and evaluate the potential for groundwater contamination from conducting high-pressure well stimulation under or near wells that have been previously plugged and abandoned and identify a setback radius from previously plugged and abandoned wells that could be impacted by high-pressure well stimulation.

(d) Review and evaluate the ultimate disposition of high-pressure well stimulation fluids after use in high-pressure well stimulation processes.

(2) The department shall continue conventional oil and gas business operations during the performance of the study. There may not be a moratorium on the evaluation and issuance of permits for conventional drilling, exploration, conventional completions, or conventional workovers during the performance of the study.

(3) The study is subject to independent scientific peer

review.

(4) The department shall submit the findings of the study to the Governor, the President of the Senate, and the Speaker of the House of Representatives by June 30, 2017, and shall prominently post the findings on its website.

(5) The department may not adopt rules for high-pressure well stimulation until the findings of the study have been submitted to the Legislature. However, by March 1, 2018, the department must adopt rules to implement the findings of the study, if such rules are warranted to protect public health, safety, and the environment.

Section 9. Paragraph (a) of subsection (1) of section 377.37, Florida Statutes, is amended to read:

377.37 Penalties.—

(1)(a) A ~~Any~~ person who violates any provision of this chapter ~~law~~ or any rule, regulation, or order of the division made under this chapter or who violates the terms of any permit to drill for or produce oil, gas, or other petroleum products referred to in s. 377.242(1) or to store gas in a natural gas storage facility, or any lessee, permitholder, or operator of equipment or facilities used in the exploration for, drilling for, or production of oil, gas, or other petroleum products, or storage of gas in a natural gas storage facility, who refuses inspection by the division as provided in this chapter, is liable to the state for any damage caused to the air, waters, or property, including animal, plant, or aquatic life, of the state and for reasonable costs and expenses of the state in tracing the source of the discharge, in controlling and abating the source and the pollutants, and in restoring the air, waters, and

property, including animal, plant, and aquatic life, of the state. Furthermore, such person, lessee, permitholder, or operator is subject to the judicial imposition of a civil penalty ~~in an amount~~ of not more than $25,000 ~~$10,000~~ for each offense. However, the court may receive evidence in mitigation. Each day during any portion of which such violation occurs constitutes a separate offense. This paragraph does not ~~Nothing herein shall~~ give the department the right to bring an action on behalf of a ~~any~~ private person.

Section 10. Section 377.45, Florida Statutes, is created to read:

377.45 High-pressure well stimulation chemical disclosure registry.—

(1)(a) The department shall designate the national chemical disclosure registry, known as FracFocus, developed by the Ground Water Protection Council and the Interstate Oil and Gas Compact Commission, as the state's registry for chemical disclosure for all wells on which high-pressure well stimulations are performed. The department shall provide a link to FracFocus through its website.

(b) In addition to providing the following information to the department as part of the permitting process, a service provider, vendor, or well owner or operator shall report, as established by department rule, to the department, at a minimum, the following information:

1. The name of the service provider, vendor, or owner or operator.

2. The date of completion of the high-pressure well stimulation.

3. The county in which the well is located.

4. The API Well Number.

5. The well name and number.

6. The longitude and latitude of the wellhead.

7. The total vertical depth of the well.

8. The total volume of water used in the high-pressure well stimulation.

9. Each chemical ingredient that is subject to 29 C.F.R. s. 1910.1200(g)(2) and the ingredient concentration in the high-pressure well stimulation fluid by mass for each well on which a high-pressure well stimulation is performed.

10. The trade or common name and the CAS Registry Number for each chemical ingredient.

(c) The department shall report to FracFocus all information received under paragraph (b), excluding any information subject to chapter 688.

(d) If FracFocus cannot accept and make publicly available any information specified in this section, the department shall post the information on its website, excluding any information subject to chapter 688.

(2) A service provider, vendor, or well owner or operator shall:

(a) Report the information required under subsection (1) to the department within 60 days after the initiation of the high-pressure well stimulation for each well on which such high-pressure well stimulation is performed.

(b) Notify the department if any chemical ingredient not previously reported is intentionally included and used for the purpose of performing a high-pressure well stimulation.

(3) This section does not apply to an ingredient that:

(a) Is not intentionally added to the high-pressure well stimulation; or

(b) Occurs incidentally or is otherwise unintentionally present in a high-pressure well stimulation.

(4) The department shall adopt rules to administer this section.

Section 11. Section 377.07, Florida Statutes, is amended to read:

377.07 Division of Water Resource Management; powers, duties, and authority.—The Division of Water Resource Management of the Department of Environmental Protection is ~~hereby~~ vested with power, authority, and duty to administer, carry out, and enforce ~~the provisions of~~ this part ~~law as directed in s. 370.02(3)~~.

Section 12. Section 377.10, Florida Statutes, is amended to read:

377.10 Certain persons not to be employed by division.—A ~~No~~ person in the employ of, or holding any official connection or position with any person, firm, partnership, corporation, or association of any kind, engaged in the business of buying or selling mineral leases, drilling wells in the search of oil or gas, producing, transporting, refining, or distributing oil or gas may not ~~shall~~ hold any position under, or be employed by, the Division of Water Resource Management in the prosecution of its duties under this part ~~law~~.

Section 13. Subsection (1) of section 377.243, Florida Statutes, is amended to read:

377.243 Conditions for granting permits for extraction

through well holes.—

(1) Before applying ~~Prior to the application~~ to the Division of Water Resource Management for the permit to drill for oil, gas, and related products referred to in s. 377.242(1), the applicant must own a valid deed, or other muniment of title, or lease granting the ~~said~~ applicant the privilege to explore for oil, gas, or related mineral products to be extracted only through the well hole on the land or lands included in the application. However, unallocated interests may be unitized according to s. 377.27.

Section 14. Subsection (1) of section 377.244, Florida Statutes, is amended to read:

377.244 Conditions for granting permits for surface exploratory and extraction operations.—

(1) Exploration for and extraction of minerals under ~~and by virtue of~~ the authority of a grant of oil, gas, or mineral rights, or which, subsequent to such grant, may ~~be interpreted to~~ include the right to explore for and extract minerals which are subject to extraction from the land by means other than through a well hole, that is by means of surface exploratory and extraction operations such as sifting of the sands, dragline, open pit mining, or other type of surface operation, which would include movement of sands, dirt, rock, or minerals, shall be exercised only pursuant to a permit issued by the Division of Water Resource Management upon the applicant's compliance ~~applicant complying~~ with the following conditions:

(a) The applicant must own a valid deed, or other muniment of title, or lease granting the applicant the right to explore for and extract oil, gas, and other minerals from the ~~said~~

lands.

(b) The applicant shall post a good and sufficient surety bond with the division in such amount as the division determines ~~may determine~~ is adequate to afford full and complete protection for the owner of the surface rights of the lands described in the application, conditioned upon the full and complete restoration, by the applicant, of the area over which the exploratory and extraction operations are conducted to the same condition and contour in existence before ~~prior to~~ such operations.

Section 15. For the 2016-2017 fiscal year, the sum of $1 million in nonrecurring funds is appropriated from the General Revenue Fund to the Department of Environmental Protection to conduct a high-pressure well stimulation study pursuant to s. 377.2436, Florida Statutes.

Section 16. This act shall take effect July 1, 2016.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Ethics and Elections, *Chair*
Banking and Insurance, *Vice Chair*
Appropriations
Appropriations Subcommittee on Health and Human Services
Commerce and Tourism
Regulated Industries
Rules

SENATOR GARRETT RICHTER
President Pro Tempore
23rd District

January 26, 2016

The Honorable Tom Lee, Chair
Senate Committee on Appropriations
201 The Capitol
404 South Monroe Street
Tallahassee, FL 32399

Dear Chairman Lee:

CS/CS/Senate Bill 318, relating to Regulation of Oil and Gas Resources, has been referred to the Committee on Appropriations. I would appreciate the placing of this bill on the committee's agenda at your earliest convenience.

