

CS/CS/SB 132 by TR, RC, Latvala (CO-INTRODUCERS) Grimsley, Evers; (Compare to CS/H 0065) Specialty License Plates

SB 246 by Ring, Bradley; (Identical to H 0509) Local Government Pension Reform

966054	A	S	RS	AP, Ring	Delete L.61 - 624:	04/11 12:42 PM
835150	SA	S	RCS	AP, Ring	Delete L.61 - 624:	04/11 12:42 PM
736386	A	S	RS	AP, Ring	Delete L.625 - 1147:	04/11 12:42 PM
333798	SA	S	RCS	AP, Ring	Delete L.625 - 1147:	04/11 12:42 PM

CS/CS/SB 268 by CF, HP, Grimsley (CO-INTRODUCERS) Diaz de la Portilla; (Similar to CS/CS/H 0287) Certificates of Need

SB 514 by Flores; (Compare to CS/H 0313) Gender-Specific School Pilot Project

792326	PCS	S	RCS	AP		04/11 11:07 AM

CS/SB 544 by AG, Simpson (CO-INTRODUCERS) Latvala, Bean, Benacquisto, Hays, Brandes, Bradley, Negron, Dean, Evers, Stargel, Galvano, Diaz de la Portilla, Grimsley, Thrasher; (Similar to CS/CS/H 0523) Licensure to Carry a Concealed Weapon or Firearm

895330	A	S	RCS	AP, Hays	Delete L.130:	04/11 11:57 AM

CS/SB 564 by BI, Richter; (Similar to H 7009) Security for Public Deposits

CS/CS/SB 702 by JU, RI, Bean (CO-INTRODUCERS) Sobel; (Similar to CS/H 0745) Pharmacy Audits

273458	A	S	RCS	AP, Bean	Delete L.57 - 62:	04/11 12:22 PM
126836	A	S	RCS	AP, Bean	Delete L.68:	04/11 12:22 PM

SB 724 by Dean (CO-INTRODUCERS) Altman; (Identical to H 0559) Military Veterans

CS/SB 726 by GO, Detert; (Similar to H 1097) Reemployment Assistance Appeals Commission

CS/SB 782 by GO, Brandes (CO-INTRODUCERS) Sobel; (Similar to CS/H 1231) Government Data Practices

205260	PCS	S	RCS	AP		04/11 11:04 AM
323464	PCS:A	S	RCS	AP, Hays	btw L.939 - 940:	04/11 11:04 AM

CS/SB 834 by GO, Latvala; (Identical to CS/H 0781) Legal Notices

CS/SB 958 by TR, Simpson (CO-INTRODUCERS) Benacquisto, Altman, Sobel, Joyner, Bradley, Thompson, Stargel, Ring, Garcia, Thrasher, Montford, Sachs, Gibson, Evers, Richter, Clemens, Detert, Dean, Latvala, Soto, Bullard, Abruzzo, Galvano, Hukill, Diaz de la Portilla, Negron, Braynon, Hays; (Compare to H 0763) Fee Waivers for Purple Heart Recipients

SB 1008 by Stargel; (Similar to CS/H 0609) Article V Constitutional Conventions

153888	D	S	RCS	AP, Hays	Delete everything after	04/11 11:10 AM

CS/SB 1142 by CM, Lee (CO-INTRODUCERS) Soto; (Similar to CS/H 1057) Ticket Sales

CS/CS/SB 1150 by HP, CM, Bean; (Similar to H 1223) Medical Tourism

CS/SB 1210 by BI, Bean; (Similar to CS/CS/1ST ENG/H 0633) Division of Insurance Agents and Agency Services

CS/SB 1216 by CM, Latvala; (Compare to CS/H 7095) Professional Sports Facilities

407778	D	S	RCS	AP, Latvala	Delete everything after	04/11 11:05 AM
413820	AA	S	RCS	AP, Latvala	Delete L.131 - 132:	04/11 11:05 AM
334530	AA	S	RCS	AP, Galvano	Delete L.210:	04/11 11:05 AM
463492	A	S	WD	AP, Galvano	Delete L.259:	04/10 10:36 AM

CS/SB 1276 by HP, Grimsley; (Compare to CS/H 7113) Trauma Service Centers

184462	A	S	RCS	AP, Grimsley	Delete L.43 - 119:	04/11 12:08 PM

CS/SB 1480 by CM, Benacquisto; (Similar to H 1227) Microfinance

333198	A	S	RCS	AP, Benacquisto	Delete L.559 - 560:	04/11 11:10 AM

SB 1666 by CF (CO-INTRODUCERS) Sobel, Gibson; (Compare to H 0431) Child Abuse and Child Welfare Services

616958	PCS	S		AP		04/04 04:39 PM
503878	PCS:A	S		AP, Hays	btw L.2037 - 2038:	04/09 12:43 PM

SB 1724 by CF; (Compare to CS/CS/H 1019) Human Trafficking

421714	D	S	WD	AP, Joyner	Delete everything after	04/08 05:36 PM
265286	D	S	WD	AP, Joyner	Delete everything after	04/11 12:19 PM
485468	A	S	RCS	AP, Sobel	Delete L.195 - 578:	04/11 12:19 PM
401954	AA	S	RCS	AP, Sobel	btw L.240 - 241:	04/11 12:19 PM
850430	A	S	WD	AP, Joyner	Delete L.579:	04/11 12:19 PM

SB 1726 by CF; Reimbursement for Crisis Stabilization Unit Services

752622	D	S	RCS	AP, Grimsley	Delete everything after	04/11 12:43 PM

HB 5601 by FTSC, Workman (CO-INTRODUCERS) Renuart; (Compare to S 0134) Economic Development

477076	D	S	FAV	AP, Hukill	Delete everything after	04/10 04:43 PM
973828	AA	S	FAV	AP, Galvano	Delete L.16 - 98:	04/10 04:43 PM
648522	AA	S	FAV	AP, Ring	btw L.98 - 99:	04/10 04:43 PM
747306	AA	S	FAV	AP, Lee	btw L.98 - 99:	04/10 04:43 PM
268468	AA	S	WD	AP, Galvano	btw L.98 - 99:	04/10 04:43 PM
316994	AA	S	WD	AP, Bean	btw L.219 - 220:	04/10 04:43 PM
758080	AA	S	FAV	AP, Bradley	btw L.315 - 316:	04/10 04:43 PM
877542	AA	S	WD	AP, Richter	btw L.369 - 370:	04/10 04:43 PM
971444	AA	S	WD	AP, Bradley	btw L.369 - 370:	04/10 04:43 PM
341776	AA	S	WD	AP, Sobel	btw L.369 - 370:	04/10 04:43 PM
811482	AA	S	WD	AP, Bean	btw L.369 - 370:	04/10 04:43 PM
158978	A	S	WD	AP, Richter	Delete L.136 - 301:	04/09 05:27 PM
626840	A	S	WD	AP, Ring	btw L.239 - 240:	04/10 04:43 PM
416716	A	S	WD	AP, Galvano	btw L.301 - 302:	04/10 04:43 PM
350176	A	S	WD	AP, Lee	btw L.642 - 643:	04/10 04:43 PM
599428	A	S	WD	AP, Ring	Delete L.760:	04/09 11:28 AM
306866	A	S	WD	AP, Bean	Delete L.798 - 1089:	04/09 08:47 PM
808202	A	S	WD	AP, Ring	Delete L.1104 - 1128:	04/09 11:28 AM
829084	A	S	WD	AP, Bradley	Delete L.1229:	04/10 10:58 AM

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

APPROPRIATIONS
Senator Negrón, Chair
Senator Benacquisto, Vice Chair

MEETING DATE: Thursday, April 10, 2014**TIME:** 1:00 —6:00 p.m.**PLACE:** Pat Thomas Committee Room, 412 Knott Building

MEMBERS: Senator Negrón, Chair; Senator Benacquisto, Vice Chair; Senators Bean, Bradley, Galvano, Gardiner, Grimsley, Hays, Hukill, Joyner, Latvala, Lee, Margolis, Montford, Richter, Ring, Smith, Sobel, and Thrasher

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/CS/SB 132 Transportation / Rules / Latvala (Compare H 65, S 1280)	Specialty License Plates; Authorizing the collection of annual use fees for the Fallen Law Enforcement Officers license plate and the Florida Sheriffs Association license plate; requiring the St. Johns River Alliance, Inc., and National Hispanic Corporate Achievers, Inc., to each record a certain number of sales within a certain timeframe; requiring the Department of Highway Safety and Motor Vehicles to discontinue the plates under certain circumstances; establishing an annual use fee for the plates; providing for the distribution of use fees received from the sale of such plates, etc. TR 10/09/2013 Favorable RC 02/19/2014 Fav/CS TR 03/20/2014 Fav/CS AP 04/10/2014 Favorable	Favorable Yeas 17 Nays 0
2	SB 246 Ring / Bradley (Identical H 509)	Local Government Pension Reform; Revising the legislative declaration to require that all firefighter pension plans meet the requirements of ch. 175, F.S., in order to receive insurance premium tax revenues; revising existing payment provisions and providing for an additional mandatory payment by the municipality or special fire control district to the firefighters' pension trust fund; revising the legislative declaration to require that all police officer pension plans meet the requirements of ch. 185, F.S., in order to receive insurance premium tax revenues, etc. GO 12/11/2013 Favorable CA 01/14/2014 Favorable AP 04/10/2014 Fav/CS	Fav/CS Yeas 16 Nays 0

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	CS/CS/SB 268 Children, Families, and Elder Affairs / Health Policy / Grimsley (Similar CS/CS/H 287)	Certificates of Need; Decreasing the subdistrict average occupancy rate that the Agency for Health Care Administration is required to maintain as a goal of its nursing-home-bed-need methodology; providing that, under certain circumstances, replacement of a nursing home and relocation of a portion of a nursing home's licensed beds to another facility, or to establish a new facility, is a health-care-related project subject to expedited review; repealing provisions relating to the moratorium on the approval of certificates of need for additional community nursing home beds, etc. HP 01/08/2014 Fav/CS CF 03/18/2014 Fav/CS AHS 04/02/2014 Favorable AP 04/10/2014 Favorable	Favorable Yeas 17 Nays 0
With subcommittee recommendation - Health and Human Services			
A proposed committee substitute for the following bill (SB 514) is available:			
4	SB 514 Flores (Compare CS/H 313)	Gender-Specific School Pilot Project; Requiring the Department of Education to administer a pilot project in certain school districts in which an elementary school is designated as a Gender-Specific School; requiring school administrators and instructional personnel to participate in certain professional development; providing for funding for pilot project implementation, etc. ED 03/18/2014 Favorable AED 04/02/2014 Fav/CS AP 04/10/2014 Fav/CS	Fav/CS Yeas 17 Nays 0
With subcommittee recommendation - Education			
5	CS/SB 544 Agriculture / Simpson (Similar CS/CS/H 523, Compare CS/H 525, Link CS/S 546)	Licensure to Carry a Concealed Weapon or Firearm; Authorizing an applicant for a license to carry a concealed weapon or firearm to submit the application to an appointed tax collector; authorizing the Department of Agriculture and Consumer Services to appoint tax collectors to accept applications for new or renewal licenses to carry a concealed weapon or firearm on behalf of the Division of Licensing of the Department of Agriculture and Consumer Services; providing an appropriation, etc. CJ 02/03/2014 Favorable AG 02/17/2014 Fav/CS CA 03/05/2014 Favorable AP 04/10/2014 Fav/CS	Fav/CS Yeas 19 Nays 0

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
6	CS/SB 564 Banking and Insurance / Richter (Similar H 7009)	Security for Public Deposits; Clarifying provisions relating to public deposits that are exempt from state security requirements; providing that a notice of the default or insolvency of a qualified public depository is not required if the Florida public deposits are acquired by a bank, savings bank, or savings association; providing that a bank, savings bank, or savings association that is not a qualified public depository and acquires Florida public deposits is subject to certain requirements; providing that a protection from loss is effective when a public depositor does not comply with certain provisions under specified circumstances, etc. BI 02/11/2014 Fav/CS AGG 03/05/2014 Favorable AP 04/10/2014 Favorable	Favorable Yeas 18 Nays 0
With subcommittee recommendation - General Government			
7	CS/CS/SB 702 Judiciary / Regulated Industries / Bean (Similar H 745)	Pharmacy Audits; Enumerating the rights of pharmacies relating to audits of pharmaceutical services which are conducted by certain entities; providing a list of audits not subject to such rights; providing an exemption from the right to notice of an on-site audit under certain circumstances, etc. HP 02/11/2014 Favorable RI 03/06/2014 Temporarily Postponed RI 03/13/2014 Fav/CS JU 04/01/2014 Fav/CS AP 04/10/2014 Fav/CS	Fav/CS Yeas 16 Nays 0
8	SB 724 Dean (Identical H 559)	Military Veterans; Revising references from the "Korean Conflict" and the "Vietnam Era" to the "Korean War" and the "Vietnam War," respectively, and from "Korean Conflict Veteran" to "Korean War Veteran"; authorizing the issuance of a Combat Medical Badge license plate; revising references; establishing a method of proof of eligibility for certain specialty license plates, etc. MS 02/18/2014 Favorable TR 03/06/2014 Favorable AP 04/10/2014 Favorable	Favorable Yeas 17 Nays 0
9	CS/SB 726 Governmental Oversight and Accountability / Detert (Similar H 1097)	Reemployment Assistance Appeals Commission; Revising membership requirements of the commission; removing a provision requiring payment of a daily stipend for certain commissioners, etc. CM 02/17/2014 Favorable GO 04/03/2014 Fav/CS AP 04/10/2014 Favorable	Favorable Yeas 17 Nays 0

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
A proposed committee substitute for the following bill (CS/SB 782) is available:			
10	CS/SB 782 Governmental Oversight and Accountability / Brandes (Similar CS/H 1231)	Government Data Practices; Requiring the Division of Library and Information Services of the Department of State to adopt rules providing procedures for an agency to establish schedules for the physical destruction or other disposal of records containing personal identification information; requiring an agency that collects and maintains personal identification information to post a privacy policy on the agency's website; requiring the Agency for Health Care Administration to provide specified data on assisted living facilities by a certain date, etc. GO 03/20/2014 Fav/CS AHS 04/02/2014 Fav/CS AP 04/10/2014 Fav/CS	Fav/CS Yeas 19 Nays 0
With subcommittee recommendation - Health and Human Services			
11	CS/SB 834 Governmental Oversight and Accountability / Latvala (Identical CS/H 781)	Legal Notices; Requiring legal notices to be posted on a newspaper's website on web pages with specified titles; prohibiting charging a fee or requiring registration for viewing online legal notices; establishing the period for which legal notices are required to be published on the statewide website; requiring that legal notices be archived on the statewide website for a specified period; deleting a provision relating to harmless error; clarifying payment provisions, etc. GO 03/13/2014 Fav/CS JU 04/01/2014 Favorable AP 04/10/2014 Favorable RC	Favorable Yeas 18 Nays 0
12	CS/SB 958 Transportation / Simpson (Compare H 763)	Fee Waivers for Purple Heart Recipients; Providing that a Purple Heart recipient is eligible to receive a lifetime family annual entrance pass to state parks at no charge, etc. MS 03/05/2014 Favorable TR 03/26/2014 Fav/CS AP 04/10/2014 Temporarily Postponed	Temporarily Postponed

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
13	SB 1008 Stargel (Similar CS/H 609)	Article V Constitutional Conventions; Citing this act as the "Article V Constitutional Convention Act"; establishing qualifications of delegates and alternate delegates to an Article V constitutional convention; providing for the appointment of delegates by the Legislature; requiring majority vote approval in each chamber for the appointment of delegates; authorizing the Legislature to recall a delegate and fill a vacancy; authorizing the Governor to call a special legislative session to fill a vacancy; establishing a legislative method for appointments and recalls, etc. JU 04/08/2014 Favorable AP 04/10/2014 Fav/CS RC	Fav/CS Yeas 11 Nays 6
14	CS/SB 1142 Commerce and Tourism / Lee (Similar CS/H 1057, Compare H 1003, S 1136)	Ticket Sales; Providing that a person who counterfeits, forges, alters, clones, or possesses a ticket, card, wristband, or other medium that accesses or is associated with a specified ticket, token, or paper with the intent to defraud commits a misdemeanor of the first degree; providing enhanced criminal penalties for second and subsequent violations concerning fraudulent creation or possession of an admission ticket; prohibiting the sale, offer for sale, or transfer of certain multiuse tickets or a card, wristband, or other medium that accesses or is associated with such multiuse ticket, etc. CM 03/24/2014 Fav/CS CJ 03/31/2014 Favorable AP 04/10/2014 Favorable	Favorable Yeas 18 Nays 0
15	CS/CS/SB 1150 Health Policy / Commerce and Tourism / Bean (Similar H 1223)	Medical Tourism; Requiring Enterprise Florida, Inc., to collaborate with the Department of Economic Opportunity to market this state as a health care destination; requiring the Division of Tourism Marketing to include in its 4-year plan a discussion of the promotion of medical tourism; requiring the plan to promote national and international awareness of the qualifications, scope of services, and specialized expertise of health care providers in this state, to promote national and international awareness of certain business opportunities to attract practitioners to destinations in this state, and to include an initiative to showcase qualified health care providers, etc. CM 03/17/2014 Fav/CS HP 03/25/2014 Fav/CS AP 04/10/2014 Favorable	Favorable Yeas 18 Nays 0

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
16	CS/SB 1210 Banking and Insurance / Bean (Similar CS/CS/H 633, Compare H 471, CS/CS/H 565, CS/H 743, H 759, CS/CS/S 708, CS/S 1260)	Division of Insurance Agents and Agency Services; Revising the name of the division; requiring a branch place of business to have an agent in charge; limiting the types of business that may be transacted by certain agents; revising terminology relating to investigations conducted by the Department of Financial Services and the Office of Insurance Regulation with respect to individuals and entities involved in the insurance industry; revising a prohibition against unlicensed transaction of life insurance, etc. BI 03/11/2014 Fav/CS AGG 04/02/2014 Favorable AP 04/10/2014 Favorable	Favorable Yeas 17 Nays 0
With subcommittee recommendation - General Government			
17	CS/SB 1216 Commerce and Tourism / Latvala (Compare CS/H 7095)	Professional Sports Facilities; Revising the distribution of moneys to certified applicants for a facility used by a spring training franchise under specified provisions; authorizing a distribution for an applicant that has been approved by the Legislature and certified by the Department of Economic Opportunity under specified provisions; providing for municipalities and counties to expend an increased portion of local government half-cent sales tax revenues to reimburse the state as required by a contract; requiring the Department of Economic Opportunity to screen applicants for state funding for sports development, etc. CM 03/24/2014 Fav/CS AP 04/10/2014 Fav/CS	Fav/CS Yeas 17 Nays 2
18	CS/SB 1276 Health Policy / Grimsley (Compare CS/H 7113)	Trauma Service Centers; Restricting trauma service fees to \$15,000 until July 1, 2015; requiring the Department of Health to convene the Florida Trauma System Plan Advisory Council by October 1, 2014; requiring the Florida Trauma System Plan Advisory Council to review the Trauma System Consultation Report and make recommendations to the Legislature by February 1, 2015; deleting a provision relating to the procedure for protesting an application decision by the department; restricting the department from verifying, designating, or provisionally approving hospitals as trauma centers until July 1, 2015, etc. HP 03/25/2014 Fav/CS AP 04/10/2014 Fav/CS	Fav/CS Yeas 15 Nays 3

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
19	CS/SB 1480 Commerce and Tourism / Benacquisto (Similar H 1227)	Microfinance; Creating the "Florida Microfinance Act"; establishing the Microfinance Loan Program; requiring the Department of Economic Opportunity to contract with at least one entity to administer the program; requiring applicants for funds from the Microfinance Loan Program to meet certain qualifications; requiring the department to be guided by the 5-year statewide strategic plan and to advertise and promote the loan program; establishing the Microfinance Guarantee Program; providing an appropriation to the Department of Economic Opportunity, etc. CM 03/24/2014 Fav/CS ATD 04/02/2014 Favorable AP 04/10/2014 Fav/CS	Fav/CS Yeas 19 Nays 0
With subcommittee recommendation - Transportation, Tourism, and Economic Development			

A proposed committee substitute for the following bill (SB 1666) is available:

20	SB 1666 Children, Families, and Elder Affairs (Compare H 431, H 7169, S 1302)	Child Abuse and Child Welfare Services; Requiring the secretary of the Department of Children and Families to appoint an Assistant Secretary for Child Welfare; providing requirements for such position; providing education requirements for child protective investigators and child protective investigation supervisors; establishing a tuition exemption program and a student loan forgiveness program for child protective investigators and supervisors; establishing the Florida Institute for Child Welfare; repealing provisions relating to the Florida Child Welfare Student Loan Forgiveness Program; repealing provisions relating to partnerships to develop child protective investigation workers, etc. AHS 04/02/2014 Fav/CS AP 04/10/2014 Temporarily Postponed	Temporarily Postponed
With subcommittee recommendation - Health and Human Services			

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
21	SB 1724 Children, Families, and Elder Affairs (Similar CS/H 7141, Compare CS/CS/H 1019)	Human Trafficking; Requiring the Department of Children and Family Services to develop or adopt initial screening and assessment instruments; requiring the department, community-based care lead agencies, and staff administering the detention risk assessment instrument to receive specified training; directing the department, the Department of Juvenile Justice, and lead agencies to participate in coalitions, task forces, or similar organizations to coordinate local responses to human trafficking; authorizing the department to certify safe houses and safe foster homes; authorizing the department to file a petition for placement in a secure safe house if the child is evaluated to meet criteria, etc. AP 04/10/2014 Fav/CS	Fav/CS Yeas 18 Nays 0
22	SB 1726 Children, Families, and Elder Affairs	Reimbursement for Crisis Stabilization Unit Services; Requiring the Department of Children and Families to require that managing entities implement a specified reimbursement methodology by a specified date; providing requirements for managing entities, providers, and the reimbursement methodology; requiring the department to establish uniform standards for claims data submitted by providers; requiring the department to establish a statewide database of claims data; requiring the department and managing entities to maintain the security of claims data, etc. AP 04/10/2014 Fav/CS	Fav/CS Yeas 17 Nays 0
23	HB 5601 Finance and Tax Subcommittee / Workman (Compare CS/H 567, H 653, H 769, H 847, H 899, H 1015, H 1241, H 1391, H 1419, H 5001, S 134, S 362, S 474, S 712, S 740, S 792, CS/S 1076, CS/S 1438, S 2500)	Economic Development; Revises provisions related to prepaid calling arrangements; imposes additional rate on gross receipts for electrical power or energy; reduces sales tax rate for charges for electrical power or energy; extends expiration date applicable to granting of community contribution tax credits; revises & provides exemptions from sales & use tax; requires DOR to distribute funds to State Transportation Trust Fund for certain transportation projects; increases amount of income exempt from corporate income tax; increases amount of income exempt from franchise tax imposed on banks & savings associations; provides for creation of Qualified Television Loan Fund; revises limits on tax credits that may be approved under New Markets Development Program; provides for Energy Star & WaterSense product sales tax holiday, physical fitness admissions tax suspension, school sales tax holiday, & hurricane preparedness sales tax holiday; provides appropriations. AP 04/10/2014	Amendments Adopted - Temporarily Postponed

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION

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 132

INTRODUCER: Transportation Committee; Rules Committee; and Senator Latvala and others

SUBJECT: Specialty License Plates

DATE: April 10, 2014

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Everette</u>	<u>Eichin</u>	<u>TR</u>	Favorable
2. <u>Everette</u>	<u>Phelps</u>	<u>RC</u>	Fav/CS
3. <u>Everette</u>	<u>Eichin</u>	<u>TR</u>	Fav/CS
4. <u>Carey</u>	<u>Kynoch</u>	<u>AP</u>	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 132 creates a Fallen Law Enforcement Officers and a Florida Sheriffs Association specialty license plate, establishes a \$25 annual use fee for each, and provides for the distribution of revenue from the annual use fees. The bill authorizes the Department of Highway Safety and Motor Vehicles (DHSMV) to develop the specialty license plates, if approved, and subjects the new plates to the presale requirements of ch. 320, F.S.

The bill extends the presale period for both the St. Johns River specialty license plate and the Hispanic Achievers specialty license plate by shifting both into a presale voucher phase beginning July 1, 2014 to provide a 24 month period for the organizations to meet the minimum presale requirement of 1,000 presale vouchers by June 30, 2016.

The bill revises the distribution of annual use fees collected from the sale of the Challenger/Columbia specialty license plate to include the Space Mirror Memorial located at Kennedy Space Center.

The bill will have an insignificant impact to the DHSMV related to programming cost required by the bill. These expenditures can be absorbed within existing resources.

II. Present Situation:

Specialty License Plates

Specialty license plates are available to any owner or lessee of a motor vehicle who is willing to pay an annual use fee for the privilege. Annual use fees range from \$15 to \$25 and are paid in addition to required license taxes and service fees authorized in ch. 320, F.S. Annual use fees are distributed to an organization in support of a particular cause or charity signified in the plate's design and designated in statute. The Legislature may create a specialty license plate under its own initiative or it can do so at the request of an organization.

Pre Development Requirements

The sponsoring organization wishing to receive a specialty license plate is required to comply with the requirements of s. 320.08053, F.S., which include submitting the following information to the department at least 90 days prior to the convening of the next regular session of the Legislature:¹

- A description of the proposed specialty license, including a sample plate that conforms to specifications set by the department;
- Payment of a \$60,000 processing fee which defrays the department's cost of reviewing the application and developing the specialty license plate; and
- A marketing strategy outlining short-term and long-term marketing plans and a projected financial analysis outlining the anticipated and planned revenues from the sale of the license plate.

If the specialty license plate is approved by law, the sponsoring organization must presale a minimum of 1,000 vouchers within 24 months before the department can begin manufacturing the specialty license plate. If the specialty license plate is not approved by the Legislature, or if the presale requirements are not met, the department is required to refund the application fee to the requesting organization.

The department collects annual use fees from the sale of the specialty license plates and from these proceeds the department retains a sufficient amount to defray its costs for inventory, distribution, and other direct costs associated with the specialty license plate program. The remainder of the proceeds collected are distributed as provided by law.²

Discontinuance of Specialty Plate

The department must discontinue the issuance of an approved specialty license plate if the number of valid specialty plate registrations falls below 1,000 plates for at least 12 consecutive months. A warning letter must be mailed to the sponsoring organization following the first month in which the total number of valid specialty plate registrations is below 1,000 plates.

¹ A March 2011 decision from the United States District Court for the Middle District of Florida declared that the approval process established in s. 320.0853, F.S., "is unconstitutional to the extent it grants the Florida Legislature discretion to decline approval of an application for a specialty license plate based on the sponsor's viewpoint." *Sons of Confederate Veterans, Florida Division, Inc., John W. Adams v. Jeffrey H. Atwater, Ray Sansom, Andy Gardiner, Richard Glorioso, Michael Davis, Electra Theodorides-Bustle*, 2011, Case No. 6:09-cv-134-Orl-28KRS (U.S.D.C. M.D. Fla. 2011)

² [Section 320.08056\(7\), F.S.](#)

Collegiate specialty plates authorized in s. 320.08058 (3) and (13), F.S., are excluded from the minimum sale requirements.³

Moratorium

Currently, there is a moratorium on the issuance of new specialty license plates. Section 45, ch. 2008-176, L.O.F., as amended by s. 21, ch. 2010-223, L.O.F., provides that “[e]xcept for a specialty license plate proposal which has submitted a letter of intent to the Department of Highway Safety and Motor Vehicles prior to May 2, 2008, and which has submitted a valid survey, marketing strategy, and application fee as required by s. 320.08053, F. S., prior to October 1, 2008, or which was included in a bill filed during the 2008 Legislative Session, the Department of Highway Safety and Motor Vehicles may not issue any new specialty license plates pursuant to ss. 320.08056 and 320.08058, F.S., between July 1, 2008, and July 1, 2014.”

Fallen Law Enforcement Officers

On average, one law enforcement officer is killed in the line of duty somewhere in the United States every 57 hours. Since the first known line-of-duty death in 1791, more than 19,000 U.S. law enforcement officers have made the ultimate sacrifice.⁴

Police and Kids Foundation, Inc.

The Police and Kids Foundation, Inc.,⁵ is a non-profit 501(c)(3) charity, established to meet the needs of children in need of assistance, and to create a yearly scholarship for at least one senior student at Pinellas Park High School Criminal Justice Academy. With the assistance of local police officers, the Police and Kids Foundation, Inc., provides assistance of food, infant supplies, clothing, and any other measures necessary to stabilize a situation and improve a child’s life in and around the Tampa Bay community.

Florida Sheriffs Association

The Florida Sheriffs Association is composed of the 67 sheriffs in the 67 counties of the state. The Association is a 501 (c) (3) nonprofit organization with a mission of fostering effectiveness of the Office of Sheriff through leadership, innovative practices, legislative initiatives, education and training of its members.⁶

Challenger/Columbia

Astronauts Memorial Foundation, Inc., honors and memorializes those astronauts who sacrificed his and her lives for the nation and the space program by sponsoring the national Space Mirror Memorial, and by implementing innovative educational technology programs.⁷ The Space Mirror Memorial is a blend of art and science providing a tribute to astronauts. The Space Mirror is 42.5 feet high and 50 feet wide and constructed of mirror-finished granite, consisting of 90 granite

³ [Section 320.08056\(8\)\(a\), F.S.](#)

⁴ <http://www.nleomf.org/facts/> (last visited 2/19/2014)

⁵ <http://www.policeandkids.com/about/> (last visited 2/19/2014)

⁶ http://www.flsheriffs.org/about_us/mission_and_values/ (last visited 2/19/2014)

⁷ <http://www.astronautsmemorial.org/home.html> (last visited 2/19/2014)

panels. In February 2000, the Astronauts Memorial Foundation unveiled the 6 foot by 6 foot granite wall that showcase photos and biographies of fallen U.S. astronauts.⁸

Section 320.08058, F.S., requires that the annual use fees from the sales of the Challenger/Columbia license plate be distributed to the Astronauts Memorial Foundation, Inc., to support the operations of the Center for Space Education and Education Technology Institute. Funds are used for operations of preservice and inservice technology training of the state's instructional personnel consistent with state training programs approved by the Department of Education. Up to 20 percent of the funds received by the Center for Space Education and the Education Technology Institute may be used for administrative costs.

St Johns River License Plate

The St. Johns River Alliance, Inc., is a 501 (c) (3) not-for-profit organization formed in 2003 and governed by a regional 34 member board of directors that includes elected officials, agencies, citizens and businesses. The board members represent 310 miles of Florida's north-flowing river.

Under s. 320.08058, F.S., the St. Johns River Alliance, Inc., is authorized to retain the first \$60,000 of the annual use fees from the St. Johns River License specialty license plate as reimbursement for administrative and startup costs incurred in the development and approval process of obtaining the specialty license plate, and thereafter:

- Up to 10 percent of the annual use fee revenue may be used for administrative costs for education programs, conservation, research, and grant administration of the organization;
- Up to 10 percent may be used for promotion and marketing of the plate;
- At least 30 percent of the fees shall be available for competitive grants for targeted community-based or county-based research projects;
- The remaining 50 percent shall be used for community outreach and access programs.

Any remaining funds shall be distributed with the approval of the board of directors of the St. Johns River Alliance, Inc., and used to support activities contributing to education, outreach and springs conservation. The St. Johns River specialty plate became available for issuance in October, 2010. According to the DHSMV, there are 587 active registrations for the St. Johns River specialty plate.

Hispanic Achievers License Plate

The National Hispanic Corporate Achievers, Inc., a nonprofit corporation under s. 501(c)(3) of the Internal Revenue Code, to fund grants to nonprofit organizations to operate programs and provide scholarships and for marketing the Hispanic Achievers license plate. National Hispanic Corporate Achievers, Inc., must establish a Hispanic Achievers Grant Council that will provide recommendations for statewide grants from available Hispanic Achievers license plate proceeds to nonprofit organizations for programs and scholarships for Hispanic and minority Floridians. National Hispanic Corporate Achievers, Inc., also must establish a Hispanic Achievers License Plate Fund which will be used by the grant council; all funds received from the sale of the plate must be used in this state.

⁸ Id.

The Hispanic Achievers specialty license was approved by the Legislature in 2010 with the passage of CS/HB 971 which established the cost of the plate to be \$25 and provided for proceeds from the annual use fees to be distributed to The National Hispanic Corporate Achievers, Inc. The Hispanic Achievers specialty plate was exempt from the pre-sale requirements in s. 320.08053, F.S. To date, the Hispanic Achievers license plate has sold a total of 369 plates.

III. Effect of Proposed Changes:

Section 1 amends s. 320.08056, F.S., to establish the annual fees for the Fallen Law Enforcement Officers specialty license plate and the Florida Sheriffs Association specialty license plate to be \$25.

Section 2 amends s. 320.08058, F.S., to revise the distribution of annual use fees from the sale of the Challenger/Columbia license plate currently being distributed to the Astronauts Memorial Foundation, Inc. The bill allows funds received by the foundation to be used in support of the Space Mirror Memorial located at the Kennedy Space Center for programs and infrastructure that inform, inspire, and educate the public on the benefits of human space flight. Distributions to the Education Technology Institute are removed.

Section 320.08058(70)(b)4., F.S., is created to shift the St. Johns River specialty license plate into a presale voucher phase, to allow 24 months to record a minimum of 1,000 sales. The minimum sales requirement includes existing active plates and vouchers sold subsequent to July 1, 2014. During the voucher period, new plates may not be issued, but existing plates may be renewed. If at the end of the 24-month presale period the 1,000 sales requirement is met, the department shall resume normal distribution of the St. Johns River specialty license plate. If the minimum sales requirement is not met, the department is required to discontinue the plate. The bill repeals this section of law on June 30, 2016.

Section 320.08058(71)(d), F.S., is created to shift the Hispanic Achievers specialty license plate into a presale voucher phase, to allow 24 months to record a minimum of 1,000 sales. The minimum sales requirement includes existing active plates and vouchers sold subsequent to July 1, 2014. During the voucher period, new plates may not be issued, but existing plates may be renewed. If at the end of the 24-month presale period the 1,000 sales requirement is met, the department shall resume normal distribution of the Hispanic Achievers license plate. If the minimum sales requirement is not met, the department is required to discontinue the plate. The bill repeals this section of law on June 30, 2016.

Section 320.08058(83), F.S., creates the Fallen Law Enforcement Officers specialty license plate, notwithstanding the existing moratorium on the issuance of new specialty plates and the pre-development requirements⁹, and authorizes the DHSMV to develop the plate. The word “Florida” must appear at the top of the plate, and the words “A Hero Remembered Never Dies” must appear at the bottom of the plate. Annual use fees will be distributed to the Police and Kids Foundation, Inc., who may use a maximum of 10 percent of the proceeds to promote and market

⁹ Section 45 of ch. 2008-176, L.O.F., as amended by section 21 of ch. 2010-223, L.O.F.

the license plate. The remaining annual use fees may be used to invest and reinvest, with the interest earnings used for the operations of the Police and Kids Foundation, Inc. The Fallen Law Enforcement Officers specialty license plate will be subject to the presale requirements established in s. 320.08053(3), F.S.

Section 320.08058(84) establishes the Florida Sheriffs Association specialty license plate notwithstanding the moratorium on the issuance of new specialty plates and the pre-development requirements.¹⁰ The Florida Sheriffs Association specialty license plate license plates will be subject to the presale requirements established in s. 320.08053(3), F.S.

In developing the Sheriffs Association specialty license plate, the department must approve the colors and design; the word “Florida” must appear at the top of the plate, with the sheriff’s star on the left side of the plate and the words “Florida Sheriffs Association” must appear at the bottom of the plate. The annual use fees shall be distributed to the Florida Sheriffs Association, who may retain the first \$60,000 as direct reimbursement for administrative costs incurred in the development and approval process. Thereafter, up to 10 percent of the annual use fee revenue may be used for administrative and marketing costs, and remainder must be used for continuing education for the sheriff’s office members.

Section 3 provides that, except as otherwise provided, this act has an effective date of October 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Under CS/SB 132, persons who purchase the Fallen Law Enforcement Officers, Florida Sheriffs Association, St. Johns River, or the Hispanic Achievers specialty license plate will pay the \$25 annual use fee. The Police and Kids Foundation, Inc., St. Johns River

¹⁰ See supra note 10.

Alliance, the Florida Sheriffs Association, and the National Hispanic Corporate Achievers, Inc., will receive revenue from each voucher purchase, after retention of funds by the department. It is unknown how many vehicle owners will voluntarily purchase the plates.

C. Government Sector Impact:

The DHSMV is authorized to retain revenues from the first proceeds of specialty license plate sales to defray departmental expenditures related to the specialty license plate program.

The department's Information Systems Administration Office will require approximately 140 hours of non-recurring programming in order to develop, design, manufacture, distribute the specialty license plates, and implement the provisions of this bill. The cost of \$5,600 will be absorbed within existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following of the Florida Statutes: 320.08056 and 320.08058.

IX. Additional Information:

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

CS/CS by Transportation on March 20, 2014:

The CS allows a presell 24-month extension for the Hispanic Achievers specialty license plate to meet statutory requirements beginning July 1, 2014 and repealing June 30, 2016.

CS by Rules on February 19, 2014:

The CS creates an additional specialty license plate, the Florida Sheriffs Association plate, at a cost of \$25 and requires that all statutory provisions are met prior to the issuance of the plates, including submission of:

- A description of the specialty plate;
- Payment of the \$60,000 processing fee; and
- A marketing strategy and financial analysis outlining the anticipated revenue from the sale of the plate.

The bill also allows a presell 24-month extension for the St. Johns River Alliance, Inc., to meet statutory requirements beginning July 1, 2014 and repealing June 30, 2016.

Further, the bill revises the distribution of annual use fees collected from the sale of the Challenger/Columbia specialty license plate.

B. Amendments:

None.

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

By the Committees on Transportation; and Rules; and Senators
Latvala, Grimsley, and Evers

596-02901-14

2014132c2

1 A bill to be entitled
2 An act relating to specialty license plates; amending
3 s. 320.08056, F.S.; authorizing the collection of
4 annual use fees for the Fallen Law Enforcement
5 Officers license plate and the Florida Sheriffs
6 Association license plate; amending s. 320.08058,
7 F.S.; revising provisions relating to the distribution
8 of annual use funds to the Astronauts Memorial
9 Foundation, Inc., for the Challenger/Columbia
10 specialty license plate; requiring the St. Johns River
11 Alliance, Inc., and National Hispanic Corporate
12 Achievers, Inc., to each record a certain number of
13 sales within a certain timeframe; requiring the
14 Department of Highway Safety and Motor Vehicles to
15 discontinue the plates under certain circumstances;
16 providing for repeal on a specified date; creating a
17 Fallen Law Enforcement Officers license plate and a
18 Florida Sheriffs Association license plate;
19 establishing an annual use fee for the plates;
20 providing for the distribution of use fees received
21 from the sale of such plates; providing effective
22 dates.
23
24 Be It Enacted by the Legislature of the State of Florida:
25
26 Section 1. Paragraphs (eeee) and (ffff) are added to
27 subsection (4) of section 320.08056, Florida Statutes, to read:
28 320.08056 Specialty license plates.—
29 (4) The following license plate annual use fees shall be

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

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30 collected for the appropriate specialty license plates:
31 (eeee) Fallen Law Enforcement Officers license plate, \$25.
32 (ffff) Florida Sheriffs Association license plate, \$25.
33 Section 2. Paragraph (b) of subsection (2) and paragraph
34 (b) of subsection (70) of section 320.08058, Florida Statutes,
35 are amended, paragraph (d) is added to subsection (71), and
36 subsections (83) and (84) are added to that section, to read:
37 320.08058 Specialty license plates.—
38 (2) CHALLENGER/COLUMBIA LICENSE PLATES.—
39 (b) The Challenger/Columbia license plate annual use fee
40 must be distributed to the Astronauts Memorial Foundation, Inc.,
41 to support the operations of the Center for Space Education and
42 the Space Mirror Memorial located at the Kennedy Space Center
43 Education Technology Institute. Funds received by the Astronauts
44 Memorial Foundation, Inc., may be used for administrative costs
45 directly associated with the operation of the center and the
46 memorial institute. These funds must be used for the maintenance
47 and support of the operations of the Center for Space Education
48 and the Space Mirror Memorial Education Technology Institute
49 operated by the Astronauts Memorial Foundation, Inc. These
50 operations must include programs and infrastructure that inform,
51 inspire, and educate the public on the benefits of human space
52 flight preservice and inservice training in the use of
53 technology for the state's instructional personnel in a manner
54 consistent with state training programs and approved by the
55 Department of Education. Up to 20 percent of funds received by
56 the Astronauts Memorial Foundation, Inc., Center for Space
57 Education and the Education Technology Institute may be expended
58 for administrative costs ~~directly associated with the operation~~

Page 2 of 6

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~~of the center and the institute.~~

(70) ST. JOHNS RIVER LICENSE PLATES.—

(b) The requirements of s. 320.08053 must be met prior to the issuance of the plate. Thereafter, the license plate annual use fees shall be distributed to the St. Johns River Alliance, Inc., a s. 501(c)(3) nonprofit organization, which shall administer the fees as follows:

1. The St. Johns River Alliance, Inc., shall retain the first \$60,000 of the annual use fees as direct reimbursement for administrative costs, startup costs, and costs incurred in the development and approval process. Thereafter, up to 10 percent of the annual use fee revenue may be used for administrative costs directly associated with education programs, conservation, research, and grant administration of the organization, and up to 10 percent may be used for promotion and marketing of the specialty license plate.

2. At least 30 percent of the fees shall be available for competitive grants for targeted community-based or county-based research or projects for which state funding is limited or not currently available. The remaining 50 percent shall be directed toward community outreach and access programs. The competitive grants shall be administered and approved by the board of directors of the St. Johns River Alliance, Inc. A grant advisory committee shall be composed of six members chosen by the St. Johns River Alliance board members.

3. Any remaining funds shall be distributed with the approval of and accountability to the board of directors of the St. Johns River Alliance, Inc., and shall be used to support activities contributing to education, outreach, and springs

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conservation.

4. Effective July 1, 2014, the St. Johns River license plate will shift into the presale voucher phase, as provided in s. 320.08053(3)(b). The St. Johns River Alliance, Inc., shall have 24 months to record a minimum of 1,000 sales of the license plates. Sales include existing active plates and vouchers sold subsequent to July 1, 2014. During the voucher period, new plates may not be issued, but existing plates may be renewed. If, at the conclusion of the 24-month presale period, the requirement of a minimum of 1,000 sales has been met, the department shall resume normal distribution of the St. Johns River specialty plate. If, after 24 months, the minimum of 1,000 sales has not been met, the department shall discontinue the development and issuance of the plate. This subparagraph is repealed June 30, 2016.

(71) HISPANIC ACHIEVERS LICENSE PLATES.—

(d) Effective July 1, 2014, the Hispanic Achievers license plate will shift into the presale voucher phase, as provided in s. 320.08053(3)(b). National Hispanic Corporate Achievers, Inc., shall have 24 months to record a minimum of 1,000 sales. Sales include existing active plates and vouchers sold subsequent to July 1, 2014. During the voucher period, new plates may not be issued, but existing plates may be renewed. If, at the conclusion of the 24-month presale period, the requirement of a minimum of 1,000 sales has been met, the department shall resume normal distribution of the Hispanic Achievers license plate. If, after 24 months, the minimum of 1,000 sales has not been met, the department shall discontinue the Hispanic Achievers license plate. This subsection is repealed June 30, 2016.

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(83) FALLEN LAW ENFORCEMENT OFFICERS LICENSE PLATES.—

(a) Notwithstanding s. 45, chapter 2008-176, Laws of Florida, as amended by s. 21, chapter 2010-223, Laws of Florida, and s. 320.08053(1), the department shall develop a Fallen Law Enforcement Officers license plate as provided in s. 320.08053(2) and (3) and this section. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "A Hero Remembered Never Dies" must appear at the bottom of the plate.

(b) The annual use fees shall be distributed to the Police and Kids Foundation, Inc., which may use a maximum of 10 percent of the proceeds to promote and market the plate. The remainder of the proceeds shall be used by the Police and Kids Foundation, Inc., to invest and reinvest, and the interest earnings shall be used for the operation of the Police and Kids Foundation, Inc.

(84) FLORIDA SHERIFFS ASSOCIATION LICENSE PLATES.—

(a) Notwithstanding s. 45, chapter 2008-176, Laws of Florida, as amended by s. 21, chapter 2010-223, Laws of Florida, and s. 320.08053(1), the department shall develop a Florida Sheriffs Association license plate as provided in s. 320.08053(2) and (3) and this section. The plate must bear the colors and design approved by the department. A sheriff's star must appear on the left side of the plate, the word "Florida" must appear at the top of the plate, and the words "Florida Sheriffs Association" must appear at the bottom of the plate.

(b) The annual use fees shall be distributed to the Florida Sheriffs Association, a s. 501(c)(3) nonprofit organization, which shall administer the fees as follows:

1. The Florida Sheriffs Association shall retain the first

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\$60,000 of the annual use fees as direct reimbursement for administrative costs, startup costs, and cost incurred in the development and approval process. Thereafter, up to 10 percent of the annual use fee revenue may be used for administrative and marketing costs.

2. All remaining collected revenue must be used for continuing education for sheriff's office members.

Section 3. Except as otherwise expressly provided in this act, this act shall take effect October 1, 2014.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

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

SENATOR JACK LATVALA

20th District

March 20, 2014

The Honorable Joe Negron, Chairman
Senate Appropriations Committee
404 S. Monroe St., 201 Capitol
Tallahassee, FL 32399-1100

Dear Chairman Negron:

I respectfully request that my bill, CS/SB 132/Fallen Law Enforcement Officers License Plates, be placed on the agenda of the Senate Appropriations Committee at the earliest possible time. The bill was favorably considered by the Senate Transportation Committee on March 20.

This bill will create a specialty license plate to honor law enforcement officers that are killed in the line of duty. Proceeds from the annual fee of \$25 per tag will go toward training and equipment for law enforcement officers and toward education.

Please contact me if you have any questions regarding this request. I appreciate your consideration.

Sincerely,

Jack Latvala
State Senator
District 20

JL:tc

CC: Cindy Kynoch, Staff Director: Alicia Weiss, 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

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 246

INTRODUCER: Appropriations Committee and Senators Ring and Bradley

SUBJECT: Local Government Pension Reform

DATE: April 14, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McKay	McVaney	GO	Favorable
2.	White	Yeatman	CA	Favorable
3.	McSwain	Kynoch	AP	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 246 substantially amends provisions specifying how insurance premium tax revenues must be used in police and firefighter pension plans. For each plan, premium tax revenues equal to the amount received in 1997 by a particular plan must be used to fund defined minimum benefits specified in chapters 175 or 185, F.S. and other retirement benefits. Use of additional premium tax revenues, as defined in the bill, are required to be used to fund minimum benefits, additional retirement benefits and defined contribution plans under certain specified situations. The bill authorizes deviation from the specified uses of premium tax revenues, including accumulations of additional tax revenues which have not been applied to fund benefits in excess of the defined minimum benefits, by mutual consent of collective bargaining representatives or majority consent of plan members and consent of the municipality (or special fire control district).

The bill increases the percentage of average final compensation used to calculate defined benefit retirement benefits under chapters 175 and 185, F.S., from 2.0 percent to 2.75 percent, subject to certain exceptions.

The overall costs or savings from bill are indeterminate. The impact of the bill will vary depending upon the level of benefits currently offered by those plans, the amount of revenue received from the insurance premium tax by the plan sponsor, the service accrual rate under each plan, and the terms of any collective bargaining agreement between the plan sponsor and the

affected police or firefighter collective bargaining unit. The bill has no fiscal impact on state government.

The bill grandfathers changes to a plan that are based on that particular plan's reliance on an interpretation by the Department of Management Services (DMS) of the existing statute, as evidenced by correspondence with the DMS between August 14, 2012, and March 4, 2014.

The bill also clarifies that a maximum of 300 hours of overtime may be included for purposes of calculating municipal police pension plan benefits.

II. Present Situation:

The “Marvin B. Clayton Firefighters and Police Officers Pension Trust Fund” Acts

The Marvin B. Clayton Firefighters' and Police Officers' Pension Trust Fund Acts¹ declare a legitimate state purpose of providing a uniform retirement system for the benefit of firefighters and municipal police officers. All municipal and special district firefighters and all municipal police officers retirement trust fund systems or plans must be managed, administered, operated, and funded to maximize the protection of firefighters' and police officers' pension trust funds.²

In 1939, the Legislature enacted ch. 175, F.S., thereby encouraging cities to establish firefighter retirement plans by providing cities with the incentive of access to premium tax revenues. Fourteen years later, the Legislature enacted ch. 185, F.S., which provides a similar funding mechanism for municipal police officers. Special fire control districts became eligible to participate under ch. 175, F.S., in 1993.

The Division of Retirement (division) within the DMS administers benefits to local police officers and firefighters under two types of plans, a chapter plan or a local plan. A chapter plan is a plan that adopts the provisions of either ch. 175 or 185 by reference. A local plan is a plan that is created by a special act of the Legislature, or by a local ordinance or resolution that meets the minimum statutory requirements. The division is responsible for overseeing and monitoring these plans, but day-to-day operational control rests with local boards of trustees subject to the regulatory authority of the division.³ If the division were to deem that a firefighter or police pension plan created pursuant to ch. 175 or 185, F.S., is not in compliance with those chapters, the sponsoring municipality could be denied its insurance premium tax revenues.

Four sources provide funding for these pension plans: net proceeds from an excise tax levied by a city upon property and casualty insurance companies (known as the “premium tax”); employee contributions; other revenue sources; and mandatory payments by the city of the normal cost of the plan.⁴ To qualify for insurance premium tax dollars, plans must meet requirements found in ch. 175 and 185, F.S.

¹ See ch. 175 and 185, F.S.

² See ss. 175.021(1) and 185.01(1), F.S.

³ The division is responsible for administrative oversight of funds, including monitoring for actuarial soundness.

⁴ Sections 175.091(1)(a) and 185.07(1), F.S.

An excise tax of 1.85 percent imposed on the gross premiums of property insurance covering property within boundaries of the municipality or district funds the Firefighters' Pension Trust Fund of each municipality or special fire control district.⁵ The insurers pay the tax to the Department of Revenue (DOR), and the net proceeds are transferred to the appropriate fund at the division.⁶ In 2011, premium tax distributions to municipalities and special fire districts from the Firefighters' Pension Trust Fund amounted to \$72.4 million.⁷

An excise tax of 0.85 percent imposed on the gross premiums on casualty insurance policies covering property within the boundaries of a municipality funds the Police Officers' Retirement Trust Fund.⁸ Similar to the Firefighters' Pension Trust Fund, insurers pay the excise tax to the DOR, which transfers the net proceeds to the appropriate fund at the division.⁹ In 2011, premium tax distributions to municipalities from the Police Officers' Retirement Trust Fund amounted to \$62.6 million.¹⁰

Chapters 175 and 185, F.S., specify certain “minimum benefits” that must be provided in firefighter and police plans,¹¹ summarized in relevant part below:

⁵ Section 175.101(1), F.S.

⁶ See s. 175.121, F.S.

⁷ Division of Management Services, *Firefighters' 2012 Premium Tax Distribution Calculation*, available online at: https://www.rol.frs.state.fl.us/forms/Fire_2012.pdf (last visited on January 3, 2014).

⁸ See s. 185.08, F.S.

⁹ See s. 185.10, F.S.

¹⁰ Division of Management Services, *Police Officers' 2012 Premium Tax Distribution Calculations*, available online at: https://www.rol.frs.state.fl.us/forms/Police_2012.pdf (last visited on January 3, 2014).

¹¹ Sections 175.162 and 185.16, F.S.