Thank you for your consideration.

Sincerely,

Garrett Richter

cc: Cindy Kynoch, Staff Director

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

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

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/16
Meeting Date

SB-318
Bill Number (if applicable)

Topic SB-318

Amendment Barcode (if applicable)

Name DAVID Kearns

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Email

Speaking: ☑ For ☑ Against ☐ Information

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

Representing

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

1 MARCH 2016
Meeting Date

SB 0318
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic FRACKING

Name RONALD G. CLEARY

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Speaking: ☐ For ☐ Against ☐ Information

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

Representing SELF

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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3/1/16
Meeting Date

SB 318
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Fracking

Name Jeremiah Tattersall

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Speaking: ☐ For ☒ Against ☐ Information

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

Representing

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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3/1/16
Meeting Date

SB 318
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic FRACKING

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Speaking: ☐ For ☒ Against ☐ Information

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

Representing SELF

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard 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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3/1/16
Meeting Date

SB 318
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic FRACKING

Name JUAN SATTIEWHITE

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Speaking: ☐ For ☐ Against ☐ Information

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

Representing Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard 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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3/1/2016
Meeting Date

SB 218
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Fracking

Name Susan Blake

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Speaking: ☐ For ☐ Against ☐ Information

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

Representing myself

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/2016
Meeting Date

318
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic CLEAN WATER IS AGAINST FRACKING

Name GAIL MARIE PERRY

Job Title CHAIR

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POMPANO BEACH, FLORIDA 33061
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Email wosbirnofolk@hotmail.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing COMMUNICATIONS WORKERS of AMERICA COUNCIL of FLORIDA

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-1-16
Meeting Date

SB 318
Bill Number (if applicable)

Topic FRACKing

Amendment Barcode (if applicable)

Name Herb Shelton JR.

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Email

Speaking: ☐ For ☑ Against ☐ Information

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

Representing Environmental Caucus of Florida

Appearing at request of Chair: ☐ Yes ☑ 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)

3-1-16
Meeting Date

318
Bill Number (if applicable)

Topic Oil & Gas

Amendment Barcode (if applicable)

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Job Title

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Email pmd1949@icloud.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing 32 families in emergency evacuation zone in Collier County

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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

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)

3-1-16
Meeting Date

318
Bill Number (if applicable)

Topic Oil & Gas Regulations

Amendment Barcode (if applicable)

Name Merrillee Malwitz-Tipson

Job Title Owner Rum 138 (eco-tourism business) & Volunteer Policy Director OSFR

Address 2070 SW County Road 138
Street

Fort White FL 32038
City *State* *Zip*

Phone 386-243-0322

Email merrilleeart@aol.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Floridians Against Fracking

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/'16
Meeting Date

SB 318
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Oil and Gas Regulation

Name Mary-Lynn Cullen

Job Title Legislative Liaison

Address 1674 University Pkwy.
Street

Phone 941-928-0278

Sarasota FL 34243
City *State* *Zip*

Email aichildren@aol.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Advocacy Institute for Children

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

03-01-2016
Meeting Date

SB 318
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic _____

Name ROBERT CHAPMAN

Job Title REGULATION OF OIL/GAS - FRACKING

Address 41219 LYNBROOK DRIVE
Street

ZEPHYRHILLS FLORIDA 33540
City *State* *Zip*

Phone _____

Email _____

Speaking: ☐ For ☒ Against ☐ Information
IF NOT, WAIVE IN OPPOSITION

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

Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-1-16
Meeting Date

SB 318
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic SB 318 oil & gas regulation

Name Dr. Karen Dwyer

Job Title

Address 15937 Delasol Lane
Street

Naples FL 34110
City *State* *Zip*

Phone 239-404-2171

Email dwyerka@gmail.com

Speaking: ☐ For ☑ Against ☐ Information

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

Representing I from Collier County that was fracked; Never spoken before

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)

3/1/16
Meeting Date

SB 318
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Pro Fracking Bill

Name Claude Kenneson

Job Title Researcher

Address 1223 N. M.L.K. jr. Blvd.
Street

Tallahassee, FL 32303
City *State* *Zip*

Phone (850) 933-6441

Email claudejkenneson@yahoo.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Self

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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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)

3/1/16
Meeting Date

SB 318
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Fracking

Name Micheal Dickens

Job Title VP ATU Local 1596 Orlando, Fl

Address _____ Phone _____
Street

_____ Email _____
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

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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)

3/1/16
Meeting Date

318
Bill Number (if applicable)

Topic Oil & Gas Regulation

Amendment Barcode (if applicable)

Name Ken Hays

Job Title

Address 1935 Nanticoke Circle
Street

Tallahassee, FL 32303
City *State* *Zip*

Phone 850-385-7053

Email

Speaking: ☐ For ☑ Against ☐ Information

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

Representing Environmental Caucus of Florida

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-1-16
Meeting Date

318
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Oil & Gas Regulation

Name Michelle Allen

Job Title Florida Organizer

Address 317 21st Ave S
Street
St Petersburg FL 33705
City *State* *Zip*

Phone 678-628-8386

Email mallen@fwwatch.org

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Food & Water Watch

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/2016
Meeting Date

SB 318
Bill Number (if applicable)

Topic Oil + Gas Regulation

Amendment Barcode (if applicable)

Name ~~[redacted]~~ Jennifer Rubiello

Job Title State Director

Address 3110 1st Ave N, St 2K
Street

St. Petersburg, FL 33713
City *State* *Zip*

Phone 727 327 3138

Email jennifer@environmentflorida.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Environment Florida

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/16
Meeting Date

SB 318
Bill Number (if applicable)

Topic Oil + gas regulation

Amendment Barcode (if applicable)

Name Nathalia Assaad

Job Title Homemaker / Entrepreneur

Address 3615 Little Rd.
Street

Lutz FL 33548
City *State* *Zip*

Phone (813) 504-7351

Email assaads@verizon.n

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Communities in Hillsborough Co.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

Duplicate

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/25/16
Meeting Date

SB 318
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Oil and Gas Regulations

Name Brian Lee

Job Title Lobbyist

Address 1603 Sauls St
Street
Tallahassee FL 32308
City *State* *Zip*

Phone 850.766.7309

Email brian@rethinkenergyflorida.org

Speaking: ☐ For ☑ Against ☐ Information

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

Representing Floridians Against Fracking

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/16
Meeting Date

318
Bill Number (if applicable)

Topic OIL + GAS REGULATION

Amendment Barcode (if applicable)

Name ED OAKSFORD

Job Title RETIRED HYDROGEOLOGIST

Address 2520 HARRIMAN CIR
Street

Phone 850-422-0240

TALLY FL 32308
City *State* *Zip*

Email

~~Speaking:~~ ☐ ~~For~~ ☒ ~~Against~~ ☐ ~~Information~~

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

Representing SELF

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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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)

MAR 1
Meeting Date

318
Bill Number (if applicable)

Topic OIL & NATURAL GAS RESOURCES

Amendment Barcode (if applicable)

Name CHRISTOPHER EMMANUEL

Job Title POLICY DIRECTOR

Address 1860 S. BRONOUGH ST.
Street

Phone

TALLAHASSEE FLORIDA 32301
City *State* *Zip*

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FLORIDA CHAMBER OF COMMERCE

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3 / 1 /2016
Meeting Date

Topic _____ Bill Number 318 *(if applicable)*

Name BRIAN PITTS Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

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

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

Speaking: ☐ For ☐ Against ☑ Information

Representing JUSTICE-2-JESUS

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/2016
Meeting Date

SB318
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Fracking

Name Sherry DeSue

Job Title Transit Driver

Address 2334 SW 34th pl Apt. A
Street

Phone (352) 872-6786

Gainesville FL 32608
City *State* *Zip*

Email Sherrydesue34@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Sherry DeSue Self