Benefit	Description of minimum level
Retirement Benefit	2 percent x average final compensation x years of creditable service.
Average Final Compensation (AFC)	Average annual compensation of highest 5 years of last 10 years of service.
Vesting	10 years.
Normal Retirement Age	Age 55 with 10 years of creditable service or Age 52 with 25 years of service.
Early Retirement	Age 50 with 10 years of service. Retirement benefit is reduced 3 percent for each year prior to reaching normal retirement age.
Earnings	Police = total cash remuneration. Fire = fixed monthly compensation.
Death Benefits	Prior to vesting - beneficiary receives employee contributions without interest earnings. Vested - beneficiary receives benefit based on early or normal retirement benefits, whichever are applicable. Post-retirement - beneficiary receives benefit based on retirement benefit option selected by member at time of retirement.
Disability Benefits	Eligibility - no service requirement for in line of duty disability; 10 years of service for non-service-related disability. Benefits - no less than 25 percent of average monthly earnings if non service-related; no less than 42 percent of average monthly earnings if service related.

In 1999, the Legislature passed legislation that made virtually all provisions of ch. 175 and 185, F.S., expressly applicable to all participating police officer and firefighter pension plans, except the local law plans established by the cities of Jacksonville, Coral Gables, Miami, and Miami Beach.¹² This legislation required all pension plans falling under these chapters to meet the specific “minimum benefit” standards. The law required that insurance premium tax revenues, over the amount received for calendar year 1997, be used to provide additional or “extra benefits” in firefighter and police officer pension plans. The term “extra benefits” means benefits in addition to or greater than those provided to general employees of the municipality, and in addition to those in existence for firefighters and police officers on March 12, 1999.¹³

Until August 2012, the division had consistently interpreted the law to require that premium tax revenues be used first to meet any minimum benefit requirements and those other pension benefits that were in place on March 12, 1999. Once the plan was in compliance with the minimum benefits requirements, any additional premium tax revenues had to be used in their entirety to provide extra benefits. Plans were not permitted to reduce pension benefits below the minimum benefits level or the level of pension benefits in effect on March 12, 1999, if greater.

¹² Sections 175.351(3) and 185.35(3), F.S.

¹³ See ss. 175.351 and 185.35, F.S.

Recent Interpretation

In response to a letter from the City of Naples in August 2012, the division advised that its ongoing interpretation of s. 185.35(2), F.S., “appears inaccurate.” The division was asked, in essence, whether a city that negotiated and mutually agreed with its police officers to reduce benefits below levels in place on March 12, 1999, would jeopardize its premium tax revenues. In its new interpretation, the division advised that for local law plans in effect on October 1, 1998, the law compels the plan to provide chapter minimum benefits only to the extent that those benefits can be funded with “additional premium tax revenues.” So, for local law plans in effect on October 1, 1998, chapter minimum benefits must be provided only to the extent that they can be funded with premium tax revenues received in excess of the amount received for calendar year 1997.

Under the new interpretation, *it appears* that the following things are true:

- A plan sponsor may redirect, at its discretion, its pre-1997 premium tax revenues from funding minimum pension benefits to funding other non-pension retirement benefits;
- The plan’s pension benefits could be reduced to the level that can be funded solely by those additional premium tax revenues received in excess of the 1997 level;
- A plan sponsor could reduce the mandatory contribution it was previously making to the plan to fund minimum benefits and redirect those monies to other municipal purposes; and
- Post-1997 insurance premium tax revenues used previously to fund “extra benefits” would be used to fund the minimum benefits.

The division has subsequently provided this new interpretation to other inquiring cities, on a case by case basis. The DMS has adopted neither this new interpretation, nor its previous entirely different interpretation of the exact same statutory language, as a rule.

Definition of Salary in Municipal Police Pension Plans

Legislation in 2011 added a 300 hour cap on the amount of overtime hours to be included in the calculation of retirement benefits in ss. 112.66, 175.032, and 185.02, F.S.¹⁴ The provisions for general public retirement systems (ch. 112, F.S.) and firefighter pensions (ch. 175, F.S.) did not have existing stipulations allowing any overtime hours to be included in the calculation of retirement benefits. Section 185.02(4), F.S., had the following definition before the 2011 changes:

“Compensation” or “salary” means the total cash remuneration including “overtime” paid by the primary employer to a police officer for services rendered, but not including any payments for extra duty or a special detail work performed on behalf of a second party employer. However, a local law plan may limit the amount of overtime payments which can be used for retirement benefit calculation purposes, but in no event shall such overtime limit be less than 300 hours per officer per calendar year.

¹⁴ Chapter 2011-216, L.O.F.

As amended by ch. 2011-216, L.O.F., the section reads as follows:

“Compensation” or “salary” means, for noncollectively bargained service earned before July 1, 2011, or for service earned under collective bargaining agreements in place before July 1, 2011, the total cash remuneration including “overtime” paid by the primary employer to a police officer for services rendered, but not including any payments for extra duty or special detail work performed on behalf of a second party employer. A local law plan may limit the amount of overtime payments which can be used for retirement benefit calculation purposes; however, such overtime limit may not be less than 300 hours per officer per calendar year. For noncollectively bargained service earned on or after July 1, 2011, or for service earned under collective bargaining agreements entered into on or after July 1, 2011, the term has the same meaning except that when calculating retirement benefits, up to 300 hours per year in overtime compensation may be included as specified in the plan or collective bargaining agreement, but payments for accrued unused sick or annual leave may not be included.

The pre-2011 provision set the limit at no less than 300 hours, effectively acting as a floor or minimum of 300 hours. The current language has been interpreted to mean that after July 1, 2011, the 300 hour floor has been replaced by a 300 hour cap. After the effective date of ch. 2011-216, L.O.F., the division appeared to take the position that the law did not *replace* the floor with a cap, but supplemented the 300 hour floor with a 300 hour cap. In other words, the employer would have had to include at least 300 hours of overtime in the calculation, but could not include more than 300 hours. Subsequently, however, the division has taken the position that the amount of overtime hours that may be included when calculating retirement benefits may be anywhere from 0 to 300 hours.¹⁵

III. Effect of Proposed Changes:

Definitions

The bill defines several new terms for purposes of ch. 175 and 185, F.S. The most relevant terms are “additional premium tax revenues,” “base premium tax revenues,” and “minimum benefits.” Additional premium tax revenues mean insurance premium tax revenues received by a municipality (or special fire control district) which exceed base premium tax revenues. Base premium tax revenues are those insurance premium taxes received by a municipality (or special fire control district) for calendar year 1997. Minimum benefits are the benefits set forth in specified sections of chapter 175 (for firefighters) and chapter 185 (for police officers and, if included in the plan, firefighters).

¹⁵ Letter from the DMS Division of Retirement to City of Largo, dated April 4, 2012, on file with the Committee on Governmental Oversight and Accountability.

The bill substantially changes how insurance premium tax revenues must be used in the funding of police and firefighter pension plans in ch. 175 and 185, F.S.

Change of the Minimum Accrual Percentage of Average Final Compensation

The bill increases the percentage of average final compensation used to calculate retirement benefits for police and firefighter pension plans from 2.0 percent to 2.75 percent. Effective July 1, 2014, a plan that is in compliance with the requirements of ch. 175 or 185, F.S.:

- Except that the plan provides a benefit that is less than 2.75 percent of average final compensation of a full-time firefighter or police officer, must maintain, at a minimum, the percentage amount effective on July 1, 2014, and is not required to increase that percentage.
- Except that the plan provides a benefit that is less than 2.75 percent of average final compensation of a full-time firefighter or police officer and that changes its accrual rate to 2.75 percent or greater of the average final compensation of a fire fighter or police officer, may not thereafter decrease the accrual rate to less than 2.75 percent of the average final compensation of a firefighter or police officer.

Use of Insurance Premium Tax Revenues

The bill amends parallel provisions in ch. 175 and 185, F.S., and specifies that in order to receive insurance premium tax revenues, those revenues must be used as follows:

- Base premium tax revenues must be used to fund minimum benefits or other retirement benefits in excess of the minimum benefits.
- Of the additional premium tax revenues received in excess of the amount received in calendar year 2013, 50 percent must be used to fund minimum benefits or other retirement benefits in excess of the minimum benefits, as determined by the municipality (or special fire control district) and 50 percent must be place in a defined contribution plan to fund special benefits.
- Additional premium tax revenues not required to be distributed to fund minimum benefits, retirement benefits in excess of minimum benefits or special benefits must be used to fund benefits **not** included in the minimum benefits. If the additional premium tax revenues required to be distributed to fund minimum benefits, additional retirement benefits and special benefits exceed the full cost of benefits provided through a retirement plan:
 - 50 percent of any excess must be used to fund minimum benefits or other retirement benefits; and
 - 50 percent must be placed in a defined contribution plan.
- Any accumulations of additional premium tax revenues which have not been applied to fund benefits in excess of minimum benefits, may be allocated by mutual consent of the members' collective bargaining representative (or a majority of the members of the fund) and the municipality (or special fire control district).
- For plans created after March 1, 2014, 50 percent of the insurance premium tax revenues must be used to fund minimum benefits and the remainder must be used to fund defined contribution plan component benefits.
- If a plan offers benefits in excess of the minimum benefits, excluding supplemental plan benefits in effect as of September 30, 2013, those plan benefits may be reduced if the plan continues to meet the minimum benefits and minimum standards in ch. 175 and 185, F.S. The amount of insurance premium tax revenues previously used to fund benefits in excess of

minimum benefits, excluding supplemental benefits in effect as of September 30, 2013, before the reduction must be used to fund minimum benefits or other retirement benefits (50 percent) and a defined contribution plan (50 percent). However, benefits may not be reduced if the plan does not have a minimum accrual rate of 2.75 percent, or greater, of the average final compensation of a full-time firefighter or police officer.

Notwithstanding those provisions of the bill, the use of insurance premium tax revenues, including additional tax revenues which have not been applied to fund benefits in excess of the minimum benefits, may deviate from the requirements of the bill by mutual consent of the members' collective bargaining representative or, if there is none, by majority consent of the members' of the fund and consent of the municipality (or special fire control district), provided the plan continues to meet the minimum benefits and the minimum standards of ch. 175 and 185, F.S. However, a plan that does not meet a minimum benefit as of October 1, 2012, may continue to provide the benefit not meeting the minimum benefit at the same level, but not less than that level as was provided on October 1, 2012, and all other benefits must continue to meet the minimum benefits. A mutually agreed deviation must continue until modified or revoked by subsequent mutual consent. A special act plan or a plan within a supplemental plan municipality are considered to have mutually agreed to such deviation as of July 1, 2014, regarding the existing agreement on the use of premium tax revenues.

The bill also requires plan sponsors to create defined contribution plan components within their plans by October 1, 2014, for non-collectively bargained services, upon entering into a collectively bargaining agreement on or after July 1, 2014, or upon the creation date of a new participating plan. Depending upon the use of insurance premium tax revenues as otherwise provided in the bill, a defined contribution component may or may not receive funding.

The bill explicitly allows plans to use the insurance premium tax revenues and offer benefits below the statutorily required levels in certain instances. The plan must have relied upon the interpretation of the statute by the DMS to reduce the level of benefits or use the premium tax revenues, and such reliance must be evidenced by certain documentation. The plan may continue to offer these reduced benefits and/or use the premium tax revenues in this manner until the earlier of October 1, 2017, or another collective bargaining agreement is negotiated addressing the benefits or use of revenues.

300 Hour Cap

The bill amends the definition of "compensation" or "salary" in s. 185.02(4), F.S., relating to police officer retirement plans, to:

- Delete the sentence that states: "A local law plan may limit the amount of overtime payments which can be used for retirement benefit calculation purposes; however, such overtime limit may not be less than 300 hours per officer per calendar year." Deleting this sentence should clarify that the definition has a maximum cap of 300 hours, with no required minimum, consistent with a recent interpretation by the division, as it applies to the inclusion of overtime hours in the calculation of police retirement benefits.
- Provide that overtime may be limited prior to July 1, 2011, in a local law plan by the plan provisions. Local law plans are retirement plans, which include a defined benefit plan component and a defined contribution plan component, for police officers (and

firefighters, if included) established by municipal ordinance or special act of the Legislature.

Conforming Changes

Sections 3 and 9 amend ss. 175.071 and 185.06, F.S., to make conforming changes.

Important State Interest

Section 13 provides that the Legislature determines that the bill fulfills an important state interest as related to public pension plans.

The bill takes effect July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

To the extent this bill requires a local government to expend funds to comply with its terms, the provisions of art. VII, s. 18(a) of the Florida Constitution, may apply. If those provisions do apply, in order for the law to be binding upon the cities and counties, the Legislature must find that the law fulfills an important state interest (included in section 13 of the bill), and one of the following relevant exceptions must be met:

- The expenditure is required to comply with a law that applies to all persons similarly situated; or
- The law 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:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The overall costs or savings to local government from CS/SB 246 are indeterminate, because approximately 350 plans are affected by the bill. The impact of the bill will vary depending upon the level of benefits currently offered by those plans, the amount of revenue received from the insurance premium tax by the plan sponsor, the service accrual rate under each plan, and the terms of any collective bargaining agreement reached between the plan sponsor and the affected police or firefighter collective bargaining unit. The bill has no impact on state government.

VI. Technical Deficiencies:**VII. Related Issues:**

None

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 175.021, 175.032, 175.071, 175.091, 175.162, 175.351, 185.01, 185.02, 185.06, 185.07, 185.16, and 185.35.

The bill creates an undesignated section of Florida law.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Appropriations on April 10, 2014:**

The committee substitute:

- Substantially revises provisions specifying how insurance premium tax revenues must be used in police and firefighter pension plans.
- Authorizes deviation from the required uses of premium tax revenues, including accumulations of additional tax revenues which have not been applied to fund benefits in excess of the defined minimum benefits, by mutual consent of collective bargaining representatives or majority consent of plan members and consent of the municipality (or special fire control district).
- Increases the percentage of average final compensation used to calculate retirement benefits under chapters 175 and 185, F.S., from 2.0 percent to 2.75 percent, subject to certain exceptions.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
04/11/2014	.	
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	.	

The Committee on Appropriations (Ring) recommended the following:

Senate Amendment (with title amendment)

Delete lines 61 - 624
and insert:

Section 1. Subsection (2) of section 175.021, Florida Statutes, is amended to read:

175.021 Legislative declaration.—

(2) This chapter hereby establishes, for all municipal and special district pension plans existing ~~now or hereafter~~ under this chapter, including chapter plans and local law plans,



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11 minimum benefits and minimum standards for the operation and
12 funding of such plans, hereinafter referred to as firefighters'
13 pension trust funds, which must be met as a condition precedent
14 to the plan or plan sponsor receiving a distribution of
15 insurance premium tax revenues under s. 175.121. The minimum
16 benefits and minimum standards for each plan as set forth in
17 this chapter may not be diminished by local charter, ordinance,
18 or resolution or by special act of the Legislature and may not,
19 ~~nor may the minimum benefits or minimum standards~~ be reduced or
20 offset by any other local, state, or federal law that includes
21 ~~may include~~ firefighters in its operation, except as provided
22 under s. 112.65.

23 Section 2. Section 175.032, Florida Statutes, is amended to
24 read:

25 175.032 Definitions.—For any municipality, special fire
26 control district, chapter plan, local law municipality, local
27 law special fire control district, or local law plan under this
28 chapter, the term ~~following words and phrases have the following~~
29 ~~meanings:~~

30 (1) "Additional premium tax revenues" means revenues
31 received by a municipality or special fire control district
32 pursuant to s. 175.121 which exceed base premium tax revenues.

33 (2) ~~(1)(a)~~ "Average final compensation" for:

34 (a) A full-time firefighter means one-twelfth of the
35 average annual compensation of the 5 best years of the last 10
36 years of creditable service before ~~prior to~~ retirement,
37 termination, or death, or the career average as a full-time
38 firefighter since July 1, 1953, whichever is greater. A year is
39 ~~shall be~~ 12 consecutive months or such other consecutive period



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of time as is used and consistently applied.

(b) ~~"Average final compensation"~~ for A volunteer firefighter means the average salary of the 5 best years of the last 10 best contributing years before ~~prior to~~ change in status to a permanent full-time firefighter or retirement as a volunteer firefighter or the career average of a volunteer firefighter, since July 1, 1953, whichever is greater.

(3) "Base premium tax revenues" means the revenues received by a municipality or special fire control district pursuant to s. 175.121 for the calendar year 1997.

~~(4)-(2)~~ "Chapter plan" means a separate defined benefit pension plan for firefighters which incorporates by reference the provisions of this chapter and has been adopted by the governing body of a municipality or special district. Except as ~~may be~~ specifically authorized in this chapter, the provisions of a chapter plan may not differ from the plan provisions set forth in ss. 175.021-175.341 and ss. 175.361-175.401. Actuarial valuations of chapter plans shall be conducted by the division as provided by s. 175.261(1).

~~(5)-(3)~~ "Compensation" or "salary" means, for noncollectively bargained service earned before July 1, 2011, or for service earned under collective bargaining agreements in place before July 1, 2011, the fixed monthly remuneration paid a firefighter. If remuneration is based on actual services rendered, as in the case of a volunteer firefighter, the term means the total cash remuneration received yearly for such services, prorated on a monthly basis. For noncollectively bargained service earned on or after July 1, 2011, or for service earned under collective bargaining agreements entered



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into on or after July 1, 2011, the term has the same meaning except that when calculating retirement benefits, up to 300 hours per year in overtime compensation may be included as specified in the plan or collective bargaining agreement, but payments for accrued unused sick or annual leave may not be included.

(a) Any retirement trust fund or plan that meets the requirements of this chapter does not, solely by virtue of this subsection, reduce or diminish the monthly retirement income otherwise payable to each firefighter covered by the retirement trust fund or plan.

(b) The member's compensation or salary contributed as employee-elective salary reductions or deferrals to any salary reduction, deferred compensation, or tax-sheltered annuity program authorized under the Internal Revenue Code shall be deemed to be the compensation or salary the member would receive if he or she were not participating in such program and ~~shall be~~ treated as compensation for retirement purposes under this chapter.

(c) For any person who first becomes a member in any plan year beginning on or after January 1, 1996, compensation for that plan year may not include any amounts in excess of the Internal Revenue Code s. 401(a)(17) limitation, as amended by the Omnibus Budget Reconciliation Act of 1993, which limitation of \$150,000 shall be adjusted as required by federal law for qualified government plans and ~~shall be~~ further adjusted for changes in the cost of living in the manner provided by Internal Revenue Code s. 401(a)(17)(B). For any person who first became a member before the first plan year beginning on or after January



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1, 1996, the limitation on compensation may not be less than the maximum compensation amount that was allowed to be taken into account under the plan in effect on July 1, 1993, which limitation shall be adjusted for changes in the cost of living since 1989 in the manner provided by Internal Revenue Code s. 401(a) (17) (1991).

(6) ~~(4)~~ "Creditable service" or "credited service" means the aggregate number of years of service~~7~~ and fractional parts of years of service~~7~~ of any firefighter, omitting intervening years and fractional parts of years when such firefighter may not have been employed by the municipality or special fire control district, subject to the following conditions:

(a) A ~~No~~ firefighter may not ~~will~~ receive credit for years or fractional parts of years of service if he or she has withdrawn his or her contributions to the fund for those years or fractional parts of years of service, unless the firefighter repays into the fund the amount he or she has withdrawn, plus interest determined by the board. The member shall have at least 90 days after his or her reemployment to make repayment.

(b) A firefighter may voluntarily leave his or her contributions in the fund for ~~a period of~~ 5 years after leaving the employ of the fire department, pending the possibility of being rehired by the same department, without losing credit for the time he or she has participated actively as a firefighter. If the firefighter is not reemployed as a firefighter~~7~~ with the same department~~7~~ within 5 years, his or her contributions shall be returned without interest.

(c) Credited service under this chapter shall be provided only for service as a firefighter~~7~~ ~~as defined in subsection (8)7~~.



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or for military service and does not include credit for any other type of service. A municipality ~~may~~, by local ordinance, or a special fire control district ~~may~~, by resolution, may provide for the purchase of credit for military service prior to employment as well as for prior service as a firefighter for some other employer as long as a firefighter is not entitled to receive a benefit for such prior service ~~as a firefighter~~. For purposes of determining credit for prior service as a firefighter, in addition to service as a firefighter in this state, credit may be given for federal, other state, or county service if the prior service is recognized by the Division of State Fire Marshal as provided in ~~under~~ chapter 633, or the firefighter provides proof to the board of trustees that his or her service is equivalent to the service required to meet the definition of a firefighter under subsection (11) ~~(8)~~.

(d) In determining the creditable service of any firefighter, credit for up to 5 years of the time spent in the military service of the Armed Forces of the United States shall be added to the years of actual service if:

1. The firefighter is in the active employ of an employer immediately prior to such service and leaves a position, other than a temporary position, for the purpose of voluntary or involuntary service in the Armed Forces of the United States.

2. The firefighter is entitled to reemployment under the provisions of the Uniformed Services Employment and Reemployment Rights Act.

3. The firefighter returns to his or her employment as a firefighter of the municipality or special fire control district within 1 year from the date of release from such active service.



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156 (7)-(5) "Deferred Retirement Option Plan" or "DROP" means a
157 local law plan retirement option in which a firefighter may
158 elect to participate. A firefighter may retire for all purposes
159 of the plan and defer receipt of retirement benefits into a DROP
160 account while continuing employment with his or her employer.
161 However, a firefighter who enters ~~the~~ DROP and who is otherwise
162 eligible to participate may ~~shall~~ not ~~thereby~~ be precluded from
163 participation or continued participation ~~participating, or~~
164 ~~continuing to participate,~~ in a supplemental plan in existence
165 on, or created after, March 12, 1999 ~~the effective date of this~~
166 ~~act.~~

167 (8) "Defined contribution plan" means the component of a
168 local law plan, as provided in s. 175.351(1), to which deposits
169 are made to provide benefits for firefighters, or for
170 firefighters and police officers if both are included. Such
171 component is an element of a local law plan and exists in
172 conjunction with the defined benefit component that meets the
173 minimum benefits and minimum standards of this chapter. The
174 retirement benefits of the defined contribution plan shall be
175 provided through individual member accounts in accordance with
176 the applicable provisions of the Internal Revenue Code and
177 related regulations and are limited to the contributions, if
178 any, made into each member's account and the actual accumulated
179 earnings, net of expenses, earned on the member's account.

180 (9)-(6) "Division" means the Division of Retirement of the
181 Department of Management Services.

182 (10)-(7) "Enrolled actuary" means an actuary who is enrolled
183 under Subtitle C of Title III of the Employee Retirement Income
184 Security Act of 1974 and who is a member of the Society of



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Actuaries or the American Academy of Actuaries.

~~(11)~~~~(8)~~(a) "Firefighter" means a person employed solely by a constituted fire department of any municipality or special fire control district who is certified as a firefighter as a condition of employment in accordance with s. 633.408 and whose duty it is to extinguish fires, to protect life, or to protect property. The term 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 firefighters, part-time firefighters, or auxiliary firefighters but does not include part-time firefighters or auxiliary firefighters. However, for purposes of this chapter only, the term also includes public safety officers who are responsible for performing both police and fire services, who are certified as police officers or firefighters, and who are certified by their employers to the Chief Financial Officer as participating in this chapter before October 1, 1979. Effective October 1, 1979, public safety officers who have not been certified as participating in this chapter are considered police officers for retirement purposes and are eligible to participate in chapter 185. Any plan may provide that the fire chief has an option to participate,~~or not,~~ in that plan.

(b) "Volunteer firefighter" means any person whose name is carried on the active membership roll of a constituted volunteer fire department or a combination of a paid and volunteer fire department of any municipality or special fire control district and whose duty it is to extinguish fires, to protect life, and to protect property. Compensation for services rendered by a volunteer firefighter does ~~shall~~ not disqualify him or her as a



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volunteer. A person may ~~shall~~ not be disqualified as a volunteer firefighter solely because he or she has other gainful employment. Any person who volunteers assistance at a fire but is not an active member of a department described herein is not a volunteer firefighter within the meaning of this paragraph.

(12) ~~(9)~~ "Firefighters' Pension Trust Fund" means a trust fund, by whatever name known, as provided under s. 175.041, for the purpose of assisting municipalities and special fire control districts in establishing and maintaining a retirement plan for firefighters.

(13) ~~(10)~~ "Local law municipality" is any municipality in which ~~there exists~~ a local law plan exists.

(14) ~~(11)~~ "Local law plan" means a retirement defined benefit pension plan, which includes both a defined benefit plan component and a defined contribution plan component, for firefighters, or for firefighters and ~~or~~ police officers if both are where included, as described in s. 175.351, established by municipal ordinance, special district resolution, or special act of the Legislature, which ~~enactment~~ sets forth all plan provisions. Local law plan provisions may vary from the provisions of this chapter if the, ~~provided that required~~ minimum benefits and minimum standards of this chapter are met. However, any such variance must ~~shall~~ provide a greater benefit for firefighters. Actuarial valuations of local law plans shall be conducted by an enrolled actuary as provided in s. 175.261(2).

(15) ~~(12)~~ "Local law special fire control district" means is any special fire control district in which ~~there exists~~ a local law plan exists.



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(16) "Minimum benefits" means the benefits set forth in ss. 175.021-175.341 and ss. 175.361-175.401.

(17) "Minimum standards" means the standards set forth in ss. 175.021-175.341 and ss. 175.361-175.401.

(18) ~~(13)~~ "Property insurance" means property insurance as defined in s. 624.604 and covers real and personal property within the corporate limits of a ~~any~~ municipality, or within the boundaries of a ~~any~~ special fire control district, within the state. The term "multiple peril" means a combination or package policy that includes both property and casualty coverage for a single premium.

(19) ~~(14)~~ "Retiree" or "retired firefighter" means a firefighter who has entered retirement status. For the purposes of a plan that includes a Deferred Retirement Option Plan (DROP), a firefighter who enters the DROP is ~~shall be~~ considered a retiree for all purposes of the plan. However, a firefighter who enters ~~the~~ DROP and who is otherwise eligible to participate may ~~shall~~ not ~~thereby~~ be precluded from participation or continued participation ~~participating, or continuing to participate,~~ in a supplemental plan in existence on, or created after, March 12, 1999 ~~the effective date of this act~~.

(20) ~~(15)~~ "Retirement" means a firefighter's separation from municipal ~~city~~ or fire district employment as a firefighter with immediate eligibility for ~~receipt of~~ benefits under the plan. For purposes of a plan that includes a Deferred Retirement Option Plan (DROP), "retirement" means the date a firefighter enters ~~the~~ DROP.

(21) "Special act plan" means a plan subject to the provisions of this chapter which was created by an act of the



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Legislature and continues to require an act of the Legislature to alter plan benefits.

(22) "Special benefits" means benefits provided in a defined contribution plan for firefighters.

(23)(16) "Special fire control district" means a special district, as defined in s. 189.403(1), established for the purposes of extinguishing fires, protecting life, and protecting property within the incorporated or unincorporated portions of a ~~any~~ county or combination of counties, or within any combination of incorporated and unincorporated portions of a ~~any~~ county or combination of counties. The term does not include any dependent or independent special district, as those terms are defined in s. 189.403, whose s. 189.403(2) and (3), respectively, the employees ~~of which~~ are members of the Florida Retirement System pursuant to s. 121.051(1) or (2).

(24)(17) "Supplemental plan" means a plan to which deposits are made to provide extra benefits for firefighters, or for firefighters and police officers if both are ~~where~~ included ~~under this chapter~~. Such a plan is an element of a local law plan and exists in conjunction with a defined benefit component plan that meets the minimum benefits and minimum standards of this chapter. Any supplemental plan in existence on March 1, 2014, shall be deemed to be a defined contribution plan in compliance with s. 175.351(6).

(25)(18) "Supplemental plan municipality" means a ~~any~~ local law municipality in which any ~~there existed a~~ supplemental plan ~~existed, of any type or nature,~~ as of December 1, 2000.

Section 3. Subsection (7) of section 175.071, Florida Statutes, is amended to read:



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175.071 General powers and duties of board of trustees.—For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter:

(7) To assist the board in meeting its responsibilities under this chapter, the board, if it so elects, may:

(a) Employ independent legal counsel at the pension fund's expense.

(b) Employ an independent enrolled actuary, as defined in s. 175.032(7), at the pension fund's expense.

(c) Employ such independent professional, technical, or other advisers as it deems necessary at the pension fund's expense.

If the board chooses to use the municipality's or special district's legal counsel or actuary, or chooses to use any of the municipality's or special district's other professional, technical, or other advisers, it must do so only under terms and conditions acceptable to the board.

Section 4. Paragraph (d) of subsection (1) of section 175.091, Florida Statutes, is amended to read:

175.091 Creation and maintenance of fund.—For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter:

(1) The firefighters' pension trust fund in each municipality and in each special fire control district shall be created and maintained in the following manner:

(d) By mandatory payment by the municipality or special



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fire control district of a sum equal to the normal cost of and the amount required to fund any actuarial deficiency shown by an actuarial valuation conducted under ~~as provided in~~ part VII of chapter 112 after taking into account the amounts described in paragraphs (b), (c), (e), (f), and (g) and the tax proceeds described in paragraph (a) which must be used to fund defined benefit plan benefits.

Nothing in this section shall be construed to require adjustment of member contribution rates in effect on the date this act becomes a law, including rates that exceed 5 percent of salary, provided that such rates are at least one-half of 1 percent of salary.

Section 5. Paragraph (a) of subsection (2) of section 175.162, Florida Statutes, is amended to read:

175.162 Requirements for retirement.—For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter, any firefighter who completes 10 or more years of creditable service as a firefighter and attains age 55, or completes 25 years of creditable service as a firefighter and attains age 52, and who for such minimum period has been a member of the firefighters' pension trust fund operating under a chapter plan or local law plan, is eligible for normal retirement benefits. Normal retirement under the plan is retirement from the service of the municipality or special fire control district on or after the normal retirement date. In such event, payment of retirement income will be governed by the following provisions of this section:



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(2)(a) The amount of monthly retirement income payable to a full-time firefighter who retires on or after his or her normal retirement date shall be an amount equal to the number of his or her years of credited service multiplied by 2.75 ~~2~~ percent of his or her average final compensation as a full-time firefighter. ~~However, if current state contributions pursuant to this chapter are not adequate to fund the additional benefits to meet the minimum requirements in this chapter, only such incremental increases shall be required as state moneys are adequate to provide. Such increments shall be provided as state moneys become available.~~

1. Effective July 1, 2014, a plan that is in compliance with this chapter except that the plan provides a benefit that is less than 2.75 percent of the average final compensation of a full-time firefighter, as defined in section 175.162(2)(a)1., must maintain, at a minimum, the percentage amount in effect on July 1, 2014, and is not required to increase the benefit to 2.75 percent of the average final compensation of a full-time firefighter.

2. Effective July 1, 2014, a plan that is in compliance with this chapter except that the plan provides a benefit that is less than 2.75 percent of the average final compensation of a full-time firefighter, as defined in section 175.162(2)(a)1., and that changes its accrual rate to 2.75 percent, or greater, of the average final compensation of a full-time firefighter, as defined in section 175.162(2)(a)1., may not thereafter decrease the accrual rate to less than 2.75 percent of the average final compensation of a full-time firefighter as defined in section 175.162(2)(a)1.



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Section 6. Section 175.351, Florida Statutes, is amended to read:

175.351 Municipalities and special fire control districts ~~that have~~ having their own pension plans for firefighters. ~~For any municipality, special fire control district, local law municipality, local law special fire control district, or local law plan under this chapter,~~ In order for a municipality or municipalities and special fire control district that has its districts with their own pension plan plans for firefighters, or for firefighters and police officers if both are included, to participate in the distribution of the tax fund established under pursuant to s. 175.101, a local law plan and its plan sponsor plans must meet the minimum benefits and minimum standards set forth in this chapter.

(1) If a municipality has a pension plan for firefighters, ~~or a pension plan for firefighters and police officers if both are included,~~ which in the opinion of the division meets the minimum benefits and minimum standards set forth in this chapter, the board of trustees of the pension plan must, ~~as approved by a majority of firefighters of the municipality, may:~~

~~(a)~~ place the income from the premium tax in s. 175.101 in such ~~pension~~ plan for the sole and exclusive use of its firefighters, or for firefighters and police officers if both are included, where it shall become an integral part of that ~~pension~~ plan and ~~shall~~ be used to fund benefits as provided herein. Effective October 1, 2014, for noncollectively bargained service or upon entering into a collective bargaining agreement on or after July 1, 2014:

(a) The base premium tax revenues must be used to fund



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minimum benefits or other retirement benefits in excess of the
minimum benefits as determined by the municipality or special
fire control district.

(b) Of the additional premium tax revenues received which
are in excess of the amount received for the 2013 calendar year,
50 percent must be used to fund minimum benefits or other
retirement benefits in excess of the minimum benefits as
determined by the municipality or special fire control district,
and 50 percent must be placed in a defined contribution plan to
fund special benefits.

(c) Additional premium tax revenues not described in
paragraph (b) must be used to fund benefits that are not
included in the minimum benefits.

(d) Any accumulations of additional tax revenues which have
not been applied to fund benefits in excess of the minimum
benefits or applied to fund a supplemental plan must be used to
fund special benefits ~~to pay extra benefits to the firefighters~~
~~included in that pension plan; or~~

~~(b) Place the income from the premium tax in s. 175.101 in~~
~~a separate supplemental plan to pay extra benefits to~~
~~firefighters, or to firefighters and police officers if~~
~~included, participating in such separate supplemental plan.~~

(e) For a plan created after March 1, 2014, 50 percent of
the insurance premium tax revenues must be used to fund defined
benefit plan component benefits, with the remainder used to fund
defined contribution plan component benefits.

(f) If a plan offers benefits in excess of the minimum
benefits, excluding supplemental plan benefits in effect as of
September 30, 2013, such benefits may be reduced if the plan



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continues to meet the minimum benefits and the minimum standards set forth in this chapter. The amount of insurance premium tax revenues previously used to fund benefits in excess of minimum benefits, excluding supplemental plan benefits in effect as of September 30, 2013, before the reduction must be used as provided in paragraph (b). However, benefits in excess of the minimum benefits may not be reduced if a plan does not meet the minimum accrual rate of 2.75 percent, or greater, of the average final compensation of a full-time firefighter, as defined in s. 175.162(2)(a)1.

(g) Notwithstanding any other provision of this subsection, the use of premium tax revenues, including any accumulations of additional tax revenues which have not been applied to fund benefits in excess of the minimum benefits, may deviate from the provisions of this subsection by mutual consent of the members' collective bargaining representative or, if none, by majority consent of the firefighter members of the fund, and by consent of the municipality or special fire control district, provided that the plan continues to meet the minimum benefits and minimum standards of this chapter. Such mutually agreed deviation shall continue until modified or revoked by subsequent mutual consent of the members' collective bargaining representative or, if none, by a majority of the firefighter members of the fund, and the municipality or special fire control district. A special act plan or a plan within a supplemental plan municipality shall be considered to have mutually consented to such deviation as of July 1, 2014, regarding the existing arrangement on the use of premium tax revenues.

(2) The premium tax provided by this chapter shall ~~in all~~



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~~eases~~ be used in its entirety to provide retirement ~~extra~~ benefits to firefighters, or to firefighters and police officers if both are included. ~~However, local law plans in effect on October 1, 1998, must comply with the minimum benefit provisions of this chapter only to the extent that additional premium tax revenues become available to incrementally fund the cost of such compliance as provided in s. 175.162(2)(a). If a plan is in compliance with such minimum benefit provisions, as subsequent additional premium tax revenues become available, they must be used to provide extra benefits.~~ Local law plans created by special act before May 27, 1939, are deemed to comply with this chapter. ~~For the purpose of this chapter, the term:~~

~~(a) "Additional premium tax revenues" means revenues received by a municipality or special fire control district pursuant to s. 175.121 which exceed that amount received for calendar year 1997.~~

~~(b) "Extra benefits" means benefits in addition to or greater than those provided to general employees of the municipality and in addition to those in existence for firefighters on March 12, 1999.~~

(3) A retirement plan or amendment to a retirement plan may not be proposed for adoption unless the proposed plan or amendment contains an actuarial estimate of the costs involved. Such proposed plan or proposed plan change may not be adopted without the approval of the municipality, special fire control district, or, where required ~~permitted~~, the Legislature. Copies of the proposed plan or proposed plan change and the actuarial impact statement of the proposed plan or proposed plan change shall be furnished to the division before the last public



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hearing on the proposal is held ~~thereon~~. Such statement must also indicate whether the proposed plan or proposed plan change is in compliance with s. 14, Art. X of the State Constitution and those provisions of part VII of chapter 112 which are not expressly provided in this chapter. Notwithstanding any other provision, only those local law plans created by special act of legislation before May 27, 1939, are deemed to meet the minimum benefits and minimum standards only in this chapter.

(4) Notwithstanding any other provision, with respect to any supplemental plan municipality:

(a) A local law plan and a supplemental plan may continue to use their definition of compensation or salary in existence on March 12, 1999.

(b) Section 175.061(1)(b) does not apply, and a local law plan and a supplemental plan shall continue to be administered by a board or boards of trustees numbered, constituted, and selected as the board or boards were numbered, constituted, and selected on December 1, 2000.

~~(c) The election set forth in paragraph (1)(b) is deemed to have been made.~~

(5) The retirement plan setting forth the benefits and the trust agreement, if any, covering the duties and responsibilities of the trustees and the regulations of the investment of funds must be in writing, and copies made available to the participants and to the general public.

(6) In addition to the defined benefit component of the local law plan, each plan sponsor must have a defined contribution plan component within the local law plan by October 1, 2014, for noncollectively bargained service, upon entering



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into a collective bargaining agreement on or after July 1, 2014,
or upon the creation date of a new participating plan. Depending
upon the application of subsection (1), a defined contribution
component may or may not receive any funding.

(7) Notwithstanding any other provision of this chapter, a
municipality or special fire control district that has
implemented or proposed changes to a local law plan based on the
municipality's or district's reliance on an interpretation of
this chapter by the department on or after August 14, 2012, and
before March 4, 2014, may continue the implemented changes or
continue to implement proposed changes. Such reliance must be
evidenced by a written collective bargaining proposal or
agreement, or formal correspondence between the municipality or
district and the department which describes the specific changes
to the local law plan, with the initial proposal, agreement, or
correspondence from the municipality or district dated before
March 4, 2014. Changes to the local law plan which are otherwise
contrary to the minimum benefits and minimum standards in this
chapter may continue in effect until the earlier of October 1,
2017, or the effective date of a collective bargaining agreement
that is contrary to the changes to the local law plan.

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

And the title is amended as follows:

Delete lines 11 - 24

and insert:

the method of creating and maintaining a firefighters'
pension trust fund; amending s. 175.162, F.S.;

deleting a provision basing the availability of



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additional benefits in a firefighter pension plan upon
state funding; revising the calculation of monthly
retirement income for a full-time firefighter;
providing that certain firefighter pension plans must
maintain a certain minimum percentage of average final
compensation after a specified date; amending s.
175.351, F.S., relating to municipalities and special
fire control districts that have their own pension
plans and want to participate in the distribution of a
tax fund; revising criteria governing the use of
revenues from the premium tax; authorizing a pension
plan to reduce excess benefits if the plan continues
to meet certain minimum benefits and standards;
providing that the use of premium tax revenues may
deviate from the requirements of ch. 175, F.S., under
certain circumstances; requiring plan sponsors to have
a defined



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/11/2014	.	
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	.	
	.	

The Committee on Appropriations (Ring) recommended the following:

Senate Substitute for Amendment (966054) (with title amendment)

Delete lines 61 - 624
and insert:

Section 1. Subsection (2) of section 175.021, Florida Statutes, is amended to read:

175.021 Legislative declaration.—

(2) This chapter hereby establishes, for all municipal and special district pension plans existing ~~now or hereafter~~ under



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this chapter, including chapter plans and local law plans, minimum benefits and minimum standards for the operation and funding of such plans, hereinafter referred to as firefighters' pension trust funds, which must be met as a condition precedent to the plan or plan sponsor receiving a distribution of insurance premium tax revenues under s. 175.121. The minimum benefits and minimum standards for each plan as set forth in this chapter may not be diminished by local charter, ordinance, or resolution or by special act of the Legislature and may not, ~~nor may the minimum benefits or minimum standards~~ be reduced or offset by any other local, state, or federal law that includes ~~may include~~ firefighters in its operation, except as provided under s. 112.65.

Section 2. Section 175.032, Florida Statutes, is amended to read:

175.032 Definitions.—For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter, the term ~~following words and phrases have the following meanings:~~

(1) "Additional premium tax revenues" means revenues received by a municipality or special fire control district pursuant to s. 175.121 which exceed base premium tax revenues.

~~(2)(1)(a)~~ "Average final compensation" for:

(a) A full-time firefighter means one-twelfth of the average annual compensation of the 5 best years of the last 10 years of creditable service before ~~prior to~~ retirement, termination, or death, or the career average as a full-time firefighter since July 1, 1953, whichever is greater. A year is



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~~shall be~~ 12 consecutive months or such other consecutive period of time as is used and consistently applied.

(b) ~~"Average final compensation"~~ for A volunteer firefighter means the average salary of the 5 best years of the last 10 best contributing years before ~~prior to~~ change in status to a permanent full-time firefighter or retirement as a volunteer firefighter or the career average of a volunteer firefighter, since July 1, 1953, whichever is greater.

(3) "Base premium tax revenues" means the revenues received by a municipality or special fire control district pursuant to s. 175.121 for the calendar year 1997.

~~(4)(2)~~ "Chapter plan" means a separate defined benefit pension plan for firefighters which incorporates by reference the provisions of this chapter and has been adopted by the governing body of a municipality or special district. Except as ~~may be~~ specifically authorized in this chapter, the provisions of a chapter plan may not differ from the plan provisions set forth in ss. 175.021-175.341 and ss. 175.361-175.401. Actuarial valuations of chapter plans shall be conducted by the division as provided by s. 175.261(1).

~~(5)(3)~~ "Compensation" or "salary" means, for noncollectively bargained service earned before July 1, 2011, or for service earned under collective bargaining agreements in place before July 1, 2011, the fixed monthly remuneration paid a firefighter. If remuneration is based on actual services rendered, as in the case of a volunteer firefighter, the term means the total cash remuneration received yearly for such services, prorated on a monthly basis. For noncollectively bargained service earned on or after July 1, 2011, or for



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69 service earned under collective bargaining agreements entered
70 into on or after July 1, 2011, the term has the same meaning
71 except that when calculating retirement benefits, up to 300
72 hours per year in overtime compensation may be included as
73 specified in the plan or collective bargaining agreement, but
74 payments for accrued unused sick or annual leave may not be
75 included.

76 (a) Any retirement trust fund or plan that meets the
77 requirements of this chapter does not, solely by virtue of this
78 subsection, reduce or diminish the monthly retirement income
79 otherwise payable to each firefighter covered by the retirement
80 trust fund or plan.

81 (b) The member's compensation or salary contributed as
82 employee-elective salary reductions or deferrals to any salary
83 reduction, deferred compensation, or tax-sheltered annuity
84 program authorized under the Internal Revenue Code shall be
85 deemed to be the compensation or salary the member would receive
86 if he or she were not participating in such program and ~~shall be~~
87 treated as compensation for retirement purposes under this
88 chapter.

89 (c) For any person who first becomes a member in any plan
90 year beginning on or after January 1, 1996, compensation for
91 that plan year may not include any amounts in excess of the
92 Internal Revenue Code s. 401(a)(17) limitation, as amended by
93 the Omnibus Budget Reconciliation Act of 1993, which limitation
94 of \$150,000 shall be adjusted as required by federal law for
95 qualified government plans and ~~shall be~~ further adjusted for
96 changes in the cost of living in the manner provided by Internal
97 Revenue Code s. 401(a)(17)(B). For any person who first became a



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member before the first plan year beginning on or after January 1, 1996, the limitation on compensation may not be less than the maximum compensation amount that was allowed to be taken into account under the plan in effect on July 1, 1993, which limitation shall be adjusted for changes in the cost of living since 1989 in the manner provided by Internal Revenue Code s. 401(a)(17)(1991).

(6)~~(4)~~ "Creditable service" or "credited service" means the aggregate number of years of service~~7~~ and fractional parts of years of service~~7~~ of any firefighter, omitting intervening years and fractional parts of years when such firefighter may not have been employed by the municipality or special fire control district, subject to the following conditions:

(a) A ~~No~~ firefighter may not ~~will~~ receive credit for years or fractional parts of years of service if he or she has withdrawn his or her contributions to the fund for those years or fractional parts of years of service, unless the firefighter repays into the fund the amount he or she has withdrawn, plus interest determined by the board. The member shall have at least 90 days after his or her reemployment to make repayment.

(b) A firefighter may voluntarily leave his or her contributions in the fund for ~~a period of~~ 5 years after leaving the employ of the fire department, pending the possibility of being rehired by the same department, without losing credit for the time he or she has participated actively as a firefighter. If the firefighter is not reemployed as a firefighter~~7~~ with the same department~~7~~ within 5 years, his or her contributions shall be returned without interest.

(c) Credited service under this chapter shall be provided



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only for service as a firefighter, ~~as defined in subsection (8),~~
or for military service and does not include credit for any
other type of service. A municipality ~~may,~~ by local ordinance,
or a special fire control district ~~may,~~ by resolution, may
provide for the purchase of credit for military service prior to
employment as well as for prior service as a firefighter for
some other employer as long as a firefighter is not entitled to
receive a benefit for such prior service ~~as a firefighter~~. For
purposes of determining credit for prior service as a
firefighter, in addition to service as a firefighter in this
state, credit may be given for federal, other state, or county
service if the prior service is recognized by the Division of
State Fire Marshal as provided in ~~under~~ chapter 633, or the
firefighter provides proof to the board of trustees that his or
her service is equivalent to the service required to meet the
definition of a firefighter under subsection (11) ~~(8)~~.

(d) In determining the creditable service of any
firefighter, credit for up to 5 years of the time spent in the
military service of the Armed Forces of the United States shall
be added to the years of actual service if:

1. The firefighter is in the active employ of an employer
immediately prior to such service and leaves a position, other
than a temporary position, for the purpose of voluntary or
involuntary service in the Armed Forces of the United States.

2. The firefighter is entitled to reemployment under the
provisions of the Uniformed Services Employment and Reemployment
Rights Act.

3. The firefighter returns to his or her employment as a
firefighter of the municipality or special fire control district



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within 1 year from the date of release from such active service.

~~(7)(5)~~ "Deferred Retirement Option Plan" or "DROP" means a local law plan retirement option in which a firefighter may elect to participate. A firefighter may retire for all purposes of the plan and defer receipt of retirement benefits into a DROP account while continuing employment with his or her employer. However, a firefighter who enters ~~the~~ DROP and who is otherwise eligible to participate ~~may shall~~ not ~~thereby~~ be precluded from participation or continued participation ~~participating, or continuing to participate,~~ in a supplemental plan in existence on, or created after, March 12, 1999 ~~the effective date of this act.~~

(8) "Defined contribution plan" means the component of a local law plan, as provided in s. 175.351(1), to which deposits, if any, are made to provide benefits for firefighters, or for firefighters and police officers if both are included. Such component is an element of a local law plan and exists in conjunction with the defined benefit component that meets the minimum benefits and minimum standards of this chapter. The retirement benefits, if any, of the defined contribution plan shall be provided through individual member accounts in accordance with the applicable provisions of the Internal Revenue Code and related regulations and are limited to the contributions, if any, made into each member's account and the actual accumulated earnings, net of expenses, earned on the member's account.

~~(9)(6)~~ "Division" means the Division of Retirement of the Department of Management Services.

~~(10)(7)~~ "Enrolled actuary" means an actuary who is enrolled



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under Subtitle C of Title III of the Employee Retirement Income Security Act of 1974 and who is a member of the Society of Actuaries or the American Academy of Actuaries.

(11)~~(8)~~(a) "Firefighter" means a person employed solely by a constituted fire department of any municipality or special fire control district who is certified as a firefighter as a condition of employment in accordance with s. 633.408 and whose duty it is to extinguish fires, to protect life, or to protect property. The term 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 firefighters, part-time firefighters, or auxiliary firefighters but does not include part-time firefighters or auxiliary firefighters. However, for purposes of this chapter only, the term also includes public safety officers who are responsible for performing both police and fire services, who are certified as police officers or firefighters, and who are certified by their employers to the Chief Financial Officer as participating in this chapter before October 1, 1979. Effective October 1, 1979, public safety officers who have not been certified as participating in this chapter are considered police officers for retirement purposes and are eligible to participate in chapter 185. Any plan may provide that the fire chief has an option to participate~~, or not,~~ in that plan.

(b) "Volunteer firefighter" means any person whose name is carried on the active membership roll of a constituted volunteer fire department or a combination of a paid and volunteer fire department of any municipality or special fire control district and whose duty it is to extinguish fires, to protect life, and



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to protect property. Compensation for services rendered by a volunteer firefighter does ~~shall~~ not disqualify him or her as a volunteer. A person may ~~shall~~ not be disqualified as a volunteer firefighter solely because he or she has other gainful employment. Any person who volunteers assistance at a fire but is not an active member of a department described herein is not a volunteer firefighter within the meaning of this paragraph.

(12) ~~(9)~~ "Firefighters' Pension Trust Fund" means a trust fund, by whatever name known, as provided under s. 175.041, for the purpose of assisting municipalities and special fire control districts in establishing and maintaining a retirement plan for firefighters.

(13) ~~(10)~~ "Local law municipality" is any municipality in which ~~there exists~~ a local law plan exists.

(14) ~~(11)~~ "Local law plan" means a retirement defined benefit pension plan, which includes both a defined benefit plan component and a defined contribution plan component, for firefighters, or for firefighters and ~~or~~ police officers if both are where included, as described in s. 175.351, established by municipal ordinance, special district resolution, or special act of the Legislature, which ~~enactment~~ sets forth all plan provisions. Local law plan provisions may vary from the provisions of this chapter if the, ~~provided that required~~ minimum benefits and minimum standards of this chapter are met. However, any such variance must ~~shall~~ provide a greater benefit for firefighters. Actuarial valuations of local law plans shall be conducted by an enrolled actuary as provided in s. 175.261(2).

(15) ~~(12)~~ "Local law special fire control district" means ~~is~~



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any special fire control district in which ~~there exists~~ a local law plan exists.

(16) "Minimum benefits" means the benefits set forth in ss. 175.021-175.341 and ss. 175.361-175.401.

(17) "Minimum standards" means the standards set forth in ss. 175.021-175.341 and ss. 175.361-175.401.

(18)~~(13)~~ "Property insurance" means property insurance as defined in s. 624.604 and covers real and personal property within the corporate limits of a ~~any~~ municipality, or within the boundaries of a ~~any~~ special fire control district, within the state. The term "multiple peril" means a combination or package policy that includes both property and casualty coverage for a single premium.

(19)~~(14)~~ "Retiree" or "retired firefighter" means a firefighter who has entered retirement status. For the purposes of a plan that includes a Deferred Retirement Option Plan (DROP), a firefighter who enters the DROP is ~~shall be~~ considered a retiree for all purposes of the plan. However, a firefighter who enters ~~the~~ DROP and who is otherwise eligible to participate may ~~shall~~ not ~~thereby~~ be precluded from participation or continued participation ~~participating, or continuing to participate,~~ in a supplemental plan in existence on, or created after, March 12, 1999 ~~the effective date of this act~~.

(20)~~(15)~~ "Retirement" means a firefighter's separation from municipal ~~city~~ or fire district employment as a firefighter with immediate eligibility for ~~receipt of~~ benefits under the plan. For purposes of a plan that includes a Deferred Retirement Option Plan (DROP), "retirement" means the date a firefighter enters ~~the~~ DROP.



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(21) "Special act plan" means a plan subject to the provisions of this chapter which was created by an act of the Legislature and continues to require an act of the Legislature to alter plan benefits.

(22) "Special benefits" means benefits provided in a defined contribution plan for firefighters.

~~(23)(16)~~ "Special fire control district" means a special district, as defined in s. 189.403~~(1)~~, established for the purposes of extinguishing fires, protecting life, and protecting property within the incorporated or unincorporated portions of a ~~any~~ county or combination of counties, or within any combination of incorporated and unincorporated portions of a ~~any~~ county or combination of counties. The term does not include any dependent or independent special district, as those terms are defined in s. 189.403, whose ~~s. 189.403(2) and (3), respectively, the~~ employees ~~of which~~ are members of the Florida Retirement System pursuant to s. 121.051(1) or (2).