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

SB 318

3/1/16
Meeting Date

Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic FRACKING

Name ZEFNIA DURHAM III

Job Title Transist Dispatcher

Address 3827 NE 14th Street
Street

Phone 352-260-3524

Gainesville FL 32609
City *State* *Zip*

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Zefnia Durham III

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/16
Meeting Date

Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Fracking

Name Tara Bryant

Job Title Dispatch Clerk - Transit

Address 205 NE 4th Street
Street

Phone 352-219-7784

Gainesville FL 32601
City *State* *Zip*

Email bryant1985@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Self

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

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

03-01-2016
Meeting Date

(CS) SB 318
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic fracking

Name Gale Dickert

Job Title

Address 193 NW Hamilton Ave
Street

Phone 973-3649

Madison FL 32340
City *State* *Zip*

Email johnw51z@yahoo.com

Speaking: ☐ For ☑ Against ☐ Information

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

Representing the children of FL

Appearing at request of Chair: ☐ Yes ☑ ~~No~~

Lobbyist registered with Legislature: ☐ Yes ☑ ~~No~~

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-1-16
Meeting Date

SB 318
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Fracking

Name Shannon Sullivan

Job Title Retail store Owner / That T-shirt Guy

Address 563 Millerville Rd,
Street

Phone 850-879-7752

Tallahassee, FL 32303
City *State* *Zip*

Email thatt-shirtguy@gmail

Speaking: ☐ For ☑ Against ☐ Information

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

Representing The People of Florida

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

March 1, 2016
Meeting Date

SB 318
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Oil and Gas Regulations

Name John Dickert

Job Title Professional Engineer, Retired

Address 193 NW Hamilton Ave.
Street

Phone 850-973-3699

Madison FL 32340
City *State* *Zip*

Email johnw512@yahoo.com

Speaking: ☐ For ☑ Against ☐ Information

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

Representing Citizens of Madison County that want clean water

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

SB-318

Meeting Date | *Bill Number (if applicable)*

Topic Fracking Bill

Amendment Barcode (if applicable)

Name Ron Fahs

Job Title Retired Florida Citizen

Address 7600 Mill Pond Loop
Street

Phone 850 656-5409

Tallahassee, Florida
City *State* *Zip*

Email ron.fahs@comcast.net

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Self / ReThink Energy

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-1-16
Meeting Date

CS/SB 318
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Anti-Fracking

Name Glenn ABBOTT

Job Title Retired State employee

Address 2201 Mendoza Ave
Street

Tallahassee FL 32304
City *State* *Zip*

Phone (850)2226602

Email armorio1so@me.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing People of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/16
Meeting Date

Deferring to speak

SB 318
Bill Number (if applicable)

Topic Fracking

Amendment Barcode (if applicable)

Name Ann Keating

Job Title Retired

Address 6301 Verdura Way
Street

Tallahassee FL 32311
City *State* *Zip*

Phone

Email

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Self

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard 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)

3-1-16
Meeting Date

CS/SB 318
Bill Number (if applicable)

Topic ANTI-FRACKING !

Amendment Barcode (if applicable)

Name MONA LISA ABBOTT

Job Title PHOTOGRAPHER - Semi-Retired

Address 2201 Mendoza Ave
Street
Tallahassee FL 32304
City *State* *Zip*

Phone (850) 222-6662

Email amonalisa@me.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing People of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

March 1st 2016
Meeting Date

318
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic FracKing

Name Charlotte Stuart-Tilley

Job Title Student 5th grade

Address E Indianhead Dr.
Street

City *State* *Zip*

Phone

Email

Speaking: ☐ For ☑ Against ☐ Information

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

Representing Children of Tallahassee

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

2

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/16
Meeting Date

318
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Fracking

Name Kim Ross

Job Title President, ReThink Energy Florida

Address 565 E Tennessee St
Street

Tallahassee FL 32308
City *State* *Zip*

Phone 850-888-2565

Email admin@rethinkenergyflorida.org

Speaking: ☐ For ☑ Against ☐ Information

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

Representing ReThink Energy Florida

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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S-001 (10/14/14)

3

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/16
Meeting Date

SB 318
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic ANTI-FRACKING

Name FRAN SULLIVAN-FAHS

Job Title environmental activist

Address 7600 Mill Pond Loop
Street

Tallahassee FL 32317
City *State* *Zip*

Phone 8506565409

Email sullyfahs@comcast.net

Speaking: ☐ For ☑ ~~Against~~ ☐ Information

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

Representing Rethink Energy

Appearing at request of Chair: ☐ Yes ☑ ~~No~~

Lobbyist registered with Legislature: ☐ Yes ☑ ~~No~~

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

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S-001 (10/14/14)

4

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/16
Meeting Date

318
Bill Number (if applicable)

Topic Cost to Local Government

Amendment Barcode (if applicable)

Name Cliff Thaell

Job Title

Address 9601 Miccosukee
Street

Tallahassee FL 32308
City *State* *Zip*

Phone 850 545-8866

Email

Speaking: ☐ For ☑ Against ☐ Information

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

Representing

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/16
Meeting Date

SB 318
Bill Number (if applicable)

Topic Oil and Gas Regulations

Amendment Barcode (if applicable)

Name Krystal Osborne

Job Title

Address 730 Highland Ave Apt 2
Street

Phone 407-722-0498

Orlando FL 32803
City *State* *Zip*

Email Dravet66@Yahoo.com

Speaking: ☐ For ☑ Against ☐ Information

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

Representing People of Florida No on Bill 318

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)

3/1/16
Meeting Date

318
Bill Number (if applicable)

Topic OIL AND GAS REGULATION

Amendment Barcode (if applicable)

Name DOROTHY SKOKOWICK

Job Title RETIRED

Address 441 MC DANIEL ST
Street

TALLAHASSEE FL 32303
City *State* *Zip*

Phone 850-222-8544

Email dsjseem@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

March 1, 2016
Meeting Date

SB 318
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Oil & Gas Regulation

Name Gerald Herting

Job Title Retired

Address 6301 Verdura Way
Street

City *State* *Zip*

Phone 850 878-3426

Email hertguingj@netta/l.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing self

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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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)

3/1/16
Meeting Date

SB 318
Bill Number (if applicable)

Topic Fracking

Amendment Barcode (if applicable)

Name Annie Donovan

Job Title

Address 704 Monticello Dr.
Street

Phone 817-939-0659

TLH FL 32303
City *State* *Zip*

Email emiledonovan@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard 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)

3/1/16
Meeting Date

SB 318
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Alex Torres

Job Title _____

Address 300 Vantage Point Lane
Street

Tallahassee FL 32301
City *State* *Zip*

Phone 941-705-3157

Email alexander.jerald6@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Self

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

318

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

March 1, '16
Meeting Date

Fracking
Bill Number (if applicable)

Topic ~~Fracking~~

Amendment Barcode (if applicable)

Name Sherry Mills

Job Title Retired

Address 2029 Atapha Nene
Street

Phone 850-264-0002

Talla 32301
City *State* *Zip*

Email mills.sherry@gmail.com

Speaking: ☐ For ☑ Against ☐ Information

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

Representing NO Fracking

Appearing at request of Chair: ☑ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date	Bill Number (if applicable)
	SB 318

Amendment Barcode (if applicable)

Topic FRACKING

Name JUDY RAINBROOK

Job Title Retired

Address 1525 Hecchee Nene
Street

City *State* *Zip*

Phone 850-274-4699

Email JudithRainbrook@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/16.
Meeting Date

SB 318.
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Fracking

Name Angela Haggerty

Job Title

Address 2910 Kerry Forest PKwy.
Street

Tallahassee FL. 32309
City *State* *Zip*

Phone 203-614-4185.

Email maxeterchester@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/8/16
Meeting Date

315
Bill Number (if applicable)

Topic Reg of Oil & Gas

Amendment Barcode (if applicable)

Name David Cullen

Job Title

Address 1674 University Pkwy
Street

Sarasota FL 34243
City *State* *Zip*

Phone 941-373-2404

Email cullensea@aol.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Sierra Club Florida

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/2016
Meeting Date

SB318
Bill Number (if applicable)

Topic Fracking

Amendment Barcode (if applicable)

Name Bill Bodiford

Job Title

Address 1818 Atapha Nene
Street

Phone 320-1960

Email bodifordbill@gmail.com

City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information

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

Representing citizens of Florida

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

03/01/2016
Meeting Date

318
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Lauren Jackson

Job Title Consultant

Address 205 South Adams Street
Street

Phone 931-265-8799

Tallahassee FL 32301
City *State* *Zip*

Email lauren@ericksconsultants.com

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

Representing City of Coconut Creek

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/16
Meeting Date

SB 318
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Oil and Gas Regulations

Name Lisa Ray

Job Title Area Coordinator / Retired

Address 1608 Margate Ave
Street

Orlando FL 32803
City *State* *Zip*

Phone 407-257-8178

Email lisaray1955@gmail.com

Speaking: ☐ For ☑ Against ☐ Information

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

Representing

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/16
Meeting Date

SB 319
Bill Number (if applicable)

Topic Oil and Gas

Amendment Barcode (if applicable)

Name Brewster Bevis

Job Title Senior Vice President

Address 516 N. Adams St
Street

Phone 224-7173

Tallahassee FL 32301
City *State* *Zip*

Email bbevis@aif.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Associated Industries of Florida

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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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)

3/1/16
Meeting Date

SB 318
Bill Number (if applicable)

Topic FRACKING

Amendment Barcode (if applicable)

Name Jane Dallet

Job Title

Address 2513 NOBLE
Street
TALLAHASSEE FL 32308
City *State* *Zip*

Phone 850/386-5084

Email janedallet@yahoo.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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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)

CS/SB 318

Meeting Date | *Bill Number (if applicable)*

Amendment Barcode (if applicable)

Topic FRACKING

Name HOWARD KESSLER, MD

Job Title County Commissioner

Address 112 Old Still Rd
Street

Phone 850 5973856

CRAWFORDVille FL 32327
City *State* *Zip*

Email hkesslee@mywakulla.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing WAKULLA SPRINGS ALLIANCE

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date	Bill Number (if applicable)
	SB-318

Amendment Barcode (if applicable)

Topic SB 318 Pro Fracking Bill

Name Michael Hussey

Job Title Retired Mech. Engineer

Address 9601 Miccosukee Rd (Street)

Phone 850 877-0371

Tallahassee, FL 32309 (City / State / Zip)

Email mphussey@aol.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Environment

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

March 1, 2016
Meeting Date

SB 318
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Fracking in Florida

Name J. Susanne Howell

Job Title Retired

Address 9601-45 Miccosukee Rd.
Street

Talahassee, FL 32309
City *State* *Zip*

Phone 850-877-0371

Email SusieHowell1336@comcast.net

Speaking: ☐ For ☒ Against ☐ Information

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

Representing People of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-1-16
Meeting Date

318
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Oil and Gas Regulation

Name Marty Cassini

Job Title Legislative Counsel

Address 115 S. Andrews Ave
Street
Fort Lauderdale FL 33301
City *State* *Zip*

Phone 954-357-7575

Email mcassini@broward.org

Speaking: ☐ For ☑ Against ☐ Information

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

Representing Broward County

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/16
Meeting Date

SB 318
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Fracking

Name Mike Rydlik

Job Title Public School Teacher

Address 211 Southview Avenue
Street

Phone 547-1490

Niceville FL 32578
City *State* *Zip*

Email wiggly5@comcast.net

Speaking: ☐ For ☐ Against ☐ Information

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

Representing School Children of Florida Our Future

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/16
Meeting Date

SB-318
Bill Number (if applicable)

Topic Fracking in Florida

Amendment Barcode (if applicable)

Name William Phelan

Job Title Physician Assistant, retired

Address 9601-20 Miccosukee Rd
Street

Phone 850-216-2357

Tallahassee FL 32309
City *State* *Zip*

Email wmjphelan@comcast.net

Speaking: ☐ For ☒ Against ☐ Information

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

Representing

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/16
Meeting Date

Bill Number (if applicable)

Topic SB 318

Amendment Barcode (if applicable)

Name Georgia Ackerman

Job Title citizen

Address 8794 Megans Ln
Street
Tallahassee, FL 32309
City *State* *Zip*

Phone 850-321-6262

Email georgiaackerman@earthlink.net

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Parent of two, founding member Friends of Wacissa / Keep It Rural

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)

3/01/16
Meeting Date

318
Bill Number (if applicable)

Topic Fracking

Amendment Barcode (if applicable)

Name LucyAnn Walker-Fraser

Job Title Volunteers

Address 1604 Hasasaw Nene
Street

Tallahassee FL 32301
City *State* *Zip*

Phone 850-766-4270

Email lucyann048@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Citizens Climate Lobby & Rethink Energy

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date	Bill Number (if applicable)
	SB 318

Topic FRACKING

Amendment Barcode (if applicable)

Name META CALDER

Job Title [redacted] ATTORNEY

Address 3740 RAVINE DR (Street)

Phone 850-228-5900

TALLAHASSEE (City) FL (State) 32312 (Zip)

Email meta.orleans@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Floridians Against Fracking; League of Women Voters Tallahassee

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)

3/1/16
Meeting Date

SB 318
Bill Number (if applicable)

Topic FRACKING

Amendment Barcode (if applicable)

Name Owen Goodwyne

Job Title Attorney

Address 1924 Temple Dr
Street

Phone 850 508-7799

TALLA FL 32303
City *State* *Zip*

Email ogoodwyne@comcast.Net

Speaking: ☐ For ☐ Against ☐ Information

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

Representing

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/2016
Meeting Date

318
Bill Number (if applicable)

Topic SACK

Amendment Barcode (if applicable)

Name Dr. Lonnie Draper

Job Title Doctor

Address 1300 Miccosukee Road
Street

Tallahassee FL 32308
City *State* *Zip*

Phone

Email

Speaking: ☐ For ☒ Against ☐ Information

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

Dr. Draper SAF

Representing PSA

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)

MARCH 1, 2016
Meeting Date

CS/SB 318
Bill Number (if applicable)

Topic FRACKING

Amendment Barcode (if applicable)

Name ANNE VAN METER

Job Title RETIRED

Address 251 LEVY BAY Rd
Street

PANACEA, FL 32346
City *State* *Zip*

Phone 850 2289641

Email VANMETERANNE@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

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

Or Our Staff

Representing SGIF

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

1 MARCH 2016
Meeting Date

SB 318
Bill Number (if applicable)

Topic FRACKING

Amendment Barcode (if applicable)

Name DR. RON SAFF

Job Title PHYSICIAN

Address 2300 Centerville Road
Street

TALLAHASSEE FL 32308
City *State* *Zip*

Phone 766-7996

Email RONSAFF@aol.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing PHYSICIANS for Social Responsibility

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/16
Meeting Date

318
Bill Number (if applicable)

Topic Fracking

Amendment Barcode (if applicable)

Name Bethany Carano

Job Title self-employed Video Producer

Address 3518 N. Meridian Rd
Street
Tallahassee FL 32312
City *State* *Zip*

Phone 850-933-5400

Email songbirdbethany@gmail.com

Speaking: ☐ For ☑ Against ☐ Information

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

Representing 3 Grandchildren

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)