~~(24)(17)~~ "Supplemental plan" means a plan to which deposits are made to provide extra benefits for firefighters, or for firefighters and police officers if both are ~~where~~ included ~~under this chapter~~. Such a plan is an element of a local law plan and exists in conjunction with a defined benefit component ~~plan~~ that meets the minimum benefits and minimum standards of this chapter. Any supplemental plan in existence on March 1, 2014, shall be deemed to be a defined contribution plan in compliance with s. 175.351(6).

~~(25)(18)~~ "Supplemental plan municipality" means a ~~any~~ local law municipality in which any ~~there existed a~~ supplemental plan ~~existed, of any type or nature,~~ as of December 1, 2000.



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Section 3. Subsection (7) of section 175.071, Florida Statutes, is amended to read:

175.071 General powers and duties of board of trustees.—For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter:

(7) To assist the board in meeting its responsibilities under this chapter, the board, if it so elects, may:

(a) Employ independent legal counsel at the pension fund's expense.

(b) Employ an independent enrolled actuary, as defined in s. 175.032~~(7)~~, at the pension fund's expense.

(c) Employ such independent professional, technical, or other advisers as it deems necessary at the pension fund's expense.

If the board chooses to use the municipality's or special district's legal counsel or actuary, or chooses to use any of the municipality's or special district's other professional, technical, or other advisers, it must do so only under terms and conditions acceptable to the board.

Section 4. Paragraph (d) of subsection (1) of section 175.091, Florida Statutes, is amended to read:

175.091 Creation and maintenance of fund.—For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter:

(1) The firefighters' pension trust fund in each municipality and in each special fire control district shall be



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created and maintained in the following manner:

(d) By mandatory payment by the municipality or special fire control district of a sum equal to the normal cost of and the amount required to fund any actuarial deficiency shown by an actuarial valuation conducted under as provided in part VII of chapter 112 after taking into account the amounts described in paragraphs (b), (c), (e), (f), and (g) and the tax proceeds described in paragraph (a) which are used to fund defined benefit plan benefits.

Nothing in this section shall be construed to require adjustment of member contribution rates in effect on the date this act becomes a law, including rates that exceed 5 percent of salary, provided that such rates are at least one-half of 1 percent of salary.

Section 5. Paragraph (a) of subsection (2) of section 175.162, Florida Statutes, is amended to read:

175.162 Requirements for retirement.—For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter, any firefighter who completes 10 or more years of creditable service as a firefighter and attains age 55, or completes 25 years of creditable service as a firefighter and attains age 52, and who for such minimum period has been a member of the firefighters' pension trust fund operating under a chapter plan or local law plan, is eligible for normal retirement benefits. Normal retirement under the plan is retirement from the service of the municipality or special fire control district on or after the normal retirement date. In



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such event, payment of retirement income will be governed by the following provisions of this section:

(2)(a)1. The amount of monthly retirement income payable to a full-time firefighter who retires on or after his or her normal retirement date shall be an amount equal to the number of his or her years of credited service multiplied by 2.75 ~~2~~ percent of his or her average final compensation as a full-time firefighter. ~~However, if current state contributions pursuant to this chapter are not adequate to fund the additional benefits to meet the minimum requirements in this chapter, only such incremental increases shall be required as state moneys are adequate to provide. Such increments shall be provided as state moneys become available.~~

2. Effective July 1, 2014, a plan that is in compliance with this chapter except that the plan provides a benefit that is less than 2.75 percent of the average final compensation of a full-time firefighter, as defined in section 175.162(2)(a)1., must maintain, at a minimum, the percentage amount in effect on July 1, 2014, and is not required to increase the benefit to 2.75 percent of the average final compensation of a full-time firefighter.

3. Effective July 1, 2014, a plan that is in compliance with this chapter except that the plan provides a benefit that is less than 2.75 percent of the average final compensation of a full-time firefighter, as defined in section 175.162(2)(a)1., and that changes its accrual rate to 2.75 percent, or greater, of the average final compensation of a full-time firefighter, as defined in section 175.162(2)(a)1., may not thereafter decrease the accrual rate to less than 2.75 percent of the average final



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compensation of a full-time firefighter as defined in section
175.162 (2) (a) 1.

Section 6. Section 175.351, Florida Statutes, is amended to
read:

175.351 Municipalities and special fire control districts
that have ~~having~~ their own pension plans for firefighters. ~~For~~
~~any municipality, special fire control district, local law~~
~~municipality, local law special fire control district, or local~~
~~law plan under this chapter,~~ In order for a municipality or
~~municipalities and special fire control district that has its~~
~~districts with their own pension plan plans~~ for firefighters, or
for firefighters and police officers if both are included, to
participate in the distribution of the tax fund established
under ~~pursuant to~~ s. 175.101, a local law plan plans must meet
the minimum benefits and minimum standards set forth in this
chapter.

(1) If a municipality has a pension plan for firefighters,
or ~~a pension plan~~ for firefighters and police officers if both
are included, which in the opinion of the division meets the
minimum benefits and minimum standards set forth in this
chapter, the board of trustees of the pension plan must, ~~as~~
~~approved by a majority of firefighters of the municipality, may:~~

~~(a)~~ place the income from the premium tax in s. 175.101 in
such ~~pension~~ plan for the sole and exclusive use of its
firefighters, or for firefighters and police officers if both
are included, where it shall become an integral part of that
~~pension~~ plan and ~~shall~~ be used to fund benefits as provided
herein. Effective October 1, 2014, for noncollectively bargained
service or upon entering into a collective bargaining agreement



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on or after July 1, 2014:

(a) The base premium tax revenues must be used to fund minimum benefits or other retirement benefits in excess of the minimum benefits as determined by the municipality or special fire control district.

(b) Of the additional premium tax revenues received which are in excess of the amount received for the 2013 calendar year, 50 percent must be used to fund minimum benefits or other retirement benefits in excess of the minimum benefits as determined by the municipality or special fire control district, and 50 percent must be placed in a defined contribution plan to fund special benefits.

(c) Additional premium tax revenues not described in paragraph (b) must be used to fund benefits that are not included in the minimum benefits. If the additional premium tax revenues subject to this paragraph exceed the full cost of benefits provided through the plan which are in excess of the minimum benefits, any amount in excess of the full cost must be used as provided in paragraph (b).

(d) Any accumulations of additional premium tax revenues which have not been applied to fund benefits in excess of the minimum benefits may be allocated by mutual consent as provided in paragraph (g). If such accumulations are not allocated by mutual consent, 50 percent of the amount of the accumulations must be used to fund special benefits and 50 percent must be applied to fund any unfunded actuarial liabilities of the plan
~~to pay extra benefits to the firefighters included in that pension plan; or~~

~~(b) Place the income from the premium tax in s. 175.101 in~~



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~~a separate supplemental plan to pay extra benefits to
firefighters, or to firefighters and police officers if
included, participating in such separate supplemental plan.~~

(e) For a plan created after March 1, 2014, 50 percent of
the insurance premium tax revenues must be used to fund defined
benefit plan component benefits, with the remainder used to fund
defined contribution plan component benefits.

(f) If a plan offers benefits in excess of the minimum
benefits, excluding supplemental plan benefits in effect as of
September 30, 2013, such benefits may be reduced if the plan
continues to meet the minimum benefits and the minimum standards
set forth in this chapter. The amount of insurance premium tax
revenues previously used to fund benefits in excess of minimum
benefits, excluding supplemental plan benefits in effect as of
September 30, 2013, before the reduction must be used as
provided in paragraph (b). However, benefits in excess of the
minimum benefits may not be reduced if a plan does not meet the
minimum accrual rate of 2.75 percent, or greater, of the average
final compensation of a full-time firefighter, as defined in s.
175.162(2)(a)1.

(g) Notwithstanding any other provision of this subsection,
the use of premium tax revenues, including any accumulations of
additional tax revenues which have not been applied to fund
benefits in excess of the minimum benefits, may deviate from the
provisions of this subsection by mutual consent of the members'
collective bargaining representative or, if none, by majority
consent of the firefighter members of the fund, and by consent
of the municipality or special fire control district, provided
that the plan continues to meet the minimum benefits and minimum



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standards of this chapter; however, a plan operating pursuant to the provisions of this paragraph which does not meet a minimum benefit as of October 1, 2012, may continue to provide the benefit that does not meet the minimum benefit at the same level, but not less than that level, as was provided as of October 1, 2012, and all other benefit levels must continue to meet the minimum benefits. Such mutually agreed deviation shall continue until modified or revoked by subsequent mutual consent of the members' collective bargaining representative or, if none, by a majority of the firefighter members of the fund, and the municipality or special fire control district. A special act plan or a plan within a supplemental plan municipality shall be considered to have mutually consented to such deviation as of July 1, 2014, regarding the existing arrangement on the use of premium tax revenues.

(2) The premium tax provided by this chapter shall ~~in all cases~~ be used in its entirety to provide retirement ~~extra~~ benefits to firefighters, or to firefighters and police officers if both are included. ~~However, local law plans in effect on October 1, 1998, must comply with the minimum benefit provisions of this chapter only to the extent that additional premium tax revenues become available to incrementally fund the cost of such compliance as provided in s. 175.162(2)(a). If a plan is in compliance with such minimum benefit provisions, as subsequent additional premium tax revenues become available, they must be used to provide extra benefits.~~ Local law plans created by special act before May 27, 1939, are deemed to comply with this chapter. ~~For the purpose of this chapter, the term:~~

~~(a) "Additional premium tax revenues" means revenues~~



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~~received by a municipality or special fire control district pursuant to s. 175.121 which exceed that amount received for calendar year 1997.~~

~~(b) "Extra benefits" means benefits in addition to or greater than those provided to general employees of the municipality and in addition to those in existence for firefighters on March 12, 1999.~~

(3) A retirement plan or amendment to a retirement plan may not be proposed for adoption unless the proposed plan or amendment contains an actuarial estimate of the costs involved. Such proposed plan or proposed plan change may not be adopted without the approval of the municipality, special fire control district, or, where required ~~permitted~~, the Legislature. Copies of the proposed plan or proposed plan change and the actuarial impact statement of the proposed plan or proposed plan change shall be furnished to the division before the last public hearing on the proposal is held ~~thereon~~. Such statement must also indicate whether the proposed plan or proposed plan change is in compliance with s. 14, Art. X of the State Constitution and those provisions of part VII of chapter 112 which are not expressly provided in this chapter. Notwithstanding any other provision, only those local law plans created by special act of legislation before May 27, 1939, are deemed to meet the minimum benefits and minimum standards only in this chapter.

(4) Notwithstanding any other provision, with respect to any supplemental plan municipality:

(a) A local law plan and a supplemental plan may continue to use their definition of compensation or salary in existence on March 12, 1999.



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(b) Section 175.061(1)(b) does not apply, and a local law plan and a supplemental plan shall continue to be administered by a board or boards of trustees numbered, constituted, and selected as the board or boards were numbered, constituted, and selected on December 1, 2000.

~~(c) The election set forth in paragraph (1)(b) is deemed to have been made.~~

(5) The retirement plan setting forth the benefits and the trust agreement, if any, covering the duties and responsibilities of the trustees and the regulations of the investment of funds must be in writing, and copies made available to the participants and to the general public.

(6) In addition to the defined benefit component of the local law plan, each plan sponsor must have a defined contribution plan component within the local law plan by October 1, 2014, for noncollectively bargained service, upon entering into a collective bargaining agreement on or after July 1, 2014, or upon the creation date of a new participating plan. Depending upon the application of subsection (1), a defined contribution component may or may not receive any funding.

(7) Notwithstanding any other provision of this chapter, a municipality or special fire control district that has implemented or proposed changes to a local law plan based on the municipality's or district's reliance on an interpretation of this chapter by the department on or after August 14, 2012, and before March 4, 2014, may continue the implemented changes or continue to implement proposed changes. Such reliance must be evidenced by a written collective bargaining proposal or agreement, or formal correspondence between the municipality or



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district and the department which describes the specific changes
to the local law plan, with the initial proposal, agreement, or
correspondence from the municipality or district dated before
March 4, 2014. Changes to the local law plan which are otherwise
contrary to the minimum benefits and minimum standards in this
chapter may continue in effect until the earlier of October 1,
2017, or the effective date of a collective bargaining agreement
that is contrary to the changes to the local law plan.

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

And the title is amended as follows:

Delete lines 11 - 24

and insert:

the method of creating and maintaining a firefighters'
pension trust fund; amending s. 175.162, F.S.;
deleting a provision basing the availability of
additional benefits in a firefighter pension plan upon
state funding; revising the calculation of monthly
retirement income for a full-time firefighter;
providing that certain firefighter pension plans must
maintain a certain minimum percentage of average final
compensation after a specified date; amending s.
175.351, F.S., relating to municipalities and special
fire control districts that have their own pension
plans and want to participate in the distribution of a
tax fund; revising criteria governing the use of
revenues from the premium tax; authorizing a pension
plan to reduce excess benefits if the plan continues
to meet certain minimum benefits and standards;



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591 providing that the use of premium tax revenues may
592 deviate from the requirements of ch. 175, F.S., under
593 certain circumstances; requiring plan sponsors to have
594 a defined



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LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
04/11/2014	.	
	.	
	.	
	.	

The Committee on Appropriations (Ring) recommended the following:

Senate Amendment (with title amendment)

Delete lines 625 - 1147

and insert:

Section 7. Subsection (2) of section 185.01, Florida Statutes, is amended to read:

185.01 Legislative declaration.—

(2) This chapter hereby establishes, for all municipal pension plans ~~now or hereinafter~~ provided for under this chapter, including chapter plans and local law plans, minimum



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benefits and minimum standards for the operation and funding of such plans, hereinafter referred to as municipal police officers' retirement trust funds, which must be met as conditions precedent to the plans or plan sponsors receiving a distribution of insurance premium tax revenues under s. 185.10.

The minimum benefits and minimum standards for each plan as set forth in this chapter may not be diminished by local ordinance or by special act of the Legislature and may not, ~~nor may the minimum benefits or minimum standards~~ be reduced or offset by any other local, state, or federal plan that includes ~~may include~~ police officers in its operation, except as provided under s. 112.65.

Section 8. Section 185.02, Florida Statutes, is amended to read:

185.02 Definitions.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter, ~~the term following words and phrases as used in this chapter shall have the following meanings, unless a different meaning is plainly required by the context:~~

(1) "Additional premium tax revenues" means revenues received by a municipality pursuant to s. 185.10 which exceed base premium tax revenues.

~~(2)(1)~~ "Average final compensation" means one-twelfth of the average annual compensation of the 5 best years of the last 10 years of creditable service prior to retirement, termination, or death.

(3) "Base premium tax revenues" means the revenues received by a municipality pursuant to s. 185.10 for the calendar year 1997.



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40 (4)~~(2)~~ "Casualty insurance" means automobile public
41 liability and property damage insurance to be applied at the
42 place of residence of the owner, or if the subject is a
43 commercial vehicle, to be applied at the place of business of
44 the owner; automobile collision insurance; fidelity bonds;
45 burglary and theft insurance; and plate glass insurance. The
46 term "multiple peril" means a combination or package policy that
47 includes both property coverage and casualty coverage for a
48 single premium.

49 (5)~~(3)~~ "Chapter plan" means a separate defined benefit
50 pension plan for police officers which incorporates by reference
51 the provisions of this chapter and has been adopted by the
52 governing body of a municipality as provided in s. 185.08.
53 Except as ~~may be~~ specifically authorized in this chapter, the
54 provisions of a chapter plan may not differ from the plan
55 provisions set forth in ss. 185.01-185.341 and ss. 185.37-
56 185.39. Actuarial valuations of chapter plans shall be conducted
57 by the division as provided by s. 185.221(1)(b).

58 (6)~~(4)~~ "Compensation" or "salary" means, for
59 noncollectively bargained service earned before July 1, 2011, or
60 for service earned under collective bargaining agreements in
61 place before July 1, 2011, the total cash remuneration including
62 "overtime" paid by the primary employer to a police officer for
63 services rendered, which overtime payments for use in retirement
64 benefit calculations may be limited in a local law plan under
65 applicable law before July 1, 2011, but not including any
66 payments for extra duty or special detail work performed on
67 behalf of a second party employer. ~~A local law plan may limit~~
68 ~~the amount of overtime payments which can be used for retirement~~



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~~benefit calculation purposes; however, such overtime limit may~~
~~not be less than 300 hours per officer per calendar year.~~ For
noncollectively bargained service earned on or after July 1,
2011, or for service earned under collective bargaining
agreements entered into on or after July 1, 2011, the term has
the same meaning except that when calculating retirement
benefits, up to 300 hours per year in overtime compensation may
be included as specified in the plan or collective bargaining
agreement, but payments for accrued unused sick or annual leave
may not be included.

(a) Any retirement trust fund or plan that meets the
requirements of this chapter does not, solely by virtue of this
subsection, reduce or diminish the monthly retirement income
otherwise payable to each police officer covered by the
retirement trust fund or plan.

(b) The member's compensation or salary contributed as
employee-elective salary reductions or deferrals to any salary
reduction, deferred compensation, or tax-sheltered annuity
program authorized under the Internal Revenue Code shall be
deemed to be the compensation or salary the member would receive
if he or she were not participating in such program and shall be
treated as compensation for retirement purposes under this
chapter.

(c) For any person who first becomes a member in any plan
year beginning on or after January 1, 1996, compensation for
that plan year may not include any amounts in excess of the
Internal Revenue Code s. 401(a)(17) limitation, as amended by
the Omnibus Budget Reconciliation Act of 1993, which limitation
of \$150,000 shall be adjusted as required by federal law for



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qualified government plans and ~~shall be~~ further adjusted for changes in the cost of living in the manner provided by Internal Revenue Code s. 401(a)(17)(B). For any person who first became a member before the first plan year beginning on or after January 1, 1996, the limitation on compensation may not be less than the maximum compensation amount that was allowed to be taken into account under the plan ~~as~~ in effect on July 1, 1993, which limitation shall be adjusted for changes in the cost of living since 1989 in the manner provided by Internal Revenue Code s. 401(a)(17)(1991).

(7)~~(5)~~ "Creditable service" or "credited service" means the aggregate number of years of service and fractional parts of years of service of any police officer, omitting intervening years and fractional parts of years when such police officer may not have been employed by the municipality subject to the following conditions:

(a) A ~~No~~ police officer may not ~~will~~ receive credit for years or fractional parts of years of service if he or she has withdrawn his or her contributions to the fund for those years or fractional parts of years of service, unless the police officer repays into the fund the amount he or she has withdrawn, plus interest as determined by the board. The member has ~~shall~~ ~~have~~ at least 90 days after his or her reemployment to make repayment.

(b) A police officer may voluntarily leave his or her contributions in the fund for ~~a period of~~ 5 years after leaving the employ of the police department, pending the possibility of his or her being rehired by the same department, without losing credit for the time he or she has participated actively as a



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127 police officer. If he or she is not reemployed as a police
128 officer with the same department within 5 years, his or her
129 contributions shall be returned ~~to him or her~~ without interest.

130 (c) Credited service under this chapter shall be provided
131 only for service as a police officer, ~~as defined in subsection~~
132 ~~(11)~~, or for military service and may not include credit for any
133 other type of service. A municipality ~~may~~, by local ordinance,
134 may provide for the purchase of credit for military service
135 occurring before employment as well as prior service as a police
136 officer for some other employer as long as the police officer is
137 not entitled to receive a benefit for such ~~other~~ prior service
138 ~~as a police officer~~. For purposes of determining credit for
139 prior service, in addition to service as a police officer in
140 this state, credit may be given for federal, other state, or
141 county service as long as such service is recognized by the
142 Criminal Justice Standards and Training Commission within the
143 Department of Law Enforcement as provided in ~~under~~ chapter 943
144 or the police officer provides proof to the board of trustees
145 that such service is equivalent to the service required to meet
146 the definition of a police officer under subsection (16) ~~(11)~~.

147 (d) In determining the creditable service of a ~~any~~ police
148 officer, credit for up to 5 years of the time spent in the
149 military service of the Armed Forces of the United States shall
150 be added to the years of actual service, if:

151 1. The police officer is in the active employ of the
152 municipality before ~~prior to~~ such service and leaves a position,
153 other than a temporary position, for the purpose of voluntary or
154 involuntary service in the Armed Forces of the United States.

155 2. The police officer is entitled to reemployment under ~~the~~



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156 ~~provisions of~~ the Uniformed Services Employment and Reemployment
157 Rights Act.

158 3. The police officer returns to his or her employment as a
159 police officer of the municipality within 1 year after ~~from~~ the
160 date of his or her release from such active service.

161 (8)(6) "Deferred Retirement Option Plan" or "DROP" means a
162 local law plan retirement option in which a police officer may
163 elect to participate. A police officer may retire for all
164 purposes of the plan and defer receipt of retirement benefits
165 into a DROP account while continuing employment with his or her
166 employer. However, a police officer who enters ~~the~~ DROP and who
167 is otherwise eligible to participate may ~~shall~~ not ~~thereby~~ be
168 precluded from participation or continued participation
169 ~~participating, or continuing to participate,~~ in a supplemental
170 plan in existence on, or created after, March 12, 1999 ~~the~~
171 ~~effective date of this act.~~

172 (9) "Defined contribution plan" means the component of a
173 local law plan, as provided in s. 185.35(1), to which deposits,
174 if any, are made to provide benefits for police officers, or for
175 police officers and firefighters if both are included. Such
176 component is an element of a local law plan and exists in
177 conjunction with the defined benefit component that meets the
178 minimum benefits and minimum standards of this chapter. The
179 retirement benefits, if any, of the defined contribution plan
180 shall be provided through individual member accounts in
181 accordance with the applicable provisions of the Internal
182 Revenue Code and related regulations and are limited to the
183 contributions, if any, made into each member's account and the
184 actual accumulated earnings, net of expenses, earned on the



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member's account.

(10)(7) "Division" means the Division of Retirement of the Department of Management Services.

(11)(8) "Enrolled actuary" means an actuary who is enrolled under Subtitle C of Title III of the Employee Retirement Income Security Act of 1974 and who is a member of the Society of Actuaries or the American Academy of Actuaries.

(12)(9) "Local law municipality" means ~~is~~ any municipality in which ~~there exists~~ a local law plan exists.

(13)(10) "Local law plan" means a retirement defined benefit pension plan, which includes both a defined benefit plan component and a defined contribution plan component, for police officers, or for police officers and firefighters if both are ~~where~~ included, as described in s. 185.35, established by municipal ordinance or special act of the Legislature, which ~~enactment~~ sets forth all plan provisions. Local law plan provisions may vary from the provisions of this chapter if the ~~provided that required~~ minimum benefits and minimum standards of this chapter are met. However, any such variance must ~~shall~~ provide a greater benefit for police officers. Actuarial valuations of local law plans shall be conducted by an enrolled actuary as provided in s. 185.221(2)(b).

(14) "Minimum benefits" means the benefits set forth in ss. 185.01-185.341 and ss. 185.37-185.50.

(15) "Minimum standards" means the standards set forth in ss. 185.01-185.341 and ss. 185.37-185.50.

(16)(11) "Police officer" means any person who is elected, appointed, or employed full time by a ~~any~~ municipality, who is certified or required to be certified as a law enforcement



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officer in compliance with s. 943.1395, 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. The term ~~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 part-time law enforcement officers or auxiliary law enforcement officers as those terms ~~the same~~ are defined in s. 943.10(6) and (8), respectively. For the purposes of this chapter only, the term also includes ~~"police officer" also shall include~~ a public safety officer who is responsible for performing both police and fire services. Any plan may provide that the police chief shall have an option to participate, ~~or not,~~ in that plan.

(17) ~~(12)~~ "Police Officers' Retirement Trust Fund" means a trust fund, by whatever name known, as provided under s. 185.03 for the purpose of assisting municipalities in establishing and maintaining a retirement plan for police officers.

(18) ~~(13)~~ "Retiree" or "retired police officer" means a police officer who has entered retirement status. For the purposes of a plan that includes a Deferred Retirement Option Plan (DROP), a police officer who enters ~~the~~ DROP is ~~shall be~~ considered a retiree for all purposes of the plan. However, a police officer who enters ~~the~~ DROP and who is otherwise eligible to participate may ~~shall~~ not ~~thereby~~ be precluded from participating, or continuing to participate, in a supplemental



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plan in existence on, or created after, March 12, 1999 ~~the effective date of this act.~~

(19) ~~(14)~~ "Retirement" means a police officer's separation from municipal ~~city~~ employment as a police officer with immediate eligibility for ~~receipt of~~ benefits under the plan. For purposes of a plan that includes a Deferred Retirement Option Plan (DROP), "retirement" means the date a police officer enters ~~the~~ DROP.

(20) "Special act plan" means a plan subject to the provisions of this chapter which was created by an act of the Legislature and continues to require an act of the Legislature to alter plan benefits.

(21) "Special benefits" means benefits provided in a defined contribution plan for police officers.

(22) ~~(15)~~ "Supplemental plan" means a plan to which deposits of the premium tax moneys as provided in s. 185.08 are made to provide extra benefits to police officers, or police officers and firefighters if both are ~~where included, under this chapter.~~ Such a plan is an element of a local law plan and exists in conjunction with a defined benefit component ~~plan~~ that meets the minimum benefits and minimum standards of this chapter. Any supplemental plan in existence on March 1, 2014, shall be deemed to be a defined contribution plan in compliance with s. 185.35(6).

(23) ~~(16)~~ "Supplemental plan municipality" means a any ~~any~~ local law municipality in which ~~there existed~~ a supplemental plan existed as of December 1, 2000.

Section 9. Subsection (6) of section 185.06, Florida Statutes, is amended to read:



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185.06 General powers and duties of board of trustees.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter:

(6) To assist the board in meeting its responsibilities under this chapter, the board, if it so elects, may:

(a) Employ independent legal counsel at the pension fund's expense.

(b) Employ an independent enrolled actuary, as defined in s. 185.02~~(8)~~, at the pension fund's expense.

(c) Employ such independent professional, technical, or other advisers as it deems necessary at the pension fund's expense.

If the board chooses to use the municipality's or special district's legal counsel or actuary, or chooses to use any of the municipality's other professional, technical, or other advisers, it must do so only under terms and conditions acceptable to the board.

Section 10. Paragraph (d) of subsection (1) of section 185.07, Florida Statutes, is amended to read:

185.07 Creation and maintenance of fund.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter:

(1) The municipal police officers' retirement trust fund in each municipality described in s. 185.03 shall be created and maintained in the following manner:

(d) By payment by the municipality or other sources of a sum equal to the normal cost and the amount required to fund any actuarial deficiency shown by an actuarial valuation conducted



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under as provided in part VII of chapter 112 after taking into account the amounts described in paragraphs (b), (c), (e), (f), and (g) and the tax proceeds described in paragraph (a) which must be used to fund defined benefit plan benefits.

Nothing in this section shall be construed to require adjustment of member contribution rates in effect on the date this act becomes a law, including rates that exceed 5 percent of salary, provided that such rates are at least one-half of 1 percent of salary.

Section 11. Subsection (2) of section 185.16, Florida Statutes, is amended to read:

185.16 Requirements for retirement.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter, any police officer who completes 10 or more years of creditable service as a police officer and attains age 55, or completes 25 years of creditable service as a police officer and attains age 52, and for such period has been a member of the retirement fund is eligible for normal retirement benefits.

Normal retirement under the plan is retirement from the service of the city on or after the normal retirement date. In such event, for chapter plans and local law plans, payment of retirement income will be governed by the following provisions of this section:

(2) The amount of the monthly retirement income payable to a police officer who retires on or after his or her normal retirement date shall be an amount equal to the number of the police officer's years of credited service multiplied by 2.75 ~~2~~ percent of his or her average final compensation. ~~However, if~~



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~~current state contributions pursuant to this chapter are not adequate to fund the additional benefits to meet the minimum requirements in this chapter, only increment increases shall be required as state moneys are adequate to provide. Such increments shall be provided as state moneys become available.~~

(a) Effective July 1, 2014, a plan that is in compliance with this chapter except that the plan provides a benefit that is less than 2.75 percent of the average final compensation of a police officer, as defined in section 185.16(2)(a), must maintain, at a minimum, the percentage amount in effect on July 1, 2014, and is not required to increase the benefit to 2.75 percent of the average final compensation of a police officer.

(b) Effective July 1, 2014, a plan that is in compliance with this chapter except that the plan provides a benefit that is less than 2.75 percent of the average final compensation of a police officer, as defined in section 185.16(2)(a), and that changes its accrual rate to 2.75 percent, or greater, of the average final compensation of a police officer, as defined in section 185.16(2)(a), may not thereafter decrease the accrual rate to less than 2.75 percent of the average final compensation of a police officer as defined in section 185.16(2)(a).

Section 12. Section 185.35, Florida Statutes, is amended to read:

185.35 Municipalities that have ~~having~~ their own retirement pension plans for police officers. For any municipality, chapter plan, local law municipality, or local law plan under this chapter, In order for a municipality that has its municipalities with their own retirement plan pension plans for police officers, or for police officers and firefighters if both are



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included, to participate in the distribution of the tax fund established under ~~pursuant to~~ s. 185.08, a local law plan and its plan sponsor plans must meet the minimum benefits and minimum standards set forth in this chapter:

(1) If a municipality has a retirement ~~pension~~ plan for police officers, or for police officers and firefighters if both are included, which, in the opinion of the division, meets the minimum benefits and minimum standards set forth in this chapter, the board of trustees of the pension plan must, as approved by a majority of police officers of the municipality, ~~may:~~

~~(a)~~ place the income from the premium tax in s. 185.08 in such ~~pension~~ plan for the sole and exclusive use of its police officers, or its police officers and firefighters if both are included, where it shall become an integral part of that ~~pension~~ plan and ~~shall~~ be used to fund benefits as provided herein. Effective October 1, 2014, for noncollectively bargained service or upon entering into a collective bargaining agreement on or after July 1, 2014:

(a) The base premium tax revenues must be used to fund minimum benefits or other retirement benefits in excess of the minimum benefits as determined by the municipality.

(b) Of the additional premium tax revenues received which are in excess of the amount received for the 2013 calendar year, 50 percent must be used to fund minimum benefits or other retirement benefits in excess of the minimum benefits as determined by the municipality, and 50 percent must be placed in a defined contribution plan to fund special benefits.

(c) Additional premium tax revenues not described in



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paragraph (b) must be used to fund benefits that are not included in the minimum benefits.

(d) Any accumulations of additional tax revenues which have not been applied to fund benefits in excess of the minimum benefits or applied to fund a supplemental plan shall be used to fund special benefits ~~pay extra benefits to the police officers included in that pension plan; or~~

~~(b) May place the income from the premium tax in s. 185.08 in a separate supplemental plan to pay extra benefits to the police officers, or police officers and firefighters if included, participating in such separate supplemental plan.~~

(e) For a plan created after March 1, 2014, 50 percent of the insurance premium tax revenues shall be used to fund defined benefit plan component benefits, with the remainder used to fund defined contribution plan component benefits.

(f) If a plan offers benefits in excess of the minimum benefits, excluding supplemental plan benefits in effect as of September 30, 2013, such benefits may be reduced if the plan continues to meet the minimum benefits and the minimum standards set forth in this chapter. The amount of insurance premium tax revenues previously used to fund benefits in excess of the minimum benefits, excluding supplemental plan benefits in effect as of September 30, 2013, before the reduction must be used as provided in paragraph (b). However, benefits in excess of the minimum benefits may not be reduced if a plan does not meet the minimum accrual rate of 2.75 percent, or greater, of the average final compensation of a police officer, as defined in section 185.16(2) (a).

(g) Notwithstanding any other provisions of this



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subsection, the use of premium tax revenues, including any accumulations of additional tax revenues which have not been applied to fund benefits in excess of the minimum benefits, may deviate from the provisions of this subsection by mutual consent of the members' collective bargaining representative or, if none, by majority consent of the police office members of the fund, and by consent of the municipality, provided that the plan continues to meet the minimum benefits and minimum standards of this chapter. Such mutually agreed deviation shall continue until modified or revoked by subsequent mutual consent of the members' collective bargaining representative or, if none, by a majority of the police office members of the fund, and the municipality. A special act plan or a plan within a supplemental plan municipality shall be considered to have mutually consented to such deviation as of July 1 ,2014, regarding the existing arrangement on the use of premium tax revenues.

(2) The premium tax provided by this chapter shall ~~in all cases~~ be used in its entirety to provide retirement ~~extra~~ benefits to police officers, or to police officers and firefighters if both are included. ~~However, local law plans in effect on October 1, 1998, must comply with the minimum benefit provisions of this chapter only to the extent that additional premium tax revenues become available to incrementally fund the cost of such compliance as provided in s. 185.16(2). If a plan is in compliance with such minimum benefit provisions, as subsequent additional tax revenues become available, they shall be used to provide extra benefits.~~ Local law plans created by special act before May 27, 1939, shall be deemed to comply with this chapter. ~~For the purpose of this chapter, the term:~~



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~~(a) "Additional premium tax revenues" means revenues received by a municipality pursuant to s. 185.10 which exceed the amount received for calendar year 1997.~~

~~(b) "Extra benefits" means benefits in addition to or greater than those provided to general employees of the municipality and in addition to those in existence for police officers on March 12, 1999.~~

(3) A retirement plan or amendment to a retirement plan may not be proposed for adoption unless the proposed plan or amendment contains an actuarial estimate of the costs involved. Such proposed plan or proposed plan change may not be adopted without the approval of the municipality or, where required ~~permitted~~, the Legislature. Copies of the proposed plan or proposed plan change and the actuarial impact statement of the proposed plan or proposed plan change shall be furnished to the division before the last public hearing on the proposal is held ~~thereon~~. Such statement must also indicate whether the proposed plan or proposed plan change is in compliance with s. 14, Art. X of the State Constitution and those provisions of part VII of chapter 112 which are not expressly provided in this chapter. Notwithstanding any other provision, only those local law plans created by special act of legislation before May 27, 1939, are deemed to meet the minimum benefits and minimum standards only in this chapter.

(4) Notwithstanding any other provision, with respect to any supplemental plan municipality:

(a) Section 185.02(6)(a) ~~185.02(4)(a)~~ does not apply, and a local law plan and a supplemental plan may continue to use their definition of compensation or salary in existence on March 12,



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1999.

(b) A local law plan and a supplemental plan must continue to be administered by a board or boards of trustees numbered, constituted, and selected as the board or boards were numbered, constituted, and selected on December 1, 2000.

~~(c) The election set forth in paragraph (1)(b) is deemed to have been made.~~

(5) The retirement plan setting forth the benefits and the trust agreement, if any, covering the duties and responsibilities of the trustees and the regulations of the investment of funds must be in writing and copies made available to the participants and to the general public.

(6) In addition to the defined benefit component of the local law plan, each plan sponsor must have a defined contribution plan component within the local law plan by October 1, 2014, upon entering into a collective bargaining agreement on or after July 1, 2014, or upon the creation date of a new participating plan. Depending upon the application of subsection (1), a defined contribution component may or may not receive any funding.

(7) Notwithstanding any other provision of this chapter, a municipality that has implemented or proposed changes to a local law plan based on the municipality's reliance on an interpretation of this chapter by the department on or after August 14, 2012, and before March 4, 2014, may continue the implemented changes or continue to implement proposed changes. Such reliance must be evidenced by a written collective bargaining proposal or agreement, or formal correspondence between the municipality and the department which describes the



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specific changes to the local law plan, with the initial
proposal, agreement, or correspondence from the municipality
dated before March 4, 2014. Changes to the local law plan which
are otherwise contrary to the minimum benefits and minimum
standards of this chapter may continue in effect until the
earlier of October 1, 2017, or the effective date of a
collective bargaining agreement that is contrary to the changes
to the local law plan.

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

And the title is amended as follows:

Delete lines 34 - 51

and insert:

by the act and adding new definitions; revising
applicability of the limitation on the amount of
overtime payments which may be used for retirement
benefit calculations; amending s. 185.06, F.S.;
conforming a cross-reference; amending s. 185.07,
F.S.; revising the method of creating and maintaining
a police officers' retirement trust fund; amending s.
185.16, F.S.; deleting a provision basing the
availability of additional benefits in a police
officer pension plan upon state funding; revising the
calculation of monthly retirement income for a police
officer; providing that certain police officer pension
plans must maintain a certain minimum percentage of
average final compensation after a specified date;
amending s. 185.35, F.S., relating to municipalities
that have their own pension plans for police officers



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533 and want to participate in the distribution of a tax
534 fund; conforming a cross-reference; revising criteria
535 governing the use of revenues from the premium tax;
536 authorizing a plan to reduce excess benefits if the
537 plan continues to meet certain minimum benefits and
538 minimum standards; providing that the use of premium
539 tax revenues may deviate from the requirements of ch.
540 185, F.S., under specified circumstances;



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/11/2014	.	
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	.	
	.	

The Committee on Appropriations (Ring) recommended the following:

Senate Substitute for Amendment (736386) (with title amendment)

Delete lines 625 - 1147
and insert:

Section 7. Subsection (2) of section 185.01, Florida Statutes, is amended to read:

185.01 Legislative declaration.—

(2) This chapter hereby establishes, for all municipal pension plans ~~now or hereinafter~~ provided for under this



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chapter, including chapter plans and local law plans, minimum benefits and minimum standards for the operation and funding of such plans, hereinafter referred to as municipal police officers' retirement trust funds, which must be met as conditions precedent to the plans or plan sponsors receiving a distribution of insurance premium tax revenues under s. 185.10. The minimum benefits and minimum standards for each plan as set forth in this chapter may not be diminished by local ordinance or by special act of the Legislature and may not, ~~nor may the minimum benefits or minimum standards~~ be reduced or offset by any other local, state, or federal plan that includes ~~may include~~ police officers in its operation, except as provided under s. 112.65.

Section 8. Section 185.02, Florida Statutes, is amended to read:

185.02 Definitions.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter, ~~the term following words and phrases as used in this chapter shall have the following meanings, unless a different meaning is plainly required by the context:~~

(1) "Additional premium tax revenues" means revenues received by a municipality pursuant to s. 185.10 which exceed base premium tax revenues.

~~(2)-(1)~~ (2) "Average final compensation" means one-twelfth of the average annual compensation of the 5 best years of the last 10 years of creditable service prior to retirement, termination, or death.

(3) "Base premium tax revenues" means the revenues received by a municipality pursuant to s. 185.10 for the calendar year



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1997.

~~(4)(2)~~ "Casualty insurance" means automobile public liability and property damage insurance to be applied at the place of residence of the owner, or if the subject is a commercial vehicle, to be applied at the place of business of the owner; automobile collision insurance; fidelity bonds; burglary and theft insurance; and plate glass insurance. The term "multiple peril" means a combination or package policy that includes both property coverage and casualty coverage for a single premium.

~~(5)(3)~~ "Chapter plan" means a separate defined benefit pension plan for police officers which incorporates by reference the provisions of this chapter and has been adopted by the governing body of a municipality as provided in s. 185.08. Except as ~~may be~~ specifically authorized in this chapter, the provisions of a chapter plan may not differ from the plan provisions set forth in ss. 185.01-185.341 and ss. 185.37-185.39. Actuarial valuations of chapter plans shall be conducted by the division as provided by s. 185.221(1)(b).

~~(6)(4)~~ "Compensation" or "salary" means, for noncollectively bargained service earned before July 1, 2011, or for service earned under collective bargaining agreements in place before July 1, 2011, the total cash remuneration including "overtime" paid by the primary employer to a police officer for services rendered, but not including any payments for extra duty or special detail work performed on behalf of a second party employer. Overtime may be limited prior to July 1, 2011, in a local law plan by the plan provisions. A local law plan may limit the amount of overtime payments which can be used for



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~~retirement benefit calculation purposes; however, such overtime limit may not be less than 300 hours per officer per calendar year.~~ For noncollectively bargained service earned on or after July 1, 2011, or for service earned under collective bargaining agreements entered into on or after July 1, 2011, the term has the same meaning except that when calculating retirement benefits, up to 300 hours per year in overtime compensation may be included as specified in the plan or collective bargaining agreement, but payments for accrued unused sick or annual leave may not be included.

(a) Any retirement trust fund or plan that meets the requirements of this chapter does not, solely by virtue of this subsection, reduce or diminish the monthly retirement income otherwise payable to each police officer covered by the retirement trust fund or plan.

(b) The member's compensation or salary contributed as employee-elective salary reductions or deferrals to any salary reduction, deferred compensation, or tax-sheltered annuity program authorized under the Internal Revenue Code shall be deemed to be the compensation or salary the member would receive if he or she were not participating in such program and shall be treated as compensation for retirement purposes under this chapter.

(c) For any person who first becomes a member in any plan year beginning on or after January 1, 1996, compensation for that plan year may not include any amounts in excess of the Internal Revenue Code s. 401(a)(17) limitation, as amended by the Omnibus Budget Reconciliation Act of 1993, which limitation of \$150,000 shall be adjusted as required by federal law for



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qualified government plans and ~~shall be~~ further adjusted for changes in the cost of living in the manner provided by Internal Revenue Code s. 401(a)(17)(B). For any person who first became a member before the first plan year beginning on or after January 1, 1996, the limitation on compensation may not be less than the maximum compensation amount that was allowed to be taken into account under the plan ~~as~~ in effect on July 1, 1993, which limitation shall be adjusted for changes in the cost of living since 1989 in the manner provided by Internal Revenue Code s. 401(a)(17)(1991).

(7)~~(5)~~ "Creditable service" or "credited service" means the aggregate number of years of service and fractional parts of years of service of any police officer, omitting intervening years and fractional parts of years when such police officer may not have been employed by the municipality subject to the following conditions:

(a) A ~~No~~ police officer may not ~~will~~ receive credit for years or fractional parts of years of service if he or she has withdrawn his or her contributions to the fund for those years or fractional parts of years of service, unless the police officer repays into the fund the amount he or she has withdrawn, plus interest as determined by the board. The member has ~~shall~~ ~~have~~ at least 90 days after his or her reemployment to make repayment.

(b) A police officer may voluntarily leave his or her contributions in the fund for ~~a period of~~ 5 years after leaving the employ of the police department, pending the possibility of his or her being rehired by the same department, without losing credit for the time he or she has participated actively as a



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127 police officer. If he or she is not reemployed as a police
128 officer with the same department within 5 years, his or her
129 contributions shall be returned ~~to him or her~~ without interest.

130 (c) Credited service under this chapter shall be provided
131 only for service as a police officer, ~~as defined in subsection~~
132 ~~(11)~~, or for military service and may not include credit for any
133 other type of service. A municipality ~~may~~, by local ordinance,
134 may provide for the purchase of credit for military service
135 occurring before employment as well as prior service as a police
136 officer for some other employer as long as the police officer is
137 not entitled to receive a benefit for such ~~other~~ prior service
138 ~~as a police officer~~. For purposes of determining credit for
139 prior service, in addition to service as a police officer in
140 this state, credit may be given for federal, other state, or
141 county service as long as such service is recognized by the
142 Criminal Justice Standards and Training Commission within the
143 Department of Law Enforcement as provided in ~~under~~ chapter 943
144 or the police officer provides proof to the board of trustees
145 that such service is equivalent to the service required to meet
146 the definition of a police officer under subsection (16) ~~(11)~~.

147 (d) In determining the creditable service of a ~~any~~ police
148 officer, credit for up to 5 years of the time spent in the
149 military service of the Armed Forces of the United States shall
150 be added to the years of actual service, if:

151 1. The police officer is in the active employ of the
152 municipality before ~~prior to~~ such service and leaves a position,
153 other than a temporary position, for the purpose of voluntary or
154 involuntary service in the Armed Forces of the United States.

155 2. The police officer is entitled to reemployment under ~~the~~



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156 ~~provisions of~~ the Uniformed Services Employment and Reemployment
157 Rights Act.

158 3. The police officer returns to his or her employment as a
159 police officer of the municipality within 1 year after ~~from~~ the
160 date of his or her release from such active service.

161 (8) ~~(6)~~ "Deferred Retirement Option Plan" or "DROP" means a
162 local law plan retirement option in which a police officer may
163 elect to participate. A police officer may retire for all
164 purposes of the plan and defer receipt of retirement benefits
165 into a DROP account while continuing employment with his or her
166 employer. However, a police officer who enters ~~the~~ DROP and who
167 is otherwise eligible to participate may ~~shall~~ not ~~thereby~~ be
168 precluded from participation or continued participation
169 ~~participating, or continuing to participate,~~ in a supplemental
170 plan in existence on, or created after, March 12, 1999 ~~the~~
171 ~~effective date of this act.~~

172 (9) "Defined contribution plan" means the component of a
173 local law plan, as provided in s. 185.35(1), to which deposits,
174 if any, are made to provide benefits for police officers, or for
175 police officers and firefighters if both are included. Such
176 component is an element of a local law plan and exists in
177 conjunction with the defined benefit component that meets the
178 minimum benefits and minimum standards of this chapter. The
179 retirement benefits, if any, of the defined contribution plan
180 shall be provided through individual member accounts in
181 accordance with the applicable provisions of the Internal
182 Revenue Code and related regulations and are limited to the
183 contributions, if any, made into each member's account and the
184 actual accumulated earnings, net of expenses, earned on the



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member's account.

(10)(7) "Division" means the Division of Retirement of the Department of Management Services.

(11)(8) "Enrolled actuary" means an actuary who is enrolled under Subtitle C of Title III of the Employee Retirement Income Security Act of 1974 and who is a member of the Society of Actuaries or the American Academy of Actuaries.

(12)(9) "Local law municipality" means ~~is~~ any municipality in which ~~there exists~~ a local law plan exists.

(13)(10) "Local law plan" means a retirement defined benefit pension plan, which includes both a defined benefit plan component and a defined contribution plan component, for police officers, or for police officers and firefighters if both are ~~where~~ included, as described in s. 185.35, established by municipal ordinance or special act of the Legislature, which ~~enactment~~ sets forth all plan provisions. Local law plan provisions may vary from the provisions of this chapter if the ~~provided that required~~ minimum benefits and minimum standards of this chapter are met. However, any such variance must ~~shall~~ provide a greater benefit for police officers. Actuarial valuations of local law plans shall be conducted by an enrolled actuary as provided in s. 185.221(2)(b).

(14) "Minimum benefits" means the benefits set forth in ss. 185.01-185.341 and ss. 185.37-185.50.

(15) "Minimum standards" means the standards set forth in ss. 185.01-185.341 and ss. 185.37-185.50.

(16)(11) "Police officer" means any person who is elected, appointed, or employed full time by a ~~any~~ municipality, who is certified or required to be certified as a law enforcement



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officer in compliance with s. 943.1395, 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. The term ~~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 part-time law enforcement officers or auxiliary law enforcement officers as those terms ~~the same~~ are defined in s. 943.10(6) and (8), respectively. For the purposes of this chapter only, the term also includes ~~"police officer" also shall include~~ a public safety officer who is responsible for performing both police and fire services. Any plan may provide that the police chief shall have an option to participate, ~~or not,~~ in that plan.

(17) ~~(12)~~ "Police Officers' Retirement Trust Fund" means a trust fund, by whatever name known, as provided under s. 185.03 for the purpose of assisting municipalities in establishing and maintaining a retirement plan for police officers.

(18) ~~(13)~~ "Retiree" or "retired police officer" means a police officer who has entered retirement status. For the purposes of a plan that includes a Deferred Retirement Option Plan (DROP), a police officer who enters ~~the~~ DROP is ~~shall be~~ considered a retiree for all purposes of the plan. However, a police officer who enters ~~the~~ DROP and who is otherwise eligible to participate may ~~shall~~ not ~~thereby~~ be precluded from participating, or continuing to participate, in a supplemental



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plan in existence on, or created after, March 12, 1999 ~~the effective date of this act.~~

(19) ~~(14)~~ "Retirement" means a police officer's separation from municipal ~~city~~ employment as a police officer with immediate eligibility for ~~receipt of~~ benefits under the plan. For purposes of a plan that includes a Deferred Retirement Option Plan (DROP), "retirement" means the date a police officer enters ~~the~~ DROP.

(20) "Special act plan" means a plan subject to the provisions of this chapter which was created by an act of the Legislature and continues to require an act of the Legislature to alter plan benefits.

(21) "Special benefits" means benefits provided in a defined contribution plan for police officers.

(22) ~~(15)~~ "Supplemental plan" means a plan to which deposits of the premium tax moneys as provided in s. 185.08 are made to provide extra benefits to police officers, or police officers and firefighters if both are ~~where included, under this chapter.~~ Such a plan is an element of a local law plan and exists in conjunction with a defined benefit component ~~plan~~ that meets the minimum benefits and minimum standards of this chapter. Any supplemental plan in existence on March 1, 2014, shall be deemed to be a defined contribution plan in compliance with s. 185.35(6).

(23) ~~(16)~~ "Supplemental plan municipality" means a any ~~any~~ local law municipality in which ~~there existed~~ a supplemental plan existed as of December 1, 2000.

Section 9. Subsection (6) of section 185.06, Florida Statutes, is amended to read:



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185.06 General powers and duties of board of trustees.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter:

(6) To assist the board in meeting its responsibilities under this chapter, the board, if it so elects, may:

(a) Employ independent legal counsel at the pension fund's expense.

(b) Employ an independent enrolled actuary, as defined in s. 185.02~~(8)~~, at the pension fund's expense.

(c) Employ such independent professional, technical, or other advisers as it deems necessary at the pension fund's expense.

If the board chooses to use the municipality's or special district's legal counsel or actuary, or chooses to use any of the municipality's other professional, technical, or other advisers, it must do so only under terms and conditions acceptable to the board.

Section 10. Paragraph (d) of subsection (1) of section 185.07, Florida Statutes, is amended to read:

185.07 Creation and maintenance of fund.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter:

(1) The municipal police officers' retirement trust fund in each municipality described in s. 185.03 shall be created and maintained in the following manner:

(d) By payment by the municipality or other sources of a sum equal to the normal cost and the amount required to fund any actuarial deficiency shown by an actuarial valuation conducted



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under as provided in part VII of chapter 112 after taking into account the amounts described in paragraphs (b), (c), (e), (f), and (g) and the tax proceeds described in paragraph (a) which are used to fund defined benefit plan benefits.

Nothing in this section shall be construed to require adjustment of member contribution rates in effect on the date this act becomes a law, including rates that exceed 5 percent of salary, provided that such rates are at least one-half of 1 percent of salary.

Section 11. Subsection (2) of section 185.16, Florida Statutes, is amended to read:

185.16 Requirements for retirement.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter, any police officer who completes 10 or more years of creditable service as a police officer and attains age 55, or completes 25 years of creditable service as a police officer and attains age 52, and for such period has been a member of the retirement fund is eligible for normal retirement benefits.

Normal retirement under the plan is retirement from the service of the city on or after the normal retirement date. In such event, for chapter plans and local law plans, payment of retirement income will be governed by the following provisions of this section:

(2)(a) The amount of the monthly retirement income payable to a police officer who retires on or after his or her normal retirement date shall be an amount equal to the number of the police officer's years of credited service multiplied by 2.75 ~~2~~ percent of his or her average final compensation. ~~However, if~~



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~~current state contributions pursuant to this chapter are not adequate to fund the additional benefits to meet the minimum requirements in this chapter, only increment increases shall be required as state moneys are adequate to provide. Such increments shall be provided as state moneys become available.~~

(b) Effective July 1, 2014, a plan that is in compliance with this chapter except that the plan provides a benefit that is less than 2.75 percent of the average final compensation of a police officer, as defined in section 185.16(2)(a), must maintain, at a minimum, the percentage amount in effect on July 1, 2014, and is not required to increase the benefit to 2.75 percent of the average final compensation of a police officer.

(c) Effective July 1, 2014, a plan that is in compliance with this chapter except that the plan provides a benefit that is less than 2.75 percent of the average final compensation of a police officer, as defined in section 185.16(2)(a), and that changes its accrual rate to 2.75 percent, or greater, of the average final compensation of a police officer, as defined in section 185.16(2)(a), may not thereafter decrease the accrual rate to less than 2.75 percent of the average final compensation of a police officer as defined in section 185.16(2)(a).