March 1st
Meeting Date

SB 318
Bill Number (if applicable)

Topic Insufficient funds + Scope of Study

Amendment Barcode (if applicable)

Name Doug Miller

Job Title Statewide Anti-fracking Coordinator

Address 3034 O'Brien Drive
Street
Tallahassee FL 32309
City *State* *Zip*

Phone 850-766-6867

Email doug@rethinkenergyflorida.org

Speaking: ☐ For ☑ Against ☐ Information

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

Representing Florida's millennials

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

March 4, 2016
Meeting Date

SB 318
Bill Number (if applicable)

Topic SB 318

Amendment Barcode (if applicable)

Name Amber Fleites

Job Title Policy Coordinator at ReThink Energy Florida

Address 1505 W Tharpe St apt 3512
Street

Phone 786-260-8073

Tallahassee FL 32303
City *State* *Zip*

Email amber.fleites@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing ReThink Energy Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

March 1, 2016 (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)
Meeting Date

SB 318
Bill Number (if applicable)

Topic SB 318

Amendment Barcode (if applicable)

Name Brittany Barnett

Job Title ReThink Energy FL Intern / student

Address 1707 W Call St #315
Street

Phone 850-688-4287

Tallahassee FL 32304
City *State* *Zip*

Email babk@my.fsu.edu

Speaking: ☐ For ☑ Against ☐ Information

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

Representing Florida's millenials

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)

3-1-16
Meeting Date

SB 318
Bill Number (if applicable)

Topic Oil & Gas Drilling

Amendment Barcode (if applicable)

Name J. Keith Arnold

Job Title GRR

Address 14101 River Rd.
Street

Ft. Myers FL 33905
City *State* *Zip*

Phone 239-560-4731

Email Keith.Arnold@bipc.com

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Collier County

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

March 1, 2016
Meeting Date

SB 318
Bill Number (if applicable)

Topic Fracking

Amendment Barcode (if applicable)

Name Maureen Rogers

Job Title Concerned Citizen

Address 9601 Miccosukee Rd #5
Street

Tallahassee FL 32309
City *State* *Zip*

Phone

Email

Speaking: ☐ For ☒ Against ☐ Information

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

Representing ReThink Energy FLORIDA

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/16
Meeting Date

SB 318
Bill Number (if applicable)

Topic Oil and Gas Regulations

Amendment Barcode (if applicable)

Name Ron Patrick

Job Title Senior Legislative Policy Analyst–OPPAGA Retired

Address 1503 China Grove Trail
Street

Phone 850 274-7185

Tallahassee Florida 32301
City *State* *Zip*

Email songs199@comcast.net

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Myself and all not-attending and opposing Floridians without a voice.

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/16
Meeting Date

Bill Number (if applicable)

Topic ~~SB~~ SB 318

Amendment Barcode (if applicable)

Name Hilda Gilchrist

Job Title Environmental prof.

Address 2225
Street
Tallahassee FL 32308
City *State* *Zip*

Phone (850) 891-8725

Email hildagilchrist@fsu.edu

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Citizens of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

March 1, 2016
Meeting Date

SB 318
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Fracking in Florida

Name Jane Terrell

Job Title Retired

Address 3980 Tan Mouse Rd.
Street

Tallahassee, FL 32309
City *State* *Zip*

Phone 850-363-4057

Email plainsweetjane@gmail.com

Speaking: ☐ For ☑ Against ☐ Information

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

Representing People of Florida

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/16
Meeting Date

SB 318
Bill Number (if applicable)

Topic Fracking in Florida

Amendment Barcode (if applicable)

Name Julya Rose Denholm

Job Title Case Manager at Community Connections

Address 4131 Pecan Branch
Street

Tallahassee, FL 32309
City *State* *Zip*

Phone 850-294-3665

Email JRDenholm@gmail.com

Speaking: ☐ For ☑ Against ☐ Information

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

Representing My Family

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-1-16
Meeting Date

318
Bill Number (if applicable)

Topic Fracking

Amendment Barcode (if applicable)

Name Christy Petrandis

Job Title

Address 4178 Apalachee Pkwy
Street

Tallahassee FL 32311
City *State* *Zip*

Phone 850-591-4327

Email C.petrandis@aol.com

Speaking: ☐ For ☑ Against ☐ Information

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

Representing NO FRACKING! (CLEAN SAFE WATER!)

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/16
Meeting Date

SB318
Bill Number (if applicable)

Topic Fracking Bill

Amendment Barcode (if applicable)

Name Glenn W. Robertson

Job Title retired

Address 9007 Eagles Ridge Dr.
Street

Tal. FL 32312
City *State* *Zip*

Phone 850 893-2053

Email gwr8008@aol.com

Speaking: ☐ For ☑ Against ☐ Information

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

Representing self/Citizens in general

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-1-2016
Meeting Date

HB 319
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Fracking

Name Paul Loyd

Job Title Public Sector Mechanic

Address 646 Linden Rd
Street

Phone (941) 716-0330

Venice FL 34293
City *State* *Zip*

Email ployd9770@comcast.net

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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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)

3/1/16
Meeting Date

SB 318
Bill Number (if applicable)

Topic Oil and Gas Regulations

Amendment Barcode (if applicable)

Name Robert W. VOSS

Job Title

Address BOX 301
Street

CLARKSVILLE FLORIDA 32430
City *State* *Zip*

Phone 850 447 0732

Email apptechco@gmail.com

Speaking: ☐ For ☑ Against ☐ Information

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

Representing

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/16
Meeting Date

318
Bill Number (if applicable)

790270
Amendment Barcode (if applicable)

Topic OIL + GAS

Name GAIL MARIE PERRY

Job Title CHAIR

Address PO BOX 17666
Street

FORT LAUDERDALE FLA 33061
City *State* *Zip*

Phone 954 850-4055

Email workingfolk@hotmail.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing COMMUNICATIONS WORKERS OF AMERICA COUNCIL OF FLORIDA

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/16
Meeting Date

SB 318
Bill Number (if applicable)

Topic Fracking

Amendment Barcode (if applicable)

Name Linda Edson

Job Title Retired

Address 1841 Myrick Rd
Street

Phone 850-510-2729

Tallahassee FL 32303
City *State* *Zip*

Email edsonl@nettally.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Myself

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3.1.16
Meeting Date

HB 318
Bill Number (if applicable)

Topic HB 318

Amendment Barcode (if applicable)

Name ANGELA K. PRATHER

Job Title Graphic designer

Address 857 PINE ST.
Street

TALLAHASSEE FL 32303
City *State* *Zip*

Phone 850.224.5675

Email pratherg@centurytel.net

Speaking: ☐ For ☒ Against ☐ Information

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

Representing

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/2016
Meeting Date

SB 318
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Fracking Bill

Name Patricia Springer

Job Title

Address 1527 Payne St
Street

Phone

Talla hassee FL 32303
City *State* *Zip*

Email PatriciaLSpringer@hotmail.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-1-16
Meeting Date

SB 318
Bill Number (if applicable)

Topic OPPOSITION TO FRACKING

Amendment Barcode (if applicable)

Name RAY BELLAMY MD.