Section 12. Section 185.35, Florida Statutes, is amended to read:

185.35 Municipalities that have ~~having~~ their own retirement ~~pension~~ plans for police officers. ~~For any municipality, chapter plan, local law municipality, or local law plan under this chapter,~~ In order for a municipality that has its municipalities ~~with their own retirement plan pension plans~~ for police officers, or for police officers and firefighters if both are



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included, to participate in the distribution of the tax fund established under ~~pursuant to~~ s. 185.08, a local law plan ~~plans~~ must meet the minimum benefits and minimum standards set forth in this chapter:

(1) If a municipality has a retirement ~~pension~~ plan for police officers, or for police officers and firefighters if both are included, which, in the opinion of the division, meets the minimum benefits and minimum standards set forth in this chapter, the board of trustees of the pension plan must, as approved by a majority of police officers of the municipality, ~~may:~~

~~(a)~~ place the income from the premium tax in s. 185.08 in such ~~pension~~ plan for the sole and exclusive use of its police officers, or its police officers and firefighters if both are included, where it shall become an integral part of that ~~pension~~ plan and ~~shall~~ be used to fund benefits as provided herein. Effective October 1, 2014, for noncollectively bargained service or upon entering into a collective bargaining agreement on or after July 1, 2014:

(a) The base premium tax revenues must be used to fund minimum benefits or other retirement benefits in excess of the minimum benefits as determined by the municipality.

(b) Of the additional premium tax revenues received which are in excess of the amount received for the 2013 calendar year, 50 percent must be used to fund minimum benefits or other retirement benefits in excess of the minimum benefits as determined by the municipality, and 50 percent must be placed in a defined contribution plan to fund special benefits.

(c) Additional premium tax revenues not described in



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paragraph (b) must be used to fund benefits that are not included in the minimum benefits. If the additional premium tax revenues subject to this paragraph exceed the full cost of benefits provided through the plan which are in excess of the minimum benefits, any amount in excess of the full cost must be used as provided in paragraph (b).

(d) Any accumulations of additional premium tax revenues which have not been applied to fund benefits in excess of the minimum benefits may be allocated by mutual consent as provided in paragraph (g). If such accumulations are not allocated by mutual consent, 50 percent of the amount of the accumulations must be used to fund special benefits and 50 percent must be applied to fund any unfunded actuarial liabilities of the plan ~~pay extra benefits to the police officers included in that pension plan; or~~

~~(b) May place the income from the premium tax in s. 185.08 in a separate supplemental plan to pay extra benefits to the police officers, or police officers and firefighters if included, participating in such separate supplemental plan.~~

(e) For a plan created after March 1, 2014, 50 percent of the insurance premium tax revenues shall be used to fund defined benefit plan component benefits, with the remainder used to fund defined contribution plan component benefits.

(f) If a plan offers benefits in excess of the minimum benefits, excluding supplemental plan benefits in effect as of September 30, 2013, such benefits may be reduced if the plan continues to meet the minimum benefits and the minimum standards set forth in this chapter. The amount of insurance premium tax revenues previously used to fund benefits in excess of the



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minimum benefits, excluding supplemental plan benefits in effect as of September 30, 2013, before the reduction must be used as provided in paragraph (b). However, benefits in excess of the minimum benefits may not be reduced if a plan does not meet the minimum accrual rate of 2.75 percent, or greater, of the average final compensation of a police officer, as defined in section 185.16(2) (a).

(g) Notwithstanding any other provisions of this subsection, the use of premium tax revenues, including any accumulations of additional tax revenues which have not been applied to fund benefits in excess of the minimum benefits, may deviate from the provisions of this subsection by mutual consent of the members' collective bargaining representative or, if none, by majority consent of the police office members of the fund, and by consent of the municipality, provided that the plan continues to meet the minimum benefits and minimum standards of this chapter; however, a plan operating pursuant to the provisions of this paragraph which does not meet a minimum benefit as of October 1, 2012, may continue to provide the benefit that does not meet the minimum benefit at the same level, but not less than that level, as was provided as of October 1, 2012, and all other benefits must continue to meet the minimum benefits. Such mutually agreed deviation shall continue until modified or revoked by subsequent mutual consent of the members' collective bargaining representative or, if none, by a majority of the police office members of the fund, and the municipality. A special act plan or a plan within a supplemental plan municipality shall be considered to have mutually consented to such deviation as of July 1 ,2014,



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regarding the existing arrangement on the use of premium tax revenues.

(2) The premium tax provided by this chapter shall ~~in all cases~~ be used in its entirety to provide retirement ~~extra~~ benefits to police officers, or to police officers and firefighters if both are included. ~~However, local law plans in effect on October 1, 1998, must comply with the minimum benefit provisions of this chapter only to the extent that additional premium tax revenues become available to incrementally fund the cost of such compliance as provided in s. 185.16(2). If a plan is in compliance with such minimum benefit provisions, as subsequent additional tax revenues become available, they shall be used to provide extra benefits.~~ Local law plans created by special act before May 27, 1939, shall be deemed to comply with this chapter. ~~For the purpose of this chapter, the term:~~

~~(a) "Additional premium tax revenues" means revenues received by a municipality pursuant to s. 185.10 which exceed the amount received for calendar year 1997.~~

~~(b) "Extra benefits" means benefits in addition to or greater than those provided to general employees of the municipality and in addition to those in existence for police officers on March 12, 1999.~~

(3) A retirement plan or amendment to a retirement plan may not be proposed for adoption unless the proposed plan or amendment contains an actuarial estimate of the costs involved. Such proposed plan or proposed plan change may not be adopted without the approval of the municipality or, where required ~~permitted~~, the Legislature. Copies of the proposed plan or proposed plan change and the actuarial impact statement of the



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proposed plan or proposed plan change shall be furnished to the division before the last public hearing on the proposal is held ~~thereon~~. Such statement must also indicate whether the proposed plan or proposed plan change is in compliance with s. 14, Art. X of the State Constitution and those provisions of part VII of chapter 112 which are not expressly provided in this chapter. Notwithstanding any other provision, only those local law plans created by special act of legislation before May 27, 1939, are deemed to meet the minimum benefits and minimum standards only in this chapter.

(4) Notwithstanding any other provision, with respect to any supplemental plan municipality:

(a) Section 185.02(6)(a) ~~185.02(4)(a)~~ does not apply, and a local law plan and a supplemental plan may continue to use their definition of compensation or salary in existence on March 12, 1999.

(b) A local law plan and a supplemental plan must continue to be administered by a board or boards of trustees numbered, constituted, and selected as the board or boards were numbered, constituted, and selected on December 1, 2000.

~~(c) The election set forth in paragraph (1)(b) is deemed to have been made.~~

(5) The retirement plan setting forth the benefits and the trust agreement, if any, covering the duties and responsibilities of the trustees and the regulations of the investment of funds must be in writing and copies made available to the participants and to the general public.

(6) In addition to the defined benefit component of the local law plan, each plan sponsor must have a defined



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contribution plan component within the local law plan by October 1, 2014, upon entering into a collective bargaining agreement on or after July 1, 2014, or upon the creation date of a new participating plan. Depending upon the application of subsection (1), a defined contribution component may or may not receive any funding.

(7) Notwithstanding any other provision of this chapter, a municipality that has implemented or proposed changes to a local law plan based on the municipality's reliance on an interpretation of this chapter by the department on or after August 14, 2012, and before March 4, 2014, may continue the implemented changes or continue to implement proposed changes. Such reliance must be evidenced by a written collective bargaining proposal or agreement, or formal correspondence between the municipality and the department which describes the specific changes to the local law plan, with the initial proposal, agreement, or correspondence from the municipality dated before March 4, 2014. Changes to the local law plan which are otherwise contrary to the minimum benefits and minimum standards of this chapter may continue in effect until the earlier of October 1, 2017, or the effective date of a collective bargaining agreement that is contrary to the changes to the local law plan.

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

And the title is amended as follows:

Delete lines 34 - 51

and insert:

by the act and adding new definitions; revising



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applicability of the limitation on the amount of
overtime payments which may be used for retirement
benefit calculations; amending s. 185.06, F.S.;
conforming a cross-reference; amending s. 185.07,
F.S.; revising the method of creating and maintaining
a police officers' retirement trust fund; amending s.
185.16, F.S.; deleting a provision basing the
availability of additional benefits in a police
officer pension plan upon state funding; revising the
calculation of monthly retirement income for a police
officer; providing that certain police officer pension
plans must maintain a certain minimum percentage of
average final compensation after a specified date;
amending s. 185.35, F.S., relating to municipalities
that have their own pension plans for police officers
and want to participate in the distribution of a tax
fund; conforming a cross-reference; revising criteria
governing the use of revenues from the premium tax;
authorizing a plan to reduce excess benefits if the
plan continues to meet certain minimum benefits and
minimum standards; providing that the use of premium
tax revenues may deviate from the requirements of ch.
185, F.S., under specified circumstances;

By Senators Ring and Bradley

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1 A bill to be entitled
 2 An act relating to local government pension reform;
 3 amending s. 175.021, F.S.; revising the legislative
 4 declaration to require that all firefighter pension
 5 plans meet the requirements of ch. 175, F.S., in order
 6 to receive insurance premium tax revenues; amending s.
 7 175.032, F.S.; revising definitions to conform to
 8 changes made by the act and providing new definitions;
 9 amending s. 175.071, F.S.; conforming a cross-
 10 reference; amending s. 175.091, F.S.; revising
 11 existing payment provisions and providing for an
 12 additional mandatory payment by the municipality or
 13 special fire control district to the firefighters'
 14 pension trust fund; amending s. 175.162, F.S.;
 15 deleting a provision basing the availability of
 16 additional benefits upon state funding; amending s.
 17 175.351, F.S., relating to municipalities and special
 18 fire control districts that have their own pension
 19 plans and want to participate in the distribution of a
 20 tax fund; revising criteria governing the use of
 21 income from the premium tax; authorizing a pension
 22 plan to reduce excess benefits if the plan continues
 23 to meet its required benefits and certain minimum
 24 standards; requiring plan sponsors to have a defined
 25 contribution plan in place by a certain date;
 26 authorizing a municipality to implement certain
 27 changes to a local law plan which are contrary to ch.
 28 175, F.S., for a limited time; amending s. 185.01,
 29 F.S.; revising the legislative declaration to require

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30 that all police officer pension plans meet the
 31 requirements of ch. 185, F.S., in order to receive
 32 insurance premium tax revenues; amending s. 185.02,
 33 F.S.; revising definitions to conform to changes made
 34 by the act and adding new definitions; deleting a
 35 provision allowing a local law plan to limit the
 36 amount of overtime payments which can be used for
 37 retirement benefit calculations; amending s. 185.06,
 38 F.S.; conforming a cross-reference; amending s.
 39 185.07, F.S.; revising existing payment provisions and
 40 providing for an additional mandatory payment by the
 41 municipality to the police officers' retirement trust
 42 fund; amending s. 185.16, F.S.; deleting a provision
 43 basing the availability of additional benefits upon
 44 state funding; amending s. 185.35, F.S., relating to
 45 municipalities that have their own pension plans for
 46 police officers and want to participate in the
 47 distribution of a tax fund; conforming a cross-
 48 reference; revising criteria governing the use of
 49 income from the premium tax; authorizing a plan to
 50 reduce excess benefits if the plan continues to meet
 51 its required benefits and certain minimum standards;
 52 requiring plan sponsors to have a defined contribution
 53 plan in place by a certain date; authorizing a
 54 municipality to implement certain changes to a local
 55 law plan which are contrary to ch. 185, F.S., for a
 56 limited time; providing a declaration of important
 57 state interest; providing an effective date.
 58

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

Section 1. Subsection (2) of section 175.021, Florida Statutes, is amended to read:

175.021 Legislative declaration.—

(2) This chapter hereby establishes, for all municipal and special district pension plans existing ~~now or hereafter~~ under this chapter, including chapter plans and local law plans, required minimum benefits and minimum standards for the operation and funding of such plans, hereinafter referred to as firefighters' pension trust funds, which must be met as a condition precedent to the plan or plan sponsor receiving a distribution of insurance premium tax revenues under s. 175.121. The required minimum benefits and minimum standards for each plan as set forth in this chapter may not be diminished by local charter, ordinance, or resolution or by special act of the Legislature and may not, nor may the minimum benefits or minimum standards be reduced or offset by any other local, state, or federal law that includes may include firefighters in its operation, except as provided under s. 112.65.

Section 2. Section 175.032, Florida Statutes, is amended to read:

175.032 Definitions.—For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter, the term following words and phrases have the following meanings:

(1) "Additional premium tax revenues" means revenues received by a municipality or special fire control district

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pursuant to s. 175.121 which exceed base premium tax revenues.

~~(2)(1)(a)~~ "Average final compensation" for:

(a) A full-time firefighter means one-twelfth of the average annual compensation of the 5 best years of the last 10 years of creditable service ~~before~~ prior to retirement, termination, or death, or the career average as a full-time firefighter since July 1, 1953, whichever is greater. A year is ~~shall be~~ 12 consecutive months or such other consecutive period of time as is used and consistently applied.

(b) ~~"Average final compensation" for~~ A volunteer firefighter means the average salary of the 5 best years of the last 10 best contributing years ~~before~~ prior to change in status to a permanent full-time firefighter or retirement as a volunteer firefighter or the career average of a volunteer firefighter, since July 1, 1953, whichever is greater.

(3) "Base benefits" means the level of benefits in existence for firefighters on March 12, 1999.

(4) "Base premium tax revenues" means the revenues received by a municipality or special fire control district pursuant to s. 175.121 for calendar year 1997.

~~(5)(2)~~ "Chapter plan" means a separate defined benefit pension plan for firefighters which incorporates by reference the provisions of this chapter and has been adopted by the governing body of a municipality or special district. Except as ~~may be~~ specifically authorized in this chapter, the provisions of a chapter plan may not differ from the plan provisions set forth in ss. 175.021-175.341 and ss. 175.361-175.401. Actuarial valuations of chapter plans shall be conducted by the division as provided by s. 175.261(1).

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117 (6)(3) "Compensation" or "salary" means, for
 118 noncollectively bargained service earned before July 1, 2011, or
 119 for service earned under collective bargaining agreements in
 120 place before July 1, 2011, the fixed monthly remuneration paid a
 121 firefighter. If remuneration is based on actual services
 122 rendered, as in the case of a volunteer firefighter, the term
 123 means the total cash remuneration received yearly for such
 124 services, prorated on a monthly basis. For noncollectively
 125 bargained service earned on or after July 1, 2011, or for
 126 service earned under collective bargaining agreements entered
 127 into on or after July 1, 2011, the term has the same meaning
 128 except that when calculating retirement benefits, up to 300
 129 hours per year in overtime compensation may be included as
 130 specified in the plan or collective bargaining agreement, but
 131 payments for accrued unused sick or annual leave may not be
 132 included.

133 (a) Any retirement trust fund or plan that meets the
 134 requirements of this chapter does not, solely by virtue of this
 135 subsection, reduce or diminish the monthly retirement income
 136 otherwise payable to each firefighter covered by the retirement
 137 trust fund or plan.

138 (b) The member's compensation or salary contributed as
 139 employee-elective salary reductions or deferrals to any salary
 140 reduction, deferred compensation, or tax-sheltered annuity
 141 program authorized under the Internal Revenue Code shall be
 142 deemed to be the compensation or salary the member would receive
 143 if he or she were not participating in such program and ~~shall be~~
 144 treated as compensation for retirement purposes under this
 145 chapter.

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146 (c) For any person who first becomes a member in any plan
 147 year beginning on or after January 1, 1996, compensation for
 148 that plan year may not include any amounts in excess of the
 149 Internal Revenue Code s. 401(a)(17) limitation, as amended by
 150 the Omnibus Budget Reconciliation Act of 1993, which limitation
 151 of \$150,000 shall be adjusted as required by federal law for
 152 qualified government plans and ~~shall be~~ further adjusted for
 153 changes in the cost of living in the manner provided by Internal
 154 Revenue Code s. 401(a)(17)(B). For any person who first became a
 155 member before the first plan year beginning on or after January
 156 1, 1996, the limitation on compensation may not be less than the
 157 maximum compensation amount that was allowed to be taken into
 158 account under the plan in effect on July 1, 1993, which
 159 limitation shall be adjusted for changes in the cost of living
 160 since 1989 in the manner provided by Internal Revenue Code s.
 161 401(a)(17)(1991).

162 (7)(4) "Creditable service" or "credited service" means the
 163 aggregate number of years of service, and fractional parts of
 164 years of service, of any firefighter, omitting intervening years
 165 and fractional parts of years when such firefighter may not have
 166 been employed by the municipality or special fire control
 167 district, subject to the following conditions:

168 (a) A ~~No~~ firefighter ~~may not will~~ receive credit for years
 169 or fractional parts of years of service if he or she has
 170 withdrawn his or her contributions to the fund for those years
 171 or fractional parts of years of service, unless the firefighter
 172 repays into the fund the amount he or she has withdrawn, plus
 173 interest determined by the board. The member shall have at least
 174 90 days after his or her reemployment to make repayment.

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175 (b) A firefighter may voluntarily leave his or her
 176 contributions in the fund for ~~a period of~~ 5 years after leaving
 177 the employ of the fire department, pending the possibility of
 178 being rehired by the same department, without losing credit for
 179 the time he or she has participated actively as a firefighter.
 180 If the firefighter is not reemployed as a firefighter, with the
 181 same department, within 5 years, his or her contributions shall
 182 be returned without interest.

183 (c) Credited service under this chapter shall be provided
 184 only for service as a firefighter, ~~as defined in subsection (8),~~
 185 or for military service and does not include credit for any
 186 other type of service. A municipality ~~may~~, by local ordinance,
 187 or a special fire control district ~~may~~, by resolution, may
 188 provide for the purchase of credit for military service prior to
 189 employment as well as for prior service as a firefighter for
 190 some other employer as long as a firefighter is not entitled to
 191 receive a benefit for such prior service ~~as a firefighter~~. For
 192 purposes of determining credit for prior service as a
 193 firefighter, in addition to service as a firefighter in this
 194 state, credit may be given for federal, other state, or county
 195 service if the prior service is recognized by the Division of
 196 State Fire Marshal as provided ~~in under~~ chapter 633, or the
 197 firefighter provides proof to the board of trustees that his or
 198 her service is equivalent to the service required to meet the
 199 definition of a firefighter under subsection (12) ~~(8)~~.

200 (d) In determining the creditable service of any
 201 firefighter, credit for up to 5 years of the time spent in the
 202 military service of the Armed Forces of the United States shall
 203 be added to the years of actual service if:

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204 1. The firefighter is in the active employ of an employer
 205 immediately prior to such service and leaves a position, other
 206 than a temporary position, for the purpose of voluntary or
 207 involuntary service in the Armed Forces of the United States.

208 2. The firefighter is entitled to reemployment under the
 209 provisions of the Uniformed Services Employment and Reemployment
 210 Rights Act.

211 3. The firefighter returns to his or her employment as a
 212 firefighter of the municipality or special fire control district
 213 within 1 year from the date of release from such active service.

214 (8)(5) "Deferred Retirement Option Plan" or "DROP" means a
 215 local law plan retirement option in which a firefighter may
 216 elect to participate. A firefighter may retire for all purposes
 217 of the plan and defer receipt of retirement benefits into a DROP
 218 account while continuing employment with his or her employer.
 219 However, a firefighter who enters ~~the~~ DROP and who is otherwise
 220 eligible to participate may ~~shall not thereby~~ be precluded from
 221 participation or continued participation ~~participating, or~~
 222 continuing to participate, in a supplemental plan in existence
 223 on, or created after, March 12, 1999 ~~the effective date of this~~
 224 ~~act.~~

225 (9) "Defined contribution plan" means the component of a
 226 local law plan to which deposits are made to provide benefits
 227 for firefighters, or for firefighters and police officers if
 228 both are included. Such component is an element of a local law
 229 plan and exists in conjunction with the defined benefit
 230 component that meets the required benefits and minimum standards
 231 of this chapter. The retirement benefits of the defined
 232 contribution plan shall be provided through individual member

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accounts in accordance with the applicable provisions of the Internal Revenue Code and related regulations and are limited to the contributions made into each member's account and the actual accumulated earnings, net of expenses, earned on the member's account.

~~(10)(6)~~ "Division" means the Division of Retirement of the Department of Management Services.

~~(11)(7)~~ "Enrolled actuary" means an actuary who is enrolled under Subtitle C of Title III of the Employee Retirement Income Security Act of 1974 and who is a member of the Society of Actuaries or the American Academy of Actuaries.

~~(12)(8)~~ (a) "Firefighter" means a person employed solely by a constituted fire department of any municipality or special fire control district who is certified as a firefighter as a condition of employment in accordance with s. 633.408 and whose duty it is to extinguish fires, to protect life, or to protect property. The term 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 firefighters, part-time firefighters, or auxiliary firefighters but does not include part-time firefighters or auxiliary firefighters. However, for purposes of this chapter only, the term also includes public safety officers who are responsible for performing both police and fire services, who are certified as police officers or firefighters, and who are certified by their employers to the Chief Financial Officer as participating in this chapter before October 1, 1979. Effective October 1, 1979, public safety officers who have not been certified as participating in this chapter are considered police

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officers for retirement purposes and are eligible to participate in chapter 185. Any plan may provide that the fire chief has an option to participate, ~~or not~~, in that plan.

(b) "Volunteer firefighter" means any person whose name is carried on the active membership roll of a constituted volunteer fire department or a combination of a paid and volunteer fire department of any municipality or special fire control district and whose duty it is to extinguish fires, to protect life, and to protect property. Compensation for services rendered by a volunteer firefighter does ~~shall~~ not disqualify him or her as a volunteer. A person may ~~shall~~ not be disqualified as a volunteer firefighter solely because he or she has other gainful employment. Any person who volunteers assistance at a fire but is not an active member of a department described herein is not a volunteer firefighter within the meaning of this paragraph.

~~(13)(9)~~ "Firefighters' Pension Trust Fund" means a trust fund, by whatever name known, as provided under s. 175.041, for the purpose of assisting municipalities and special fire control districts in establishing and maintaining a retirement plan for firefighters.

~~(14)(10)~~ "Local law municipality" is any municipality in which ~~there exists~~ a local law plan exists.

~~(15)(11)~~ "Local law plan" means a retirement defined benefit pension plan, which includes both a defined benefit plan component and a defined contribution plan component, for firefighters, or for firefighters or police officers if both are ~~where~~ included, as described in s. 175.351, established by municipal ordinance, special district resolution, or special act of the Legislature, which ~~enactment~~ sets forth all plan

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provisions. Local law plan provisions may vary from the provisions of this chapter ~~if the, provided that~~ required ~~minimum~~ benefits and minimum standards of this chapter are met. ~~However,~~ any such variance ~~must shall~~ provide a greater benefit for firefighters. Actuarial valuations of local law plans shall be conducted by an enrolled actuary as provided in s. 175.261(2).

~~(16)-(12)~~ "Local law special fire control district" means ~~is~~ any special fire control district in which ~~there exists~~ a local law plan exists.

~~(17)~~ "Long-term funded ratio" or "funded ratio" means the ratio of the actuarial value of assets of the plan to the actuarial accrued liabilities of the plan, as reported in the most recent actuarial valuation of the plan, deemed to be in compliance with chapter 112 by the Department of Management Services.

~~(18)~~ "Minimum benefits" means the benefits set forth in ss. 175.021-175.341 and ss. 175.361-175.401.

~~(19)~~ "Minimum standards" means the standards set forth in ss. 175.021-175.341 and ss. 175.361-175.401.

~~(20)-(13)~~ "Property insurance" means property insurance as defined in s. 624.604 and covers real and personal property within the corporate limits of ~~a any~~ municipality, or within the boundaries of ~~a any~~ special fire control district, within the state. "Multiple peril" means a combination or package policy that includes both property and casualty coverage for a single premium.

~~(21)~~ "Required benefits" means the lesser of the minimum benefits set forth in this chapter or the base benefits of the

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plan. For local law plans created after March 1, 2013, the term means the minimum benefits set forth in this chapter.

~~(22)-(14)~~ "Retiree" or "retired firefighter" means a firefighter who has entered retirement status. For the purposes of a plan that includes a Deferred Retirement Option Plan (DROP), a firefighter who enters the DROP is shall be considered a retiree for all purposes of the plan. However, a firefighter who enters the DROP and who is otherwise eligible to participate may shall not ~~thereby~~ be precluded from participation or continued participation ~~participating, or continuing to participate,~~ in a supplemental plan in existence on, or created after, March 12, 1999 ~~the effective date of this act~~.

~~(23)-(15)~~ "Retirement" means a firefighter's separation from city or fire district employment as a firefighter with immediate eligibility for ~~receipt of~~ benefits under the plan. For purposes of a plan that includes a Deferred Retirement Option Plan (DROP), "retirement" means the date a firefighter enters the DROP.

~~(24)~~ "Special benefits" means benefits provided in a defined contribution plan for firefighters.

~~(25)-(16)~~ "Special fire control district" means a special district, as defined in s. 189.403~~(1)~~, established for the purposes of extinguishing fires, protecting life, and protecting property within the incorporated or unincorporated portions of a any county or combination of counties, or within any combination of incorporated and unincorporated portions of a any county or combination of counties. The term does not include any dependent or independent special district, as those terms are defined in s. 189.403 whose ~~s. 189.403(2) and (3), respectively, the~~

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employees ~~of which~~ are members of the Florida Retirement System pursuant to s. 121.051(1) or (2).

~~(26)(17)~~ "Supplemental plan" means a plan to which deposits are made to provide extra benefits for firefighters, or for firefighters and police officers if both are where included ~~under this chapter~~. Such a plan is an element of a local law plan and exists in conjunction with a defined benefit component ~~plan~~ that meets the required minimum benefits and minimum standards of this chapter. Any supplemental plan in existence on March 1, 2014, shall be deemed to be a defined contribution plan in compliance with s. 175.351(8).

~~(27)(18)~~ "Supplemental plan municipality" means a ~~any~~ local law municipality in which any ~~there existed a~~ supplemental plan ~~existed, of any type or nature,~~ as of December 1, 2000.

Section 3. Subsection (7) of section 175.071, Florida Statutes, is amended to read:

175.071 General powers and duties of board of trustees.—For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter:

(7) To assist the board in meeting its responsibilities under this chapter, the board, if it so elects, may:

(a) Employ independent legal counsel at the pension fund's expense.

(b) Employ an independent enrolled actuary, as defined in s. 175.032~~(7)~~, at the pension fund's expense.

(c) Employ such independent professional, technical, or other advisers as it deems necessary at the pension fund's expense.

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If the board chooses to use the municipality's or special district's legal counsel, ~~or~~ actuary, or ~~chooses to use~~ any of ~~its the municipality's or special district's other~~ professional, technical, or other advisers, it must do so only under terms and conditions acceptable to the board.

Section 4. Paragraphs (d) through (g) of subsection (1) of section 175.091, Florida Statutes, are amended, and a new paragraph (e) is added to that subsection, to read:

175.091 Creation and maintenance of fund.—For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter:

(1) The firefighters' pension trust fund in each municipality and in each special fire control district shall be created and maintained in the following manner:

(d) By mandatory payment by the municipality or special fire control district of a sum equal to the normal cost of and the amount required to fund any actuarial deficiency shown by an actuarial valuation conducted under as provided in part VII of chapter 112 after taking into account the amounts described in paragraphs (b), (c), (f), (g), and (h) and the tax proceeds described in paragraph (a) which must be used to fund defined benefit plan benefits, except as otherwise excluded from consideration in determining the mandatory payment.

(e) For local law plans, in addition to the mandatory payment specified in paragraph (d), by mandatory payment by the municipality or special fire control district of the amount specified in s. 175.351(3), if the long-term funded ratio of the

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407 plan is less than 80 percent.

408 ~~(f)(e)~~ By all gifts, bequests, and devises when donated to
409 the fund.

410 ~~(g)(f)~~ By all accretions to the fund, ~~such as by way of~~
411 ~~interest or dividends on bank deposits, or otherwise.~~

412 ~~(h)(g)~~ By all other sources or income now or hereafter
413 authorized by law for the augmentation of such firefighters'
414 pension trust fund.

415
416 Nothing in this section shall be construed to require adjustment
417 of member contribution rates in effect on the date this act
418 becomes a law, including rates that exceed 5 percent of salary,
419 provided that such rates are at least one-half of 1 percent of
420 salary.

421 Section 5. Paragraph (a) of subsection (2) of section
422 175.162, Florida Statutes, is amended to read:

423 175.162 Requirements for retirement.—For any municipality,
424 special fire control district, chapter plan, local law
425 municipality, local law special fire control district, or local
426 law plan under this chapter, any firefighter who completes 10 or
427 more years of creditable service as a firefighter and attains
428 age 55, or completes 25 years of creditable service as a
429 firefighter and attains age 52, and who for such minimum period
430 has been a member of the firefighters' pension trust fund
431 operating under a chapter plan or local law plan, is eligible
432 for normal retirement benefits. Normal retirement under the plan
433 is retirement from the service of the municipality or special
434 fire control district on or after the normal retirement date. In
435 such event, payment of retirement income will be governed by the

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436 following provisions of this section:

437 (2) (a) The amount of monthly retirement income payable to a
438 full-time firefighter who retires on or after his or her normal
439 retirement date shall be an amount equal to the number of his or
440 her years of credited service multiplied by 2 percent of his or
441 her average final compensation as a full-time firefighter.
442 ~~However, if current state contributions pursuant to this chapter~~
443 ~~are not adequate to fund the additional benefits to meet the~~
444 ~~minimum requirements in this chapter, only such incremental~~
445 ~~increases shall be required as state moneys are adequate to~~
446 ~~provide. Such increments shall be provided as state moneys~~
447 ~~become available.~~

448 Section 6. Section 175.351, Florida Statutes, is amended to
449 read:

450 175.351 Municipalities and special fire control districts
451 that have ~~having~~ their own pension plans for firefighters. ~~For~~
452 ~~any municipality, special fire control district, local law~~
453 ~~municipality, local law special fire control district, or local~~
454 ~~law plan under this chapter,~~ In order for a municipality or
455 ~~municipalities and special fire control district that has its~~
456 ~~districts with their own pension plan~~ plans for firefighters, or
457 for firefighters and police officers if both are included, to
458 participate in the distribution of the tax fund established
459 ~~under pursuant to s. 175.101, a local law plan and its plan~~
460 sponsor plans must meet the required ~~minimum~~ benefits and
461 minimum standards set forth in this chapter.

462 (1) If a municipality has a pension plan for firefighters,
463 ~~or a pension plan~~ for firefighters and police officers if both
464 are included, which in the opinion of the division meets the

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465 ~~required minimum~~ benefits and minimum standards set forth in
 466 this chapter, the board of trustees of the pension plan ~~must, as~~
 467 ~~approved by a majority of firefighters of the municipality, may:~~

468 ~~(a)~~ place the income from the premium tax in s. 175.101 in
 469 such ~~pension~~ plan for the sole and exclusive use of its
 470 firefighters, or for firefighters and police officers if both
 471 are included, where it shall become an integral part of that
 472 pension plan and shall be used to fund benefits as follows:

473 (a) The base premium tax revenues must be used to fund
 474 required benefits. To the extent the base premium tax revenues
 475 exceed the annual actuarial cost of the plan's required
 476 benefits, such excess revenues must be used as directed in
 477 paragraph (b).

478 (b) Of the additional premium tax revenues received which
 479 are in excess of the amount received for the 2012 calendar year
 480 and any accumulations of additional tax revenues which have not
 481 been applied to fund benefits in excess of the plan's base
 482 benefits:

483 1. If the plan has a supplemental plan in effect as of
 484 September 30, 2013, whereby all premium tax revenues received in
 485 excess of the amount received for the 2012 calendar year are
 486 scheduled to be used to fund defined contribution plan benefits
 487 and:

488 a. If the plan has a long-term funded ratio of less than 80
 489 percent, 50 percent of the additional premium tax revenues
 490 subject to this paragraph must be used as additional
 491 contributions to pay the plan's actuarial deficiency and 50
 492 percent must be used to fund special benefits; or

493 b. If the plan has a long-term funded ratio of 80 percent

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494 or greater, the additional premium tax revenues subject to this
 495 paragraph must be used to fund special benefits.

496 2. If subparagraph 1. is not applicable and the plan has a
 497 long-term funded ratio of less than 80 percent:

498 a. Fifty percent of the additional premium tax revenues
 499 subject to this paragraph must be used as additional
 500 contributions to pay the plan's actuarial deficiency;

501 b. Twenty-five percent of the additional premium tax
 502 revenues subject to this paragraph must be used to fund required
 503 benefits; and

504 c. Twenty-five percent of the additional premium tax
 505 revenues subject to this paragraph must be placed in a defined
 506 contribution plan to fund special benefits.

507 3. If subparagraph 1. is not applicable and the plan has a
 508 long-term funded ratio of 80 percent or greater:

509 a. Fifty percent of the additional premium tax revenues
 510 subject to this paragraph must be used to fund required
 511 benefits; and

512 b. Fifty percent of the additional premium tax revenues
 513 subject to this paragraph must be placed in a defined
 514 contribution plan to fund special benefits.

515
 516 Any additional premium tax revenues used to fund the plan's
 517 actuarial deficiency pursuant to this paragraph may not be
 518 considered in determining the mandatory payment described in s.
 519 175.091(1)(d).

520 (c) Additional premium tax revenues not described in
 521 paragraph (b) must be used to fund benefits that were not
 522 included in the required benefits to pay extra benefits to the

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firefighters included in that pension plan; or

~~(b) Place the income from the premium tax in s. 175.101 in a separate supplemental plan to pay extra benefits to firefighters, or to firefighters and police officers if included, participating in such separate supplemental plan.~~

(2) Insurance premium tax revenues may not be used to fund benefits provided in a defined benefit plan which were not provided by the plan as of March 1, 2014. However, for a local law plan created after March 1, 2014, up to 50 percent of the insurance premium tax revenues may be used to fund defined benefit plan component benefits, with the remainder used to fund defined contribution plan component benefits.

(3) If a plan offers benefits in excess of its required benefits, such excess benefits may be reduced if the plan continues to meet the required benefits of the plan and the minimum standards set forth in this chapter. The amount of insurance premium tax revenues previously used to fund excess benefits must be used as provided in paragraph (1)(b). Twenty-five percent of the amount of any mandatory contribution paid by the municipality or special fire control district which was previously used to fund excess benefits must be used as additional contributions as specified in s. 175.091 to fund the plan's actuarial deficiency.

~~(4)(2) The premium tax provided by this chapter shall in all cases be used in its entirety to provide retirement extra benefits to firefighters, or to firefighters and police officers if both are included. However, local law plans in effect on October 1, 1998, must comply with the minimum benefit provisions of this chapter only to the extent that additional premium tax~~

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~~revenues become available to incrementally fund the cost of such compliance as provided in s. 175.162(2)(a). If a plan is in compliance with such minimum benefit provisions, as subsequent additional premium tax revenues become available, they must be used to provide extra benefits.~~ Local law plans created by special act before May 27, 1939, are deemed to comply with this chapter. ~~For the purpose of this chapter, the term:~~

~~(a) "Additional premium tax revenues" means revenues received by a municipality or special fire control district pursuant to s. 175.121 which exceed that amount received for calendar year 1997.~~

~~(b) "Extra benefits" means benefits in addition to or greater than those provided to general employees of the municipality and in addition to those in existence for firefighters on March 12, 1999.~~

(5)(3) A retirement plan or amendment to a retirement plan may not be proposed for adoption unless the proposed plan or amendment contains an actuarial estimate of the costs involved. Such proposed plan or proposed plan change may not be adopted without the approval of the municipality, special fire control district, or, where permitted, the Legislature. Copies of the proposed plan or proposed plan change and the actuarial impact statement of the proposed plan or proposed plan change shall be furnished to the division before the last public hearing on the proposal is held thereon. Such statement must also indicate whether the proposed plan or proposed plan change is in compliance with s. 14, Art. X of the State Constitution and those provisions of part VII of chapter 112 which are not expressly provided in this chapter. Notwithstanding any other

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provision, only those local law plans created by special act of legislation before May 27, 1939, are deemed to meet the minimum benefits and minimum standards only in this chapter.

~~(6)(4)~~ Notwithstanding any other provision, with respect to any supplemental plan municipality:

(a) A local law plan and a supplemental plan may continue to use their definition of compensation or salary in existence on March 12, 1999.

(b) Section 175.061(1)(b) does not apply, and a local law plan and a supplemental plan shall continue to be administered by a board or boards of trustees numbered, constituted, and selected as the board or boards were numbered, constituted, and selected on December 1, 2000.

~~(c) The election set forth in paragraph (1)(b) is deemed to have been made.~~

~~(7)(5)~~ The retirement plan setting forth the benefits and the trust agreement, if any, covering the duties and responsibilities of the trustees and the regulations of the investment of funds must be in writing, and copies made available to the participants and to the general public.

(8) In addition to the defined benefit component of the local law plan, each plan sponsor must have a defined contribution plan component within the local law plan by October 1, 2014, or upon the creation date of a new participating plan. However, the plan sponsor of any plan established by special act of the Legislature has until July 1, 2015, to create a defined contribution component within the plan.

(9) Notwithstanding any other provision of this chapter, a municipality or special fire control district that has

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implemented or proposed changes to a local law plan based on the municipality's or district's reliance on an interpretation of this chapter by the department on or after August 14, 2012, and before February 1, 2013, may continue the implemented changes or continue to implement proposed changes. Such reliance must be evidenced by a written collective bargaining proposal or agreement, or formal correspondence between the municipality or district and the department which describes the specific changes to the local law plan, with the initial proposal, agreement, or correspondence from the municipality or district dated before February 1, 2013. Changes to the local law plan which are otherwise contrary to this chapter may continue in effect until the earlier of October 1, 2017, or the effective date of a collective bargaining agreement that is contrary to the changes to the local law plan.

Section 7. Subsection (2) of section 185.01, Florida Statutes, is amended to read:

185.01 Legislative declaration.—

(2) This chapter hereby establishes, for all municipal pension plans ~~now or hereinafter~~ provided for under this chapter, including chapter plans and local law plans, required ~~minimum~~ benefits and minimum standards for the operation and funding of such plans, hereinafter referred to as municipal police officers' retirement trust funds, which must be met as a condition precedent to the plan or plan sponsor receiving a distribution of insurance premium tax revenues under s. 185.10. The required ~~minimum~~ benefits and minimum standards for each plan as set forth in this chapter may not be diminished by local ordinance or by special act of the Legislature and may not, nor

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may the minimum benefits or minimum standards be reduced or offset by any other local, state, or federal plan that includes ~~may include~~ police officers in its operation, except as provided under s. 112.65.

Section 8. Section 185.02, Florida Statutes, is amended to read:

185.02 Definitions.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter, the term following words and phrases as used in this chapter shall have the following meanings, unless a different meaning is plainly required by the context:

(1) "Additional premium tax revenues" means revenues received by a municipality pursuant to s. 185.10 which exceed base premium tax revenues.

(2)(1) "Average final compensation" means one-twelfth of the average annual compensation of the 5 best years of the last 10 years of creditable service prior to retirement, termination, or death.

(3) "Base benefits" means the level of benefits in existence for police officers on March 12, 1999.

(4) "Base premium tax revenues" means the revenues received by a municipality pursuant to s. 185.10 for calendar year 1997.

(5)(2) "Casualty insurance" means automobile public liability and property damage insurance to be applied at the place of residence of the owner, or if the subject is a commercial vehicle, to be applied at the place of business of the owner; automobile collision insurance; fidelity bonds; burglary and theft insurance; and plate glass insurance.
"Multiple peril" means a combination or package policy that

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includes both property coverage and casualty coverage for a single premium.

(6)(3) "Chapter plan" means a separate defined benefit pension plan for police officers which incorporates by reference the provisions of this chapter and has been adopted by the governing body of a municipality as provided in s. 185.08. Except as ~~may be~~ specifically authorized in this chapter, the provisions of a chapter plan may not differ from the plan provisions set forth in ss. 185.01-185.341 and ss. 185.37-185.39. Actuarial valuations of chapter plans shall be conducted by the division as provided by s. 185.221(1)(b).

(7)(4) "Compensation" or "salary" means, for noncollectively bargained service earned before July 1, 2011, or for service earned under collective bargaining agreements in place before July 1, 2011, the total cash remuneration including "overtime" paid by the primary employer to a police officer for services rendered, but not including any payments for extra duty or special detail work performed on behalf of a second party employer. ~~A local law plan may limit the amount of overtime payments which can be used for retirement benefit calculation purposes; however, such overtime limit may not be less than 300 hours per officer per calendar year.~~ For noncollectively bargained service earned on or after July 1, 2011, or for service earned under collective bargaining agreements entered into on or after July 1, 2011, the term has the same meaning except that when calculating retirement benefits, up to 300 hours per year in overtime compensation may be included as specified in the plan or collective bargaining agreement, but payments for accrued unused sick or annual leave may not be

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697 included.

698 (a) Any retirement trust fund or plan that meets the
699 requirements of this chapter does not, solely by virtue of this
700 subsection, reduce or diminish the monthly retirement income
701 otherwise payable to each police officer covered by the
702 retirement trust fund or plan.

703 (b) The member's compensation or salary contributed as
704 employee-elective salary reductions or deferrals to any salary
705 reduction, deferred compensation, or tax-sheltered annuity
706 program authorized under the Internal Revenue Code shall be
707 deemed to be the compensation or salary the member would receive
708 if he or she were not participating in such program and shall be
709 treated as compensation for retirement purposes under this
710 chapter.

711 (c) For any person who first becomes a member in any plan
712 year beginning on or after January 1, 1996, compensation for
713 that plan year may not include any amounts in excess of the
714 Internal Revenue Code s. 401(a)(17) limitation, as amended by
715 the Omnibus Budget Reconciliation Act of 1993, which limitation
716 of \$150,000 shall be adjusted as required by federal law for
717 qualified government plans and ~~shall be~~ further adjusted for
718 changes in the cost of living in the manner provided by Internal
719 Revenue Code s. 401(a)(17)(B). For any person who first became a
720 member before the first plan year beginning on or after January
721 1, 1996, the limitation on compensation may not be less than the
722 maximum compensation amount that was allowed to be taken into
723 account under the plan ~~as~~ in effect on July 1, 1993, which
724 limitation shall be adjusted for changes in the cost of living
725 since 1989 in the manner provided by Internal Revenue Code s.

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726 401(a)(17)(1991).

727 ~~(8)(5)~~ "Creditable service" or "credited service" means the
728 aggregate number of years of service and fractional parts of
729 years of service of any police officer, omitting intervening
730 years and fractional parts of years when such police officer may
731 not have been employed by the municipality subject to the
732 following conditions:

733 (a) A ~~No~~ police officer may not ~~will~~ receive credit for
734 years or fractional parts of years of service if he or she has
735 withdrawn his or her contributions to the fund for those years
736 or fractional parts of years of service, unless the police
737 officer repays into the fund the amount he or she has withdrawn,
738 plus interest as determined by the board. The member has ~~shall~~
739 ~~have~~ at least 90 days after his or her reemployment to make
740 repayment.

741 (b) A police officer may voluntarily leave his or her
742 contributions in the fund for ~~a period of~~ 5 years after leaving
743 the employ of the police department, pending the possibility of
744 his or her being rehired by the same department, without losing
745 credit for the time he or she has participated actively as a
746 police officer. If he or she is not reemployed as a police
747 officer with the same department within 5 years, his or her
748 contributions shall be returned ~~to him or her~~ without interest.

749 (c) Credited service under this chapter shall be provided
750 only for service as a police officer, ~~as defined in subsection~~
751 ~~(11)~~, or for military service and may not include credit for any
752 other type of service. A municipality may, by local ordinance,
753 may provide for the purchase of credit for military service
754 occurring before employment as well as prior service as a police

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officer for some other employer as long as the police officer is not entitled to receive a benefit for such ~~other~~ prior service ~~as a police officer~~. For purposes of determining credit for prior service, in addition to service as a police officer in this state, credit may be given for federal, other state, or county service as long as such service is recognized by the Criminal Justice Standards and Training Commission within the Department of Law Enforcement as provided in under chapter 943 or the police officer provides proof to the board of trustees that such service is equivalent to the service required to meet the definition of a police officer under subsection (18) ~~(11)~~.

(d) In determining the creditable service of a any police officer, credit for up to 5 years of the time spent in the military service of the Armed Forces of the United States shall be added to the years of actual service, if:

1. The police officer is in the active employ of the municipality before ~~prior to~~ such service and leaves a position, other than a temporary position, for the purpose of voluntary or involuntary service in the Armed Forces of the United States.

2. The police officer is entitled to reemployment under ~~the provisions of~~ the Uniformed Services Employment and Reemployment Rights Act.

3. The police officer returns to his or her employment as a police officer of the municipality within 1 year after ~~from~~ the date of his or her release from such active service.

(9)(6) "Deferred Retirement Option Plan" or "DROP" means a local law plan retirement option in which a police officer may elect to participate. A police officer may retire for all purposes of the plan and defer receipt of retirement benefits

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into a DROP account while continuing employment with his or her employer. However, a police officer who enters ~~the~~ DROP and who is otherwise eligible to participate ~~may shall~~ not ~~thereby~~ be precluded from participation or continued participation ~~participating, or continuing to participate~~, in a supplemental plan in existence on, or created after, March 12, 1999 ~~the effective date of this act~~.

(10) "Defined contribution plan" means the component of a local law plan to which deposits are made to provide benefits for police officers, or for police officers and firefighters if both are included. Such component is an element of a local law plan and exists in conjunction with the defined benefit component that meets the required benefits and minimum standards of this chapter. The retirement benefits of the defined contribution plan shall be provided through individual member accounts in accordance with the applicable provisions of the Internal Revenue Code and related regulations and are limited to the contributions made into each member's account and the actual accumulated earnings, net of expenses, earned on the member's account.

(11)(7) "Division" means the Division of Retirement of the Department of Management Services.

(12)(8) "Enrolled actuary" means an actuary who is enrolled under Subtitle C of Title III of the Employee Retirement Income Security Act of 1974 and who is a member of the Society of Actuaries or the American Academy of Actuaries.

(13)(9) "Local law municipality" means ~~is~~ any municipality in which ~~there exists~~ a local law plan exists.

(14)(10) "Local law plan" means a retirement defined

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benefit pension plan, which includes both a defined benefit plan component and a defined contribution plan component, for police officers, or for police officers and firefighters if both are, where included, as described in s. 185.35, established by municipal ordinance or special act of the Legislature, which enactment sets forth all plan provisions. Local law plan provisions may vary from the provisions of this chapter if the, provided that required minimum benefits and minimum standards of this chapter are met. However, any such variance must shall provide a greater benefit for police officers. Actuarial valuations of local law plans shall be conducted by an enrolled actuary as provided in s. 185.221(2)(b).

(15) "Long-term funded ratio" or "funded ratio" means the ratio of the actuarial value of assets of the plan to the actuarial accrued liabilities of the plan, as reported in the most recent actuarial valuation of the plan, deemed to be in compliance with chapter 112 by the Department of Management Services.

(16) "Minimum benefits" means the benefits set forth in ss. 185.01-185.341 and ss. 185.37-185.50.

(17) "Minimum standards" means the standards set forth in ss. 185.01-185.341 and ss. 185.37-185.50.

(18)(11) "Police officer" means any person who is elected, appointed, or employed full time by a any municipality, who is certified or required to be certified as a law enforcement officer in compliance with s. 943.1395, 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

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the state. The term 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 part-time law enforcement officers or auxiliary law enforcement officers as those terms ~~the same~~ are defined in s. 943.10(6) and (8), respectively. For the purposes of this chapter only, the term also includes "police officer" also shall include a public safety officer who is responsible for performing both police and fire services. Any plan may provide that the police chief shall have an option to participate, ~~or not~~, in that plan.

(19)(12) "Police Officers' Retirement Trust Fund" means a trust fund, by whatever name known, as provided under s. 185.03 for the purpose of assisting municipalities in establishing and maintaining a retirement plan for police officers.

(20) "Required benefits" means the lesser of the minimum benefits set forth in this chapter or the base benefits of the plan. For local law plans created after March 1, 2013, the term means the minimum benefits set forth in this chapter.

(21)(13) "Retiree" or "retired police officer" means a police officer who has entered retirement status. For the purposes of a plan that includes a Deferred Retirement Option Plan (DROP), a police officer who enters the DROP is shall be considered a retiree for all purposes of the plan. However, a police officer who enters ~~the~~ DROP and who is otherwise eligible to participate may shall not ~~thereby~~ be precluded from participating, or continuing to participate, in a supplemental

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plan in existence on, or created after, March 12, 1999 ~~the effective date of this act.~~

~~(22)-(14)~~ "Retirement" means a police officer's separation from city employment as a police officer with immediate eligibility for ~~receipt of~~ benefits under the plan. For purposes of a plan that includes a Deferred Retirement Option Plan (DROP), "retirement" means the date a police officer enters the DROP.

(23) "Special benefits" means benefits provided in a defined contribution plan for police officers.

~~(24)-(15)~~ "Supplemental plan" means a plan to which deposits of the premium tax moneys as provided in s. 185.08 are made to provide extra benefits to police officers, or police officers and firefighters if both are where included, under this chapter. Such a plan is an element of a local law plan and exists in conjunction with a defined benefit component plan that meets the required minimum benefits and minimum standards of this chapter. Any supplemental plan in existence on March 1, 2014, shall be deemed to be a defined contribution plan in compliance with s. 185.35(8).

~~(25)-(16)~~ "Supplemental plan municipality" means a any local law municipality in which ~~there existed~~ existed as of December 1, 2000.

Section 9. Subsection (6) of section 185.06, Florida Statutes, is amended to read:

185.06 General powers and duties of board of trustees.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter:

(6) To assist the board in meeting its responsibilities

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under this chapter, the board, if it so elects, may:

(a) Employ independent legal counsel at the pension fund's expense.

(b) Employ an independent enrolled actuary, as defined in s. 185.02 ~~(4)~~, at the pension fund's expense.

(c) Employ such independent professional, technical, or other advisers as it deems necessary at the pension fund's expense.

If the board chooses to use the municipality's or special district's legal counsel, ~~or~~ actuary, or ~~chooses to use~~ any of ~~its the municipality's other~~ professional, technical, or other advisers, it must do so only under terms and conditions acceptable to the board.

Section 10. Paragraphs (d) through (g) of subsection (1) of section 185.07, Florida Statutes, are amended, and a new paragraph (e) is added to that subsection, to read:

185.07 Creation and maintenance of fund.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter:

(1) The municipal police officers' retirement trust fund in each municipality described in s. 185.03 shall be created and maintained in the following manner:

(d) By payment by the municipality or other sources of a sum equal to the normal cost and the amount required to fund any actuarial deficiency shown by an actuarial valuation conducted under as provided in part VII of chapter 112 after taking into account the amounts described in paragraphs (b), (c), (f), (g), and (h) and the tax proceeds described in paragraph (a) which

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929 must be used to fund defined benefit plan benefits, except as
 930 otherwise excluded from consideration in determining the
 931 mandatory payment.

932 (e) For local law plans, in addition to the mandatory
 933 payment described in paragraph (d), by mandatory payment by the
 934 municipality of the amount specified in s. 185.35(3), if the
 935 long-term funded ratio of the plan is less than 80 percent.

936 (f)(e) By all gifts, bequests and devises when donated to
 937 the fund.

938 (g)(f) By all accretions to the fund by way of interest or
 939 dividends on bank deposits or otherwise.

940 (h)(g) By all other sources of income now or hereafter
 941 authorized by law for the augmentation of such municipal police
 942 officers' retirement trust fund.

943
 944 Nothing in this section shall be construed to require adjustment
 945 of member contribution rates in effect on the date this act
 946 becomes a law, including rates that exceed 5 percent of salary,
 947 provided that such rates are at least one-half of 1 percent of
 948 salary.

949 Section 11. Subsection (2) of section 185.16, Florida
 950 Statutes, is amended to read:

951 185.16 Requirements for retirement.—For any municipality,
 952 chapter plan, local law municipality, or local law plan under
 953 this chapter, any police officer who completes 10 or more years
 954 of creditable service as a police officer and attains age 55, or
 955 completes 25 years of creditable service as a police officer and
 956 attains age 52, and for such period has been a member of the
 957 retirement fund is eligible for normal retirement benefits.

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958 Normal retirement under the plan is retirement from the service
 959 of the city on or after the normal retirement date. In such
 960 event, for chapter plans and local law plans, payment of
 961 retirement income will be governed by the following provisions
 962 of this section:

963 (2) The amount of the monthly retirement income payable to
 964 a police officer who retires on or after his or her normal
 965 retirement date shall be an amount equal to the number of the
 966 police officer's years of credited service multiplied by 2
 967 percent of his or her average final compensation. ~~However, if~~
 968 ~~current state contributions pursuant to this chapter are not~~
 969 ~~adequate to fund the additional benefits to meet the minimum~~
 970 ~~requirements in this chapter, only increment increases shall be~~
 971 ~~required as state moneys are adequate to provide. Such~~
 972 ~~increments shall be provided as state moneys become available.~~

973 Section 12. Section 185.35, Florida Statutes, is amended to
 974 read:

975 185.35 Municipalities that ~~have~~ having their own retirement
 976 pension plans for police officers. ~~For any municipality, chapter~~
 977 ~~plan, local law municipality, or local law plan under this~~
 978 ~~chapter,~~ In order for a municipality that has its ~~municipalities~~
 979 ~~with their own retirement plan pension plans~~ for police
 980 officers, or for police officers and firefighters if both are
 981 included, to participate in the distribution of the tax fund
 982 established under pursuant to s. 185.08, a local law plan and
 983 its plan sponsor plans must meet the required minimum benefits
 984 and minimum standards set forth in this chapter:

985 (1) If a municipality has a retirement pension plan for
 986 police officers, or for police officers and firefighters if both

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are included, which, in the opinion of the division, meets the required minimum benefits and minimum standards set forth in this chapter, the board of trustees of the pension plan ~~must, as approved by a majority of police officers of the municipality, may~~

~~(a)~~ place the income from the premium tax in s. 185.08 in such ~~pension~~ plan for the sole and exclusive use of its police officers, or its police officers and firefighters if both are included, where it shall become an integral part of that ~~pension~~ plan and shall be used to fund benefits as follows:

(a) The base premium tax revenues must be used to fund required benefits. To the extent the base premium tax revenues exceed the annual actuarial cost of the plan's required benefits, such excess revenues must be used as directed in paragraph (b).

(b) Of the additional premium tax revenues received which are in excess of the amount received for the 2012 calendar year and any accumulations of additional premium tax revenues which have not been applied to fund benefits in excess of the plan's base benefits:

1. If the plan has a supplemental plan in effect as of September 30, 2013, whereby all premium tax revenues received in excess of the amount received for the 2012 calendar year are scheduled to be used to fund defined contribution plan benefits and:

a. If the plan has a long-term funded ratio of less than 80 percent, 50 percent of the additional premium tax revenues subject to this paragraph must be used as additional contributions to pay the plan's actuarial deficiency and the

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remainder must be used to fund special benefits; or

b. If the plan has a long-term funded ratio of 80 percent or greater, the additional premium tax revenues subject to this paragraph must be used to fund special benefits.

2. If subparagraph 1. is not applicable and the plan has a long-term funded ratio of less than 80 percent:

a. Fifty percent of the additional premium tax revenues subject to this paragraph must be used as additional contributions to pay the plan's actuarial deficiency;

b. Twenty-five percent of the additional premium tax revenues subject to this paragraph must be used to fund required benefits; and

c. Twenty-five percent of the additional premium tax revenues subject to this paragraph must be placed in a defined contribution plan to fund special benefits.

3. If subparagraph 1. is not applicable and the plan has a long-term funded ratio of 80 percent or greater:

a. Fifty percent of the additional premium tax revenues subject to this paragraph must be used to fund required benefits; and

b. Fifty percent of the additional premium tax revenues subject to this paragraph must be placed in a defined contribution plan to fund special benefits.

Any additional premium tax revenues used to fund the plan's actuarial deficiency pursuant to this paragraph may not be considered in determining the mandatory payment described in s. 185.07(1)(d).

(c) Additional premium tax revenues not described in

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paragraph (b) must be used to fund benefits that were not included in the required benefits pay extra benefits to the police officers included in that pension plan; or

~~(b) May place the income from the premium tax in s. 185.08 in a separate supplemental plan to pay extra benefits to the police officers, or police officers and firefighters if included, participating in such separate supplemental plan.~~

(2) Insurance premium tax revenues may not be used to fund benefits provided in a defined benefit plan which were not provided by the plan as of March 1, 2014. However, for a local law plan created after March 1, 2014, up to 50 percent of the insurance premium tax revenues may be used to fund defined benefit plan component benefits, with the remainder used to fund defined contribution plan component benefits.

(3) If a plan offers benefits in excess of its required benefits, such benefits may be reduced if the plan continues to meet the required benefits of the plan and the minimum standards set forth in this chapter. The amount of insurance premium tax revenues previously used to fund benefits in excess of the plan's required benefits before the reduction must be used as provided in paragraph (1)(b). Twenty-five percent of the amount of any mandatory contribution paid by the municipality which was previously used to fund benefits above the level of required benefits provided before the reduction must be used as additional contributions as specified in s. 185.07 to fund the plan's actuarial deficiency.

~~(4)(2)~~ The premium tax provided by this chapter shall ~~in all cases~~ be used in its entirety to provide retirement ~~extra~~ benefits to police officers, or to police officers and

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firefighters if both are included. ~~However, local law plans in effect on October 1, 1998, must comply with the minimum benefit provisions of this chapter only to the extent that additional premium tax revenues become available to incrementally fund the cost of such compliance as provided in s. 185.16(2). If a plan is in compliance with such minimum benefit provisions, as subsequent additional tax revenues become available, they shall be used to provide extra benefits.~~ Local law plans created by special act before May 27, 1939, shall be deemed to comply with this chapter. For the purpose of this chapter, the term:

~~(a) "Additional premium tax revenues" means revenues received by a municipality pursuant to s. 185.10 which exceed the amount received for calendar year 1997.~~

~~(b) "Extra benefits" means benefits in addition to or greater than those provided to general employees of the municipality and in addition to those in existence for police officers on March 12, 1999.~~

(5)(3) A retirement plan or amendment to a retirement plan may not be proposed for adoption unless the proposed plan or amendment contains an actuarial estimate of the costs involved. Such proposed plan or proposed plan change may not be adopted without the approval of the municipality or, where permitted, the Legislature. Copies of the proposed plan or proposed plan change and the actuarial impact statement of the proposed plan or proposed plan change shall be furnished to the division before the last public hearing on the proposal is held thereon. Such statement must also indicate whether the proposed plan or proposed plan change is in compliance with s. 14, Art. X of the State Constitution and those provisions of part VII of chapter

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112 which are not expressly provided in this chapter.

Notwithstanding any other provision, only those local law plans created by special act of legislation before May 27, 1939, are deemed to meet the minimum benefits and minimum standards only in this chapter.

~~(6)(4)~~ Notwithstanding any other provision, with respect to any supplemental plan municipality:

(a) Section 185.02(7)(a) ~~185.02(4)(a)~~ does not apply, and a local law plan and a supplemental plan may continue to use their definition of compensation or salary in existence on March 12, 1999.

(b) A local law plan and a supplemental plan must continue to be administered by a board or boards of trustees numbered, constituted, and selected as the board or boards were numbered, constituted, and selected on December 1, 2000.

~~(c) The election set forth in paragraph (1)(b) is deemed to have been made.~~

~~(7)(5)~~ The retirement plan setting forth the benefits and the trust agreement, if any, covering the duties and responsibilities of the trustees and the regulations of the investment of funds must be in writing and copies made available to the participants and to the general public.

(8) In addition to the defined benefit component of the local law plan, each plan sponsor must have a defined contribution plan component within the local law plan by October 1, 2014, or upon the creation date of a new participating plan. However, the plan sponsor of any plan established by special act of the Legislature has until July 1, 2015, to create a defined contribution component within the plan.

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(9) Notwithstanding any other provision of this chapter, a municipality that has implemented or proposed changes to a local law plan based on the municipality's reliance on an interpretation of this chapter by the department on or after August 14, 2012, and before February 1, 2013, may continue the implemented changes or continue to implement proposed changes. Such reliance must be evidenced by a written collective bargaining proposal or agreement, or formal correspondence between the municipality and the department which describes the specific changes to the local law plan, with the initial proposal, agreement, or correspondence from the municipality dated before February 1, 2013. Changes to the local law plan which are otherwise contrary to this chapter may continue in effect until the earlier of October 1, 2017, or the effective date of a collective bargaining agreement that is contrary to the changes to the local law plan.

Section 13. The Legislature finds that a proper and legitimate state purpose is served when employees and retirees of this state and its political subdivisions, and the dependents, survivors, and beneficiaries of such employees and retirees, are extended the basic protections afforded by governmental retirement systems that provide fair and adequate benefits and that are managed, administered, and funded in an actuarially sound manner as required under s. 14, Article X of the State Constitution and part VII of chapter 112, Florida Statutes. Therefore, the Legislature determines and declares that this act fulfills an important state interest.

Section 14. This act shall take effect July 1, 2014.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Governmental Oversight and Accountability, *Chair*
Appropriations Subcommittee on Finance and
Tax, *Vice Chair*
Appropriations
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Banking and Insurance
Commerce and Tourism
Judiciary
Rules

JOINT COMMITTEE:

Joint Legislative Auditing Committee

SENATOR JEREMY RING

29th District

March 4, 2014

Honorable Senator Joe Negron
412 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chairman Negron,

I am writing to respectfully request your cooperation in placing Senate Bill 246, relating to Local Government Pension on the 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,

A handwritten signature in cursive script that reads "Jeremy Ring".

Jeremy Ring
Senator District 29

cc: Cynthia Kynoch, Staff Director

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

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

April 10, 2014
Meeting Date

Topic Local Pension Reform

Bill Number 246
(if applicable)

Name Matt Puckett

Amendment Barcode _____
(if applicable)

Job Title Exec Dir

Address 300 East Brevard St
Street

Phone 222-3329

Talla FL 32301
City State Zip

E-mail matt@flpba.org

Speaking: ☒ For ☐ Against ☐ Information

Representing FLA PBA Inc

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/10/14
Meeting Date

Topic _____

Bill Number SB 246
(if applicable)

Name Kraig Conn

Amendment Barcode _____
(if applicable)

Job Title _____

Address 301 S. Bromough Suite 300
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Tall FL 32301
City State Zip

Phone 222 9684

E-mail KConn@flcities.com

Speaking: ☐ For ☐ Against ☒ Information

Representing Florida League of Cities

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

4/10/14 (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)
Meeting Date

Topic Local Pension Reform Bill Number 246
Name Leticia Adams (if applicable)
Job Title Senior Policy Director Amendment Barcode _____ (if applicable)
Address 136 S. Barrough St. Phone 8505446866
City Tall FL State 32301 Zip _____
E-mail ladams@flchamber.com

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida Chamber of Commerce

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/10/14
Meeting Date

Topic Local Pension Plans Bill Number 246
(if applicable)

Name Jim Tolley Amendment Barcode _____
(if applicable)

Job Title President Florida Prof Firefighters

Address 345 West Madison St Phone 850 224 7333
Street
City Tallahassee State FL Zip 32301 E-mail jimt@fpfp.org

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida prof Firefighters

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

The Florida Senate
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 268

INTRODUCER: Children, Families, and Elder Affairs Committee; Health Policy Committee; and
Senators Grimsley and Diaz de la Portilla

SUBJECT: Certificates of Need

DATE: April 10, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Stovall	HP	Fav/CS
2.	Crosier	Hendon	CF	Fav/CS
3.	Brown	Pigott	AHS	Favorable
4.	Brown	Kynoch	AP	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 268 amends various sections of the Florida Statutes related to nursing home certificates of need (CON) in order to, among other provisions:

- Repeal the moratorium on CONs for new nursing homes and for adding additional nursing home beds to an existing nursing home;
- Establish a positive CON application factor under certain conditions;
- Allow contiguous sub-districts that each have a need for nursing home beds to aggregate their need for the construction of one nursing home;
- Allow for an expedited CON review for the replacement of a nursing home;
- Allow for an expedited CON review for a nursing home to relocate a portion of its beds to an existing facility or a new facility under certain conditions;
- Create a new exemption to the CON process for an existing nursing home to add beds under certain conditions; and
- Restrict the Agency for Healthcare Administration from issuing any further CONs for nursing home beds once 3,750 total, new beds have been approved.

The bill has an indeterminate fiscal impact.

II. Present Situation:

Certificates of Need (CON)

A CON is a written statement issued by the Agency for Health Care Administration (AHCA) evidencing community need for a new, converted, expanded, or otherwise significantly modified health care facility, health service, or hospice.¹ Under this regulatory program, the AHCA must provide approval through the CON review and approval process prior to a provider establishing a new nursing home or adding nursing home beds.

The Florida CON program has three levels of review: full, expedited, and exempt.² The nursing home projects that require CONs are as follows:

Projects Subject to Full Comparative Review

- Adding beds in community nursing homes; and
- Constructing or establishing new health care facilities, which include skilled nursing facilities (SNF).³

Projects Subject to Expedited Review

- Replacing a nursing home within the same district;
- Relocating a portion of a nursing home's licensed beds to a facility within the same district; and
- The new construction of a nursing home in a retirement community if certain population and bed need criteria are met.⁴

Exemptions from CON Review

- Converting licensed acute care hospital beds to Medicare and Medicaid certified skilled nursing beds in a rural hospital;
- Adding nursing home beds at a SNF that is part of a retirement community which had been in operation for at least 65 years on or before July 1, 1994, for the exclusive use of the community residents;
- Combining licensed beds from two or more licensed nursing homes within a district into a single nursing home within that district if 50 percent of the beds are transferred from the only nursing home in a county and that nursing home had less than a 75-percent occupancy rate;⁵
- State veteran's nursing homes operated by or on behalf of the Florida Department of Veterans' Affairs;
- Combining the beds or services authorized by two or more CONs issued in the same planning sub-district into one nursing home;

¹ Section 408.032(3), F.S.

² Section 408.036, F.S.

³ Section 408.032(16), F.S., defines an SNF as an institution, or a distinct part of an institution, which is primarily engaged in providing, to inpatients, skilled nursing care and related services for patients who require medical or nursing care, or rehabilitation services for the rehabilitation of injured, disabled, or sick persons.

⁴ These provisions, laid out in s. 408.036(2)(d), F.S., are excepted from the moratorium on CONs for new nursing homes in s. 408.0435, F.S.

⁵ This exemption is repealed upon the expiration of the moratorium by operation of s. 408.036(3)(f), F.S.

- Separating the beds or services that are authorized by one CON into two or more nursing homes in the sub-district;
- Adding no more than 10 total beds or 10 percent of the licensed nursing home beds of that facility, whichever is greater, or, if the nursing home is designated as a Gold Seal nursing home, no more than 20 total beds or 10 percent of the licensed nursing home beds of that facility for a facility with a prior-12-month occupancy rate of 96 percent or greater; and
- Replacing a licensed nursing home on the same site, or within three miles of the same site, if the number of licensed beds does not increase.

The CON program applies to all nursing home beds, regardless of the source of payment for the beds (private funds, insurance, Medicare, Medicaid, or other funding sources).

Determination of Need

The granting of a CON is based on need. The future need for community nursing home beds is determined twice a year and published by the AHCA as a fixed bed-need pool for the applicable planning horizon. The planning horizon for CON applications is three years. Need determinations are calculated for sub-districts within the agency's 11 service districts⁶ based on a formula⁷ and estimates of current and projected population as published by the Executive Office of the Governor.

Moratorium on Nursing Home CONs

Under the provisions of s. 408.0435, F.S., no CONs for additional community nursing home beds may be approved by the AHCA until the moratorium on nursing home CONs expires. The Legislature first enacted this moratorium in 2001 to last until July 1, 2006.⁸ The Legislature then reenacted the moratorium in 2006,⁹ and again in 2011.¹⁰ The current moratorium lasts until October 1, 2016, or until statewide Medicaid managed care is fully implemented. Full implementation of the statewide Medicaid managed care program is statutorily required to be completed by October 1, 2014.¹¹

The Legislature provided for additional exceptions to the moratorium to address occupancy needs that might arise, including:

- The addition of sheltered nursing home beds;¹²
- The addition of beds in a county that has no community nursing home beds and the lack of beds is the result of the closure of nursing homes that were licensed on July 1, 2001;¹³
- Adding the greater of no more than 10 total beds or 10 percent of the licensed nursing home beds of a nursing home located in a county having up to 50,000 residents, if:

⁶ The nursing home sub-districts are set forth in Rule 59C-2.200, F.A.C. and generally consist of 1 to 2 counties. Duval County is divided between several sub-districts of district 4.

⁷ Rule 59C-1.036, F.A.C.

⁸ Chapter 2001-45, s. 52, Laws of Florida.

⁹ Chapter 2006-161, Laws of Florida.

¹⁰ Chapter 2011-135, Laws of Florida.

¹¹ Sections 409.971 and 409.978, F.S.

¹² Sheltered nursing home bed is defined in s. 651.118, F.S., as a nursing home bed within a continuing care facility.

¹³ The request to add beds under this exception to the moratorium is subject to the full competitive review process for CONs.

- The nursing home has not had any class I or class II deficiencies within the 30 months preceding the request for addition;
- The prior-12-month average occupancy rate for the nursing home beds at the facility meets or exceeds 94 percent and the facility has not had any class I or class II deficiencies since its initial licensure; and
- For a facility that has been licensed for less than 24 months, the prior-6-month average occupancy rate for the nursing home beds at the facility meets or exceeds 94 percent and the facility has not had any class I or class II deficiencies since its initial licensure;
- The addition of the greater of no more than 10 total beds or 10 percent of the number of licensed nursing home beds if:
 - The facility has not had any class I or class II deficiencies within the 30 months preceding the request for addition;
 - The prior-12-month average occupancy rate for the nursing home beds at the facility meets or exceeds 96 percent;
 - The prior-12-month occupancy rate for the nursing home beds in the sub-district is 94 percent or greater; and
 - Any beds authorized for the facility under this exception in a prior request have been licensed and operational for at least 12 months;¹⁴ and
- The new construction of a nursing home in a retirement community if certain population and bed-need criteria are met.

III. Effect of Proposed Changes:

Section 1 amends s. 408.034, F.S., to reduce the average sub-district nursing home occupancy rate which the AHCA must attempt to maintain by rule from 94 to 92 percent. Potentially, this could result in an increase in nursing home beds. However, statewide bed occupancy rates have remained around 88.5 percent since Fiscal Year 2004-2005.¹⁵

The bill allows an applicant applying for a CON for the construction of a new community nursing home to aggregate bed-need from two or more contiguous sub-districts if:

- The proposed nursing home will be located in the sub-district with the greater need when only two sub-districts are aggregated, or
- The proposed nursing home will be located at a site that provides reasonable geographic access for residents in each sub-district respective of that sub-district's bed-need when more than two sub-districts are aggregated.

Contiguous sub-districts where the nursing home is not built will continue to show bed-need in subsequent batching cycles.

The bill allows for an additional, positive CON application factor for an applicant applying for a CON in a sub-district where nursing home bed-need has been determined to exist if that applicant voluntarily relinquishes licensed nursing home beds in one or more sub-districts where there is no calculated bed-need. The applicant must be able to demonstrate that it operates,

¹⁴ The request to add beds under the exception to the moratorium is subject to the procedures related to an exemption to the CON requirements.

¹⁵ The Agency for Health Care Administration, *Bill Analysis for SB 268*, December 20, 2013, on file with the Senate Health Policy Committee.

controls, or has an agreement with another licensed nursing home to ensure that the beds are relinquished.

The bill deletes obsolete language related to pilot nursing home diversion projects.

Section 2 amends s. 408.036, F.S., to allow for an expedited review of a CON application for the replacement of a nursing home either:

- Within a 30-mile radius of the existing nursing home, regardless of healthcare planning districts, or the geographic location of the majority of the current nursing home's residents, or
- Outside of a 30-mile radius of the existing nursing home if the new nursing home will be within the same sub-district or a contiguous sub-district.

If the nursing home is moved to a contiguous sub-district, existing nursing homes in that sub-district must have at least an 85-percent occupancy rate.

The bill also allows for an expedited CON review for a nursing home that is relocating a portion of its beds, within the same district or a contiguous district, to an established facility or to a new facility. Such a relocation cannot cause the total number of nursing home beds in the state to increase.

The bill makes the following changes to the allowed CON exemptions:

- Creates a new CON exemption for a nursing home that is adding up to either 30 beds or 25 percent of its current beds, whichever is less, when replacing its facility;
- Reduces the required average occupancy rate from 96 percent to 94 percent for a facility to add a number of beds equal to the greater of no more than 10 beds or 10 percent of the facility's current licensed beds;
- Increases the distance a replacement nursing home may be located from the current nursing home to up to five miles, rather than three miles, and clarifies that such a move must remain within the same sub-district; and
- Allows the consolidation of multiple licensed nursing homes with any shared controlled interest or the transfer of beds between such nursing homes if all of the nursing homes are within the same planning district, rather than sub-district. The site of relocation must be within 30 miles of the original sites and the total number of nursing home beds in the planning district may not increase.

The bill also makes technical and conforming changes to s. 408.036, F.S.

Section 3 repeals s. 408.0435, F.S., which establishes the moratorium on nursing home CONs.

Section 4 creates s. 408.0436, F.S., restricting AHCA from issuing any CONs for new nursing home beds following the batching cycle in which the total number of new nursing home beds approved between July 1, 2014, and June 30, 2017, meets or exceeds 3,750. The bill also defines "batching cycle" as the grouping for comparative review of CON applications submitted for beds, services, or programs having a similar CON-need methodology or licensing category in the same planning horizon and the same applicable district or sub-district.

The bill provides a repeal date for s. 408.0436, F.S., of July 1, 2017.

Section 5 provides an effective date of July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

CS/SB 268 repeals the moratorium preventing the AHCA from issuing certificates of need (CONs) for new community nursing home beds in most instances. Repealing this moratorium will allow the AHCA to grant new CONs for the construction of new community nursing homes and the addition of community nursing home beds to existing nursing homes when need is determined. The bill also eases some of the guidelines that the AHCA must follow when issuing new nursing home CONs. Most significantly, the bill allows for a reduced minimum occupancy rate for existing nursing homes and allows CON applicants to aggregate bed need between sub-districts to qualify for a CON.

When taken together, the provisions of the bill will allow for the construction of new nursing homes and the expansion of existing nursing homes where such construction or expansion is restricted under current law. This new construction will likely have indeterminate positive effects on the parts of the private sector responsible for such construction, but may also have indeterminate negative effects on existing nursing homes in or around areas where such new construction is allowed.

C. Government Sector Impact:

According to the AHCA's bill analysis,¹⁶ the AHCA will need to amend its CON rules and revise the bed-need formula to comply with the reduced average sub-district nursing

¹⁶ *Supra*, 14.

home occupancy rate. Rewriting these rules will produce an indeterminate but insignificant fiscal impact.

The number of new nursing home beds created is unknown at this time; however, the construction of new nursing homes and the expansion of existing nursing homes will likely increase the number of Medicaid beds available which could have an impact on the state's Medicaid budget.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The term “reasonable geographic access for residents in the respective sub-districts” on line 46 may prove difficult to define by rule since several of the state's contiguous sub-districts cover large geographic areas. For example, District 3 has seven sub-districts and consists of 16 counties ranging from Hamilton County to Hernando County, District 8 has six sub-districts and includes seven counties, and District 4 has four sub-districts and includes seven counties.¹⁷

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 408.034 and 408.036.

This bill creates section 408.0436 of the Florida Statutes.

This bill repeals section 408.0435 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 Children, Families, and Elder Affairs on March 18, 2014:

The CS reduces the newly-created limit of approved nursing home beds from 5,000 to 3,750 and changes the period of the limit from five years to three years.

CS by Health Policy on January 8, 2014:

The CS:

- Establishes a positive CON application factor for CON applications in sub-districts with bed-need if an applicant relinquishes nursing home beds in one or more sub-districts without need;
- Restricts a nursing home moving to a new location within 30 miles of the original nursing home from moving into a new sub-district unless that sub-district has had at least an 85 percent occupancy rate for the prior 6 months;

¹⁷ *Supra*, 14.

- Allows an expedited CON review for a nursing home to relocate a portion of its beds to an existing facility or a new facility in the same district, or a contiguous district, if the total number of beds in the state does not increase;
- Adds language granting a CON exemption to a nursing home that is adding up to either 30 beds or 25 percent of its current beds, whichever is less, when replacing its facility;
- Adds Section 4 of the bill to restrict the AHCA from issuing any further CONs for nursing home beds once 5,000 total new beds have been approved. This provision expires on June 30, 2019.
- Makes other technical, clarifying, and conforming changes.

B. Amendments:

None.

By the Committees on Children, Families, and Elder Affairs; and Health Policy; and Senators Grimsley and Diaz de la Portilla

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1 A bill to be entitled
 2 An act relating to certificates of need; amending s.
 3 408.034, F.S.; decreasing the subdistrict average
 4 occupancy rate that the Agency for Health Care
 5 Administration is required to maintain as a goal of
 6 its nursing-home-bed-need methodology; conforming a
 7 provision to changes made by the act; authorizing an
 8 applicant to aggregate the need of geographically
 9 contiguous subdistricts within a district for a
 10 proposed community nursing home under certain
 11 circumstances; requiring the proposed nursing home
 12 site to be located in the subdistrict with the greater
 13 need under certain circumstances; recognizing an
 14 additional positive application factor for an
 15 applicant who voluntarily relinquishes certain nursing
 16 home beds; requiring the applicant to demonstrate that
 17 it meets certain requirements; amending s. 408.036,
 18 F.S.; providing that, under certain circumstances,
 19 replacement of a nursing home and relocation of a
 20 portion of a nursing home's licensed beds to another
 21 facility, or to establish a new facility, is a health-
 22 care-related project subject to expedited review;
 23 conforming a cross-reference; revising the
 24 requirements for projects that are exempted from
 25 applying for a certificate of need; repealing s.
 26 408.0435, F.S., relating to the moratorium on the
 27 approval of certificates of need for additional
 28 community nursing home beds; creating s. 408.0436,
 29 F.S.; prohibiting the agency from approving a

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30 certificate-of-need application for new community
 31 nursing home beds under certain circumstances;
 32 defining the term "batching cycle"; providing a
 33 repeal; providing an effective date.
 34

35 Be It Enacted by the Legislature of the State of Florida:
 36

37 Section 1. Subsection (5) of section 408.034, Florida
 38 Statutes, is amended, present subsection (6) of that section is
 39 redesignated as subsection (8), and a new subsection (6) and
 40 subsection (7) are added to that section, to read:

41 408.034 Duties and responsibilities of agency; rules.—

42 (5) The agency shall establish by rule a nursing-home-bed-
 43 need methodology that has a goal of maintaining a subdistrict
 44 average occupancy rate of 92 94 percent ~~and that reduces the~~
 45 ~~community nursing home bed need for the areas of the state where~~
 46 ~~the agency establishes pilot community diversion programs~~
 47 ~~through the Title XIX aging waiver program.~~

48 (6) If nursing home bed need is determined to exist in
 49 geographically contiguous subdistricts within a district, an
 50 applicant may aggregate the subdistricts' need for a new
 51 community nursing home in one of the subdistricts. If need is
 52 aggregated from two subdistricts, the proposed nursing home site
 53 must be located in the subdistrict with the greater need as
 54 published by the agency in the Florida Administrative Register.
 55 However, if need is aggregated from more than two subdistricts,
 56 the location of the proposed nursing home site must provide
 57 reasonable geographic access for residents in the respective
 58 subdistricts given the relative bed need in each.

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(7) If nursing home bed need is determined to exist in a subdistrict, an additional positive application factor may be recognized in the application review process for an applicant who agrees to voluntarily relinquish licensed nursing home beds in one or more subdistricts where there is no calculated need. The applicant must demonstrate that it operates, controls, or has an agreement with another licensed community nursing home to ensure that beds are voluntarily relinquished if the application is approved and the applicant is licensed.

Section 2. Subsection (2) and paragraphs (f), (k), (p), and (q) of subsection (3) of section 408.036, Florida Statutes, are amended to read:

408.036 Projects subject to review; exemptions.—

(2) PROJECTS SUBJECT TO EXPEDITED REVIEW.—Unless exempt pursuant to subsection (3), the following projects are subject to an expedited review ~~shall include, but not be limited to:~~

(a) A Transfer of a certificate of need, except that when an existing hospital is acquired by a purchaser, all certificates of need issued to the hospital which are not yet operational shall be acquired by the purchaser, without need for a transfer.

(b) Replacement of a nursing home ~~within the same district,~~ if the proposed project site is ~~located within a geographic area that contains at least 65 percent of the facility's current residents and is~~ within a 30-mile radius of the replaced nursing home. If the proposed project site is outside the subdistrict where the replaced nursing home is located, the prior 6-month occupancy rate for licensed community nursing homes in the proposed subdistrict must be at least 85 percent in accordance

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with the agency's most recently published inventory.

(c) Replacement of a nursing home within the same district, if the proposed project site is outside a 30-mile radius of the replaced nursing home but within the same subdistrict or a geographically contiguous subdistrict. If the proposed project site is in the geographically contiguous subdistrict, the prior 6-month occupancy rate for licensed community nursing homes for that subdistrict must be at least 85 percent in accordance with the agency's most recently published inventory.

(d) ~~(e)~~ Relocation of a portion of a nursing home's licensed beds to another a facility or to establish a new facility within the same district or within a geographically contiguous district, if the relocation is within a 30-mile radius of the existing facility and the total number of nursing home beds in the state ~~district~~ does not increase.

(e) ~~(d)~~ The New construction of a community nursing home in a retirement community as further provided in this paragraph.

1. Expedited review under this paragraph is available if all of the following criteria are met:

a. The residential use area of the retirement community is deed-restricted as housing for older persons as defined in s. 760.29(4) (b).

b. The retirement community is located in a county in which 25 percent or more of its population is age 65 and older.

c. The retirement community is located in a county that has a rate of no more than 16.1 beds per 1,000 persons age 65 years or older. The rate shall be determined by using the current number of licensed and approved community nursing home beds in the county per the agency's most recent published inventory.

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d. The retirement community has a population of at least 8,000 residents within the county, based on a population data source accepted by the agency.

e. The number of proposed community nursing home beds in an application does not exceed the projected bed need after applying the rate of 16.1 beds per 1,000 persons aged 65 years and older projected for the county 3 years into the future using the estimates adopted by the agency reduced by, after ~~subtracting~~ the agency's most recently published inventory of licensed and approved community nursing home beds in the county ~~per the agency's most recent published inventory.~~

2. No more than 120 community nursing home beds shall be approved for a qualified retirement community under each request ~~for application~~ for expedited review. Subsequent requests for expedited review under this process may ~~shall~~ not be made until 2 years after construction of the facility has commenced or 1 year after the beds approved through the initial request are licensed, whichever occurs first.

3. The total number of community nursing home beds which may be approved for any single deed-restricted community pursuant to this paragraph may ~~shall~~ not exceed 240, regardless of whether the retirement community is located in more than one qualifying county.

4. Each nursing home facility approved under this paragraph must ~~shall~~ be dually certified for participation in the Medicare and Medicaid programs.

5. Each nursing home facility approved under this paragraph must ~~shall~~ be at least 1 mile, as measured over publicly owned roadways, from an existing approved and licensed community

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nursing home, ~~measured over publicly owned roadways.~~

~~6. Section 408.0435 does not apply to this paragraph.~~

~~6.7.~~ A retirement community requesting expedited review under this paragraph shall submit a written request to the agency for ~~an~~ expedited review. The request must ~~shall~~ include the number of beds to be added and provide evidence of compliance with the criteria specified in subparagraph 1.

~~7.8.~~ After verifying that the retirement community meets the criteria for expedited review specified in subparagraph 1., the agency shall publicly notice in the Florida Administrative Register that a request for an expedited review has been submitted by a qualifying retirement community and that the qualifying retirement community intends to make land available for the construction and operation of a community nursing home. The agency's notice must ~~shall~~ identify where potential applicants can obtain information describing the sales price of, or terms of the land lease for, the property on which the project will be located and the requirements established by the retirement community. The agency notice must ~~shall~~ also specify the deadline for submission of the ~~any~~ certificate-of-need application, which may ~~shall~~ not be earlier than the 91st day or ~~and not be~~ later than the 125th day after the date the notice appears in the Florida Administrative Register.

~~8.9.~~ The qualified retirement community shall make land available to applicants it deems to have met its requirements for the construction and operation of a community nursing home but may ~~will~~ sell or lease the land only to the applicant that is issued a certificate of need by the agency under ~~the provisions of~~ this paragraph.

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175 a. A ~~certificate-of-need~~ certificate of need application
 176 submitted ~~under~~ pursuant to this paragraph ~~must~~ shall identify
 177 the intended site for the project within the retirement
 178 community and the anticipated costs for the project based on
 179 that site. The application ~~must~~ shall also include written
 180 evidence that the retirement community has determined that both
 181 the provider submitting the application and the project satisfy
 182 ~~proposed by that provider satisfies~~ its requirements for the
 183 project.

184 b. If the retirement community determines ~~community's~~
 185 ~~determination~~ that more than one provider satisfies its
 186 requirements for the project, it may notify ~~does not preclude~~
 187 ~~the retirement community from notifying~~ the agency of the
 188 provider it prefers.

189 ~~9.10.~~ The agency shall review each submitted application
 190 ~~submitted shall be reviewed by the agency.~~ If multiple
 191 applications are submitted for a the project ~~as~~ published
 192 pursuant to subparagraph 7. 8., ~~then~~ the agency shall review the
 193 competing applications ~~shall be reviewed by the agency.~~

194
 195 The agency shall develop rules to implement the ~~provisions for~~
 196 expedited review process, including time schedule, application
 197 content ~~that which~~ may be reduced from the full requirements of
 198 s. 408.037(1), and application processing.

199 (3) EXEMPTIONS.—Upon request, the following projects are
 200 subject to exemption from the provisions of subsection (1):

201 (f) For the addition of nursing home beds licensed under
 202 chapter 400 in a number not exceeding 30 total beds or 25
 203 percent of the number of beds licensed in the facility being

586-02761-14

2014268c2

204 replaced under paragraph (2)(b), paragraph (2)(c), or paragraph
 205 (p), whichever is less ~~For the creation of a single nursing home~~
 206 ~~within a district by combining licensed beds from two or more~~
 207 ~~licensed nursing homes within such district, regardless of~~
 208 ~~subdistrict boundaries, if 50 percent of the beds in the created~~
 209 ~~nursing home are transferred from the only nursing home in a~~
 210 ~~county and its utilization data demonstrate that it had an~~
 211 ~~occupancy rate of less than 75 percent for the 12-month period~~
 212 ~~ending 90 days before the request for the exemption. This~~
 213 ~~paragraph is repealed upon the expiration of the moratorium~~
 214 ~~established in s. 408.0435(1).~~

215 (k) For the addition of nursing home beds licensed under
 216 chapter 400 in a number not exceeding 10 total beds or 10
 217 percent of the number of beds licensed in the facility being
 218 expanded, whichever is greater; or, for the addition of nursing
 219 home beds licensed under chapter 400 at a facility that has been
 220 designated as a Gold Seal nursing home under s. 400.235 in a
 221 number not exceeding 20 total beds or 10 percent of the number
 222 of licensed beds in the facility being expanded, whichever is
 223 greater.

224 1. In addition to any other documentation required by the
 225 agency, a request for exemption submitted under this paragraph
 226 must certify that:

227 a. ~~Certify that~~ The facility has not had any class I or
 228 class II deficiencies within the 30 months preceding the request
 229 ~~for addition.~~

230 b. ~~Certify that~~ The prior 12-month average occupancy rate
 231 for the nursing home beds at the facility meets or exceeds 94 ~~96~~
 232 percent.

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c. ~~Certify that~~ Any beds authorized for the facility under this paragraph before the date of the current request for an exemption have been licensed and operational for at least 12 months.

2. The timeframes and monitoring process specified in s. 408.040(2)(a)-(c) apply to any exemption issued under this paragraph.

3. The agency shall count beds authorized under this paragraph as approved beds in the published inventory of nursing home beds until the beds are licensed.

(p) For replacement of a licensed nursing home on the same site, or within 5 3 miles of the same site if within the same subdistrict, if the number of licensed beds does not increase except as allowed by paragraph (f).

(q) For consolidation or combination of licensed nursing homes or transfer of beds between licensed nursing homes within the same planning district subdistrict, by ~~providers that operate multiple~~ nursing homes with any shared controlled interest within that planning district subdistrict, if there is no increase in the planning district subdistrict total number of nursing home beds and the site of the relocation is not more than 30 miles from the original location.

Section 3. Section 408.0435, Florida Statutes, is repealed.

Section 4. Section 408.0436, Florida Statutes, is created to read:

408.0436 Limitation on nursing home certificates of need.—
Notwithstanding the establishment of need as provided in this chapter, the agency may not approve a certificate-of-need application for new community nursing home beds following the

586-02761-14

2014268c2

batching cycle in which the cumulative number of new community nursing home beds approved from July 1, 2014 to June 30, 2017, equals or exceeds 3,750. As used in this section, the term "batching cycle" means the grouping for comparative review of certificate-of-need applications submitted for beds, services, or programs having a like certificate-of-need methodology or licensing category in the same planning horizon and the same applicable district or subdistrict. This section is repealed July 1, 2017.

Section 5. This act shall take effect July 1, 2014.

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/2014

Meeting Date

Topic _____

Bill Number 268
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG FLORIDA 33705
City State Zip

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☐ For ☐ Against ☒ Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/10/14

Meeting Date

Topic CON

Bill Number 268
(if applicable)

Name TONY MARSHALL

Amendment Barcode _____
(if applicable)

Job Title SR. DIRECTOR OF REIMBURSEMENT

Address 307 W. PARK AVE.
Street

Phone 850 224 3907

TALLAHASSEE, FL 32301
City State Zip

E-mail tmarshall@fhca.org

Speaking: ☒ For ☐ Against ☐ Information

Representing FLORIDA HEALTH CARE 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 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Topic NURSING HOME CON Bill Number SB 268
Name STEVE BOGOMILSKY Amendment Barcode _____
Job Title CEO, NORTH BAY HEALTH ASSOCIATES (if applicable)
Address 300 ARTHUR GODFREY RD ST 203 Phone 305 401-7901
Street MIAMI BEACH FL 33140 E-mail STEVE@BOGOMILSKY.ME
City *State* *Zip*
Speaking: ☒ For ☐ Against ☐ Information

Representing NORTH BAY HEALTH ASSOCIATES

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Topic Certificate of Need

Bill Number SB268
(if applicable)

Name Harold W. Foster

Amendment Barcode _____
(if applicable)

Job Title V.P. Governmental Affairs

Address 300 41st St. St-203
Street
Miami Beach FL 33140
City State Zip

Phone (305) 301-5746

E-mail foster.harold@gmail.com

Speaking: ☒ For ☐ Against ☐ Information

Representing North Bay Health Associa^{te}

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/10/14

Meeting Date

Topic Certificate of Need

Bill Number 268
(if applicable)

Name Laura Cantwell

Amendment Barcode _____
(if applicable)

Job Title Associate State Director

Address 400 Canellon Pkwy
Street
Sd. Pete FL 33716
City State Zip

Phone 888-570-2110

E-mail lcantwell@carp.org

Speaking: ☒ For ☐ Against ☐ Information

Representing AARP

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/10/14

Meeting Date

Topic Cert. of Need

Bill Number SB 268

(if applicable)

Name Brewster Bevis

Amendment Barcode

(if applicable)

Job Title Senior Vice President

Address 516 W. Adams St

Phone 284-7173

Street

Tallahassee

E-mail bbevis@aif.com

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

Representing Associated Industries of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

The Florida Senate
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 514 (792326)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Education) and Senator Flores

SUBJECT: Gender-Specific School Pilot Project

DATE: April 9, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McLaughlin	Klebacha	ED	Favorable
2.	Sikes	Elwell	AED	Fav/CS
3.	Elwell	Kynoch	AP	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/SB 514 creates additional requirements for a school district establishing a gender-specific school.

Specifically, the bill requires a school districts establishing a single-gender school to separate students into boys-only and girls-only classes during instruction in core courses, to offer open enrollment to all students in the district, and to provide professional development to the school's administrative and instructional personnel.

Additionally, the bill requires a district establishing a gender-specific school to provide to the Department of Education (DOE) a comparison of the academic performance of students in the gender-specific school with the academic performance of students in the other public schools in the district.

The bill provides an effective date of July 1, 2014.

II. Present Situation:

Under Florida law, a district school board may establish and maintain single-gender schools as long as the district makes available a substantially equal school.¹ Participation in single-gender schools must be voluntary.² At least every two years, the school district must evaluate each single-gender school to ensure compliance with federal regulations.³

There are 54 single-gender schools in 33 school districts in Florida.⁴ A variety of school models employ single-gender classes, e.g., alternative schools, charter schools, virtual schools, and traditional public schools.⁵

III. Effect of Proposed Changes:

The bill establishes additional requirements for gender-specific schools. Under the proposed requirements, school districts:

- Must open enrollment to all students within the school district;
- Must separate core courses, by grade-level, into boys-only and girls-only classes; and
- Must require the school's administrative and instructional personnel participate in professional development that includes scheduling and instructional strategies.

The bill requires a school district operating a single-gender school to provide to the DOE, a comparison of the academic performance of students enrolled in the gender-specific specific elementary, middle, or high school with the academic performance of students in other public elementary, middle, or high schools, as appropriate, in the school district.

The bill provides an effective date of July 1, 2014.

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹ Section 1002.311(1), F.S.

² Section 1002.311(2)(a), F.S.

³ Section 1002.311(2)(b), F.S.

⁴ Telephone conversation with staff, Florida Department of Education, Office of Governmental Relations (Mar. 10, 2014).

⁵ *Id.*

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

PCS/SB 514 requires the gender-specific school's administrative and instructional personnel to participate in professional development that includes scheduling and instructional strategies. School districts have multiple sources of professional development funding that could be used to implement this requirement

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 1002.311 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 Education on April 2, 2014

The committee substitute:

- Amends existing law to place additional requirements on a school district establishing a gender specific school.
- Eliminates the Gender-Specific School Pilot Project.
- Eliminates the requirement that the Legislature appropriate funds for the pilot project.
- Eliminates the requirement for the Office of Program Policy Analysis and Government Accountability (OPPAGA) to provide to the Governor, the Senate President and the Speaker of the House of Representatives a report comparing the academic performance of students participating in the pilot project with the academic performance of students in the other elementary schools in the district.
- Eliminates the requirement that the DOE must provide a list of professional development providers from which districts must choose a professional development provider to assist in scheduling and instructional strategies.

- Requires the district to provide to the DOE, a comparison of the academic performance of students in the gender-specific schools with the academic performance of students in other public schools in the district.

B. Amendments:

None.

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



792326

576-03613-14

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Education)

A bill to be entitled

An act relating to single-gender public school programs; amending s. 1002.311, F.S.; providing requirements for a district school board when establishing a gender-specific elementary, middle, or high school; requiring school administrative and instructional personnel to participate in professional development; providing accountability requirements; providing an effective date.

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

Section 1. Subsection (2) of section 1002.311, Florida Statutes, is amended to read:

1002.311 Single-gender programs authorized.—

(2) A district school board that establishes a single-gender class, extracurricular activity, or school:

(a) May not require participation by any student. The district school board must ensure that participation in the single-gender class, extracurricular activity, or school is voluntary.

(b) Must evaluate each single-gender class, extracurricular activity, or school in the school district at least once every 2 years in order to ensure that it is in compliance with this section and 34 C.F.R. s. 106.34.

(c) Must comply with the following requirements when establishing a gender-specific elementary, middle, or high



792326

576-03613-14

school:

1. Separate into grade-level boys-only classes and girls-only classes during instruction in core courses.

2. Offer open enrollment to all students within the school district.

3. Require the school's administrative and instructional personnel to participate in professional development that includes scheduling and instructional strategies.

4. Provide to the department a comparison of the academic performance of students in the gender-specific elementary, middle, or high school with the academic performance of students in other public elementary, middle, or high schools, as appropriate, in the school district.

Section 2. This act shall take effect July 1, 2014.

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 514

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Education) and Senator Flores

SUBJECT: Gender-Specific School Pilot Project

DATE: April 10, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>McLaughlin</u>	<u>Klebacha</u>	<u>ED</u>	Favorable
2.	<u>Sikes</u>	<u>Elwell</u>	<u>AED</u>	Fav/CS
3.	<u>Elwell</u>	<u>Kynoch</u>	<u>AP</u>	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 514 creates additional requirements for a school district establishing a gender-specific school.

Specifically, the bill requires a school districts establishing a single-gender school to separate students into boys-only and girls-only classes during instruction in core courses, to offer open enrollment to all students in the district, and to provide professional development to the school's administrative and instructional personnel.

Additionally, the bill requires a district establishing a gender-specific school to provide to the Department of Education (DOE) a comparison of the academic performance of students in the gender-specific school with the academic performance of students in the other public schools in the district.

The bill provides an effective date of July 1, 2014.

II. Present Situation:

Under Florida law, a district school board may establish and maintain single-gender schools as long as the district makes available a substantially equal school.¹ Participation in single-gender schools must be voluntary.² At least every two years, the school district must evaluate each single-gender school to ensure compliance with federal regulations.³

There are 54 single-gender schools in 33 school districts in Florida.⁴ A variety of school models employ single-gender classes, e.g., alternative schools, charter schools, virtual schools, and traditional public schools.⁵

III. Effect of Proposed Changes:

The bill establishes additional requirements for gender-specific schools. Under the proposed requirements, school districts:

- Must open enrollment to all students within the school district;
- Must separate core courses, by grade-level, into boys-only and girls-only classes; and
- Must require the school's administrative and instructional personnel participate in professional development that includes scheduling and instructional strategies.

The bill requires a school district operating a single-gender school to provide to the DOE, a comparison of the academic performance of students enrolled in the gender-specific specific elementary, middle, or high school with the academic performance of students in other public elementary, middle, or high schools, as appropriate, in the school district.

The bill provides an effective date of July 1, 2014.

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹ Section 1002.311(1), F.S.

² Section 1002.311(2)(a), F.S.

³ Section 1002.311(2)(b), F.S.

⁴ Telephone conversation with staff, Florida Department of Education, Office of Governmental Relations (Mar. 10, 2014).

⁵ *Id.*

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

CS/SB 514 requires the gender-specific school's administrative and instructional personnel to participate in professional development that includes scheduling and instructional strategies. School districts have multiple sources of professional development funding that could be used to implement this requirement

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 1002.311 of the Florida Statutes.

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

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

CS by Appropriations on April 10, 2014

The committee substitute:

- Amends existing law to place additional requirements on a school district establishing a gender specific school.
- Eliminates the Gender-Specific School Pilot Project.
- Eliminates the requirement that the Legislature appropriate funds for the pilot project.
- Eliminates the requirement for the Office of Program Policy Analysis and Government Accountability (OPPAGA) to provide to the Governor, the Senate President and the Speaker of the House of Representatives a report comparing the academic performance of students participating in the pilot project with the academic performance of students in the other elementary schools in the district.
- Eliminates the requirement that the DOE must provide a list of professional development providers from which districts must choose a professional development provider to assist in scheduling and instructional strategies.

- Requires the district to provide to the DOE, a comparison of the academic performance of students in the gender-specific schools with the academic performance of students in other public schools in the district.

B. Amendments:

None.

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

By Senator Flores

37-00485-14

2014514__

A bill to be entitled

An act relating to the Gender-Specific School pilot project; requiring the Department of Education to administer a pilot project in certain school districts in which an elementary school is designated as a Gender-Specific School; providing criteria for selection as a Gender-Specific School and requirements for instruction and enrollment; requiring school administrators and instructional personnel to participate in certain professional development; providing for funding for pilot project implementation; requiring the Office of Program Policy Analysis and Government Accountability to provide a report on the academic performance of students; providing an effective date.

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

Section 1. (1) The Department of Education shall administer a Gender-Specific School pilot project to be implemented during the 2014-2015 and 2015-2016 school years in school districts in the state. A district that has more than 100,000 kindergarten through grade 12 students is eligible to participate in the pilot project. A district shall submit to the department a request to participate, and the department shall select five districts in which one elementary school within each district shall be designated as a "Gender-Specific School." A school participating in the pilot project must have a student enrollment of at least 350 students.

Page 1 of 3

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

37-00485-14

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(2) (a) Students in a Gender-Specific School shall be separated by grade-level into boys-only classes and girls-only classes during instruction in the core subject areas. For classes for which a school has only one teacher for a subject area, such as foreign language, the students may be combined in a regular classroom setting. The students shall have coeducational opportunities during school lunch periods, recess, and other school activities.

(b) Enrollment in a Gender-Specific School is open to students residing in the school district in which the school is located and may not be restricted to enrollment of students residing in the attendance zone served by the school. Student enrollment in a school may not exceed the building capacity.

(3) The department shall develop a list of professional development providers to assist participating schools with scheduling and instructional strategies. A school district shall select a professional development provider from the department's list and require the school's administrative and instructional personnel to participate in the professional development.

(4) Funds to implement the pilot project shall be appropriated by the Legislature and allocated to school districts by the department.

Section 2. The Office of Program Policy Analysis and Government Accountability shall provide to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 31, 2016, a report comparing the academic performance of students in schools participating in the Gender-Specific School pilot project with the academic performance of students in other public elementary schools in

Page 2 of 3

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

37-00485-14

2014514__

59 the district.

60 Section 3. This act shall take effect July 1, 2014.



The Florida Senate

Committee Agenda Request

To: Senator Joe Negron, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: April 2, 2014

I respectfully request that **Senate Bill #514**, relating to Gender-Specific School Pilot Program, be placed on the:

- ☐ committee agenda at your earliest possible convenience.
- ☒ next committee agenda.

A handwritten signature in cursive script that reads "Anitere Flores".

Senator Anitere Flores
Florida Senate, District 37

THE FLORIDA SENATE
APPEARANCE RECORD

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

4 110/2014

Meeting Date

Topic _____

Bill Number 514
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG FLORIDA 33705
City State Zip

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☐ For ☐ Against ☒ Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

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 544

INTRODUCER: Appropriations Committee; Agriculture Committee; and Senator Simpson and others

SUBJECT: Licensure to Carry a Concealed Weapon or Firearm

DATE: April 11, 2014

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Cellon</u>	<u>Cannon</u>	<u>CJ</u>	Favorable
2. <u>Akhavein</u>	<u>Becker</u>	<u>AG</u>	Fav/CS
3. <u>White</u>	<u>Yeatman</u>	<u>CA</u>	Favorable
4. <u>Blizzard</u>	<u>Kynoch</u>	<u>AP</u>	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 544 authorizes the Department of Agriculture and Consumer Services (department) to appoint county tax collectors to accept new and renewal concealed weapon or firearm license applications. Under the bill, applicant information will be electronically input and transmitted for processing to the department's Division of Licensing (division) in Tallahassee. Licenses would be issued by the division by mail. The bill requires county tax collectors seeking appointment to submit a written request to the division. Upon approval of the request, the bill authorizes the division to enter into a Memorandum of Understanding (MOU) with the tax collector on behalf of the department.

The bill authorizes appointed tax collectors to collect and retain fees for accepting new and renewal concealed weapon or firearm licenses. Revenue received for license applications submitted to the tax collector offices will be deposited into the Division of Licensing Trust Fund within the department. All personal identifying information provided for the license or renewal that is contained in a tax collector's records as a result of the MOU is made confidential and exempt as provided in s. 790.0601, F.S. A related bill, CS/SB 546, amends s. 790.0601, F.S., to provide that such information is confidential and exempt from s. 119.07(1), F.S., and Art. I, s. 24 of the Florida Constitution.

The bill provides 11 positions and \$842,111 to the department from the Division of Licensing Trust Fund to implement the provisions in this act.