Job Title PHYSICIAN

Address 814 E. SEVENTH AVE
Street

TALLAHASSEE FLA 32303
City *State* *Zip*

Phone 850-545-6932

Email RAY.BELLAMY@MED-FSU.EDU

Speaking: ☐ For ☒ Against ☐ Information

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

Representing PHYSICIANS FOR SOCIAL RESPONSIBILITY

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard 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

3-1-16
Meeting Date

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

SB 318
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Oil & Gas

Name Debbie Harrison Rumberger

Job Title Legislative Liaison

Address 540 County Court
Street

Tallahassee FL 32301
City *State* *Zip*

Phone 850-570-0287

Email Lwfladmin@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing League of Women Voters of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/'16
Meeting Date

318
Bill Number (if applicable)

Topic Fracking

Amendment Barcode (if applicable)

Name Indra Evans

Job Title Student

Address 2524 Hartsfield Rd.
Street

Phone

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

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)

3/1/'16
Meeting Date

318
Bill Number (if applicable)

Topic Fracking

Amendment Barcode (if applicable)

Name Austin Allen

Job Title Student

Address 2524 Hartsfield Rd.
Street

Phone

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

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)

3/1/16
Meeting Date

318
Bill Number (if applicable)

Topic Fracking

Amendment Barcode (if applicable)

Name Sydney Encinosa

Job Title Student

Address 2524 Hartsfield Rd
Street

Tallahassee FL
City *State* *Zip*

Phone

Email

Speaking: ☐ For ☑ Against ☐ Information

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

Representing

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)

3/1/'16
Meeting Date

318
Bill Number (if applicable)

Topic Fracking

Amendment Barcode (if applicable)

Name Sean Collins

Job Title Student

Address 2524 Hartsfield Rd.
Street

Tallahassee FL
City *State* *Zip*

Phone

Email

Speaking: ☐ For ☑ Against ☐ Information

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

Representing

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)

3/1/16
Meeting Date

318
Bill Number (if applicable)

Topic Fracking

Amendment Barcode (if applicable)

Name Tovah Levenson

Job Title Student

Address 2524 Hartsfield Rd.
Street

Phone

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

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)

3/1/16
Meeting Date

318
Bill Number (if applicable)

Topic Fracking

Amendment Barcode (if applicable)

Name Isabella Bray

Job Title Student

Address 2524 Hartsfield Rd.
Street

Phone

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

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)

03.01.16
Meeting Date

SB 0318
Bill Number (if applicable)

Topic Regulation of Oil and Gas Resources

Amendment Barcode (if applicable)

Name David Lutrin

Job Title Teacher and Parent

Address 4505 Thornwood Circle
Street

Phone

Palm Beach Gardens FL 33418
City *State* *Zip*

Email floridahouse85@gmail.com

Speaking: ☐ For ☑ Against ☐ Information

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

Representing My family

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)

3/1/16
Meeting Date

SB 318
Bill Number (if applicable)

Topic Appr. Oil and Gas Resources

Amendment Barcode (if applicable)

Name Greg Pound

Job Title

Address 9166 Sunrise Dr. Phone
Street

Largo Fla. 33773 Email
City *State* *Zip*

Speaking: ☐ For ☐ Against ☒ Information

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

Representing Pinellas County Florida Government Corruption

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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3/1/16
Meeting Date

SB 318
Bill Number (if applicable)

Topic Fracking

Amendment Barcode (if applicable)

Name Janice Mayo

Job Title I A

Address 37639 Howard ave #3
Street
Dade City FL 33525
City *State* *Zip*

Phone (352) 467-1355

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing SEF

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)

3/1/16
Meeting Date

SB 318
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Fracking

Name Monica Capobianco

Job Title School Counselor

Address 940 Emerson Drive
Street

Phone (727) 410-2125

Dunedin Fl. 34698
City *State* *Zip*

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Myself

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/16
Meeting Date

SB 318
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Fracking

Name Angela Lewis-Bennett

Job Title Physical Education Teacher

Address 36712 Jefferson Ave
Street

Dade City FL 33523
City *State* *Zip*

Phone (352) 424-3055

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard 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)

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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)

3/1/16
Meeting Date

SB 318
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Fracking

Name Lisa O'Keefe

Job Title Elem. Music Teacher

Address 12625 5th Isle
Street
Hudson FL 34667
City *State* *Zip*

Phone 727-858-5663

Email

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Yourself

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)

CourtSmart Tag Report

Room: KN 412 **Case No.:** **Type:**
Caption: Senate Appropriations Committee **Judge:**

Started: 3/1/2016 10:08:35 AM
Ends: 3/1/2016 2:17:34 PM Length: 04:09:00

10:08:54 AM Sen. Lee (Chair)
10:09:44 AM S 324
10:09:55 AM Sen. Legg
10:10:46 AM Brian Pitts, Trustee, Justice-2-Jesus
10:11:55 AM Howard E. "Gene" Adams, Attorney, Florida Governmental Utility Authority (waives in support)
10:14:38 AM S 760
10:14:44 AM PCS 759432
10:14:45 AM Sen. Bean
10:15:27 AM Am. 220018
10:15:35 AM Sen. Bean
10:16:00 AM S 760 (cont.)
10:16:04 AM Fely Curva, Ph.D., Partner, Curva & Associates LLC, Florida Impact; SHAPE Florida (waives in support)
10:16:08 AM Mark Landreth, Senior Director of Governmental Relations, American Heart Association (waives in support)
10:16:12 AM Erin Choy, Chair-Elect, Junior Leagues of Florida (waives in support)
10:16:19 AM Brian Pitts, Trustee, Justice-2-Jesus
10:18:20 AM S 1310
10:18:21 AM Sen. Hutson
10:19:21 AM Am. 529632
10:19:27 AM Sen. Hutson
10:19:58 AM Am. 157918
10:20:01 AM Sen. Hutson
10:20:16 AM S 1310 (cont.)
10:20:17 AM Lance Pierce, Assistant Director of State Legislative Affairs, Florida Farm Bureau (waives in support)
10:20:36 AM Jim Spratt, Florida Nursery, Growers & Landscape Association (waives in support)
10:20:36 AM Howard E. "Gene" Adams, Attorney, Florida Feed Association (waives in support)
10:22:17 AM S 534
10:22:28 AM Sen. Hays
10:23:13 AM Am. 475318
10:23:23 AM Sen. Hays
10:23:41 AM Am. 613326
10:23:47 AM Am. 443752
10:23:53 AM Sen. Hays
10:24:13 AM Am. 613326 (cont.)
10:24:39 AM Sen. Hays
10:25:23 AM S 534 (cont.)
10:25:26 AM Chris Hanson, Ballard Partners, Florida Rural Water Association (waives in support)
10:26:46 AM S 7018
10:26:48 AM Am. 480402
10:26:49 AM Sen. Detert
10:28:14 AM S 7018 (cont.)
10:28:25 AM Brian Pitts, Trustee, Justice-2-Jesus
10:30:48 AM S 668
10:30:50 AM Sen. Stargel
10:31:53 AM Am. 840512
10:32:05 AM Sen. Joyner
10:33:17 AM Cynthia Wheeler, Registered Nurse
10:36:29 AM Deborah Gray, League of Women Voters
10:37:07 AM Alan Frisher, President, Family Law Reform (waives in opposition)
10:37:18 AM Tarie MacMillan, President, Women Against Permanent Alimony (waives in opposition)
10:37:23 AM Terrance Power, citizen (waives in opposition)
10:37:41 AM Barbara DeVane, MS, Florida NOW