II. Present Situation:

The department is responsible for issuing concealed weapon and firearm licenses to those applicants who qualify.¹ As of the end of Fiscal Year 2012-2013, there were 1,098,458 valid Florida concealed weapon licenses.² During Fiscal Year 2012-2013, the department received 96,840 new license applications, 2,153 applications for license renewal, issued 99,606 new concealed weapon licenses, and 2,239 renewals.³ During Fiscal Year 2013-2014, the department received 107,666 new license applications, 2,172 applications for license renewal, issued 109,971 new concealed weapon licenses and 2,265 renewals.⁴

Concealed Weapon License Application Requirements

To obtain a concealed weapons license, a person must complete, under oath, an application that includes:

- The name, address, place and date of birth, race, and occupation of the applicant;
- A full frontal view color photograph of the applicant which must be taken within the preceding 30 days;
- A statement that the applicant has been furnished with a copy of ch. 790, F.S., relating to weapons and firearms and is knowledgeable of its provisions;
- A warning that the application is executed under oath with penalties for falsifying or substituting false documents;
- A statement that the applicant desires a concealed weapon or firearms license as a means of lawful self-defense;
- A full set of fingerprints;
- Documented proof of completion of a firearms safety and training course; and
- A nonrefundable license fee no greater than \$70 for a new license or no greater than \$60 for a renewal license.⁵

There is an additional fee for processing the fingerprints, typically \$42. According to information provided by the department, \$42 is the fee payable to the Florida Department of Law Enforcement (FDLE). A portion of the \$42 covers fees paid by the FDLE to the Federal Bureau of Investigation for assistance in completing the required background check.⁶ Sheriff's offices are statutorily authorized to collect \$5 for fingerprinting services.⁷

Section 790.06(6)(c), F.S., requires the department to either issue the license or deny its issuance and notify the applicant within 90 days of receiving a completed application. The most common reasons for delay and the department response to those issues are explained as follows:⁸

¹ *Id.*

² DACS, *Concealed Weapon or Firearm License Reports*, <http://www.freshfromflorida.com/Divisions-Offices/Licensing/Concealed-Weapon-License/Statistical-Reports> (last visited Feb. 25 10, 2014).

³ *Id.*

⁴ *Id.*

⁵ Section 790.06(1)-(5), F.S.

⁶ E-mail correspondence with the Department of Agriculture and Consumer Services (Jan. 16, 2014).

⁷ Section 790.06(6)(b), F.S.

⁸ DACS, *Frequently Asked Questions*, <http://www.freshfromflorida.com/Divisions-Offices/Licensing/Frequently-Asked-Questions> (last visited Feb. 25, 2014).

- An incomplete application. The department will notify the applicant by letter of the deficiencies and request the missing information or documentation.
- Law enforcement authorities determine fingerprints are insufficiently legible to complete a proper background check. The department will request a second fingerprint submission as required by law. If the second fingerprint submission is also deemed illegible, the department may ask the Federal Bureau of Investigation to conduct a name-based background check.
- The background check results received from law enforcement authorities reflect a potentially disqualifying crime without a final disposition. The department will request court documents indicating the final disposition.

The department has a “Fast Track Processing” system available to applicants in eight regional offices.⁹ During an appointment, the applicant may fill out and submit the application, be fingerprinted, photographed, and make payment. The application is reviewed and submitted to the division headquarters for final processing. Renewal concealed weapon licenses require less documentation and can be completed faster via a regional office or mail in. Renewals completed in one of the eight regional offices, with few exceptions, may require limited processing and may be issued onsite to the waiting applicant.¹⁰

County Tax Collector Authority

Article VIII, Section 1(d) of the Florida Constitution provides that tax collectors are elected county officers. The tax collector is the county officer charged with the collection of ad valorem taxes levied by the county, the school board, any special taxing districts within the county, and all municipalities within the county.¹¹ County tax collections are supervised by the state Department of Revenue.¹² Tax collectors may appoint deputies to act on their behalf in carrying out the duties prescribed by law.¹³

Several state agencies and departments are currently authorized to enter into agreements with county tax collectors for various purposes. Some examples that are similar to the arrangement with the department contemplated by the bill include:

- The Department of State may appoint a county tax collector as an agent to accept applications for licenses or license renewals or other similar registrations.¹⁴
- The Department of Highway Safety and Motor Vehicles (DHSMV) authorizes tax collectors to act as agents of the department in matters of motor vehicle registration. The DHSMV has statutory authority to install The Florida Real Time Vehicle Information System in the tax collectors offices to facilitate the agency relationship.¹⁵
- The DHSMV also has a statutory mandate to enter interagency agreements with county tax collectors to issue driver licenses, identification cards, and vessel registrations.¹⁶

⁹ The regional offices are located in Fort Walton Beach, Jacksonville, Doral, Orlando, Punta Gorda, Tallahassee, Tampa, and West Palm Beach. DACS, *Regional Office Locations*, www.freshfromflorida.com (last visited Feb. 25, 2014).

¹⁰ DACS, *Fast Track Processing*, www.freshfromflorida.com (last visited Feb. 25, 2014).

¹¹ Section 192.001(4), F.S.

¹² See generally Ch. 195, F.S.; s. 197.603, F.S.

¹³ Section 197.103, F.S.

¹⁴ Section 288.037, F.S.

¹⁵ Section 320.03, F.S.

¹⁶ Section 322.135, F.S., s. 328.73, F.S.

- The county tax collectors may sell licenses for game hunting and fishing, as authorized by statute and the Fish and Wildlife Conservation Commission.¹⁷
- The Department of Business and Professional Regulation (DBPR) may enter into an agreement with county tax collectors to act as the department's agent to accept applications for licenses or renewals of licenses to practice professions that fall within the DBPR jurisdiction.¹⁸

III. Effect of Proposed Changes:

Section 1 amends s. 790.06, F.S., to authorize the department to appoint any of Florida's 64 elected tax collectors to accept new and renewal concealed weapon or firearm license applications.

Section 2 creates s. 790.0625, F.S., to allow the department to appoint elected county tax collectors to accept applications on behalf of the Division of Licensing for concealed weapon or firearm licenses. The applicant information will be electronically input and transmitted to the division in Tallahassee for processing and subsequent issuance by mail only.

County tax collectors interested in being appointed by the department will submit a request to the division. The division has the discretion to enter into a Memorandum of Understanding with the tax collector. Both the department and the division have the authority to rescind the MOU.

All personal identifying information provided for the license or renewal that is contained in a tax collector's records as a result of the MOU is made confidential and exempt as provided in s. 790.0601, F.S. A related bill, CS/SB 546, amends s. 790.0601, F.S., to provide that such information is confidential and exempt from s. 119.07(1), F.S., and Art. I, s. 24 of the Florida Constitution.

Appointed tax collectors may not maintain a list of persons who apply for or receive a new or renewal concealed weapon or firearm license. Maintaining such a list makes the person subject to the provisions of s. 790.335, F.S.¹⁹

A tax collector appointed under the provisions of the bill is entitled to charge the applicant a convenience fee in the amount of \$22 for accepting new license applications and \$12 for accepting each renewal application. License fees collected by a tax collector must be remitted to the department weekly.

The bill authorizes tax collectors approved for appointment under newly-created s. 790.0625, F.S., to administer fingerprints for license applicants.

¹⁷ Section 379.352, F.S.

¹⁸ Section 455.213, F.S.

¹⁹ Section 790.335, F.S., states: "PROHIBITIONS.—No state governmental agency or local government, special district, or other political subdivision or official, agent, or employee of such state or other governmental entity or any other person, public or private, shall knowingly and willfully keep or cause to be kept any list, record, or registry of privately owned firearms or any list, record, or registry of the owners of those firearms." Such conduct is subject to third degree felony penalties and a \$5 million dollar fine.

The bill prohibits persons who are not appointed by the department from handling applications for any fee or compensation.

The bill creates a second degree misdemeanor for willful violations of newly-created s. 790.0625, F.S.

Section 3 appropriates 11 positions and \$842,111 from the Division of Licensing Trust Fund to the department for the 2014-2015 fiscal year to implement the provisions of the bill.

Section 4 provides that this act shall take effect July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

The bill provides that “all personal identifying information that is provided pursuant to s. 790.06 and contained in the records of a tax collector” is “confidential and exempt as provided in s. 790.0601.” Section 790.0601, F.S., provides that personal identifying information of an individual who has applied for or received a license to carry a concealed weapon or firearm pursuant to s. 790.06, F.S., held by the division is confidential and exempt from s. 119.07(1), F.S., and Art. I, s. 24 of the Florida Constitution. Art. I, s. 24, of the Florida Constitution requires that legislation to create an exemption from the public records requirements of the state constitution be enacted in a separate bill which identifies the public necessity justifying the exemption. A related bill, CS/SB 256, amends s. 790.0601, F.S., and provides an exemption for such information in the records of a tax collector appointed pursuant to CS/CS/SB 544.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

CS/CS/SB 544 authorizes participating tax collectors to charge a \$22 convenience fee for a new concealed weapon or firearm license application and \$12 for a renewal application.

B. Private Sector Impact:

Currently, applicants pay \$112 when applying at Division of Licensing regional offices for new licenses and \$60 for renewal licenses. Applicants applying at tax collectors' offices will pay \$123.50 for a new license and \$72 for a renewal license.

C. Government Sector Impact:

Tax collectors appointed to receive new and renewal concealed weapons license applications may experience additional workload and operating costs. Currently, the number of applications that will be received by the tax collectors' offices is unknown. It is indeterminate whether the fees are sufficient or exceed the amount needed to support the tax collectors' operating costs.

The department estimates an indeterminate amount of additional revenue will be generated and paid into the Division of Licensing Trust Fund. Although the number of applications is indeterminate at this time, there will be sufficient revenue to support the additional operating costs.

For Fiscal Year 2014-2015, the bill appropriates 11 positions and \$842,111 from the Division of Licensing Trust Fund to the department to implement the provisions in this bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 790.06 of the Florida Statutes.

This bill creates section 790.0625 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 April 10, 2014:

The CS/CS appropriates an additional \$29,000 from the Licensing Trust Fund to the Department of Agriculture and Consumer Services for the 2014-2015 fiscal year.

CS by Agriculture on February 17, 2014:

The committee substitute provides appropriations and authorizes 11 full-time positions to implement the provisions of the bill.

B. Amendments:

None.



895330

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/11/2014	.	
	.	
	.	
	.	

The Committee on Appropriations (Hays) recommended the following:

Senate Amendment

Delete line 130
and insert:
Services the sums of \$736,608 in recurring and \$105,503 in

By the Committee on Agriculture; and Senators Simpson, Latvala, Bean, Benacquisto, Hays, Brandes, Bradley, Negron, Dean, Evers, Stargel, and Galvano

575-01837-14

2014544c1

1 A bill to be entitled
 2 An act relating to licensure to carry a concealed
 3 weapon or firearm; amending s. 790.06, F.S.;
 4 authorizing an applicant for a license to carry a
 5 concealed weapon or firearm to submit the application
 6 to an appointed tax collector; creating s. 790.0625,
 7 F.S.; defining terms; authorizing the Department of
 8 Agriculture and Consumer Services to appoint tax
 9 collectors to accept applications for new or renewal
 10 licenses to carry a concealed weapon or firearm on
 11 behalf of the Division of Licensing of the Department
 12 of Agriculture and Consumer Services; requiring a tax
 13 collector seeking appointment to submit a written
 14 request to the division; providing requirements for
 15 the request; requiring the division and an appointed
 16 tax collector to enter into a memorandum of
 17 understanding; authorizing the department or the
 18 division to rescind a memorandum of understanding at
 19 any time; providing that certain personal identifying
 20 information of applicants for licensure is
 21 confidential and exempt; establishing license fees for
 22 new and renewal applications; requiring an appointed
 23 tax collector to remit fees to the department;
 24 prohibiting a tax collector from maintaining a list or
 25 record of concealed weapon or firearm licensees or
 26 applicants; prohibiting a person from processing a
 27 concealed weapon or firearm application for a fee or
 28 compensation unless he or she has been appointed by
 29 the department to do so; providing for criminal

Page 1 of 5

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

575-01837-14

2014544c1

30 penalties; providing an appropriation; authorizing a
 31 specified number of full-time equivalent positions
 32 with associated salary rate within the department;
 33 providing an effective date.
 34

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

36
 37 Section 1. Subsection (5) of section 790.06, Florida
 38 Statutes, is amended to read:

39 790.06 License to carry concealed weapon or firearm.—

40 (5) The applicant shall submit to the Department of
 41 Agriculture and Consumer Services or an approved tax collector
 42 pursuant to s. 790.0625:

43 (a) A completed application as described in subsection (4).

44 (b) A nonrefundable license fee of up to ~~not to exceed~~ \$70, if
 45 he or she has not previously been issued a statewide license, or
 46 of up to ~~a nonrefundable license fee not to exceed~~ \$60 for renewal
 47 of a statewide license. The cost of ~~Costs for~~ processing the ~~set~~
 48 ~~of~~ fingerprints as required in paragraph (c) is ~~shall be~~ borne
 49 by the applicant. However, an individual holding an active
 50 certification from the Criminal Justice Standards and Training
 51 Commission as a "law enforcement officer," "correctional
 52 officer," or "correctional probation officer" as defined in s.
 53 943.10(1), (2), (3), (6), (7), (8), or (9) is exempt from the
 54 licensing requirements of this section. If such ~~any~~ individual
 55 ~~holding an active certification from the Criminal Justice~~
 56 ~~Standards and Training Commission as a "law enforcement~~
 57 ~~officer," a "correctional officer," or a "correctional probation~~
 58 ~~officer" as defined in s. 943.10(1), (2), (3), (6), (7), (8), or~~

Page 2 of 5

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

575-01837-14

2014544c1

(9) wishes to receive a concealed weapons or firearms license, he or she ~~such person~~ is exempt from the background investigation and all background investigation fees, but must ~~shall~~ pay the current license fees regularly required to be paid by nonexempt applicants. Further, a law enforcement officer, a correctional officer, or a correctional probation officer as defined in s. 943.10(1), (2), or (3) is exempt from the required fees and background investigation for a period of 1 year after his or her subsequent to the date of retirement of said officer as a law enforcement officer, a correctional officer, or a correctional probation officer.

(c) A full set of fingerprints of the applicant administered by a law enforcement agency or the Division of Licensing of the Department of Agriculture and Consumer Services or an approved tax collector pursuant to s. 790.0625.

(d) A photocopy of a certificate, ~~or an~~ affidavit, or document as described in paragraph (2)(h).

(e) A full frontal view color photograph of the applicant taken within the preceding 30 days, in which the head, including hair, measures 7/8 of an inch wide and 1 1/8 inches high.

Section 2. Section 790.0625, Florida Statutes, is created to read:

790.0625 Appointment of tax collectors to accept applications for a concealed weapon or firearm license; fees; penalties.-

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

(a) "Department" means the Department of Agriculture and Consumer Services.

(b) "Division" means the Division of Licensing of the

575-01837-14

2014544c1

Department of Agriculture and Consumer Services.

(2) The department, at its discretion, may appoint tax collectors, as defined in s. 1(d) of Art. VIII of the State Constitution, to accept applications on behalf of the division for concealed weapon or firearm licenses. Such appointment shall be for specified locations that will best serve the public interest and convenience in applying for these licenses.

(3) A tax collector seeking to be appointed to accept applications for new or renewal concealed weapon or firearm licenses must submit a written request to the division stating his or her name, address, telephone number, each location within the county at which the tax collector wishes to accept applications, and other information as required by the division.

(a) Upon receipt of a written request, the division shall review it and at its discretion may decline to enter into a memorandum of understanding or, if approved, enter into a memorandum of understanding with the tax collector to accept applications for new or renewal concealed weapon or firearm licenses on behalf of the department.

(b) The department or the division may rescind a memorandum of understanding for any reason at any time.

(4) All personal identifying information that is provided pursuant to s. 790.06 and contained in the records of a tax collector appointed under this section is confidential and exempt as provided in s. 790.0601.

(5) A tax collector appointed under this section may collect and retain a convenience fee of \$22 for each new application and \$12 for each renewal and shall remit weekly to the department the license fees for deposit in the Division of

575-01837-14

2014544c1

117 Licensing Trust Fund.

118 (6) (a) A tax collector appointed under this section may not
119 maintain a list or record of persons who apply for or are
120 granted a new or renewal license to carry a concealed weapon or
121 firearm. A violation of this paragraph is subject to s. 790.335.

122 (b) A person may not handle an application for a concealed
123 weapon or firearm for a fee or compensation of any kind unless
124 he or she has been appointed by the department to do so.

125 (7) A person who willfully violates this section commits a
126 misdemeanor of the second degree, punishable as provided in s.
127 775.082 or s. 775.083.

128 Section 3. For the 2014-2015 fiscal year, there is
129 appropriated to the Department of Agriculture and Consumer
130 Services the sums of \$707,608 in recurring and \$105,503 in
131 nonrecurring funds from the Division of Licensing Trust Fund,
132 and 11 full-time equivalent positions with associated salary
133 rate of 295,751 are authorized for the purpose of implementing
134 this act.

135 Section 4. This act shall take effect July 1, 2014.

TESTIFY LAST PLEASE

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/10/14

Meeting Date

Topic CW - Tax Collectors

Bill Number SB-544

(if applicable)

Name MARION P. HAMMER

Amendment Barcode _____

(if applicable)

Job Title _____

Address

P.O. Box 1387

Street

Phone 850-222-9518

TALLAHASSEE

FL

32302

City

State

Zip

E-mail _____

Speaking:

☒ For

☐ Against

☐ Information

Representing

NRA (NATIONAL RIFLE ASSOCIATION) UNITED SPORTSMEN 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.

SEN01 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4 110 12014

Meeting Date

Topic _____

Bill Number 544
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG FLORIDA 33705

City

State

Zip

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☐ For ☐ Against ☒ Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/10/14
Meeting Date

Topic Licensure to Carry a Concealed Weapon or Firearm Bill Number SB 544
(if applicable)

Name Jonathon Rees Amendment Barcode _____
(if applicable)

Job Title Deputy Director of Legislative Affairs

Address 400 S. Monroe St. Phone 850 617-7700

Tallahassee FL 32311
City State Zip

E-mail Jonathon.Rees
@freshfromflorida.com

Speaking: ☐ For ☐ Against ☐ Information

Representing Florida Department of Agriculture and Consumer Svcs.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/10

Meeting Date

Topic CW permit processing

Bill Number 544
(if applicable)

Name Tim Qualls

Amendment Barcode _____
(if applicable)

Job Title Executive Director

Address 215 S. Monroe St

Phone 850-222-7206

Tallahassee, FL
City State Zip

E-mail TQualls@YULAW.NET

Speaking: ☒ For ☐ Against ☐ Information

Representing FL Tax Collectors Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/10

Meeting Date

Topic CW permit processing

Bill Number 544
(if applicable)

Name Carole Jean Jordan

Amendment Barcode _____
(if applicable)

Job Title Tax Collector - Indian River

Address P.O. Box 1509
Street

Phone 772 - 222 - 4813

Vero Beach FL
City State Zip

E-mail CJJordan@IRLTax.org

Speaking: ☒ For ☐ Against ☐ Information

Representing Indian River Tax Collector

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/10

Meeting Date

Topic CW Permit Processing

Bill Number 544
(if applicable)

Name Larry Hart

Amendment Barcode _____
(if applicable)

Job Title Tax Collector - Lee County

Address _____

Phone _____

Street

FT. MYERS

FL

City

State

Zip

E-mail LHart@LicTax.com

Speaking: ☐ For ☐ Against ☐ Information

Representing Lee County Tax Collector

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard 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)

TESTIFY LAST PLEASE

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/10/14

Meeting Date

Topic CW - Tax Collectors

Bill Number SB-544
(if applicable)

Name MARION P. HAMMER

Amendment Barcode 895330
(if applicable)

Job Title _____

Address P.O. Box 1387
Street

Phone 850-222-9518

TALLAHASSEE FL 32302
City State Zip

E-mail _____

Speaking: ☒ For ☐ Against ☐ Information

Representing NRA (NATIONAL RIFLE ASSOCIATION) UNITED SPORTSMEN 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 not to be used for the purpose of recording the testimony of a witness.

2004-2005

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 564

INTRODUCER: Banking and Insurance Committee and Senator Richter

SUBJECT: Security for Public Deposits

DATE: April 10, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Knudson	BI	Fav/CS
2.	Betta	DeLoach	AGG	Favorable
3.	Betta	Kynoch	AP	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 564 amends the Florida Security for Public Deposits Act (act), which authorizes local and state governmental units (public depositories) to place public deposits in qualified public depositories (QPD). Public deposits are funds in excess of amounts required to meet disbursement needs or expenses, and QPDs are banks, savings banks, or savings associations that meet specific criteria under the act. The QPDs must secure public deposits in accordance with the act and the collateral requirements and pledging levels established rule of the Chief Financial Officer. The bill provides the following changes to the act:

- Reduces and streamlines reporting requirements.
- Reduces the two highest collateral-pledging levels for public deposits, which would ease the regulatory burden for small and moderate sized QPDs.
- Provides protection from loss for a public depositor that fails to comply with a ministerial reporting requirement if the defaulting or insolvent QPD had classified, reported, and collateralized their account as public deposits.
- Repeals the Qualified Public Depository Oversight Board which has been inactive since holding an initial meeting in December 2001.
- Revises and updates terminology and practices.

The bill has no fiscal impact to state funds.

II. Present Situation:

Public Deposit Program

The Florida Security for Public Deposits Act (act) provides the framework for the protection of public deposits.¹ Under the act, the Chief Financial Officer (CFO)² of the State of Florida is responsible for designating financial institutions as qualified public depositories (QPD).³ Unless exempted by the act, all public deposits must be placed in a QPD.⁴ Public deposits include, but are not limited to, time deposit accounts, demand deposit accounts, and nonnegotiable certificates of deposit.⁵ To provide protection of public deposits, each QPD is required to pledge collateral at a level commensurate with the amount of public deposits held and a measure of its financial stability, as determined by the CFO. Eligible collateral includes securities, Federal Home Loan Bank letters of credit, and cash.⁶

On a monthly basis, the QPDs provide the CFO with reports regarding the public deposits held.⁷ The CFO determines the financial stability of each QPD based on nationally recognized financial rating services information and established performance guidelines. The most financially stable depositories, as determined through these measures, are required to pledge collateral equal to 25 percent of the public deposits held.⁸ The CFO has the authority to require a 125 percent collateral-pledge level for any QPD with a decreased capital account, a violation of the act, or evidence of factors such as unsound management practices or unstable market conditions that may affect the QPD's solvency. The least financially stable QPDs must withdraw from the public deposits program and return public deposits in an orderly fashion, or enter into an alternative deposit agreement and deposit collateral amounts equal to 200 percent of public deposits held into an account designated by the CFO and restrict its public deposits. The Department of Financial Services (DFS) rules set forth collateral requirements and numerical parameters (a quarterly average financial ranking scale of 0 to 100) for the entry, withdrawal, and collateral pledging levels.⁹

The CFO may demand payment under a letter of credit or direct a custodian to deposit or transfer collateral and proceeds of securities not previously credited upon the occurrence of one or more triggering events, such as a QPD's insolvency or a determination by the CFO that an immediate danger to public health, safety, or welfare exists.¹⁰ When the CFO has determined that a default or insolvency has occurred, the CFO must notify all public depositors and provide instructions

¹ Chapter 280, F.S.

² The CFO is the agency head of the Department of Financial Services (s. 20.121, F.S.)

³ A qualified public depository is a bank, savings bank, or savings association that is organized under the laws of the United States or any state or territory of the United States, has a principal place of business or branch office in this state authorized to receive deposits, has federally-insured deposits, has procedures and practices that accurately report and collateralize public deposits, meets the requirements of the act, and has been designated as a qualified public depository by the CFO.

(see s. 280.02(26), F.S.)

⁴ Section 280.03, F.S.

⁵ Section 280.02(23), F.S.

⁶ Section 280.13, F.S.

⁷ Section 280.16, F.S.

⁸ Section 280.04, F.S.

⁹ See also Rules 69C-2.006 and 69C-2.024, F.A.C.

¹⁰ For a complete list of events that may trigger a demand of payment, see s. 280.041(6), F.S.

on the filing of claims.¹¹ The losses are satisfied initially through any applicable deposit insurance and then through demanding payment under letters of credit or the sale of collateral pledged or deposited by the defaulting QPD. The CFO covers any remaining losses by assessment against other QPDs.

Recordkeeping and Reporting Requirements

Public depositors and QPDs are subject to recordkeeping and reporting requirements. In addition to the monthly report to the CFO regarding deposits held, each QPD must submit federal Call or Thrift Financial Reports and an annual report to the CFO. Each QPD is also required to provide each public depositor specified information to allow a reconciliation of account information.¹²

For each public deposit account, a public depositor is required to execute a form prescribed by the CFO for identification of each public deposit account and obtain acknowledgment of receipt on the form from the QPD at the inception of the account. The public depositor is required to maintain the current public deposit identification and acknowledgment form because the form is mandatory for filing a claim with the CFO upon default or insolvency of a QPD. If a public depositor does not comply with the requirements of governmental units on each public deposit account, the protection form loss provided in s. 280.18, Florida Statutes, is not effective as to that public deposit account. Each public depositor must confirm annually that public deposit information has been provided by each qualified public depository and reconciles with the public depositor's records.¹³

Qualified Public Depository Oversight Board

In 2001, the Legislature created the Qualified Public Depository Oversight Board (board).¹⁴ The purpose of the six-member board is to represent the interests of all QPDs in safeguarding the integrity of the program and preventing loss assessments that could be imposed upon the default or insolvency of a QPD.¹⁵ The CFO is required to initiate the selection of board representation on July 31 of each year and as vacancies occur.¹⁶

III. Effect of Proposed Changes:

Definitions

The bill removes the word “immediately” from the definition of “alternative participation agreement” in s. 280.02(2), F.S. Currently, a QPD with a financial condition ranking of 15 or less must either “immediately” withdraw from the public deposits program or enter into a restricted alternative participation agreement. In practice, however, a QPD can take several

¹¹ Section 280.085, F.S.

¹² Section 280.16(1), F.S.

¹³ Section 280.17(5), F.S.

¹⁴ Chapter 2001-230, Laws of Fla.

¹⁵ Section 280.071, F.S.

¹⁶ After categorizing QPDs into three groups according to asset size, the CFO is to identify two QPDs in each grouping that have the greatest shares of contingent liability and notify the six identified QPDs. Each of the six QPDs is to provide to the CFO within 30 days a board member and alternate selection, or if declined, the CFO must notify the Florida Bankers Association, which shall select a member and alternate.

months or longer to withdraw from the program depending on the time needed for certificates of deposits to mature or other contractually required banking services for a public depositor. The CFO also publishes notice in the Florida Administrative Register the names of any QPD that elects to withdraw from the program as a safeguard to allow any unidentified public depositors of such QPD to withdraw their public deposits.¹⁷

The bill amends the definition of the term, “average monthly balance” in s. 280.02(4), F.S., to remove the qualifier “before deducting deposit insurance” from the calculation of a QPD’s average monthly balance of public deposits held during any 12-calendar months. Currently, a QPD’s collateral requirement involves several factors, but is typically a function of its average daily balance, or uninsured public deposits multiplied by its collateral pledging level.¹⁸ However, the most financially stable QPDs, while only required to pledge 25 percent of their “average monthly balance” of public deposits, must include deposit insurance in their collateral calculation. Accordingly, this requirement may negatively affect QPDs with public deposits that are covered by Federal Deposit Insurance Corporation (FDIC) deposit insurance.¹⁹ For example, a QPD that has averaged \$4 million in gross public deposits (with all such deposits covered by FDIC insurance), has a collateral requirement of \$1 million (i.e., \$4 million average monthly balance times 25 percent, instead of the act’s minimum collateral requirement of \$100,000.²⁰

The bill amends the term, “capital account,” in s. 280.02(6), F.S., to add “tangible equity capital” as an alternative term to reflect the current bank regulatory environment more accurately. Tangible equity reflects the total equity capital of a QPD, minus intangible assets such as goodwill, and is calculated from an institution’s quarterly call report (also known as reports of condition and income). The bill also amends the term, “capital account,” to remove a reference to the Thrift Financial Report, which was filed previously by savings banks and savings and loan associations. With the enactment of the federal Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, the Office of Thrift Supervision (formerly the primary federal regulator for savings banks and savings and loans associations), was merged into other federal banking agencies on July 21, 2011.²¹ Subsequently, the Office of the Comptroller of the Currency has assumed primary federal regulatory responsibility over savings banks and savings and loans associations, as well as nationally chartered banks. In addition, effective with the first quarterly report of 2012, savings banks or savings and loans associations no longer use the Thrift Financial Report.²² Instead, these institutions file the same Consolidated Reports of Condition and Income (call report) referenced in s. 280.16(6), F.S., and filed by all insured commercial banks.

¹⁷ Section 280.11, F.S.

¹⁸ See the act’s definition of “average daily balance” in s. 280.02(3), F.S., which excludes deposit insurance in determining collateral amounts at the 125 percent pledging level for newer or less financially stable QPDs.

¹⁹ The FDIC insurance covers all deposit accounts, including checking and savings accounts, money market deposit accounts and certificates of deposit. The standard insurance amount is \$250,000 per depositor, per insured bank, for each account ownership category. The FDIC regulations (12 C.F.R. s. 330.15) govern the insurance coverage of public unit accounts. For deposit insurance purposes, the term “public unit” includes a state, county, municipality, or any “political subdivision” of the public unit.

²⁰ Section 280.04(2)(e), F.S.

²¹ 12 U.S.C. s 5412-5413.

²² Agency Information Collection Activities; Submission for OMB Review; Joint Comment Request, 76 FR 39,981 (July 7, 2011).

The bill eliminates a clause within the definition of “public deposit” regarding a requirement of banks, savings banks, and savings association to maintain reserves. Reserve requirements are the amount of funds that a depository institution must hold in reserve against specified deposit liabilities, and are determined in the definition of “public deposit,” as the Federal Reserve no longer requires depository institutions to maintain reserves against certain types of bank accounts, whether such accounts involve public deposits or not. Since December 27, 1990, the reserve requirement for “nonpersonal time deposits” has been 0 percent. Nonpersonal time deposits are defined, in part, as “[a] time deposit, including a money market deposit accounts (MMDA) or any other savings deposit, representing funds in which any beneficial interest is held by a depositor which is not a natural person.”²³ Governmental units are not considered to be natural persons by the Federal Reserve,²⁴ so a QPD has a 0 percent reserve requirement for a governmental unit’s certificates of deposit (CD), savings accounts, or MMDA. The elimination of the reserve requirement provides consistency with the act’s current definition of “public deposit,” which includes nonnegotiable CDs, as well as clarity that it includes public moneys held in savings accounts and MMDAs.

Exemptions from Chapter 280, F.S.

Current law exempts a number of moneys and public deposits from the requirements and protections of the act. One exemption involves public deposits “which are fully secured under federal regulations.”²⁵ In 1998, this exemption was added to address public deposit accounts of a Florida governmental unit that was required to be collateralized under both state law and federal regulation.²⁶ However, the U.S. Department of Housing and Urban Development (HUD) requires public housing authorities to collateralize their public deposits with HUD-approved investments, which generally only allow certain eligible collateral such as U.S. Treasury and agency securities.²⁷ This has resulted in some QPDs having to collateralize local housing authorities’ public deposits under both Florida and federal programs. This 1998 provision has created ambiguity among the industry about whether depositing public funds with any depository institution, whether a QPD or not, with FDIC deposit insurance (a matter of federal regulation) was sufficient to qualify for this exemption. Accordingly, the DFS has expressed that adding the phrase “pursuant to a collateral requirement” would provide clarification as to the actual intent of the exemption.

Collateral Pledge Levels

The bill reduces the numerical parameters for the current 125 percent and 200 percent pledge levels to 110 percent and 150 percent, respectively, in s. 280.04, F.S. The DFS indicates that if these adjustments are adopted, Florida would still have the highest pledge level (150 percent) among the states with centrally administered public deposit programs, thus ensuring the safety of

²³ See also 12 C.F.R. s. 204.2(f).

²⁴ Board of Governors of the Federal Reserve Requirements, Regulation D, defines “natural person” as either an individual or a sole proprietorship, and does not include a corporation owned by an individual, a partnership or other association. 12 C.F.R. §204.2(g).

²⁵ Section 280.03(3)(e), F.S.

²⁶ Chapter 1998-409, Laws of Fla.

²⁷ See HUD Public and Indian Housing Notice 02-13; see also Notice PIH 96-33.

public deposits.²⁸ The DFS recommendation to reduce the program's two highest collateral pledging levels (125 percent and 150 percent) is in response to concerns of the Office of Financial Regulation (OFR) and a number of small and moderate-sized QPDs impacted by these two pledge levels. According to the DFS, the OFR has indicated that the 200 percent pledge level may magnify the difficulties for a struggling bank by either forcing it to return some or all public deposits to its governmental unit customers or by adversely impacting a bank's liquidity. Additionally, the experience of the DFS with QPD failures throughout the public deposit program's history has been that the collateral valuations for failed QPDs has not been impacted by such failures themselves, and that there have not been material, concurrent collateral valuation declines due to any broader financial market disruptions.

The bill amends s. 280.051, F.S., to make conforming changes to the current definition of "capital accounts" (which the bill renames as "tangible equity capital") and clarifies that failure to execute a "collateral control agreement" prior to the use of a custodian is a grounds for suspension or disqualification. Currently, this section and the DFS rule use the term "public depository pledge agreement,"²⁹ but the DFS renamed this form to "Collateral Control Agreement" in 2001.³⁰

Current law requires the CFO to notify all public depositors (who have complied with s. 280.17, F.S.) in the event of a QPD's default or insolvency. The bill provides an exception to this notice requirement in s. 280.085, F.S., if another bank, savings bank, or savings association acquires a defaulting or insolvent QPD's public deposits.

The bill also provides that any bank, savings bank, or savings association that acquires some or all of a defaulted or insolvent QPD is subject to s. 280.10(1), F.S. This change provides certainty that any non-QPD bank that acquires a failed QPD would automatically be subject to the act. Current law provides that in the event that a QPD is merged into, acquired by, or consolidated with a non-QPD bank, savings bank, or savings association, the resulting institution automatically becomes a QPD, and assumes the former institution's contingent liability and public deposits, and must provide notice to the CFO regarding its decision to remain or withdraw in the program.

Reporting Requirements

The bill also removes the call reporting requirement in s. 280.16(1)(e), F.S. Currently, depository institutions are required under federal law to submit their call reports to the Federal Financial

²⁸ Email from Logan McFaddin, Director of Legislative Affairs, Department of Financial Services, (February 3, 2014) (on file with Senate Committee on Banking and Insurance).

²⁹ Rule 69C-2.009(1)(b), F.A.C.; Public Depository Pledge Agreement - Form DI4-1001 (revised March 1997).

³⁰ Form DFS-J1-1001, Revised June 2001. DFS Collateral Management, at https://apps8.fldfs.com/CAP_Web/PublicDeposits/intro_definitions.aspx (last visited February 7, 2014).

Institutions Examination Council (FFIEC)³¹, and these reports are available at the FFIEC's website.³²

The bill streamlines certain annual reporting requirements for public depositors. The bill eliminates the requirement in s. 280.17(5), F.S., for public depositors to obtain confirmation directly from their QPDs for purposes of preparing annual reports to the CFO.

The bill revises s. 280.17, F.S., by creating an exception to the requirements a public depositor must comply with to maintain protection from loss due to a failed QPD. The bill allows a public depositor that fails to comply with form reporting requirements to be eligible for protection from loss from a failed QPD if the QPD classified, reported, and collateralized the account as public deposits. Currently, public depositors are required to submit annually to the CFO a public deposit identification and deposit form, which s. 280.17(8), F.S., currently requires as a condition for protection from loss to public depositors. In the event of a QPD's default or insolvency, the DFS is required to coordinate with the OFR or the receiver of the QPD (generally, the FDIC) to "ascertain the amount of funds of each public depositor on deposit at such depository and the amount of deposit insurance applicable to such deposits."³³ Additionally, the act provides that the CFO must validate claims on public deposits accounts. However, the current form requirement may lead to situations where a governmental unit is denied access to the program's protection simply due to an inadvertent form filing oversight.

Qualified Public Depository Oversight Board

The bill repeals the Qualified Public Depository Oversight Board and provides technical, conforming changes relating to the repeal. According to a recent report issued by the Auditor General, the board has been largely inactive since its creation.³⁴ The report notes that while a board was appointed and an initial meeting was held in December 2001, the DFS staff stated that the board members had questioned the liability of the represented QPDs in carrying out decisions affecting competitor QPDs and voiced their reluctance to participate in making recommendations as part of their responsibility. Subsequent to this initial meeting, no further board meetings have taken place.

The effective date of the bill is July 1, 2014.

³¹ 12 U.S.C. § 324 (State member banks); 12 U.S.C. §1817 (State nonmember banks); 12 U.S.C. §161 (National banks); and 12 U.S.C. §1464 (Savings associations). The FFIEC is a formal interagency body empowered to prescribe uniform principles, standards, and report forms for the federal examination of financial institutions by the Board of Governors of the Federal Reserve System (FRB), the Federal Deposit Insurance Corporation (FDIC), the National Credit Union Administration (NCUA), the Office of the Comptroller, of the Currency (OCC), and the Consumer Financial Protection Bureau (CFPB), along with advisory state agency representatives.

³² The FFIEC Central Data Repository's Public Data Distribution Website at <https://cdr.ffiec.gov/public/> (last visited February 8, 2014).

³³ Section 280.08, F.S.

³⁴ Office of the Auditor General, *Operational Audit of the Department of Financial Services Public Deposit Program*, Report No. 2010-049 (Nov. 2009).

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 564, the reduction of the two highest collateral pledge levels may have a positive impact on small and moderate sized qualified-public depositories. Additionally, the streamlining and clarification of reporting and other compliance requirements may result in an indeterminate, minor reduction in administrative costs.

C. Government Sector Impact:

Public depositories that fail to comply with the reporting requirements for identification of their money as public deposits would not lose their protection from loss if a failed qualified public depository had nonetheless classified, reported, and collateralized the money as public deposits.

Local governments and other units of Florida government that are subject to the act would no longer be required to request bank account confirmation data from their qualified public depositories. The estimated administrative cost of such requests is negligible.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 280.02, 280.03, 280.04, 280.05, 280.051, 280.085, 280.10, 280.11, 280.16, and 280.17.

This bill repeals section 280.071 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 Banking and Insurance on February 11, 2014:

The CS provides technical changes.

- B. **Amendments:**

None.

By the Committee on Banking and Insurance; and Senator Richter

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1 A bill to be entitled
 2 An act relating to security for public deposits;
 3 amending s. 280.02, F.S.; revising definitions;
 4 amending s. 280.03, F.S.; clarifying provisions
 5 relating to public deposits that are exempt from state
 6 security requirements; amending s. 280.04, F.S.;
 7 lowering the collateral-pledging level for public
 8 deposits; amending s. 280.05, F.S.; conforming
 9 provisions to changes made by the act; amending s.
 10 280.051, F.S.; updating terms; repealing s. 280.071,
 11 F.S., relating to the qualified public depository
 12 oversight board; amending s. 280.085, F.S.; providing
 13 that a notice of the default or insolvency of a
 14 qualified public depository is not required if the
 15 Florida public deposits are acquired by a bank,
 16 savings bank, or savings association; amending s.
 17 280.10, F.S.; providing that a bank, savings bank, or
 18 savings association that is not a qualified public
 19 depository and acquires Florida public deposits is
 20 subject to certain requirements; amending s. 280.11,
 21 F.S.; conforming provisions to changes made by the
 22 act; amending s. 280.16, F.S.; deleting obsolete
 23 provisions; revising provisions relating to required
 24 reports and forms; amending s. 280.17, F.S.; deleting
 25 obsolete provisions; deleting a provision requiring
 26 public depositories to request confirmation
 27 information from qualified public depositories by a
 28 certain date; providing that a protection from loss is
 29 effective when a public depositor does not comply with

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30 certain provisions under specified circumstances;
 31 providing an effective date.
 32

33 Be It Enacted by the Legislature of the State of Florida:
 34

35 Section 1. Section 280.02, Florida Statutes, is reordered
 36 and amended to read:

37 280.02 Definitions.—As used in this chapter, the term:

38 (1) "Affiliate" means an entity that is related through a
 39 parent corporation's controlling interest. The term also
 40 includes a ~~any~~ financial institution holding company or a ~~any~~
 41 subsidiary or service corporation of such holding company.

42 (2) "Alternative participation agreement" means an
 43 agreement of restrictions that a qualified public depository
 44 completes as an alternative to ~~immediately~~ withdrawing from the
 45 public deposits program due to financial condition.

46 (3) "Average daily balance" means the average daily balance
 47 of public deposits held during the reported month. The average
 48 daily balance shall ~~must~~ be determined by totaling, by account,
 49 the daily balances held by the depositor and ~~then~~ dividing the
 50 total by the number of calendar days in the month. Deposit
 51 insurance is then deducted from each account balance and the
 52 resulting amounts are totaled to obtain the average daily
 53 balance.

54 (4) "Average monthly balance" means the average monthly
 55 balance of public deposits held, ~~before deducting deposit~~
 56 ~~insurance~~, by the depository during any 12 calendar months. The
 57 average monthly balance of the previous 12 calendar months shall
 58 ~~must~~ be determined by adding the average daily balance ~~before~~

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deducting deposit insurance for the reported month and the average daily balances before deducting deposit insurance for the 11 months preceding that month and dividing the total by 12.

(5) "Book-entry form" means that securities are not represented by a paper certificate but represented by an account entry on the records of a depository trust clearing system or, in the case of United States Government securities, a Federal Reserve Bank.

~~(26)(6)~~ "Tangible equity capital" ~~"Capital account"~~ means total equity capital, as defined on the balance-sheet portion of the Consolidated Reports of Condition and Income or ~~(call report) or the Thrift Financial Report~~, less intangible assets, as submitted to the regulatory banking authority.

(7) "Collateral-pledging level," ~~for qualified public depositories,~~ means the percentage of collateral required to be pledged by a qualified public depository as provided under in s. 280.04 ~~by a financial institution.~~

(8) "Current month" means the month immediately following the month for which the monthly report is due from qualified public depositories.

(9) "Custodian" means the Chief Financial Officer or a ~~any~~ bank, savings association, or trust company that:

(a) Is organized and existing under the laws of this state, any other state, or the United States;

(b) Has executed all forms required under this chapter or any rule adopted hereunder;

(c) Agrees to be subject to the jurisdiction of the courts of this state, or of the courts of the United States which are located within this state, for the purpose of any litigation

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arising out of this chapter; and

(d) Has been approved by the Chief Financial Officer to act as a custodian.

(10) "Default or insolvency" includes, without limitation, the failure or refusal of a qualified public depository to pay a ~~any~~ check or warrant drawn upon sufficient and collected funds by a ~~any~~ public depositor or to return a ~~any~~ deposit on demand or at maturity together with interest as agreed; the issuance of an order by a ~~any~~ supervisory authority restraining such depository from making payments of deposit liabilities; or the appointment of a receiver for such depository.

~~(11) "Effective date of notice of withdrawal or order of discontinuance" pursuant to s. 280.11(3) means that date which is set out as such in any notice of withdrawal or order of discontinuance from the Chief Financial Officer.~~

~~(11)(12)~~ (11) "Eligible collateral" means securities, Federal Home Loan Bank letters of credit, and cash, as designated in s. 280.13.

~~(12)(13)~~ (12) "Financial institution" means, including, but not limited to, an association, bank, brokerage firm, credit union, industrial savings bank, savings and loan association, trust company, or other type of financial institution organized under the laws of this state or any other state of the United States and doing business in this state or any other state, in the general nature of the business conducted by banks and savings associations.

~~(13)(14)~~ (13) "Governmental unit" means the state or any county, school district, community college district, state university, special district, metropolitan government, or municipality,

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including any agency, board, bureau, commission, and institution of any of such entities, or any court.

~~(14)-(15)~~ "Loss to public depositors" means loss of all principal and all interest or other earnings on the principal accrued or accruing as of the date the qualified public depository was declared in default or insolvent.

~~(15)-(16)~~ "Market value" means the value of collateral calculated pursuant to s. 280.04.

~~(16)-(17)~~ "Operating subsidiary" means the qualified public depository's 100 percent ~~100-percent~~ owned corporation that has ownership of pledged collateral. The operating subsidiary may not have ~~ne~~ powers beyond those that its parent qualified public depository may itself exercise. The use of an operating subsidiary is at the discretion of the qualified public depository and must meet the Chief Financial Officer's requirements.

~~(18)~~ "Oversight board" means the qualified public depository oversight board created in s. 280.071 for the purpose of safeguarding the integrity of the public deposits program and preventing the realization of loss assessments through standards, policies, and recommendations for actions to the Chief Financial Officer.

~~(17)-(19)~~ "Pledged collateral" means securities or cash held separately and distinctly by an eligible custodian for the benefit of the Chief Financial Officer to be used as security for Florida public deposits. This includes maturity and call proceeds.

~~(18)-(20)~~ "Pledgor" means the qualified public depository and, if one is used, operating subsidiary.

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~~(19)-(21)~~ "Pool figure" means the total average monthly balances of public deposits held by all qualified public depositories during the immediately preceding 12-month period.

~~(22)~~ "Previous month" means the month or months immediately preceding the month for which a monthly report is due from qualified public depositories.

~~(20)-(23)~~ "Public deposit" means the moneys of a governmental unit ~~the state or of any state university, county, school district, community college district, special district, metropolitan government, or municipality, including agencies, boards, bureaus, commissions, and institutions of any of the foregoing, or of any court,~~ and includes the moneys of all county officers, including constitutional officers, which that are placed on deposit in a bank, savings bank, or savings association ~~and for which the bank, savings bank, or savings association is required to maintain reserves.~~ This includes, but is not limited to, time deposit accounts, demand deposit accounts, and nonnegotiable certificates of deposit. Moneys in deposit notes and in other nondeposit accounts such as repurchase or reverse repurchase operations are not public deposits. Securities, mutual funds, and similar types of investments are not ~~considered~~ public deposits and are ~~shall~~ not be subject to the provisions of this chapter.

~~(21)-(24)~~ "Public depositor" means the official custodian of funds for a governmental unit who is responsible for handling public deposits.

~~(22)-(25)~~ "Public deposits program" means the Florida Security for Public Deposits Act contained in this chapter and any rule adopted under this chapter.

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175 ~~(23)(26)~~ "Qualified public depository" means a ~~any~~ bank,
 176 savings bank, or savings association that:
 177 (a) Is organized and exists under the laws of the United
 178 States ~~or~~ the laws of this state or any other state or
 179 territory of the United States.
 180 (b) Has its principal place of business in this state or
 181 has a branch office in this state which is authorized under the
 182 laws of this state or of the United States to receive deposits
 183 in this state.
 184 (c) Has deposit insurance pursuant to ~~under the provision~~
 185 ~~of the Federal Deposit Insurance Act, as amended, 12 U.S.C. ss.~~
 186 ~~1811 et seq.~~
 187 (d) Has procedures and practices for accurate
 188 identification, classification, reporting, and collateralization
 189 of public deposits.
 190 (e) Meets all the requirements of this chapter.
 191 (f) Has been designated by the Chief Financial Officer as a
 192 qualified public depository.
 193 ~~(24)(27)~~ "Reported month" means the month for which a
 194 monthly report is due from qualified public depositories.
 195 ~~(25)(28)~~ "Required collateral" of a qualified public
 196 depository means eligible collateral having a market value equal
 197 to or in excess of the amount required under ~~pursuant to~~ s.
 198 280.04.
 199 ~~(6)(29)~~ "Chief Financial Officer's custody" is a collateral
 200 arrangement governed by a contract between a designated Chief
 201 Financial Officer's custodian and the Chief Financial Officer.
 202 This arrangement requires that collateral ~~to~~ be in the Chief
 203 Financial Officer's name in order to perfect the security

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204 interest.
 205 ~~(27)(30)~~ "Triggering events" are events set out in s.
 206 280.041 which give the Chief Financial Officer the right to:
 207 (a) Instruct the custodian to transfer securities pledged,
 208 interest payments, and other proceeds of pledged collateral not
 209 previously credited to the pledgor.
 210 (b) Demand payment under letters of credit.
 211 Section 2. Paragraph (e) of subsection (3) of section
 212 280.03, Florida Statutes, is amended to read:
 213 280.03 Public deposits to be secured; prohibitions;
 214 exemptions.—
 215 (3) The following are exempt from the requirements of, and
 216 protection under, this chapter:
 217 (e) Public deposits that which are fully secured pursuant
 218 to a collateral requirement under federal regulations.
 219 Section 3. Subsections (1) and (2) of section 280.04,
 220 Florida Statutes, are amended to read:
 221 280.04 Collateral for public deposits; general provisions.—
 222 (1) The Chief Financial Officer shall determine the
 223 collateral requirements and collateral-pledging ~~collateral~~
 224 ~~pledging~~ level for each qualified public depository following
 225 procedures established by rule. These procedures must ~~shall~~
 226 include numerical parameters for 25 percent, 50 percent, 110
 227 percent, and 150 percent ~~25-percent, 50-percent, 125-percent,~~
 228 ~~and 200-percent~~ pledge levels based on nationally recognized
 229 financial rating services information and established financial
 230 performance guidelines.
 231 (2) A qualified public depository may not accept or retain
 232 any public deposit ~~which is~~ required to be secured unless it

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deposits ~~has deposited~~ with the Chief Financial Officer eligible collateral at least equal to the greater of:

(a) The average daily balance of public deposits which ~~that~~ does not exceed the lesser of its tangible equity capital ~~account~~ or 20 percent of the pool figure multiplied by the depository's collateral-pledging level, plus the greater of:

1. One hundred ~~ten twenty-five~~ percent of the average daily balance of public deposits in excess of its tangible equity capital ~~accounts~~; or

2. One hundred ~~ten twenty-five~~ percent of the average daily balance of public deposits in excess of 20 percent of the pool figure.

(b) Twenty-five percent of the average monthly balance of public deposits.

(c) One hundred ~~ten twenty-five~~ percent of the average daily balance of public deposits if the qualified public depository:

1. Has been established for less than 3 years;

2. Has experienced material decreases in its tangible equity capital ~~accounts~~; or

3. Has an overall financial condition that is materially deteriorating.

(d) ~~One Two~~ hundred fifty percent of an established maximum amount of public deposits which ~~that~~ has been mutually agreed upon by and between the Chief Financial Officer and the qualified public depository.

(e) Minimum required collateral of \$100,000.

(f) An amount as required in special instructions from the Chief Financial Officer to protect the integrity of the public

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deposits program.

Section 4. Subsections (1), (2), (3), and (16) of section 280.05, Florida Statutes, are amended to read:

280.05 Powers and duties of the Chief Financial Officer.—In fulfilling the requirements of this act, the Chief Financial Officer has the power to take the following actions he or she deems necessary to protect the integrity of the public deposits program:

~~(1) Identify representative qualified public depositories and furnish notification for the qualified public depository oversight board selection pursuant to s. 280.071.~~

~~(2) Provide data for the qualified public depository oversight board duties pursuant to s. 280.071 regarding:~~

~~(a) Establishing standards for qualified public depositories and custodians.~~

~~(b) Evaluating requests for exceptions to standards and alternative participation agreements.~~

~~(c) Reviewing and recommending action for qualified public depository or custodian violations.~~

~~(3) Review, implement, monitor, evaluate, and modify all or any part of the standards, policies, or recommendations of the qualified public depository oversight board.~~

~~(13)-(16)~~ Require the filing of the following reports, which the Chief Financial Officer shall process as provided:

(a) Qualified public depository monthly reports and schedules. The Chief Financial Officer shall review the reports of each qualified public depository for material changes in tangible equity capital ~~accounts~~ or changes in name, address, or type of institution; record the average daily balances of public

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deposits held; and monitor the collateral-pledging levels and required collateral.

(b) Quarterly regulatory reports from qualified public depositories. The Chief Financial Officer shall analyze qualified public depositories ranked in the lowest category based on established financial condition criteria.

(c) Qualified public depository annual reports and public depositor annual reports. The Chief Financial Officer shall compare public deposit information reported by qualified public depositories and public depositors. Such comparison shall be conducted for qualified public depositories that which are ranked in the lowest category based on established financial condition criteria of record on September 30. Additional comparison processes may be performed as public deposits program resources permit.