10:38:26 AM Bob Doyel, Retired Circuit Judge
10:39:24 AM Lisa Rawson, Retired CDR USN, Veteran's Advocate for Women (waives in support)
10:39:25 AM Karen Librizzi, citizen
10:43:20 AM Debbie Harrison-Rumberger, Legislative Liaison, Florida League of Women Voters of Florida (waives in support)
10:43:28 AM Sen. Stargel
10:43:58 AM Sen. Joyner
10:46:53 AM Am. 580642
10:47:06 AM Sen. Lee
10:49:43 AM T. MacMillan (waives in support)
10:49:50 AM T. Power (waives in support)
10:49:58 AM Natalie Sohn, OBGYN Doctor (waives in support)
10:49:59 AM A. Frisher (waives in support)
10:50:20 AM K. Librizzi
10:52:36 AM L. Rawson (waives in opposition)
10:52:42 AM D. Gray (waives in opposition)
10:53:17 AM C. Wheeler
10:57:28 AM S 668 (cont.)
10:57:46 AM D. Harrison-Rumberger (waives in support)
10:57:48 AM Larry Rutan, Florida Family Law Reform
10:59:41 AM Brian Pitts, Trustee, Justice-2-Jesus
11:01:38 AM B. Doyel
11:03:59 AM A. Frisher
11:07:11 AM Sen. Ring
11:07:55 AM N. Sohn
11:09:32 AM B. DeVane
11:12:03 AM T. Power (waives in support)
11:12:11 AM T. MacMillan
11:14:09 AM Cynthia Schwartz, Retired Provider Relations Liaison, Democratic Women's Club of Florida (waives in opposition)
11:14:30 AM Greg Pound, citizen
11:16:44 AM L. Rawson
11:23:40 AM S 668 (cont.)
11:23:41 AM Sen. Margolis
11:25:31 AM Sen. Joyner
11:33:04 AM Sen. Lee
11:36:51 AM Sen. Stargel
11:39:16 AM S 1662
11:39:37 AM Sen. Bradley
11:40:28 AM Am. 277738
11:40:45 AM Sen. Bradley
11:41:03 AM S 1662 (cont.)
11:41:09 AM Ron Draa, Director of External Affairs, FDLE (waives in support)
11:42:14 AM S 1262
11:42:16 AM Sen. Simpson
11:42:58 AM Am. 747564
11:43:06 AM Sen. Simpson
11:43:27 AM S 1262 (cont.)
11:43:33 AM Brewster Bevis, Senior Vice President, Associated Industries of Florida (waives in support)
11:43:35 AM Jim Smith, Director of Government Affairs, CenturyLink (waives in support)
11:43:39 AM Casey Reed, State Director of Legislative Affairs, AT&T (waives in support)
11:43:48 AM Sen. Montford
11:44:08 AM Sen. Simpson
11:45:33 AM S 440
11:45:35 AM Sen. Abruzzo
11:46:10 AM Matt Puckett, Lobbyist, Florida Police Benevolent Association (waives in support)
11:46:18 AM Steve Zona, President of Lodge 5-30, FOP Lodge 530/Law Enforcement (waives in support)
11:46:35 AM Dennis Blankenchip, Trustee of FOP 5-30, FOP Lodge 5-30/Law Enforcement (waives in support)
11:46:38 AM Richardean Wright, Lodge FOP 5-30, FOP Lodge 5-30/Law Enforcement (waives in support)
11:47:53 AM Greg Pound, citizen, Pinellas County Florida Government Corruption
11:47:56 AM Brian Pitts, Trustee, Justice-2-Jesus (waives in support)
11:48:52 AM S 1248

11:49:03 AM Sen. Diaz de la Portilla
11:51:40 AM Am. 547894
11:52:02 AM Sen. Diaz de la Portilla
11:52:55 AM Caitlin Murray, Director of Government Affairs, Office of Insurance Regulation (waives in support)
11:53:01 AM Foyt Ralston, Florida Association of Restoration Specialist (waives in support)
11:53:10 AM Am. 972486
11:53:18 AM Sen. Diaz de le Portilla
11:53:51 AM F. Ralston (waives in support)
11:54:00 AM Am. 218156
11:54:15 AM Sen. Diaz de la Portilla
11:54:34 AM F. Ralston (waives in support)
11:54:49 AM Am. 895926
11:54:55 AM Sen. Diaz de la Portilla
11:55:15 AM Am. 385036
11:55:20 AM Sen. Diaz de la Portilla
11:57:19 AM Am. 407374
11:57:20 AM Sen. Diaz de la Portilla
11:57:31 AM S 1248 (cont.)
11:57:38 AM C. Murray (waives in support)
11:57:39 AM Sen. Hukill
11:58:38 AM Sen. Diaz de la Portilla
12:00:28 PM John Burrows, President, American Construction and Plumbing (waives in opposition)
12:00:31 PM Carlos Medina, Owner, Restorative Pros Inc. (waives in opposition)
12:00:35 PM Ralph Watty, Owner, Restoration 1 (waives in opposition)
12:00:46 PM Dave Deblander, Owner (waives in opposition)
12:01:19 PM Richie Kidwell, Owner, Air Quality Assessors (waives in opposition)
12:01:20 PM Brian Christiansen, Owner, Restoration 1 (waives in opposition)
12:01:21 PM Tom Hayes, Contractor (waives in opposition)
12:01:22 PM Paul Handerhan, Consultant, FAIR (waives in support)
12:02:21 PM S 670
12:02:26 PM Sen. Gaetz
12:02:56 PM Sen. Joyner
12:03:05 PM Sen. Gaetz
12:03:23 PM Sen. Joyner
12:03:35 PM Sen. Gaetz
12:03:46 PM Sen. Latvala
12:04:13 PM Sen. Gaetz
12:05:44 PM Sen. Latvala
12:05:53 PM Sen. Gaetz
12:06:41 PM Sen. Latvala
12:07:10 PM Sen. Gaetz
12:07:53 PM Sen. Smith
12:08:13 PM Sen. Gaetz
12:09:19 PM Sen. Smith
12:09:45 PM Sen. Gaetz
12:10:32 PM Sen. Smith
12:11:15 PM Sen. Gaetz
12:12:03 PM Sen. Montford
12:12:21 PM Sen. Gaetz
12:14:10 PM Sen. Flores
12:16:22 PM Sen. Gaetz
12:18:12 PM Brian Pitts, Trustee, Justice-2-Jesues
12:20:31 PM Greg Pound, Citizen
12:22:49 PM Paul Jess, FL Justice Association
12:27:07 PM Sen. Smith
12:28:17 PM P. Jess
12:28:57 PM Sen. Smith
12:29:18 PM P. Jess
12:30:39 PM Sen. Smith
12:30:52 PM P. Jess
12:31:25 PM Sen. Smith
12:31:42 PM P. Jess

12:31:57 PM Sen. Smith
12:32:47 PM P. Jess
12:33:14 PM Sen. Latvala
12:33:21 PM P. Jess
12:33:48 PM Sen. Benacquisto
12:34:09 PM P. Jess
12:34:29 PM Sen. Joyner
12:35:02 PM Doug Bell, Florida Chapter American Academy of Pediatrics (waives in support)
12:35:24 PM Sen. Negron
12:36:12 PM Sen. Latvala
12:37:29 PM Sen. Gaetz
12:40:58 PM S 1360
12:41:16 PM Sen. Gaetz
12:43:43 PM Sen. Hays
12:43:53 PM Sen. Gaetz
12:44:09 PM Catherine Baer, Chair, The Tea Party Network (waives in opposition)
12:44:15 PM Beth Overholt, Parent, Opt Out Leon County (waives in opposition)
12:45:08 PM S 746
12:45:18 PM Sen. Negron
12:45:42 PM Am. 322510
12:45:43 PM Am. 577340
12:45:44 PM Sen. Negron
12:47:32 PM S 1194
12:47:59 PM Sen. Negron
12:48:13 PM Matt Puckett, Lobbyist, FPBA (waives in support)
12:48:21 PM Rocco Salvatori, Firefighter, Florida Professional Firefighters (waives in support)
12:48:22 PM Martha Cleaver, Governmental Consultant, Florida Association of Property Appraisers (waives in support)
12:49:17 PM S 1418
12:49:24 PM PCS 146376
12:49:33 PM Sen. Simmons
12:49:55 PM Brian Pitts, Trustee, Justice-2-Jesus (waives in support)
12:50:45 PM S 1392
12:50:53 PM PCS 380674
12:51:00 PM Sen. Brandes
12:52:13 PM Sen. Joyner
12:52:25 PM Sen. Brandes
12:52:36 PM Sen. Joyner
12:52:38 PM Sen. Brandes
12:52:52 PM Am. 169826
12:53:03 PM Sen. Latvala
12:53:07 PM Sen. Brandes
12:53:31 PM Sen. Joyner
12:53:38 PM Sen. Brandes
12:53:53 PM Am. 392996
12:54:00 PM Sen. Brandes
12:54:14 PM Am. 169826 (cont.)
12:54:25 PM Am. 262182
12:54:30 PM Sen. Brandes
12:54:47 PM Am. 561228
12:54:54 PM Sen. Brandes
12:55:18 PM Am. 153378
12:55:23 PM Sen. Altman
12:55:38 PM Am. 635294
12:55:49 PM Sen. Smith
12:56:07 PM Sen. Brandes
12:56:22 PM Sen. Latvala
12:56:37 PM Sen. Smith
12:57:03 PM Sen. Latvala
12:57:07 PM Sen. Brandes
12:57:30 PM Am. 404110
12:57:36 PM Sen. Brandes
12:57:50 PM Sen. Joyner