(d) Any related documents, reports, records, or other information deemed necessary by the Chief Financial Officer in order to ascertain compliance with this chapter.

Section 5. Subsections (2), (6), and (12) of section 280.051, Florida Statutes, are amended to read:

280.051 Grounds for suspension or disqualification of a qualified public depository.—A qualified public depository may be suspended or disqualified or both if the Chief Financial Officer determines that the qualified public depository has:

(2) Submitted reports containing inaccurate or incomplete information regarding public deposits or collateral for such deposits, tangible equity capital ~~accounts~~, or the calculation of required collateral.

(6) Failed to furnish the Chief Financial Officer with

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prompt and accurate information, or failed to allow inspection and verification of any information, dealing with public deposits or dealing with the exact status of its tangible equity capital ~~accounts~~, or ~~any~~ other financial information that the Chief Financial Officer ~~deems~~ determines necessary to verify compliance with this chapter or any rule adopted pursuant to this chapter.

(12) Failed to execute or have the custodian execute a collateral control public depository pledge agreement before ~~prior to~~ using a custodian.

Section 6. Section 280.071, Florida Statutes, is repealed.

Section 7. Section 280.085, Florida Statutes, is amended to read:

280.085 Notice to claimants.—

(1) Upon determining the default or insolvency of a qualified public depository, the Chief Financial Officer shall notify, by first-class mail, all public depositors that have complied with s. 280.17 of such default or insolvency. The notice must ~~shall~~ direct all public depositors having claims or demands against the Public Deposits Trust Fund occasioned by the default or insolvency to file their claims with the Chief Financial Officer within 30 days after the date of the notice.

~~(a)(2)~~ A ~~No~~ claim against the Public Deposits Trust Fund is binding on the fund only if ~~unless~~ presented within 30 days after the date of the notice.

(b) The notice is not required if the default or insolvency is resolved in a manner whereby all Florida public deposits are acquired by a bank, savings bank, or savings association.

~~(2)(3)~~ This section does not affect any proceeding to:

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(a) Enforce any real property mortgage, chattel mortgage, security interest, or other lien on property of a qualified public depository that is in default or insolvency; or

(b) Establish liability of a qualified public depository that is in default or insolvency to the limits of any federal or other casualty insurance protection.

Section 8. Present subsections (3) through (6) of section 280.10, Florida Statutes, are redesignated as subsections (4) through (7), respectively, and a new subsection (3) is added to that section, to read:

280.10 Effect of merger, acquisition, or consolidation; change of name or address.—

(3) If the default or insolvency of a qualified public depository results in the acquisition of all or part of its Florida public deposits by a bank, savings bank, or savings association that is not a qualified public depository, such bank, savings bank, or savings association is subject to subsection (1).

Section 9. Subsection (3) of section 280.11, Florida Statutes, is amended to read:

280.11 Withdrawal from public deposits program; return of pledged collateral.—

(3) A qualified public depository ~~that which~~ is required to withdraw from the public deposits program pursuant to s. 280.05(17) may s. 280.05(1)(b) shall not receive or retain public deposits after the effective date of withdrawal. The contingent liability, required collateral, and reporting requirements of the withdrawing depository shall continue until the effective date of withdrawal. The effective date of

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withdrawal means the date set out as such in a notice of withdrawal or ~~(order of discontinuance)~~ from the Chief Financial Officer ~~which is shall be~~ mailed to the qualified public depository by registered or certified mail. Penalties incurred because of withdrawal from the public deposits program are ~~shall~~ be the responsibility of the withdrawing depository.

Section 10. Subsection (1) of section 280.16, Florida Statutes, is amended to read:

280.16 Requirements of qualified public depositories; confidentiality.—

(1) In addition to any other requirements specified in this chapter, qualified public depositories shall:

(a) Take the following actions for each public deposit account:

1. Identify the account as a "Florida public deposit" on the deposit account record with the name of the public depositor or provide a unique code for the account for such designation.

2. When the form prescribed by the Chief Financial Officer for acknowledgment of receipt of each public deposit account is presented to the qualified public depository by the public depositor opening an account, the qualified public depository shall execute and return the completed form to the public depositor.

3. When the acknowledgment of receipt form is presented to the qualified public depository by the public depositor due to a change of account name, account number, or qualified public depository name on an existing public deposit account, the qualified public depository shall execute and return the completed form to the public depositor within 45 calendar days

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after such presentation.

~~4. When the acknowledgment of receipt form is presented to the qualified public depository by the public depositor on an account existing before July 1, 1998, the qualified public depository shall execute and return the completed form to the public depositor within 45 calendar days after such presentation.~~

(b) Within 15 days after the end of each calendar month, or when requested by the Chief Financial Officer, submit to the Chief Financial Officer a written report, under oath, indicating the average daily balance of all public deposits held by it during the reported month, required collateral, a detailed schedule of all securities pledged as collateral, selected financial information, and any other information ~~that~~ the Chief Financial Officer deems ~~determines~~ necessary to administer this chapter.

(c) Provide to each public depositor annually by, ~~not later than~~ October 30, the following information on all open accounts identified as a "Florida public deposit" for that public depositor as of September 30, to be used for confirmation purposes: the federal employer identification number of the qualified public depository, the name on the deposit account record, the federal employer identification number on the deposit account record, and the account number, account type, and actual account balance on deposit. Any discrepancy found in the confirmation process must ~~shall~~ be reconciled before November 30.

(d) Submit to the Chief Financial Officer annually by, ~~not later than~~ November 30, a report of all public deposits held for

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the credit of all public depositors at the close of business on September 30. Such annual report must ~~shall~~ consist of public deposit information in a report format prescribed by the Chief Financial Officer. The manner of required filing may be as a signed writing or electronic data transmission, at the discretion of the Chief Financial Officer.

~~(e) Submit to the Chief Financial Officer not later than the date required to be filed with the federal agency.~~

~~1. A copy of the quarterly Consolidated Reports of Condition and Income, and any amended reports, required by the Federal Deposit Insurance Act, 12 U.S.C. ss. 1811 et seq., if such depository is a bank; or~~

~~2. A copy of the Thrift Financial Report, and any amended reports, required to be filed with the Office of Thrift Supervision if such depository is a savings and loan association.~~

Section 11. Subsections (2), (5), and (8) of section 280.17, Florida Statutes, are amended to read:

280.17 Requirements for public depositors; notice to public depositors and governmental units; loss of protection.—In addition to any other requirement specified in this chapter, public depositors shall comply with the following:

(2) ~~Beginning July 1, 1998, Each public depositor shall take the following actions~~ For each public deposit account, the public depositor shall:

(a) Ensure that the name of the public depositor is on the account or certificate or other form provided to the public depositor by the qualified public depository in a manner sufficient to identify that the account is a Florida public

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465 deposit.

466 (b) Execute a form prescribed by the Chief Financial
 467 Officer for identification of each public deposit account and
 468 obtain acknowledgment of receipt on the form from the qualified
 469 public depository at the time of opening the account. Such
 470 public deposit identification and acknowledgment form shall be
 471 replaced with a current form as required in subsection (3). A
 472 ~~public deposit account existing before July 1, 1998, must have a~~
 473 ~~form completed before September 30, 1998.~~

474 (c) Maintain the current public deposit identification and
 475 acknowledgment form as a valuable record. Such form is mandatory
 476 for filing a claim with the Chief Financial Officer upon the
 477 default or insolvency of a qualified public depository.

478 (5) Each public depositor shall ~~confirm~~ annually confirm
 479 that public deposit information as of the close of business on
 480 September 30 has been provided by each qualified public
 481 depository and is in agreement with public depositor records.
 482 Such confirmation must ~~shall~~ include the federal employer
 483 identification number of the qualified public depository, the
 484 name on the deposit account record, the federal employer
 485 identification number on the deposit account record, and the
 486 account number, account type, and actual account balance on
 487 deposit. ~~Public depositors shall request such confirmation~~
 488 ~~information from qualified public depositories on or before the~~
 489 ~~fifth calendar day of October and shall allow until October 31~~
 490 ~~to receive such information.~~ Any discrepancy found in the
 491 confirmation process must ~~shall~~ be resolved ~~reconciled~~ before
 492 November 30.

493 (8) If a public depositor does not comply with this section

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

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494 with respect to ~~on~~ each public deposit account, the protection
 495 from loss provided under ~~in~~ s. 280.18 is not effective as to
 496 that public deposit account. However, if a public depositor
 497 fails to present the form prescribed by the Chief Financial
 498 Officer for identifying public deposit accounts, the protection
 499 from loss provided under s. 280.18 is effective if the Chief
 500 Financial Officer determines that the defaulting depository has
 501 classified, reported, and collateralized the account as public
 502 deposits.

503 Section 12. This act shall take effect July 1, 2014.

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



The Florida Senate

Committee Agenda Request

To: Senator Joe Negron, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: March 6, 2014

I respectfully request that **Senate Bill #564**, relating to Security for Public Deposits, be placed on the:

- ☒ committee agenda at your earliest possible convenience.
- ☐ next committee agenda.

A handwritten signature in blue ink, which appears to read "Garrett Richter", is written over a horizontal line.

Senator Garrett Richter
Florida Senate, District 23

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/10/2014
Meeting Date

Topic _____

Bill Number 564
(if applicable)

Name Brian Pitts

Amendment Barcode _____
(if applicable)

Job Title Trustee

Address 1119 Newton Ave S
Street
St Petersburg
City State Zip

Phone 727/897-9291
E-mail justice2jesus@yahoo.com

Speaking: ☒ For ☐ Against ☐ Information

Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4. 10. 14

Meeting Date

Topic Security for Public Deposits

Bill Number 564

(if applicable)

Name Kim Siomkos

Amendment Barcode _____

(if applicable)

Job Title VP Gov Affairs

Address 1001 Thomasville Road

Phone 861 317 4704

Street

Tallahassee

FL

32308

City

State

Zip

E-mail ksiomkos@floridabankers.com

com

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida Bankers Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/10

Meeting Date

Topic SB 564

Bill Number SB 564
(if applicable)

Name Logan McFaddin

Amendment Barcode _____
(if applicable)

Job Title Director, Legislative Affairs

Address 400 N Monroe St
Street
Tallahassee FL 32399
City State Zip

Phone 413-2863

E-mail logan.mcfaddin@mla.flo.com

Speaking: ☒ For ☐ Against ☐ Information

Representing CFO'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 (10/20/11)

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/CS/SB 702

INTRODUCER: Appropriations Committee; Judiciary Committee; Regulated Industries Committee; and Senator Bean and others

SUBJECT: Pharmacy Audits

DATE: April 14, 2014

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Peterson	Stovall	HP	Favorable
2. Pringle	Imhof	RI	Fav/CS
3. Munroe	Cibula	JU	Fav/CS
4. Brown	Kynoch	AP	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/CS/SB 702 establishes the rights of a pharmacy when it is audited, directly or indirectly, by a managed care company, insurance company, third-party payor, pharmacy benefit manager, or an entity that represents responsible parties such as companies or groups that self-insure. The rights created in the bill are similar to the requirements currently applicable to Medicaid audits of pharmacies. The rights created in the bill do not apply to audits based on suspicion of fraud, wilful misrepresentation evidenced by a physical review, review of claims data or statements, other investigative methods; audits of claims paid for by federally funded programs; or concurrent reviews or desk audits that occur within three business days after transmission where no chargeback or recoupment is demanded.

The bill may have an indeterminate, but likely insignificant, fiscal impact.

II. Present Situation:

Pharmacy Regulation

Pharmacies and pharmacists are regulated under the Florida Pharmacy Act (the Act) found in ch. 465, F.S.¹ The Board of Pharmacy (the board) is created within the Department of Health

¹ Other pharmacy paraprofessionals, including pharmacy interns and pharmacy technicians, are also regulated under the Act.

(DOH) to adopt rules to implement provisions of the Act and take other actions according to duties conferred on the DOH in the Act.²

Several pharmacy types are specified in law and are required to be permitted or registered under the Act:

- Community pharmacy – a location where medicinal drugs are compounded, dispensed, stored, or sold or where prescriptions are filled or dispensed on an outpatient basis.³
- Institutional pharmacy – a location in a hospital, clinic, nursing home, dispensary, sanitarium, extended care facility, or other facility where medical drugs are compounded, dispensed, stored, or sold. The Act further classifies institutional pharmacies according to the type of facility or activities with respect to the handling of drugs within the facility.⁴
- Nuclear pharmacy – a location where radioactive drugs and chemicals within the classification of medicinal drugs are compounded, dispensed, stored, or sold, excluding hospitals or the nuclear medicine facilities of such hospitals.⁵
- Internet pharmacy – a location not otherwise permitted under the Act, whether within or outside the state of Florida, which uses the internet to communicate with or obtain information from consumers in this state to fill or refill prescriptions or to dispense, distribute, or otherwise engage in the practice of pharmacy in this state.⁶
- Nonresident pharmacy – a location outside this state which ships, mails, or delivers, in any manner, a dispensed drug into this state.⁷
- Special pharmacy – a location where medicinal drugs are compounded, dispensed, stored, or sold if the location is not otherwise defined which provides miscellaneous specialized pharmacy service functions.⁸

Each pharmacy is subject to inspection by the DOH and discipline for violations of applicable state or federal law relating to pharmacy. Any pharmacy located outside of Florida which ships, mails, or delivers, in any manner, a dispensed drug into this state is considered a nonresident pharmacy and must register with the board as a nonresident pharmacy.^{9,10}

Pharmacy Audits

Advances in pharmaceuticals have transformed health care over the last several decades. Many health care problems are prevented, cured, or managed effectively for years through the use of prescription drugs. As a result, national expenditures for retail prescription drugs have grown from \$120.9 billion in 2000 to \$263.3 billion in 2012.¹¹ Health plan sponsors, which include

² Section 465.005, F.S.

³ See s. 465.018, F.S.

⁴ See s. 465.019, F.S.

⁵ See s. 465.0193, F.S.

⁶ See s. 465.0197, F.S.

⁷ See s. 465.0156, F.S.

⁸ See s. 465.0196, F.S.

⁹ Section 465.0156, F.S.

¹⁰ However, the board may grant an exemption from the registration requirements to any nonresident pharmacy that confines its dispensing activity to isolated transactions. See s. 465.0156(2), F.S.

¹¹ Centers for Medicare and Medicaid Services, *National Health Expenditures Web Tables, Table 16, Retail Prescription Drugs Aggregate, Percent Change, and Percent Distribution, by Source of Funds: Selected Calendar Years 1970-2012*,

commercial insurers, private employers, and government plans such as Medicaid and Medicare, spent \$216.5 billion on prescription drugs in 2012 and consumers paid \$46.8 billion out-of-pocket for prescription drugs that year.¹²

As expenditures for drugs have increased, health plan sponsors have looked for ways to control spending. Health plan sponsors have turned to pharmacy benefit managers (PBMs), which are third party administrators of prescription drug programs, as one method to control spending. PBMs initially emerged in the 1980s as prescription drug claims processors. PBMs now provide a range of services including developing and managing pharmacy networks, developing drug formularies, providing mail order services, and processing and auditing claims.

In 2007, there were approximately 70 PBMs operating in the United States and managing prescription drug benefits for an estimated 95 percent of health beneficiaries nationwide.¹³ Industry mergers in recent years have reduced the number of large PBMs to two, which together control 60 percent of the market and provide benefits for approximately 240 million people.¹⁴

The audit process is one means used by PBMs and health plan sponsors to review pharmacy programs. The audits are designed to ensure that procedures and reimbursement mechanisms are consistent with contractual and regulatory requirements. Several different types of audits have been developed to address changes in benefit and billing processes:

- Concurrent daily review audit – intended to make immediate changes to a claim before payment is made and is triggered when a PBM or health plan sponsor's computer systems identify an unusual prescription, which can be identified according to the volume dispensed or number of days supplied.
- Retrospective audit – may be conducted as a desktop audit or an in-pharmacy audit. PBM or health plan sponsor staff conduct a desk audit remotely by contacting pharmacies to obtain supporting documentation, such as the written prescription, for a claim the staff are reviewing.
- In-pharmacy audit – most extensive type of audit and can last for days or weeks. During an in-pharmacy audit, audit staff require pharmacies to provide documentation for prescriptions dispensed during a specified time period. When the auditors identify errors or lack of documentation to support the claim, they notify the pharmacy and request repayment of all or a portion of the prescription cost.
- Investigative audit – occurs where there is a suspicion of fraud or abuse.

Pharmacy trade associations have increasingly complained about PBM audits. A 2011 survey conducted among members of the National Community Pharmacists Association found that

available at <https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/NationalHealthExpendData/downloads/tables.pdf> (last visited March 26, 2014).

¹² *Id.*

¹³ Office of Program Policy Analysis & Government Accountability, *Legislature Could Consider Options to Address Pharmacy Benefit Manager Business Practices*, Report No. 07-08 (February 2007), available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/0708rpt.pdf> (last visited March 26, 2014).

¹⁴ Office of Program Policy Analysis & Government Accountability, *Research memorandum: Pharmacy Benefit Managers* (December 2, 2013) (on file with the Senate Health Policy Committee).

pharmacy audits were focusing on trivial errors (misspelling patient names or incorrect data) rather than intentional, fraudulent acts.¹⁵

Organizations such as the National Community Pharmacists Association,¹⁶ which represents independent pharmacies, have been advocating for legislation at the federal and state levels to address what they perceive as predatory practices by PBMs. As of 2013, 29 states¹⁷ have passed fair and uniform pharmacy audit laws that regulate PBM pharmacy audit practices. Elements of these laws typically include some combination of the following:

- Prior notification;
- Limiting the audit timeframe to not more than 24 months;
- Recoupment based on direct evidence and not extrapolation;
- Prohibiting recoupment or penalties for clerical errors;
- Requiring the availability of a consulting pharmacist if the audit involves clinical judgment;
- Providing a timeframe for receiving results and the opportunity to appeal; or
- Exempting audits based on a suspicion of fraud from the auditing criteria.¹⁸

Medicaid Pharmacy Audits

In 2003, the Legislature established requirements for Medicaid audits of pharmacies. The requirements are as follows:

- The agency conducting the audit must give the pharmacist at least one week of notice prior to the initial audit for each audit cycle.
- An audit must be conducted by a pharmacist licensed in Florida.
- Any clerical or recordkeeping error, such as a typographical error, scrivener's error, or computer error regarding a document or record required under the Medicaid program, does not constitute a willful violation and is not subject to criminal penalties without proof of intent to commit fraud.
- A pharmacist may use the physician's record or other order for drugs or medicinal supplies written or transmitted by any means of communication for purposes of validating the pharmacy record for orders or refills of a legend or narcotic drug.
- A finding of an overpayment or underpayment must be based on the actual overpayment or underpayment and may not be a projection based on the number of patients served having a similar diagnosis or based on the number of similar orders or refills for similar drugs.
- Each pharmacy shall be audited under the same standards and parameters.

¹⁵ National Community Pharmacists Association, *New Survey Reveals Pharmacists are Increasingly Struggling to Care for Patients Amid Predatory Audits, Unfair Reimbursement Practices*, <http://www.ncpanet.org/index.php/news-releases/1062-new-survey-reveals-pharmacists-are-increasingly-struggling-to-care-for-patients-amid-predatory-audits-unfair-reimbursement-practices> (last visited March 26, 2014).

¹⁶ National Community Pharmacists Association, *NCPA to Medicare: Rein in Egregious Pharmacy Audits; Reform Preferred Networks; and Curb Mail Order Waste in 2014 Prescription Drug Plans*. Found at: <http://www.ncpanet.org/index.php/news-releases/1593-ncpa-to-medicare-rein-in-egregious-pharmacy-audits-reform-preferred-networks-and-curb-mail-order-waste-in-2014-prescription-drug-plans> (last visited February 6, 2014).

¹⁷ Alabama, Arizona, California, Colorado, Florida (Medicaid, only), Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Minnesota, Mississippi, Missouri, Montana, New Hampshire, New Mexico, North Carolina, North Dakota, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, and Vermont.

¹⁸ Office of Program Policy Analysis & Government Accountability, *supra* note 8.

- A pharmacist must be allowed at least 10 days to produce documentation to address any discrepancy found during an audit.
- The period covered by an audit may not exceed one calendar year.
- An audit may not be scheduled during the first five days of any month due to the high volume of prescriptions typically filled during that time.
- The audit report must be delivered to the pharmacist within 90 days after conclusion of the audit. A final audit report must be delivered to the pharmacist within six months after receipt of the preliminary audit report or final appeal, whichever is later.
- The agency conducting the audit may not use the accounting practice of extrapolation in calculating penalties for Medicaid audits.¹⁹

Current law requires the Agency for Health Care Administration (AHCA) to establish a process that allows a pharmacist to obtain a preliminary review of an audit report and the ability to appeal an unfavorable audit report without the necessity of obtaining legal counsel. The preliminary review and appeal may be conducted by an ad hoc peer review panel appointed by the AHCA which consists of pharmacists who maintain an active practice. After the preliminary review, if the AHCA or the review panel determine that an unfavorable audit report is unsubstantiated, the AHCA must dismiss the audit report without the necessity of any further proceedings.

These requirements do not apply to investigative audits conducted by the Medicaid Fraud Control Unit of the Department of Legal Affairs or to investigative audits conducted by the AHCA when there is reliable evidence that the claim which is the subject of the audit involves fraud, willful misrepresentation, or abuse under the Medicaid program.

III. Effect of Proposed Changes:

Section 1 establishes the rights of a pharmacy when it is audited, directly or indirectly, by a managed care company, insurance company, third-party payor, pharmacy benefit manager, or an entity that represents responsible parties such as companies or groups, collectively referred to as an “entity” in the bill. The rights include:

- To have at least seven days prior notice of each initial on-site audit;
- To have an on-site audit scheduled during the first three days of the month, only by consent of the pharmacist;
- To limit the audit period to 24 months after the date a claim is submitted to or adjudicated by the entity;
- To have an audit that requires clinical or professional judgment conducted by or in consultation with a pharmacist;
- To use the written and verifiable records of a hospital, physician, or other authorized practitioner to validate the pharmacy records in accordance with state and federal law;
- To be reimbursed for a claim that was retroactively denied for a clerical, typographical, scrivener’s, or computer error, if the prescription was properly dispensed, unless the pharmacy has a pattern of such errors or fraudulent billing is alleged or the error results in actual financial loss to the entity;

¹⁹ Section 465.188, F.S.

- To receive the preliminary audit report within 120 days after the audit is concluded and to receive the final audit report within six months after receiving the preliminary report;
- To have 10 business days after the preliminary audit report is delivered to produce documentation to address a discrepancy or audit finding; and
- To have recoupment or penalties based on actual overpayments, not extrapolation.²⁰

The rights do not apply to audits that are based on a suspicion of fraud, wilful misrepresentation evidenced by a physical review, review of claims data or statements, or other investigative methods; audits of claims paid for by federally funded programs; or concurrent reviews or desk audits that occur within three business days after transmission where no chargeback or recoupment is demanded.

An entity that audits a pharmacy located within a Health Care Fraud Prevention and Enforcement Action Team Task Force area designated by the United States Department of Health and Human Services and the United States Department of Justice may dispense with the seven-day advance notice requirement under the bill, if the pharmacy has been a member of a credentialed provider network for less than 12 months.

Section 2 provides an effective date of October 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

CS/CS/SB 702 will have an indeterminate fiscal impact on the private health sponsors through potential modifications in pharmacy auditing methodologies and limitations on recoupment of claims.

²⁰ Extrapolation is a process whereby statistical sampling is used to calculate and project the amount of overpayment made on claims. See e.g., “Extrapolate” means to estimate (a value or values of a function) for values of the argument not used in the process of estimation; infer (a value or values) from known values. THE AMERICAN HERITAGE DICTIONARY (2nd ed. 1985)

C. Government Sector Impact:

The bill will have an indeterminate, but likely insignificant, fiscal impact on government pharmacies. These pharmacies may file claims periodically with private health sponsors and are subject to random audits, but the substantial majority of their claims are paid by Medicaid.

VI. Technical Deficiencies:

None.

VII. Related Issues:

According to the AHCA, the bill will not have a direct impact on its Medicaid Program Integrity Office.²¹ Under the Statewide Medicaid Managed Care program, the Medicaid Program Integrity Office will not directly audit pharmacy claims of those providers that contract with Medicaid managed care plans. The plans will submit pharmacy encounter data to the agency and the AHCA will have a third party contractor analyze the claims. This process is not affected by the bill.²²

The AHCA noted that under the bill, audits of claims paid for by federally funded programs and investigation of potential fraudulent claims by the AHCA are specifically exempted. It is unknown whether the AHCA's ability to monitor potential abuse is affected by this bill.²³

VIII. Statutes Affected:

This bill creates section 465.1885 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 April 10, 2014:

The CS removes a redundant provision in the bill regarding audits related to fee-for-service claims under the Medicaid program. The CS also provides that an entity that audits a pharmacy located within a Health Care Fraud Prevention and Enforcement Action Team Task Force area designated by the United States Department of Health and Human Services and the United States Department of Justice, may dispense with the seven-day advance notice requirement under the bill, if the pharmacy has been a member of a *credentialed* provider network for less than 12 months.

²¹ Correspondence between the Senate Regulated Industries Committee staff and staff of the Agency for Health Care Administration (March 12, 2014) (on file with the Senate Committee on Judiciary).

²² *Id.*

²³ *Id.*

CS/CS by Judiciary on April 1, 2014:

The CS revises the rights of a pharmacy when audited by managed care companies, insurance companies, pharmacy benefit managers, and certain other entities. Specifically, the committee substitute:

- Requires that the records of a hospital, physician, or other practitioner used to validate a pharmacy's records be written and verifiable and allows concurrent reviews or desk audits to occur within three days after the transmission of certain claims;
- Revises the exceptions to a pharmacy's rights under the bill;
- Removes from the bill a requirement for the Office of Insurance Regulation to investigate complaints alleging the violation of a pharmacy's rights; and
- Changes the effective date of the bill from July 1, 2014 to October 1, 2014.

CS by Regulated Industries on March 13, 2014

The CS:

- Provides that the additional records used to validate the pharmacy's records will be in accordance with state and federal law;
- Provides that a pharmacy will not be reimbursed for an erroneous claim if it causes actual loss to an entity covered by the bill. It also defines what a "properly and dispensed" prescription means;
- Modifies the timeframe for a pharmacy to receive the preliminary audit report from 90 to 120 days;
- Provides that the Office of Insurance Regulation (OIR) must investigate a complaint from a pharmacy which alleges a willful violation of the provisions of the bill by an entity regulated by the OIR; and
- Provides the complaint procedure for the OIR and specifies that a violation is an unfair claim settlement practice under s. 641.3903(5)(c)1. and 4., F.S., and enforceable as provided in part I, ch. 641, F.S., and s. 626.9521, F.S.

B. Amendments:

None.



273458

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/11/2014	.	
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	.	
	.	

The Committee on Appropriations (Bean) recommended the following:

Senate Amendment

Delete lines 57 - 62

and insert:

(b) Audits of claims paid for by federally funded programs;

or

(c) Concurrent reviews or desk audits that occur within 3
business days of transmission of a claim and where no chargeback
or recoupment is demanded.



126836

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/11/2014	.	
	.	
	.	
	.	

The Committee on Appropriations (Bean) recommended the following:

Senate Amendment

Delete line 68
and insert:
(1) (a) if such pharmacy has been a member of a credentialed
provider network

By the Committees on Judiciary; and Regulated Industries; and
Senators Bean and Sobel

590-03521-14

2014702c2

A bill to be entitled

An act relating to pharmacy audits; creating s.
465.1885, F.S.; enumerating the rights of pharmacies
relating to audits of pharmaceutical services which
are conducted by certain entities; providing a list of
audits not subject to such rights; providing an
exemption from the right to notice of an on-site audit
under certain circumstances; providing an effective
date.

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

Section 1. Section 465.1885, Florida Statutes, is created
to read:

465.1885 Pharmacy audits; rights.—

(1) If an audit of the records of a pharmacy licensed under
this chapter is conducted directly or indirectly by a managed
care company, an insurance company, a third-party payor, a
pharmacy benefit manager, or an entity that represents
responsible parties such as companies or groups, referred to as
an "entity" in this section, the pharmacy has the following
rights:

(a) To be notified at least 7 calendar days before the
initial on-site audit for each audit cycle.

(b) To have the on-site audit scheduled after the first 3
calendar days of a month unless the pharmacist consents
otherwise.

(c) To have the audit period limited to 24 months after the
date a claim is submitted to or adjudicated by the entity.

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(d) To have an audit that requires clinical or professional
judgment conducted by or in consultation with a pharmacist.

(e) To use the written and verifiable records of a
hospital, physician, or other authorized practitioner, which are
transmitted by any means of communication, to validate the
pharmacy records in accordance with state and federal law.

(f) To be reimbursed for a claim that was retroactively
denied for a clerical error, typographical error, scrivener's
error, or computer error if the prescription was properly and
correctly dispensed, unless a pattern of such errors exists,
fraudulent billing is alleged, or the error results in actual
financial loss to the entity.

(g) To receive the preliminary audit report within 120 days
after the conclusion of the audit.

(h) To produce documentation to address a discrepancy or
audit finding within 10 business days after the preliminary
audit report is delivered to the pharmacy.

(i) To receive the final audit report within 6 months after
receiving the preliminary audit report.

(j) To have recoupment or penalties based on actual
overpayments and not according to the accounting practice of
extrapolation.

(2) The rights contained in this section do not apply to:

(a) Audits in which suspected fraudulent activity or other
intentional or wilful misrepresentation is evidenced by a
physical review, review of claims data or statements, or other
investigative methods.

(b) Audits of claims paid for by federally funded programs;

(c) Concurrent reviews or desk audits that occur within 3

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2014702c2

59 business days of transmission of a claim and where no chargeback
60 or recoupment is demanded; or

61 (d) Audits related to fee-for-service claims under the
62 Medicaid program.

63 (3) An entity that audits a pharmacy located within a
64 Health Care Fraud Prevention and Enforcement Action Team (HEAT)
65 Task Force area designated by the United States Department of
66 Health and Human Services and the United States Department of
67 Justice may dispense with the notice requirements of paragraph
68 (1) (a) if such pharmacy has been a member of a provider network
69 for less than 12 months.

70 Section 2. This act shall take effect October 1, 2014.

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/10

Meeting Date

Topic Pharmacy Audits

Bill Number 702
(if applicable)

Name Cynthia Henderson

Amendment Barcode _____
(if applicable)

Job Title _____

Address 108 E Jefferson St Ste A
Street
Tall, FL 32301
City State Zip

Phone 850 210 5385

E-mail Cyhenderson@me.com

Speaking: ☒ For ☐ Against ☐ Information

Representing EPIC Rx

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard 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

4-10-14

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

Meeting Date

Topic Pharmacy

Bill Number 702
(if applicable)

Name Mike Fischer

Amendment Barcode _____
(if applicable)

Job Title _____

Address PO BOX 1197

Phone 222-6344

Street

TLH

32703

City

State

Zip

E-mail Mike@redfishconsult.com

Speaking: ☒ For ☐ Against ☐ Information

Representing FLORIDA INDEPENDENT PHARMACY 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 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

4/10/2014

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

Meeting Date

Topic Pharmacy Audits Bill Number 702
Name Jorge Chamizo Amendment Barcode _____ (if applicable)
Job Title Attorney (if applicable)
Address 108 South Monroe Street Phone (850) 681-0024
Tallahassee, FL 32301 E-mail jorge@flapartners.com
City State Zip
Speaking: ☒ For ☐ Against ☐ Information
Representing Independent Pharmacy Cooperative
Appearing at request of Chair: ☐ Yes ☒ No Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard 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)

04/01/2014

Meeting Date

Topic PHARMACY AUDITS

Bill Number 702
(if applicable)

Name MICHAEL JACKSON

Amendment Barcode _____
(if applicable)

Job Title EXECUTIVE VICE PRESIDENT & CEO

Address 610 N. ADAM ST

Phone 850 222-2400

Street

TALLAHASSEE FL 32301

City

State

Zip

E-mail MJACKSON@PHARMVIEW.COM

Speaking: ☒ For ☐ Against ☐ Information

Representing FLORIDA PHARMACY ASSOCIATION

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

The Florida Senate
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 724

INTRODUCER: Senators Dean and Altman

SUBJECT: Military Veterans

DATE: April 10, 2014

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Ryon/Spaulding</u>	<u>Ryon</u>	<u>MS</u>	Favorable
2. <u>Everette</u>	<u>Eichin</u>	<u>TR</u>	Favorable
3. <u>Carey</u>	<u>Kynoch</u>	<u>AP</u>	Favorable

I. Summary:

SB 724 renames references to the “Korean Conflict” and the “Vietnam Era” as the “Korean War” and the “Vietnam War,” respectively. The bill also creates a special use license plate for recipients of the Combat Medical Badge, renames the “Korean Conflict Veteran” special use license plate the “Korean War Veteran” license plate, and requires military-related special use license plates to be redesigned to bear the likeness of the respective campaign medal or badge.

The Department of Highway Safety and Motor Vehicles will incur expenditures associated with the new special use plate and the redesign of an existing special use plate. These costs can be absorbed within existing resources.

II. Present Situation:

Section 1.01(14), F.S., defines the term “veteran” for purposes of determining eligibility for state benefits available to veterans. A person who has served in the active military and has received an honorable discharge may be eligible for a number of state benefits exclusive to veterans. Additionally, a veteran may be entitled to enhanced benefits as a wartime veteran if the veteran received a campaign badge for service in a campaign or expedition authorized under specified periods of wartime. Current law specifies nine periods of wartime in which status as a wartime veteran can be attained, which include both the “Korean Conflict” and the “Vietnam Era.”¹

Current law refers to military action in the Southeast Asia region from June 27, 1950, to January 31, 1955, as the “Korean Conflict,”² and likewise, refers to military action in the Southeast Asia

¹ Periods of wartime service established in s. 1.01(14), F.S., include the following: Spanish-American War; Mexican Border Period; World War I; World War II; Korean Conflict; Vietnam Era; Persian Gulf War; Operation Enduring Freedom; and Operation Iraqi Freedom.

² Section 1.01(14)(e), F.S.

region from February 28, 1961, to May 7, 1975, as the “Vietnam Era.”³ For both aforementioned campaigns, Congress authorized the use of force, as opposed to issuing a formal declaration of war. Nonetheless, Congress passed and the federal courts affirmed various laws and legal decisions regarding funding of the war efforts, military discipline, “combat zone” tax exemptions, economic stabilization measures, and subsequent U.S. Department of Veterans Affairs benefits without a formal declaration of war for both campaigns.⁴ Modern day references to the campaigns in Korea and Vietnam are often thought of and referred to as the “Korean War” and the “Vietnam War,” respectively.

Special Use License Plates

Current law provides for several types of license plates. In addition to plates issued for governmental or business purposes, the Department of Highway Safety and Motor Vehicles (DHSMV) offers four basic types of plates to the general public:

- Standard plates;
- Specialty license plates;
- Personalized prestige license plates;
- Special use license plates.

Certain members of the general public may be eligible to apply for special use license plates if they are able to document their eligibility pursuant to various sections of ch. 320, F.S. Special use license plates primarily include special use military license plates as well as plates for the handicapped.

Currently, there are 13 special use license plates authorized in s. 320.089, F.S., which can be issued to military service members or veterans for the following types of service:⁵

- Active or retired member of the Florida National Guard;
- Active or retired member of any branch of the United States Armed Forces Reserve;
- Former Prisoner of War;
- Survivor of Pearl Harbor;
- Recipient of the Purple Heart medal;
- Service member or veteran of Operation Desert Storm;
- Service member or veteran of Operation Desert Shield;
- Service member or veteran of Operation Iraqi Freedom;
- Service member or veteran of Operation Enduring Freedom;
- Recipient of the Combat Infantry Badge;
- Recipient of the Combat Action Badge;
- Veteran of the Vietnam War;
- Veteran of the Korean Conflict.

³ Section 1.01(14)(f), F.S.

⁴ Congressional Research Service, Declarations of War and Authorizations for the Use of Military Force: Historical Background and Legal Implications, January 11, 2013, <http://www.fas.org/sgp/crs/natsec/RL31133.pdf>,

⁵ s. 320.089, F.S.; Recipients of the special use license plates in s. 320.089, F.S., are required to pay the annual license tax in s. 320.08, F.S., except for survivors of Pearl Harbor, recipients of the Purple Heart medal, and former Prisoners of War.

Special use license plates authorized under s. 320.089, F.S., are each stamped with words consistent with the type of special use plate issued. For example, a special use plate issued to a current or former member of the Florida National Guard is stamped with the words “National Guard.” Additionally, two of the thirteen military-related special use license plates are authorized to display images consistent with the type of special use plate. The Purple Heart and the Combat Infantry Badge special use plates each display images resembling the respective award.

The first \$100,000 of the general revenue from the issuance of these special use plates is deposited into the Grants and Donations Trust Fund under the Veterans’ Nursing Homes of Florida Act, as described in s. 296.38(2), F.S.⁶ Any additional general revenue is deposited into the State Homes for Veterans Trust Fund and used to construct, operate, and maintain domiciliary and nursing homes for veterans.⁷ For Fiscal Year 2012-2013 the total revenue from these plates was \$2,112,491.73.⁸

Tax Collectors maintain an adequate inventory on-hand for each special use license plate. Upon issuance of a redesigned special use license plate, the on-hand inventory of the existing design would become obsolete and be removed from inventory.⁹

Combat Medical Badge

Army regulations provide for three types of combat badges: the Combat Infantry Badge, the Combat Action Badge, and the Combat Medical Badge.¹⁰ All three are awarded to soldiers of the rank of Colonel or below that have engaged in active ground combat against an enemy force. The Combat Medical Badge was created by the War Department on March 1, 1945.¹¹ Its evolution stemmed from a requirement to recognize medical aid-men who shared the same hazards and hardships of ground combat on a daily basis with the infantry soldier.¹² The Combat Medical Badge was designed to provide recognition to the field medic who accompanies the infantryman into battle and shares the experiences unique to the infantry in combat.¹³

Current law authorizes special use plates for the Combat Action Badge and the Combat Infantry Badge, but not the Combat Medical Badge.

III. Effect of Proposed Changes:

Section 1 amends s. 1.01, F.S., to change the references to the “Korean Conflict” and the “Vietnam Era” to the “Korean War” and the “Vietnam War,” respectively.

⁶ s. 320.089(1)(b), F.S.

⁷ Id.

⁸ Florida Department of Veterans’ Affairs, 2014 Agency Bill Analysis: HB 559 (Identical to SB 724)

⁹ DHSMV, 2014 Agency Bill Analysis: HB 559 (Identical to SB 724)

¹⁰ United States Army Regulation 600-8-22, Section II, available at:

http://armypubs.army.mil/epubs/600_Series_Collection_1.html.

¹¹ U.S. Army Human Resources Command, Combat Medical Badge, available at:

<https://www.hrc.army.mil/TAGD/Combat%20Medical%20Badge%20CMB>.

¹² Id.

¹³ Id.

Section 2 amends s. 295.125(2), F.S., to revise a reference from “Vietnam Era” to “Vietnam War.”

Section 3 amends s. 320.089, F.S., to do the following:

- Create a special use license plate for recipients of the Combat Medical Badge;
- Change the “Korean Conflict Veteran” special use license plate to read “Korean War Veteran;” and
- Require the military-related special use license plates to be stamped with the likeness of the related campaign medal or badge. These special use license plates would be redesigned and would replace any on-hand license plate inventory. Currently, two of the eleven military-related special use license plates are required to bear the likeness of the related campaign medal or badge.

Section 4 provides that the bill take effect on July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Under SB 724, a redesigned special use license plate currently listed in s. 320.089, F.S., may be issued to a current Florida motor vehicle registrant as a “renewal” license plate, as opposed to a “new” license plate. Registration fees and taxes vary, based on the weight of the vehicle. On average, it costs approximately \$45-50 in taxes and fees for either the renewal of a special use license plate or the first time issuance of a special use license plate in exchange for a standard license plate.¹⁴

A special use license plate would be available to a new group of registrants who are recipients of the Combat Medical Badge.

¹⁴ Per e-mail correspondence with DHSMV staff. Feb. 12, 2014. On file with Military and Veterans Affairs, Space, and Domestic Security Committee.

C. Government Sector Impact:

According to the DHSMV, the initial startup cost to create and manufacture the Combat Medical Badge license plate would be \$4,230. An initial order of 1,500 license plates would be made (1,500 x \$2.82) and distributed to Tax Collector offices statewide to meet public demand.¹⁵

Startup costs to place the redesigned special use license plates (1,500 of each) in inventory statewide would result in a cost of \$46,530 (16,500 x \$2.82).¹⁶ The bill requires the on-hand inventory of special use plates that are to be redesigned to be removed from inventory. There are 37,419 special use license plates on-hand at Tax Collector offices across the state. The cost of supplying the on-hand inventory was \$105,521.58 (37,419 x \$2.82).¹⁷

The DHSMV will incur expenditures of \$50,760 to create the new Combat Medical Badge License Plate and redesign existing special use plates. These costs can be absorbed within existing resources.

The bill could have a positive impact on the State Homes for Veteran's Trust Fund with the sale of the new Combat Medical Badge special use plate and also any increase in the sale of existing special use plates as a result of the redesigns of the plates to include the respective image.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 1.01, 295.125, and 320.089.

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

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

None.

¹⁵ DHSMV, 2014 Agency Bill Analysis: HB 559 (Identical to SB 724)

¹⁶ DHSMV, 2014 Agency Bill Analysis: HB 559 (Identical to SB 724)

¹⁷ Id.

B. Amendments:

None.

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

By Senator Dean

5-00375-14

2014724__

A bill to be entitled

An act relating to military veterans; amending ss. 1.01 and 295.125, F.S.; revising references from the "Korean Conflict" and the "Vietnam Era" to the "Korean War" and the "Vietnam War," respectively, and from "Korean Conflict Veteran" to "Korean War Veteran"; amending s. 320.089, F.S.; authorizing the issuance of a Combat Medical Badge license plate; revising references; establishing a method of proof of eligibility for certain specialty license plates; providing an effective date.

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

Section 1. Subsection (14) of section 1.01, Florida Statutes, is amended to read:

1.01 Definitions.—In construing these statutes and each and every word, phrase, or part hereof, where the context will permit:

(14) The term "veteran" means a person who served in the active military, naval, or air service and who was discharged or released ~~therefrom~~ under honorable conditions only or who later received an upgraded discharge under honorable conditions, notwithstanding any action by the United States Department of Veterans Affairs on individuals discharged or released with other than honorable discharges. To receive benefits as a wartime veteran, a veteran must have served in a campaign or expedition for which a campaign badge has been authorized or a ~~veteran must have served~~ during one of the following periods of

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wartime service:

(a) Spanish-American War: April 21, 1898, to July 4, 1902, and including the Philippine Insurrection and the Boxer Rebellion.

(b) Mexican Border Period: May 9, 1916, to April 5, 1917, in the case of a veteran who during such period served in Mexico, on the borders of thereof, or in the waters adjacent to Mexico thereto.

(c) World War I: April 6, 1917, to November 11, 1918; extended to April 1, 1920, for those veterans who served in Russia; also extended through July 1, 1921, for those veterans who served after November 11, 1918, and before July 2, 1921, provided such veterans had at least 1 day of service between April 5, 1917, and November 12, 1918.

(d) World War II: December 7, 1941, to December 31, 1946.

(e) Korean War ~~Conflict~~: June 27, 1950, to January 31, 1955.

(f) Vietnam War ~~Era~~: February 28, 1961, to May 7, 1975.

(g) Persian Gulf War: August 2, 1990, to January 2, 1992.

(h) Operation Enduring Freedom: October 7, 2001, and ending on the date thereafter prescribed by presidential proclamation or by law.

(i) Operation Iraqi Freedom: March 19, 2003, and ending on the date thereafter prescribed by presidential proclamation or by law.

Section 2. Subsection (2) of section 295.125, Florida Statutes, is amended to read:

295.125 Preference for admission to career training.—

(2) In determining order of admission or acceptance for

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students, every career center or career program ~~that which~~ receives state funding or support shall give preference as provided in subsection (3) to a person who served in the Armed Forces of the United States at any time during the Vietnam War ~~War~~, as defined in s. 1.01(14), and who has been separated therefrom under honorable conditions, if such person's enrollment is directly related to his or her present employment or to his or her securing employment.

Section 3. Section 320.089, Florida Statutes, is reordered and amended to read:

320.089 Members of National Guard ~~and active United States Armed Forces reservists; former prisoners of war;~~ survivors of Pearl Harbor; Purple Heart medal recipients; active or retired United States Armed Forces reservists ~~Operation Desert Storm Veterans; Operation Desert Shield Veterans; Operation Iraqi Freedom and Operation Enduring Freedom Veterans;~~ Combat Infantry Badge, Combat Medical Badge, or Combat Action Badge recipients; ~~former prisoners of war; Korean War Veterans; Vietnam War Veterans; Operation Desert Shield Veterans; Operation Desert Storm Veterans; Operation Enduring Freedom Veterans; and Operation Iraqi Freedom~~ ~~Korean Conflict~~ Veterans; special license plates; fee.—

(1) (a) Each owner or lessee of an automobile or truck for private use or recreational vehicle as specified in s. 320.08(9)(c) or (d), which is not used for hire or commercial use, who is a resident of the state and an active or retired member of the Florida National Guard, a survivor of the attack on Pearl Harbor, a recipient of the Purple Heart medal, an active or retired member of any branch of the United States

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Armed Forces Reserve, or a recipient of the Combat Infantry Badge, Combat Medical Badge, or Combat Action Badge shall, upon application to the department, accompanied by proof of active membership or retired status in the Florida National Guard, proof of membership in the Pearl Harbor Survivors Association or proof of active military duty in Pearl Harbor on December 7, 1941, proof of being a Purple Heart medal recipient, proof of active or retired membership in any branch of the Armed Forces Reserve, or proof of membership in the Combat Infantrymen's Association, Inc., or other proof of being a recipient of the Combat Infantry Badge, Combat Medical Badge, or Combat Action Badge, and upon payment of the license tax for the vehicle as provided in s. 320.08, be issued a license plate as provided by s. 320.06, upon which, in lieu of the serial numbers prescribed by s. 320.06, shall be stamped the words "National Guard," "Pearl Harbor Survivor," "Combat-wounded veteran," "U.S. Reserve," "Combat Infantry Badge," "Combat Medical Badge," or "Combat Action Badge," as appropriate, and a likeness of the related campaign medal or badge, followed by the serial number of the license plate. Additionally, the Purple Heart plate may have the words "Purple Heart" stamped on the plate and the likeness of the Purple Heart medal appearing on the plate.

(b) Notwithstanding any other provision of law to the contrary, beginning with fiscal year 2002-2003 and annually thereafter, the first \$100,000 in general revenue generated from the sale of license plates issued under this section shall be deposited into the Grants and Donations Trust Fund, as described in s. 296.38(2), to be used for the purposes established by law for that trust fund. Any additional general revenue generated

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from the sale of such plates shall be deposited into the State Homes for Veterans Trust Fund and used solely to construct, operate, and maintain domiciliary and nursing homes for veterans, subject to the requirements of chapter 216.

(c) Notwithstanding any provisions of law to the contrary, an applicant for a Pearl Harbor Survivor license plate or a Purple Heart license plate who also qualifies for a disabled veteran's license plate under s. 320.084 shall be issued the appropriate special license plate without payment of the license tax imposed by s. 320.08.

(2) Each owner or lessee of an automobile or truck for private use, truck weighing not more than 7,999 pounds, or recreational vehicle as specified in s. 320.08(9)(c) or (d), which is not used for hire or commercial use, who is a resident of the state and who is a former prisoner of war, or their unremarried surviving spouse, shall, upon application therefor to the department, be issued a license plate as provided in s. 320.06, on which license plate are stamped the words "Ex-POW" followed by the serial number. Each application shall be accompanied by proof that the applicant meets the qualifications specified in paragraph (a) or paragraph (b).

(a) A citizen of the United States who served as a member of the Armed Forces of the United States or the armed forces of a nation allied with the United States who was held as a prisoner of war at such time as the Armed Forces of the United States were engaged in combat, or their unremarried surviving spouse, may be issued the special license plate provided for in this subsection without payment of the license tax imposed by s. 320.08.

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(b) A person who was serving as a civilian with the consent of the United States Government, or a person who was a member of the Armed Forces of the United States who was not a United States citizen and was held as a prisoner of war when the Armed Forces of the United States were engaged in combat, or their unremarried surviving spouse, may be issued the special license plate provided for in this subsection upon payment of the license tax imposed by s. 320.08.

(3) Each owner or lessee of an automobile or truck for private use, truck weighing not more than 7,999 pounds, or recreational vehicle as specified in s. 320.08(9)(c) or (d), which is not used for hire or commercial use, who is a resident of this state and who is the unremarried surviving spouse of a recipient of the Purple Heart medal shall, upon application therefor to the department, with the payment of the required fees, be issued a license plate as provided in s. 320.06, on which license plate are stamped the words "Purple Heart" and the likeness of the Purple Heart medal followed by the serial number. Each application shall be accompanied by proof that the applicant is the unremarried surviving spouse of a recipient of the Purple Heart medal.

~~(6)-(4)~~ The owner or lessee of an automobile or truck for private use, a truck weighing not more than 7,999 pounds, or a recreational vehicle as specified in s. 320.08(9)(c) or (d) which automobile, truck, or recreational vehicle is not used for hire or commercial use who is a resident of the state and a current or former member of the United States military who was deployed and served in Saudi Arabia, Kuwait, or another area of the Persian Gulf during Operation Desert Shield or Operation

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Desert Storm ~~or Operation Desert Shield; in Afghanistan during~~
~~Operation Enduring Freedom; or in Iraq during Operation Iraqi~~
~~Freedom; or in Afghanistan during Operation Enduring Freedom~~
 shall, upon application to the department, accompanied by proof
 of active membership or former active duty status during one of
 these operations, and upon payment of the license tax for the
 vehicle as provided in s. 320.08, be issued a license plate as
 provided by s. 320.06 upon which, in lieu of the registration
 license number prescribed by s. 320.06, shall be stamped the
 words "Operation Desert Shield," "Operation Desert Storm,"
"Operation Enduring Freedom," or "Operation Desert Shield,"
"Operation Iraqi Freedom," or "Operation Enduring Freedom," as
 appropriate, and a likeness of the related campaign medal
 followed by the registration license number of the plate. Proof
that the applicant was awarded the Southwest Asia Service Medal,
Iraq Campaign Medal, Afghanistan Campaign Medal, or Global War
on Terrorism Expeditionary Medal is sufficient to establish
eligibility for the appropriate license plate.

(5) The owner or lessee of an automobile or truck for
 private use, a truck weighing not more than 7,999 pounds, or a
 recreational vehicle as specified in s. 320.08(9)(c) or (d)
 which automobile, truck, or recreational vehicle is not used for
 hire or commercial use, who is a resident of the state and a
 current or former member of the United States military, and who
 was deployed and served in Vietnam during United States military
 deployment in Indochina shall, upon application to the
 department, accompanied by proof of active membership or former
 active duty status during these operations, and, upon payment of
 the license tax for the vehicle as provided in s. 320.08, be

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issued a license plate as provided by s. 320.06 upon which, in
 lieu of the registration license number prescribed by s. 320.06,
 shall be stamped the words "Vietnam War Veteran," and a likeness
of the Vietnam Service Medal, followed by the registration
 license number of the plate. Proof that the applicant was
awarded the Vietnam Service Medal is sufficient to establish
eligibility for the license plate.

~~(4)(6)~~ The owner or lessee of an automobile or truck for
 private use, a truck weighing not more than 7,999 pounds, or a
 recreational vehicle as specified in s. 320.08(9)(c) or (d)
 which automobile, truck, or recreational vehicle is not used for
 hire or commercial use, who is a resident of the state and a
 current or former member of the United States Armed Forces
military, and who was deployed and served in Korea during the
Korean War as defined by s. 1.01(14), United States military
deployment in Korea shall, upon application to the department,
 accompanied by proof of active membership or former active duty
 status during the Korean War ~~these operations~~, and upon payment
 of the license tax for the vehicle as provided in s. 320.08, be
 issued a license plate as provided by s. 320.06 upon which, in
 lieu of the registration license number prescribed by s. 320.06,
 shall be stamped the words "Korean War Veteran," and a likeness
of the Korean Service Medal, "Korean Conflict Veteran," followed
 by the registration license number of the plate. Proof that the
applicant was awarded the Korean Service Medal is sufficient to
establish eligibility for the license plate.