12:58:08 PM Sen. Brandes
12:58:54 PM Am. 136342
12:59:09 PM Am. 248640
12:59:42 PM Sen. Latvala
12:59:46 PM Am. 174242
12:59:53 PM Sen. Latvala
1:00:03 PM Chris Doolin, Small County Coalition (waives in support)
1:00:16 PM Am. 248640 (cont.)
1:00:25 PM Michael Murtha, President, Florida Concrete and Products Association (waives in support)
1:00:33 PM Am. 657406
1:00:57 PM Sen. Brandes
1:01:09 PM Am. 194482
1:01:21 PM Sen. Brandes
1:01:29 PM Am. 799450
1:01:36 PM Sen. Brandes
1:01:52 PM Sen. Joyner
1:02:02 PM Sen. Brandes
1:02:46 PM Am. 194482 (cont.)
1:03:05 PM Am. 385476
1:03:05 PM Sen. Richter
1:03:21 PM Sen. Lee
1:03:44 PM Sen. Richter
1:04:22 PM Am. 110946
1:04:29 PM Sen. Hays
1:05:19 PM Sen. Joyner
1:05:45 PM Sen. Hays
1:06:09 PM Sen. Smith
1:06:22 PM Sen. Hays
1:07:01 PM Sen. Latvala
1:07:16 PM Sen. Hays
1:07:45 PM Sen. Latvala
1:08:27 PM Sen. Montford
1:09:46 PM Sen. Smith
1:10:06 PM Sen. Hays
1:11:48 PM Greg Pound, citizen
1:12:47 PM Sen. Latvala
1:14:04 PM Sen. Brandes
1:14:23 PM Sen. Hays
1:15:55 PM Brian Pitts, Trustee, Justice-2-Jesus
1:19:09 PM S 1316
1:19:12 PM PCS 802108
1:19:21 PM Sen. Grimsley
1:20:13 PM Martha DeCastro, VP for Nursing, Florida Hospital Association (waives in support)
1:20:24 PM Melody Arnold, Government Affairs Manager, Florida Healthcare Association (waives in support)
1:20:25 PM Alisa LaPolt, Lobbyist, Florida Nurses Associaiton (waives in support)
1:20:26 PM Brian Pitts, Trustee, Justice-2-Jesus
1:23:39 PM S 318
1:23:56 PM Sen. Richter
1:30:45 PM Sen. Benacquisto
1:32:11 PM Sen. Simmons
1:37:04 PM S 488
1:37:29 PM Sen. Flores
1:37:51 PM Diana Arteaga, Director of Government Relations, City of Miami (waives in support)
1:37:55 PM Martha Cleaver, Governmental Consultant, Florida Association of Property Appraisers (waives in support)
1:39:01 PM S 492
1:39:07 PM Sen. Flores
1:39:34 PM Jess McCarty, Assistant County Attorney, Miami-Dade County (waives in support)
1:39:37 PM Martha Cleaver, Governmental Consultant, Florida Association of Property Appraisers (waives in support)
1:40:33 PM S 766
1:40:49 PM Am. 152060
1:40:50 PM Sen. Flores
1:42:41 PM Am. 323232

1:42:58 PM Sen. Hays
1:44:28 PM Travis Moore, Community Associaitons Institute
1:46:19 PM Sen. Margolis
1:46:56 PM Sen. Flores
1:48:21 PM Sen. Hays
1:50:54 PM Am. 152060 (cont.)
1:50:55 PM Martha Cleaver, Governmental Consultant, Florida Association of Poverty Appraisers (waives in support)
1:51:01 PM T. Moore (waives in support)
1:51:06 PM Daphnee Sainvil, Legislative Coordinator, Broward County (waives in support)
1:51:29 PM S 766 (cont.)
1:51:34 PM Alberto Carvalho, Superintendent, The School Board of Miami-Dade (waives in support)
1:51:35 PM Jess McCarty, Assistant County Attorney, Miami-Dade County (waives in support)
1:52:51 PM S 1106
1:52:55 PM PCS 626078
1:53:01 PM Sen. Flores
1:54:18 PM Am. 710956
1:54:26 PM Sen. Flores
1:55:29 PM Sen. Richter
1:55:49 PM S 1250
1:55:50 PM PCS 760580
1:55:57 PM Sen. Latvala
1:57:45 PM Am. 157918
1:57:46 PM Sen. Latvala
1:58:05 PM S 1250 (cont.)
1:58:14 PM Dan Hendrickson, Advocacy Committee Chair, Big Bend Mental Health Coalition, NAMI Tallahassee (waives in support)
1:58:17 PM Martha DeCastro, VP for Nursing, Florida Hospital Association (waives in support)
1:58:21 PM Allison Carvajal, Florida Nurse Practioners Network (waives in support)
1:58:25 PM Thad Lowrey, VP Governmental Relations, Operation PAR (waives in support)
1:58:29 PM Alisa LaPolt, Lobbyist, Florida Nurses Associaiton (waives in support)
1:58:36 PM Greg Pound, citizen
2:00:15 PM Brian Pitts, Trustee, Justice-2-Jesus
2:02:23 PM Sen. Gaetz
2:02:32 PM Sen. Latvala
2:02:46 PM Sen. Grimsley
2:04:09 PM S 1106 (cont.)
2:04:26 PM Jamie Champion-Mongiovi, Director of Communications & Government Affairs, Office of Financial Regulation
2:06:05 PM S 1462
2:06:06 PM Sen. Latvala
2:06:46 PM Am. 311454
2:06:52 PM Sen. Latvala
2:06:56 PM S 1462 (cont.)
2:07:02 PM Brian Pitts, Trustee, Justice-2-Jesus (waives in support)
2:08:06 PM Mark Anderson, Florida Council on Economic Education (waives in support)
2:08:07 PM S 936
2:08:49 PM PCS 549324
2:08:50 PM Sen. Ring
2:09:16 PM Am. 236418
2:09:36 PM Sen. Ring
2:10:00 PM Sen. Joyner
2:10:53 PM S 936 (cont.)
2:11:00 PM Sarah Carroll, Partner, Florida Sheriffs Association (waives in support)
2:11:01 PM Dennis Strange, Captain, Orange County Sheriffs Office (waives in support)
2:11:57 PM S 7050
2:12:02 PM PCS 591178
2:12:14 PM Am. 397316
2:12:17 PM Sen. Ring
2:13:08 PM Am. 603480
2:13:11 PM Sen. Ring
2:13:42 PM Am. 397316 (cont.)
2:13:50 PM S 7050 (cont.)

2:13:57 PM James Taylor, Executive Director, Florida Technology Council (waives in support)
2:13:59 PM Chuck Cliburn, Associated Industries of Florida (waives in support)
2:14:04 PM Brian Pitts, Trustee, Justice-2-Jesus (waives in support)