Section 4. This act shall take effect July 1, 2014.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR CHARLES S. DEAN, SR.
5th District

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

March 6, 2014

The Honorable Joe Negron
412 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Negron,

I respectfully request you place Senate Bill 724, relating to Military Veterans, on your Appropriations Committee agenda at your earliest convenience.

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

Sincerely,

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

Charles S. Dean
State Senator District 5

cc: Cindy Kynoch, Staff Director

SENATE APPROPRIATIONS
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REPLY TO:

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

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/SB 726

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Detert

SUBJECT: Reemployment Assistance Appeals Commission

DATE: April 10, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Siples	Hrdlicka	CM	Favorable
2.	McVaney	McVaney	GO	Fav/CS
3.	Pingree	Kynoch	AP	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 726 reconfigures the Reemployment Assistance Appeals Commission (commission) to expand its membership from three to nine members and provide regional representation by requiring the appointment of regional workforce board (RWB) members. The commissioners will be appointed by the Governor, subject to Senate confirmation. Commissioners will serve two year terms, except for some initial appointments, which will be for one year to allow the appointments to be staggered. The full-time chair of the commission will continue to be selected and appointed by the Governor, subject to Senate confirmation, and serve a four year term. The regional workforce board RWB member appointments must be made in a manner that prevents any RWB from being represented on the commission more than once in a six year period. The bill outlines the criteria for a quorum and contains conflict of interest provisions. The bill also eliminates the \$100 stipend paid to commission members.

The fiscal impact of the bill is indeterminate. To the extent that federal funds are available to cover expenses associated with the commission, the bill will not have an impact on state funds. See Section V.

II. Present Situation:

Reemployment Assistance

The Unemployment Insurance Program provides unemployment benefits to eligible workers who are unemployed through no-fault of their own (as determined under state law) and who meet the requirements of state law.¹ The program is administered as a partnership of the federal government and the states.²

Florida's unemployment insurance program was created by the Legislature in 1937.³ The program was rebranded as the "reemployment assistance program" in 2012.⁴ The Department of Economic Opportunity (DEO) is the current agency responsible for administering Florida's reemployment assistance laws, primarily through its Division for Workforce Services.

An unemployed individual must apply to the DEO for benefits. To receive benefits, a claimant must meet certain monetary and non-monetary eligibility requirements.⁵ Key eligibility requirements involve a claimant's earnings during a certain period of time, the manner in which the claimant became unemployed, and the claimant's efforts to find new employment. A notice of claim is sent to a claimant's most recent employer and all employers whose employment records are liable for benefits.

Determinations and Redeterminations

The DEO issues determinations and redeterminations on the monetary and non-monetary eligibility requirements.⁶ Determinations and redeterminations are statements by the DEO regarding the application of law to an individual's eligibility for benefits or the effect of the benefits on an employer's tax account. A party who believes a determination is inaccurate may request reconsideration and the DEO must review the information on which the request is based and issue a redetermination.

Appeals of DEO Determinations – Office of Appeals

If a party disagrees with either the determination or redetermination, the applicant or employer may request an administrative hearing before an appeals referee. Appeals referees in the DEO's Office of Appeals hold hearings and issue decisions to resolve disputes related to eligibility for unemployment compensation and the payment and collection of unemployment compensation taxes.⁷

¹ United States Department of Labor, Employment and Training Administration, *State Unemployment Insurance Benefits*, available at <http://workforcesecurity.doleta.gov/unemploy/uifactsheet.asp> (last visited Feb. 6, 2014).

² There are 53 programs, including the 50 states, Puerto Rico, the Virgin Islands, and the District of Columbia.

³ Chapter 18402, L.O.F.

⁴ Chapter 2012-30, L.O.F.

⁵ See s. 443.091, F.S.

⁶ Section 443.151(3), F.S. The Social Security Act requires states to offer "an opportunity for a fair hearing before an impartial tribunal, for all individuals whose claims for unemployment compensation are denied." 42 U.S.C. 503(a)(3).

⁷ Appeals are governed by s. 443.151(4), F.S., and the Administrative Procedures Act, ch. 120, F.S. Special deputies within the Office of Appeals handle appeals related to matters on tax, reimbursement, and liability protests.

Appeals of Appeals Referee Decisions – Reemployment Assistance Appeals Commission

A decision by an appeals referee can be appealed to the commission. The commission may affirm, modify, remand with instructions, or reverse the determination made by the appeals referee based on evidence previously submitted in the case or additional evidence taken at the direction of the commission.⁸ However, the commission may also assume jurisdiction of a case prior to completion of proceedings by an appeals referee.⁹

Appeals of Commission Decisions – Florida District Courts of Appeal

A party to an appeal who disagrees with the commission's order may seek review of the decision in the Florida district courts of appeal.¹⁰ The notice of appeal should be filed either in the district court of appeal in the appellate district in which a claimant resides or the job separation arose or in the appellate district where the order was issued. If the notice of appeal is filed with the commission, then the appeal will be filed in the district court of appeal in the appellate district where the order was issued.

Reemployment Assistance Appeals Commission

The commission was established in 1977 as the Board of Review.¹¹ The commission is administratively housed within the DEO, but is a quasi-judicial administrative appellate body independent of the DEO.¹² The commission is funded from federal grants that are received by the DEO to administer Florida's reemployment assistance program.

The current composition of the commission includes a full-time chairperson and two other members, appointed by the Governor and subject to Senate confirmation. The members serve staggered terms of 4 years each. The chair of the commission is required to have the same qualifications as a circuit judge and is restricted from engaging in any other business or employment. Only one appointee may be a representative of employers and one may be a representative of employees as demonstrated by each member's previous vocation, employment, or affiliation. The chair is paid an annual salary comparable to that of a circuit judge, currently \$146,080. The other two members are paid a stipend of \$100 for each day they are engaged in work for the commission. The chair and other commission members are entitled to be reimbursed for travel expenses, as provided by state law.

For Fiscal Year 2012-2013, the commission received 12,328 appeals and issued 12,542 final or remand orders. If one of the commissioners disagrees with a staff recommendation or otherwise requests discussion of a case, it is docketed for a publicly-noticed deliberation meeting. The commissioners reviewed approximately 9,400 cases that were docketed for the commission and

⁸ Rule 73B-22, F.A.C. The commission will review the appeals referee's decision to determine whether the findings are supported by competent, substantial evidence in the record and the legal conclusions are in accord with the essential requirements of law.

⁹ Department of Economic Opportunity, *Agency Legislative Bill Analysis*, (Feb. 12, 2014) (on file with the Senate Committee on Commerce and Tourism). The commission does not generally hold oral arguments and has not removed cases from the appeals referees.

¹⁰ Section 443.151(4)(c), (d), and (e), F.S.

¹¹ Chapter 77-399, L.O.F.

¹² Section 20.60(8), F.S.

each commissioner spent, on average, 1,060 hours reviewing these cases.¹³ Additionally, each commissioner spends an average of two hours per week to meet and discuss cases, plus any additional time the commissioner may need to prepare for the meeting. For each case, a commissioner receives a staff summary, the lower level appeal decision, the letter of appeal, legal briefs or other documents filed with the commission, and any exhibits and other evidence reviewed by the DEO appeals referee. Legal staff of the commission is available to provide the commissioners with legal research and analysis for questions that may arise during their independent review of cases or during the commission's public deliberations.¹⁴

Commissioners are provided case information on a daily basis so that the commission can dispose of cases within federally-required timelines.¹⁵ The commission must dispose of 50 percent of cases within 45 days, 80 percent within 75 days, and 95 percent within 150 days. Failure to meet federal performance standards may negatively affect federal funding for the reemployment assistance program. For Fiscal Year 2012-2013, the commission disposed of 75 percent of its cases within 45 days, 98 percent within 75 days, and 100 percent within 150 days.¹⁶

Regional Workforce Boards

The Workforce Innovation Act of 2000 was passed in an effort to better connect the state's economic development strategies with its workforce development system.¹⁷ The act established a three-tier system for the delivery of workforce services.¹⁸

The DEO is Florida's lead state workforce agency.¹⁹ However, CareerSource Florida²⁰ sets the state's workforce development policy and guidance.²¹ Workforce services in Florida are provided by 24 regional workforce boards (RWBs) who deliver services through nearly 100 CareerSource Centers around the state.²²

Each RWB develops a local plan for using federal workforce funds and oversees workforce development activities in the region. The boards also select contractors to operate local CareerSource Centers. The CareerSource Centers deliver employment services to job seekers and employers. Services include job placement and recruitment assistance as well as funding for skills training.

¹³ DEO, *Agency Bill Analysis*. To calculate the amount of time spent, an average of 10 minutes per case for an "experienced commissioner" is used.

¹⁴ DEO, *Agency Bill Analysis*. Commission meetings are generally held by conference call.

¹⁵ DEO, *Agency Bill Analysis*. Timeliness standards are specified in the State Quality Service Plan. This plan serves as the performance document and the grant document through which the state receives administrative funding.

¹⁶ DEO, *Agency Bill Analysis*.

¹⁷ Chapter 2000-165, L.O.F. See bill analysis for SB 2050 and HB 1135 (2000).

¹⁸ See ch. 445, F.S.

¹⁹ Primarily through its Division of Workforce Services.

²⁰ Workforce Florida, Inc., is transitioning to a new unified brand, CareerSource Florida. CareerSource Florida, Florida Activates New Unified Workforce Brand, available at <http://careersourceflorida.com/wp-content/uploads/2014/01/CareerSourceFloridaLaunchRelease.pdf> (last visited Feb. 12, 2014).

²¹ Workforce Florida, Inc., is Florida's state workforce investment board. See 29 U.S.C. 2821.

²² See <http://careersourceflorida.com/about-careersource-florida> (last visited Feb. 12, 2014).

The service areas of the RWBs generally align with the community college system. Each board is allowed to implement policies based upon the economic development, business, and workforce needs of its particular region of the state.²³

The county or city governing bodies, within an RWB's designated service area, enter into an inter-local agreement to establish the local parameters under which the RWB will operate. This includes the manner in which board members are appointed. Board membership must comply with the requirements outlined in federal workforce law.²⁴ Specifically, the governor of the state, in partnership with the state board, must establish criteria for chief elected officials in the local areas to use when appointing members of the local boards. At a minimum, such criteria must require that the membership of each local board include the following:

- Representatives of business in the local area, who:
 - Are owners of businesses, chief executives or operating officers of businesses, and other business executives or employers with optimum policymaking or hiring authority;
 - Represent businesses with employment opportunities that reflect the employment opportunities of the local area; and
 - Are appointed from among individuals nominated by local business organizations and business trade associations;
- Representatives of local educational entities, including representatives of local educational agencies, local school boards, entities providing adult education and literacy activities, and postsecondary educational institutions (including representatives of community colleges, where such entities exist), selected from among individuals nominated by regional or local educational agencies, institutions, or organizations representing those local educational entities;
- Representatives of labor organizations (for a local area in which employees are represented by labor organizations), nominated by local labor federations, or (for a local area in which no employees are represented by such organizations), other representatives of employees;
- Representatives of community-based organizations (including organizations representing individuals with disabilities and veterans, for a local area in which such organizations are present);
- Representatives of economic development agencies, including private sector economic development entities;
- Representatives of each of the CareerSource partners; and
- Other individuals or representatives of entities deemed appropriate by the chief elected official in the local area.

Additionally, state law requires that if a public education or training provider is represented on the board, a representative of a private nonprofit provider and a representative of a private for-profit provider must also be appointed to the board. If the board is located in a region in which

²³ See s. 445.003, F.S.

²⁴ 29 U.S.C. s. 2832(b). See also Department of Economic Opportunity, Administrative Policy FG-OSPS-73, *Regional Workforce Board Composition, Certification and Decertification* (rev. Sept. 11, 2013), available at <http://www.floridajobs.org/PDG/guidancepapers/DEOGuidancePaperCert073.pdf> (last visited Feb. 14, 2014).

there is a military installation, the board must also include one nonvoting military representative.²⁵ The governor may remove a member of a local board for cause.²⁶

III. Effect of Proposed Changes:

Section 1 amends s. 443.012, F.S., to change the membership of the commission. The membership is changed from a full-time chair and two part-time commissioners to a full-time chair and eight volunteer commissioners who also serve as regional workforce board members. The bill provides that the terms of the members, except for the chair, currently serving on the commission will expire on September 30, 2014.

Beginning October 1, 2014, the commission will be composed of the nine members described above. The chair will continue to be appointed by the Governor, subject to Senate confirmation, for a term of four years. The Governor will appoint eight other commissioners, subject to confirmation by the Senate, for a term of two years. Four members of the commission will be selected from the even-numbered regional workforce boards; and four members of the commission will be selected from the odd-numbered regional workforce boards.

Only a single member of a regional workforce board may be represented on the commission at any given time. An individual regional workforce board cannot be represented more than once in a six year period. *For example:*

Year	Even-numbered RWBs	Odd-numbered RWBs
2014	2,4,6, and 8*	1,3,5,and 7*
2015	6 and 8	5 and 7
2016	10 and 12	9 and 11
2017	14 and 16	13 and 15
2018	18 and 20	17 and 19
2019	22 and 24	21 and 23

*For the initial appointments, two of the members appointed from the even-numbered regional workforce boards and two of the members appointed from the odd-numbered regional workforce boards will be appointed for a one year term in order to stagger the terms of the appointments. These individuals would be eligible to be reappointed for an additional two year term. Vacancies for unexpired terms will be filled in the same manner as the original appointment.

Volunteer commission members will only be reimbursed for travel expenses and will not receive the \$100 daily stipend currently paid to the two part-time commission members for each day they are engaged in commission work.

The bill provides that the presence of four members, in addition to the chair, will constitute a quorum. A member may not participate in a case in which he or she is an interested party or may have a conflict of interest.

²⁵ Section 445.007(1), F.S.

²⁶ "Cause" includes, but is not limited to, engaging in fraud or other criminal acts, incapacity, unfitness, neglect of duty, official incompetence and irresponsibility, misfeasance, malfeasance, nonfeasance, or lack of performance. See s. 445.007(2)(b), F.S.

Section 2 provides an effective date of July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The fiscal impact of CS/SB 726 is indeterminate. A RWB member that also serves as a commissioner of the Reemployment Assistance Appeals Commission who is employed or engaged in business activities will have to commit time to both RWB and commission business, which could impact time away from the member/commissioner's primary employment or business activities.

C. Government Sector Impact:

The DEO anticipates that the bill will:²⁷

- Have a significant, but indeterminate, impact on the resources and staff required to provide legal and administrative support to nine commission members instead of three.
- Result in increased travel costs, because the commission meets in person at least two times per year. New members will also be required to travel to Tallahassee for training, which commission staff anticipates will last approximately one week.
- Require additional computers and computer support for the additional commissioners.

To the extent that federal funds to administer the State's Reemployment Assistance Program are available to cover any expenses associated with the bill, the bill will not have an impact to state funds.

²⁷ DEO, *Agency Bill Analysis*.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The legislation may impact the commission's ability to meet federal timeliness standards for the reemployment assistance appeals process. With eight new commissioners in the first year and then four new commissioners each subsequent year, the rate at which cases can be reviewed may be significantly reduced.²⁸

VIII. Statutes Affected:

This bill substantially amends section 443.012 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 Governmental Oversight and Accountability on April 3, 2014:

The CS eliminates the authority of the presiding officers of the Legislature to recommend the membership for appointment to the appeals commission. Instead, the Governor must select 4 members from the even-numbered regional workforce boards and 4 members from the odd-numbered regional workforce boards.

B. Amendments:

None.

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

²⁸ DEO, *Agency Bill Analysis*.

By the Committee on Governmental Oversight and Accountability;
and Senator Detert

585-03728-14

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A bill to be entitled

An act relating to the Reemployment Assistance Appeals Commission; amending s. 443.012, F.S.; revising membership requirements of the commission; removing a provision requiring payment of a daily stipend for certain commissioners; providing an effective date.

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

Section 1. Section 443.012, Florida Statutes, is amended to read:

443.012 Reemployment Assistance Appeals Commission.—

(1) CREATION.—The Reemployment Assistance Appeals Commission There is created within the Division of Workforce Services of the Department of Economic Opportunity a ~~Reemployment Assistance Appeals Commission. The commission is composed of a chair and two other members appointed by the Governor, subject to confirmation by the Senate. Only one appointee may be a representative of employers, as demonstrated by his or her previous vocation, employment, or affiliation, and only one appointee may be a representative of employees, as demonstrated by his or her previous vocation, employment, or affiliation.~~

(2) MEMBERS.—

(a) Except for the chair, the terms of the members serving as of July 1, 2014, shall expire on September 30, 2014. Beginning October 1, 2014, the commission shall be composed of nine members, consisting of the following:

1. When the term of the chair serving as of July 1, 2014,

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expires, a chair, who shall be appointed by the Governor, subject to confirmation by the Senate, for a term of 4 years. The chair must have the qualifications required by law for a judge of the circuit court.

2. Eight members appointed by the Governor, subject to confirmation by the Senate, for a term of 2 years, notwithstanding s. 20.052(4)(c). Four members shall be appointed from the even-numbered regional workforce boards under s. 445.007(1) and four members shall be appointed from the odd-numbered regional workforce boards under s. 445.007(1). However, to stagger the terms of the initial appointments, two members appointed from the even-numbered workforce boards and two members appointed from the odd-numbered workforce boards shall be appointed to a term of 1 year and may be reappointed for an additional term of 2 years. In making appointments, the Governor shall consider representation of labor, minorities, persons with disabilities, small business, and veterans.

(b) Only one member may be appointed from an individual regional workforce board at a time. An individual regional workforce board may not be represented by an appointee more than once within a 6-year period.

(c) A vacancy for the unexpired term of a member shall be filled in the same manner as the original appointment.

(d) (a) The chair:

1. Shall devote his or her entire time to commission duties and Is responsible for the administrative functions of the commission.

2. (b) May The chair has authority to appoint a general counsel and other personnel to carry out the duties and

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responsibilities of the commission.

~~3.(e) Shall devote his or her entire time to commission duties. The chair must have the qualifications required by law for a judge of the circuit court and may not engage in any other business vocation or employment.~~

~~4. Notwithstanding any other law, the chair shall be paid a salary equal to that paid under state law to a judge of the circuit court.~~

~~(e)(d) The remaining members shall be paid a stipend of \$100 for each day they are engaged in the work of the commission. The chair and other members are entitled to be reimbursed for travel expenses, as provided in s. 112.061.~~

~~(e) The total salary of the chair and the travel expenses of the chair and other members each member of the commission shall be paid from the Employment Security Administration Trust Fund.~~

(3) HEARINGS.—

(a) The presence of four members, in addition to the chair, constitutes a quorum of the commission.

(b) A member may not take part in a discussion, deliberation, or action on a matter in which he or she is an interested party or has a conflict of interest as defined in s. 112.312.

~~(2) The members of the commission shall be appointed to staggered terms of 4 years each. A vacancy for the unexpired term of a member shall be filled in the same manner as the original appointment. The presence of two members constitutes a quorum for any called meeting of the commission.~~

~~(4)(3) AUTHORITY, POWERS, AND DUTIES.—~~The commission has

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all authority, powers, and duties, ~~and responsibilities~~ relating to reemployment assistance appeal proceedings under this chapter.

~~(a)(4)~~ The property, personnel, and appropriations relating to the specified authority, powers, and duties, ~~and responsibilities~~ of the commission shall be provided to the commission by the Department of Economic Opportunity.

~~(5)~~ The commission is not subject to control, supervision, or direction by the Department of Economic Opportunity in performing its powers or duties under this chapter.

(b)(6) The commission may do any of the following:

1. Make expenditures, including expenditures for personal services and rent, for law books, books of reference, periodicals, furniture, equipment, and supplies, and for printing and binding as necessary in exercising its authority and powers and carrying out its duties and responsibilities. All such expenditures of the commission shall be allowed and paid as provided in s. 443.211 upon the presentation of itemized vouchers approved by the chair.

~~2.(7) The commission may~~ Charge fees for publications, subscriptions, and copies of records and documents. These fees must be deposited into ~~in~~ the Employment Security Administration Trust Fund.

3. Adopt rules under ss. 120.536(1) and 120.54 to administer the provisions of law conferring duties upon it.

~~(c)(8)~~ The commission shall do all of the following:

1. Maintain and keep open during reasonable business hours an office in Tallahassee for the purpose of transacting its business, at which office the commission shall keep its official

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117 records and papers. The offices shall be furnished and equipped
118 by the commission. The commission may hold sessions and conduct
119 hearings at any place within the state.

120 ~~2.(9) The commission shall~~ Prepare and submit a budget
121 covering the necessary administrative cost of the commission.

122 ~~3.(10) The commission shall~~ Have a seal for authenticating
123 its orders, awards, and proceedings, upon which shall be
124 inscribed the words "State of Florida-Reemployment Assistance
125 Appeals Commission-Seal," and it shall be judicially noticed.

126 ~~(11) The commission has authority to adopt rules under ss.~~
127 ~~120.536(1) and 120.54 to administer the provisions of law~~
128 ~~conferring duties upon it.~~

129 ~~(d)(12)~~ Orders of the commission relating to reemployment
130 assistance under this chapter are subject to review only by
131 notice of appeal to the district courts of appeal in the manner
132 provided in s. 443.151(4)(e).

133 Section 2. This act shall take effect July 1, 2014.

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 782 (205260)

INTRODUCER: Appropriations Committee (Recommended by Subcommittee on Health and Human Services); Governmental Oversight and Accountability Committee; and Senator Brandes

SUBJECT: Government Data Practices

DATE: April 4, 2014 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McKay	McVaney	GO	Fav/CS
2.	Brown	Pigott	AHS	Fav/CS
3.	Brown	Kynoch	AP	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 782 requires state agencies that collect and maintain personal identification information through websites to post privacy policies on those websites and to provide alerts and options about Internet cookies¹ on agency websites.

The bill requires the Agency for Health Care Administration (AHCA) to provide electronic access to basic information on each state-licensed assisted living facility (ALF). The AHCA must provide a monitored comment web page where the public can comment on ALFs and representatives of ALFs may respond.

The bill eliminates the AHCA's Florida Center for Health Information and Policy Analysis and replaces it with the Florida Health Information Transparency Initiative.

The bill requires reports from the Office of Program Policy Analysis and Government Accountability.

Certain provisions of the bill have a negative fiscal impact of \$206,488 in trust fund dollars for Fiscal Year 2014-2015 and other provisions have indeterminate fiscal impacts.

¹ A "cookie" is an electronic message sent to a web browser from a web server. The browser stores the message in a computer's random access memory or on a computer's long-term data storage device. The message may be retrieved by the web server each time the browser requests to view a web page from the server, under various circumstances.

II. Present Situation:

Records Management

Section 257.36, F.S., creates a records and information management program within the Division of Library and Information Services (division) of the Department of State. The division must establish and administer a records management program directed to the application of efficient and economical management methods relating to the creation, utilization, maintenance, retention, preservation, and disposal of records, including public records. Each government agency, defined as any state, county, district, or municipal officer, department, division, bureau, board, commission, or other separate unit of government created or established by law, must establish and maintain an active and continuing program for economical and efficient records management.

Under s. 257.36(6), F.S., a public record may be destroyed or otherwise disposed of only in accordance with retention schedules established by the division. The division must adopt rules, which are binding on all agencies, relating to the destruction and disposition of records. The rules must provide at least the following:

- Procedures for complying and submitting to the division's records-retention schedules;
- Procedures for the physical destruction or other disposal of records; and
- Standards for the reproduction of records for security or with a view to the disposal of the original record.

The division issues General Records Schedules² that establish minimum retention requirements for series of records that are common to all agencies or specified types of agencies based on the legal, fiscal, administrative, and historical value of those record series to the agencies and to the State of Florida.³ If an agency has a type of record not covered by an existing General Record Schedule, the agency must request that the division create a Records Retention Schedule for that type of record. When the division creates and approves such a schedule, the agency must adhere to it.⁴

Public Records Laws

The Florida Constitution provides every person the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or of persons acting on their behalf.⁵ The records of the legislative, executive, and judicial branches are specifically included.⁶

The Florida Statutes also specify conditions under which public access must be provided to government records. The Public Records Act guarantees every person's right to inspect and copy

² The 13 active schedules for the various types of public entities are available at: http://dliis.dos.state.fl.us/recordsmgmt/gen_records_schedules.cfm

³ The General Records Schedules are referenced in in Rule 1B-24.003, F.A.C.

⁴ Rule 1B-24.003(7), F.A.C.

⁵ FLA. CONST., Art. I, s. 24(a).

⁶ *Id.*

any state or local government public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁷

Assisted Living Facilities

An assisted living facility (ALF) is a residential establishment, or part of a residential establishment, that provides housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator.⁸ A personal service is direct physical assistance with, or supervision of, the activities of daily living and the self-administration of medication.⁹ Activities of daily living include ambulation, bathing, dressing, eating, grooming, toileting, and other similar tasks.¹⁰

An ALF is required to provide care and services appropriate to the needs of the residents accepted for admission to the facility.¹¹ The owner or facility administrator determines whether an individual is appropriate for admission to the facility based on a number of criteria.¹² If a resident no longer meets the criteria for continued residency, or the facility is unable to meet the resident's needs, as determined by the facility administrator or health care provider, the resident must be discharged in accordance with the Resident Bill of Rights.¹³

In March of 2013, there were 3,036 licensed ALFs in Florida with 85,413 beds.¹⁴ An ALF must have a standard license issued by the Agency for Health Care Administration (AHCA), pursuant to part I of ch. 429, F.S., and part II of ch. 408, F.S. In addition to a standard license, an ALF may have one or more specialty licenses that allow the ALF to provide additional care. These specialty licenses include limited nursing services,¹⁵ limited mental health services,¹⁶ and extended congregate care services.¹⁷ There are 1,073 facilities having limited nursing services specialty licenses (LNS licenses), 279 having extended congregate care licenses (ECC licenses), and 1,084 having limited mental health specialty licenses (LMH licenses).¹⁸

The Florida Center for Health Information and Policy Analysis

The Florida Center for Health Information and Policy Analysis (Florida Center or Center), housed within the AHCA, is responsible for collecting, compiling, coordinating, analyzing, and disseminating health-related data and statistics for the purposes of developing public policy and

⁷ Section 119.07(1)(a), F.S.

⁸ Section 429.02(5), F.S. An ALF does not include an adult family-care home or a non-transient public lodging establishment.

⁹ Section 429.02(16), F.S.

¹⁰ Section 429.02(1), F.S.

¹¹ For specific minimum standards see Rule 58A-5.0182, F.A.C.

¹² Section 429.26, F.S., and Rule 58A-5.0181, F.A.C.

¹³ Section 429.28, F.S.

¹⁴ Agency for Health Care Administration, information provided to Senate Children, Families, and Elder Affairs Committee February 4, 2013.

¹⁵ Section 429.07(3)(c), F.S.

¹⁶ Section 429.075, F.S.

¹⁷ Section 429.07(3)(b), F.S.

¹⁸ Agency for Health Care Administration, information provided to Senate Children, Families, and Elder Affairs Committee February 4, 2013.

promoting the transparency of consumer health care information.¹⁹ The Center is divided into five offices, each handling an area of Center responsibility:

- The Office of Data Collection and Quality Assurance collects patient discharge data from all licensed acute care hospitals (including psychiatric and comprehensive rehabilitation units), comprehensive rehabilitation hospitals, ambulatory surgical centers, and hospital emergency departments.²⁰
- The Office of Risk Management and Patient Safety conducts in-depth analyses of reported incidents to determine what caused the incident and how the involved facility responded to the incident.²¹
- The Office of Data Dissemination and Communication maintains the AHCA's health information website,²² provides technical assistance to data users, and creates consumer brochures and other publications.²³
- The Office of Health Policy and Research conducts research and analysis of health care data from facilities and develops policy recommendations aimed at improving the delivery of health care services in Florida.²⁴
- The Office of Health Information Exchange monitors innovations in health information technology, informatics, and the exchange of health information, and provides a clearinghouse of technical resources on health information exchange, electronic prescribing, privacy and security, and other relevant issues.²⁵

Florida Center Data Collection

The Florida Center electronically collects patient data from every Florida-licensed inpatient hospital, ambulatory surgery center (ASC), emergency department, and comprehensive rehabilitation hospital on a quarterly basis. The data is validated for accuracy and maintained in three major databases, including the hospital inpatient database, the ambulatory surgery database, and the emergency department database:²⁶

- The hospital inpatient database contains records for each patient stay at Florida acute care facilities, including long-term care hospitals and psychiatric hospitals. These records contain extensive patient information including discharge records, patient demographics, admission information, medical information, and charge data.²⁷ This database also includes comprehensive inpatient rehabilitation data on patient-level discharge information from

¹⁹ Florida Center for Health Information and Policy Analysis, found at: <http://ahca.myflorida.com/SCHS/index.shtml>, last visited on Mar. 14, 2014.

²⁰ Office of Data Collection & Quality Assurance, found at <http://www.fdhc.state.fl.us/SCHS/division.shtml#DataC>, last visited on Mar. 14, 2014.

²¹ Office of Risk Management and Patient Safety, found at: <http://www.fdhc.state.fl.us/SCHS/division.shtml#PatientSafety>, last visited on Mar. 14, 2014.

²² www.FloridaHealthFinder.gov

²³ The Office of Data Dissemination and Communication, found at <http://www.fdhc.state.fl.us/SCHS/division.shtml#DataD>, last visited on Mar. 14, 2014.

²⁴ The Office of Health Policy and Research, found at http://www.fdhc.state.fl.us/SCHS/division.shtml#Policy_Research, last visited on Mar. 14, 2014.

²⁵ Office of Health Information Exchange, found at: <http://www.fdhc.state.fl.us/SCHS/division.shtml#HIE>, last visited on Mar. 14, 2014.

²⁶ Florida Center for Health Information and Policy Analysis, *2011 Annual Report*, p. 2, found at: http://edocs.dlis.state.fl.us/fldocs/ahca/schs/schs_ar2011.pdf, last visited on Mar. 14, 2014.

²⁷ *Id.*, p. 3

Florida's licensed freestanding comprehensive inpatient rehabilitation hospitals and acute care hospital distinct part rehabilitation units.²⁸

- The ambulatory surgery database contains “same-day surgery” data on reportable patient visits to Florida health care facilities, including freestanding ambulatory surgery centers, short-term acute care hospitals, lithotripsy centers, and cardiac catheterization laboratories.²⁹ Ambulatory surgery data records include, but are not limited to, patient demographics, medical information, and charge data.³⁰
- The emergency department database collects reports of all patients who visited an emergency department, but were not admitted for inpatient care. Reports are electronically submitted to the AHCA and include the hour of arrival, the patient's chief complaint, principal diagnosis, race, ethnicity, and external causes of injury.³¹

In addition to these databases, the Office of Risk Management and Patient Safety collects adverse incident reports from health care providers including, hospitals, ambulatory surgical centers, nursing homes, and assisted living facilities.³²

Florida Center Data Dissemination

The Office of Data Dissemination and Communication makes data collected by the Florida Center available in three ways: by updating and maintaining the AHCA's health information website at www.FloridaHealthFinder.gov, by issuing standard and ad hoc reports, and by responding to requests for de-identified data.³³

- The Florida Center maintains www.FloridaHealthFinder.gov (website) which was established to assist consumers in making informed health care decisions and to facilitate improvements in quality of care in Florida. The website provides a wide array of search and comparative tools to the public which allow easy access to information on hospitals, ambulatory surgery centers, emergency departments, hospice providers, physician volume, health plans, nursing homes, and prices for prescription drugs in Florida. The website also provides tools to researchers and professionals which allow specialized data queries that require users to have some knowledge of medical coding and terminology.³⁴ Some of the features and data available on the website include a multimedia encyclopedia and symptoms navigator, hospital and ambulatory surgery centers performance data, data on mortality, complication, and infection rates for hospitals, and a facility/provider locator.³⁵
- *Standard and Ad Hoc Reports* - The Center disseminates three standard reports which detail hospital fiscal data, including a prior-year report, an audited financial statement, and hospital financial data report. Also, ad hoc reports may be requested for customers looking for very specific information not included on a standard report or for customers who do not wish to purchase an entire data set to obtain information. One example of an ad hoc report would be a request for the average length of stay of patients admitted to a hospital with diabetes as a

²⁸ *Id.*, p. 4

²⁹ *Id.*, p. 3

³⁰ *Id.*, p. 4

³¹ *Id.*, p. 5

³² *Id.*

³³ *Id.*, pp. 6-9

³⁴ *Id.*, p. 9

³⁵ *Id.*, pp. 9-13

principle or secondary diagnosis.³⁶ The Center charges a regular fee for standard reports³⁷ and a variable fee based on the extensiveness of an ad hoc report.³⁸

- *Requests for De-identified Data* - The Center also sells hospital inpatient, ambulatory surgery, and emergency department data to the general public in a non-confidential format. However, the requester must sign a limited set data use agreement which binds the requester to only using the data in a way specified in the agreement. Information not available in these limited data sets include: patient ID number, medical record number, social security number, dates of admission and discharge, visit beginning and end dates, age in days, payer, date of birth, and procedure dates.³⁹

The State Consumer Health Information and Policy Advisory Council

Also created by s. 408.05, F.S., the State Consumer Health Information and Policy Advisory Council (Advisory Council) was established to make recommendations to the Florida Center for Health Information and Policy Analysis. The mission of the Advisory Council is to assist the Florida Center in reviewing the comprehensive health information system, including the identification, collection, standardization, sharing, and coordination of health-related data, fraud and abuse data, and professional and facility licensing data among federal, state, local, and private entities and to recommend improvements for purposes of public health, policy analysis, health information exchange and transparency of consumer health care information.

The Advisory Council assists the AHCA in determining the method and format for the public disclosure of data collected by the Florida Center and also works with the Florida Center in the development and implementation of a long-range plan for making available health care quality measures and financial data that will allow consumers to compare health care services.⁴⁰ The Advisory Council met four times in 2013. The membership of the Advisory Council is detailed in s. 408.05(8), F.S., and includes:

- An employee of the Executive Office of the Governor.
- An employee of the Office of Insurance Regulation.
- An employee of the Department of Education.
- Ten persons appointed by the secretary of health care administration, representing other state and local agencies, state universities, business and health coalitions, and local health councils.

III. Effect of Proposed Changes:

Government Data Collection and Retention Practices

Section 1 amends s. 257.36, F.S., by requiring that the Department of State's Division of Library and Information Services rules on the destruction and disposition of records must provide

³⁶ *Id.*, p. 8

³⁷ The price list for purchasing data from the Center is available at:

<http://floridahealthfinderstore.blob.core.windows.net/documents/researchers/OrderData/documents/PriceList%20Jan%202011.pdf>, last visited on Mar. 14, 2014.

³⁸ *Supra* note 8, p. 7

³⁹ *Id.*, pp. 7-8. Also see note 19 for a price list.

⁴⁰ State Consumer Health Information and Policy Advisory Council, *Executive Summary*, found at:

<http://ahca.myflorida.com/SCHS/CommiteesCouncils/docs/AC-ExecutiveSummary0113.pdf>, last visited on Mar. 14, 2014.

procedures for an agency to establish schedules for the physical destruction or other disposal of records held by the agency which contain personal identification information, as defined in s. 282.801, after meeting retention requirements. Unless otherwise required by law, an agency may indefinitely retain records containing information that is not identifiable as related to a unique individual.

Section 2 creates s. 282.801, F.S., and Part IV of ch. 282, F.S., relating to government data collection practices.

The bill provides the following definitions:

- “Agency” means any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of ch. 282, F.S., the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.
- “Cookie” means data installed and used in tracking website information.
- “Personal identification information” means an item, collection, or grouping of information that may be used, alone or in conjunction with other information, to identify a unique individual, including, but not limited to, his or her:
 - Name;
 - Postal or e-mail address;
 - Telephone number;
 - Social security number;
 - Date of birth;
 - Mother’s maiden name;
 - Official state-issued or United States-issued driver license or identification number, alien registration number, government passport number, employer or taxpayer identification number, or Medicaid or food assistance account number;
 - Bank account number, credit or debit card number, or other number or information that can be used to access an individual’s financial resources;
 - Educational records;
 - Medical records;
 - License plate number of a registered motor vehicle;
 - Images, including facial images;
 - Biometric identification information;
 - Criminal history; or
 - Employment history.

An agency that collects personal identification information through a website and retains the information must conspicuously post a privacy policy on the website. The privacy policy must provide:

- A description of the services the website provides;
- A description of the personal identification information that the agency collects and maintains from an individual accessing or using the website;
- An explanation of whether the agency’s data collecting and sharing practices are mandatory or allow a user to opt-out of those practices;

- Any available alternatives to using the website;
- A statement as to how the agency uses the personal identification information, including whether and under what circumstances the agency discloses such information;
- Whether any other individual or public or private entity collects personal identification information through the website;
- A general description of the security measures in place to protect personal identification information; and
- An explanation of public records requirements relating to the personal identification information of an individual using the website and if such information may be disclosed in response to a public records request.

An agency that uses a website to install cookies must inform an individual accessing the website of the use of cookies and request permission to install a cookie. Individuals declining the installation of cookies must still be allowed to use the website. This provision doesn't apply to a temporarily installed cookie that is deleted from memory when the website browser or website application is closed.

Any contract between a public agency and a contractor must specify that the contractor must comply with the privacy policy and cookie requirements in the bill for applicable services the contractor performs for the public agency, except that the privacy policy and cookie requirements in the bill do not apply to a contractor providing a service that is limited to administering, facilitating, processing, or enforcing a financial transaction initiated by an individual with no direct relationship with the contractor.

The bill provides that the failure of an agency to comply with these provisions does not create a civil cause of action.

Section 3 requires the Office of Program Policy Analysis and Government Accountability (OPPAGA) to submit a report to the president of the Senate and the speaker of the House of Representatives by July 1, 2015, which:

- Identifies personal identification information, as defined in s. 282.801, F.S., and the records in which such information is contained, held by a state agency;
- Describes the processes by which an individual may currently view and verify his or her personal identification information held by an agency, including how an individual may request the correction of incorrect personal identification information; and
- Identifies any obstacles that inhibit an individual's access to such records.

Section 7 reenacts 120.54(8), F.S., in order to incorporate the amendment made to s. 257.36, F.S., by this bill. This is a technical provision undertaken to ensure that agency rulemaking records are retained according to all the records retention provisions in s. 257.36(6), F.S.

Data on Assisted Living Facilities

Section 4 creates s. 429.55, F.S., to require the AHCA, by November 1, 2014, to provide, maintain, and update electronically accessible data on assisted living facilities (ALFs). The data must include:

- Specified information on each licensed ALF;
- A list of the facility's regulatory violations, if any; and
- Links to inspection reports on file with the AHCA.

The AHCA may provide a monitored comment web page that allows the public to comment on specific state-licensed ALFs. If the web page is provided, the AHCA must review comments for profanities and redact profanities before posting the comments to the web page. The AHCA must retain all comments as they were originally submitted, which are subject to Florida public records law. A controlling interest in an ALF, or an employee or owner of an ALF, is prohibited from posting comments on the page but may respond to comments posted on the page by others. The AHCA must ensure that such responses are identified as being from a representative of the facility.

The AHCA may provide links to third-party websites that use the published data to assist consumers in evaluating ALF quality of care and services.

The AHCA may adopt rules to administer this section.

The Florida Health Information Transparency Initiative

Section 5 amends s. 408.05, F.S., to:

- Eliminate the Florida Center for Health Information and Policy Analysis;
- Create the Florida Health Information Transparency Initiative (Initiative);
- Require the AHCA to make state-collected data on health providers, facilities, services, and payment sources available in a manner that allows for and encourages multiple innovative uses for the data;
- Require the AHCA, subject to the General Appropriations Act, to develop new methods of dissemination and to convert data into an easily usable electronic format, either by internal development or by contract with one or more vendors;
- Detail the types of data and information the AHCA must include in the comprehensive health information system, including data and information on:
 - Health resources,
 - Utilization of health resources,
 - Health care costs and financing,
 - The extent, source, and type of public and private health insurance coverage in the state, and
 - Data necessary for measuring value and quality of care provided by various health care providers;
- Require the AHCA to perform certain functions in order to collect and disseminate comprehensive health information and statistics to the public and to support the development of policy recommendations, including:
 - Collecting and compiling data from all state agencies and programs involved in providing, regulating, and paying for health services,
 - Promoting data sharing through the development, dissemination, and evaluation of state-collected health data and making such data available, transferable, and readily useable,

- Developing written agreements with local, state, and federal agencies for the sharing of health-care-related data,
- Enabling and facilitating the sharing and use of all state-collected health data to the maximum extent allowed by law,
- Monitoring data collection procedures, testing data quality, and taking such corrective actions as may be necessary to ensure that data disseminated under the Initiative are accurate, valid, reliable and complete, and
- Initiating and maintaining the activities necessary to collect, edit, verify, archive and retrieve the data;
- Require that the AHCA implement the Initiative in a manner that recognizes state-collected data as an asset and rewards taxpayer investment in information collection and management;
- Require that the AHCA ensure that any vendor who enters into a contract with the state under this section does not inhibit or impede consumer access to state-collected health data;
- Remove significant portions of the statute regarding the Comprehensive Health Information System; and
- Eliminate the State Consumer Health Information and Policy Advisory Council.

Section 6 requires the OPPAGA to monitor the AHCA's implementation of section 5 of the bill. No later than one year after the AHCA completes implementation, the OPPAGA must provide a report to the president of the Senate and the speaker of the House of Representatives containing recommendations regarding the application of data practices made pursuant to s. 408.05, F.S., to other executive branch agencies

Sections 8 through 17 amend ss. 20.42, 381.026, 395.301, 395.602, 395.6025, 408.07, 408.18, 465.0244, 627.6499, and 641.54, F.S., respectively, to strike references made obsolete by the changes made to s. 408.05, F.S.

Effective Date

Section 18 provides an effective date of July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

The Florida Health Information Transparency Initiative is intended to modernize health care data collection and dissemination functions to facilitate public access to this data for innovative uses.

C. Government Sector Impact:

CS/SB 782 contains provisions for the AHCA to create and maintain a public information web page on ALFs which are very similar to provisions contained in CS/CS/SB 248 as passed by the Senate. The latter bill contains appropriations of \$104,909 in recurring funds and \$101,579 in non-recurring funds from the AHCA's Health Care Trust Fund to fund the AHCA's implementation of the ALF public information web page.⁴¹

The fiscal impact of the bill's provisions regarding the Florida Health Information Transparency Initiative is indeterminate and would depend largely on services and functions that could be outsourced and whether such outsourcing would lead to reduction of AHCA staff. Any such vendor contracts are subject to the General Appropriations Act.

The Department of State reports no fiscal impact.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Section 4 requires the AHCA to give public access to data about assisted living facilities. These provisions are substantially similar to provisions in section 15 of CS/CS/SB 248.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.42, 120.54, 257.36, 381.026, 395.301, 395.602, 395.6025, 408.05, 408.07, 408.18, 465.0244, 627.6499, and 641.54.

This bill creates the following sections of the Florida Statutes: 282.801 and 429.55.

The bill creates two undesignated sections of Florida law.

⁴¹ CS/CS/SB 248 amends statutes regarding the enforcement of regulations for ALFs by revising fines imposed for licensure violations, clarifying existing enforcement tools, and requiring an additional inspection for ALFs having significant violations. The Senate passed that bill on March 18, 2014.

IX. Additional Information:

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

Recommended CS/CS by Appropriations Subcommittee on Health and Human Services on April 2, 2014:

The CS provides that the bill’s requirements for public agency contracts relating to compliance with an agency’s privacy policy and cookie requirements do not apply to contractors providing certain limited services to the agency relating to financial transactions initiated by an individual with no relationship to the contractor.

CS by Governmental Oversight and Accountability on March 20, 2014:

The CS provides a definition of “state agency” for purposes of an OPPAGA report, clarifies that AHCA must maintain and update the assisted living facility database, and clarifies AHCA’s duties with regards to redacting profanities on a comment webpage.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/11/2014	.	
	.	
	.	
	.	

The Committee on Appropriations (Hays) recommended the following:

Senate Amendment (with title amendment)

Between lines 939 and 940
insert:

Section 18. (1) For the 2014-2015 fiscal year, for the purpose of implementing and maintaining the public information website enhancements provided under section 4 of this act:

(a) The sums of \$72,435 in recurring funds and \$3,773 in nonrecurring funds from the Health Care Trust Fund and one full-time equivalent health services and facilities consultant



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position with associated salary rate of 46,560 are appropriated to the Agency for Health Care Administration;

(b) The sums of \$30,000 in recurring funds and \$15,000 in nonrecurring funds from the Health Care Trust Fund are appropriated to the Agency for Health Care Administration for software purchase, installation, and maintenance services; and

(c) The sums of \$2,474 in recurring funds and \$82,806 in nonrecurring funds from the Health Care Trust Fund are appropriated to the Agency for Health Care Administration for contracted services.

(2) If CS/CS/SB 248 or similar legislation, 2014 Regular Session, and this bill are both enacted into law during the 2014 Regular Session, or any extension thereof, and both bills contain provisions authorizing the Agency for Health Care Administration to create a monitored comment webpage allowing members of the public to comment on specific assisted living facilities licensed in this state and if both bills appropriate funds to the Agency for Health Care Administration, this section may not take effect.

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

And the title is amended as follows:

Delete line 55

and insert:

changes made by the act; providing appropriations;
providing an effective date.



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576-03669-14

Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Health and Human Services)

A bill to be entitled

An act relating to government data practices; amending s. 257.36, F.S.; requiring the Division of Library and Information Services of the Department of State to adopt rules providing procedures for an agency to establish schedules for the physical destruction or other disposal of records containing personal identification information; creating part IV of ch. 282, F.S., consisting of s. 282.801, F.S.; providing definitions; requiring an agency that collects and maintains personal identification information to post a privacy policy on the agency's website; prescribing minimum requirements for a privacy policy; requiring an agency to provide notice of the installation of cookies on an individual's computer; requiring that an individual who would otherwise be granted access to an agency's website be granted access even if he or she declines to have the cookie installed; providing an exception; requiring that privacy policy requirements be specified in a contract between a public agency and a contractor; providing exceptions; specifying that a violation does not create a civil cause of action; requiring the Office of Program Policy Analysis and Government Accountability to submit a report to the Legislature by a specified date; providing report requirements; creating s. 429.55, F.S.; requiring the Agency for Health Care Administration to provide



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specified data on assisted living facilities by a certain date; providing minimum requirements for such data; authorizing the agency to create a comment webpage regarding assisted living facilities; providing minimum requirements; authorizing the agency to provide links to certain third-party websites; authorizing the agency to adopt rules; amending s. 408.05, F.S.; dissolving the Center for Health Information and Policy Analysis within the Agency for Health Care Administration; requiring the agency to coordinate a system to promote access to certain data and information; requiring that certain health-related data be included within the system; assigning duties to the agency relating to the collection and dissemination of data; establishing conditions for the funding of the system; requiring the Office of Program Policy Analysis and Government Accountability to monitor the agency's implementation of the health information system; requiring the Office of Program Policy Analysis and Government Accountability to submit a report to the Legislature after completion of the implementation; providing report requirements; reenacting s. 120.54(8), F.S., relating to rulemaking, to incorporate the amendment made to s. 257.36, F.S., in a reference thereto; amending ss. 20.42, 381.026, 395.301, 395.602, 395.6025, 408.07, 408.18, 465.0244, 627.6499, and 641.54, F.S.; conforming provisions to changes made by the act; providing an effective date.



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

Section 1. Subsection (6) of section 257.36, Florida Statutes, is amended to read:

257.36 Records and information management.—

(6) A public record may be destroyed or otherwise disposed of only in accordance with retention schedules established by the division. The division shall adopt ~~reasonable~~ rules consistent not inconsistent with this chapter which ~~are~~ shall be binding on all agencies relating to the destruction and disposition of records. Such rules must ~~shall~~ provide, but need not be limited to:

(a) Procedures for complying and submitting to the division records-retention schedules.

(b) Procedures for the physical destruction or other disposal of records.

(c) Procedures for an agency to establish schedules for the physical destruction or other disposal of records held by the agency which contain personal identification information, as defined in s. 282.801, after meeting retention requirements. Unless otherwise required by law, an agency may indefinitely retain records containing information that is not identifiable as related to a unique individual.

~~(d)-(e)~~ Standards for the reproduction of records for security or with a view to the disposal of the original record.

Section 2. Part IV of chapter 282, Florida Statutes, consisting of section 282.801, Florida Statutes, is created to read:

PART IV



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GOVERNMENT DATA COLLECTION PRACTICES

282.801 Government data practices.—

(1) For purposes of this part, the term:

(a) "Agency" has the same meaning as in s. 119.011.

(b) "Cookie" means data sent from a website which is electronically installed on a computer or electronic device of an individual who has accessed the website and transmits certain information to the server of that website.

(c) "Individual" means a human being and does not include a corporation, a partnership, or any other business entity.

(d) "Personal identification information" means an item, collection, or grouping of information that may be used, alone or in conjunction with other information, to identify a unique individual, including, but not limited to, his or her:

1. Name;

2. Postal or e-mail address;

3. Telephone number;

4. Social security number;

5. Date of birth;

6. Mother's maiden name;

7. Official state-issued or United States-issued driver license or identification number, alien registration number, government passport number, employer or taxpayer identification number, or Medicaid or food assistance account number;

8. Bank account number, credit or debit card number, or other number or information that can be used to access an individual's financial resources;

9. Educational records;

10. Medical records;



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- 115 11. License plate number of a registered motor vehicle;
116 12. Images, including facial images;
117 13. Biometric identification information;
118 14. Criminal history; or
119 15. Employment history.
120 (2) An agency that collects personal identification
121 information through a website and retains such information shall
122 maintain and conspicuously post a privacy policy on such
123 website. At a minimum, the privacy policy must provide:
124 (a) A description of the services the website provides.
125 (b) A description of the personal identification
126 information that the agency collects and maintains from an
127 individual accessing or using the website.
128 (c) An explanation of whether the agency's data collecting
129 and sharing practices are mandatory or allow a user to opt out
130 of those practices.
131 (d) Any available alternatives to using the website.
132 (e) A statement as to how the agency uses the personal
133 identification information, including, but not limited to,
134 whether and under what circumstances the agency discloses such
135 information.
136 (f) Whether any other person, as defined in s. 671.201,
137 collects personal identification information through the
138 website.
139 (g) A general description of the security measures in place
140 to protect personal identification information; however, such
141 description must not compromise the integrity of the security
142 measures.
143 (h) An explanation of public records requirements relating



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- 144 to the personal identification information of an individual
145 using the website and if such information may be disclosed in
146 response to a public records request.
147 (3) (a) An agency that uses a website to install a cookie on
148 an individual's computer or electronic device shall inform an
149 individual accessing the website of the use of cookies and
150 request permission to install a cookie on the individual's
151 computer.
152 (b) If an individual accessing the website of an agency
153 declines to have cookies installed, such individual shall still
154 be allowed to access and use the website.
155 (c) This subsection does not apply to a cookie temporarily
156 installed on an individual's computer or electronic device by an
157 agency if the cookie is installed only in the computer's or
158 electronic device's memory and is deleted from such memory when
159 the website browser or website application is closed.
160 (4) Any contract between a public agency and a contractor,
161 as those terms are defined in s. 119.0701, must specify that the
162 contractor must comply with the requirements in subsections (2)
163 and (3) for applicable services the contractor performs for the
164 public agency, except that subsections (2) and (3) do not apply
165 to a contractor that provides a service to a public agency which
166 is limited to administering, facilitating, processing, or
167 enforcing a financial transaction initiated by an individual
168 with no direct relationship with the contractor.
169 (5) The failure of an agency to comply with this section
170 does not create a civil cause of action.
171 Section 3. The Office of Program Policy Analysis and
172 Government Accountability shall submit a report to the President



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173 of the Senate and the Speaker of the House of Representatives by
174 July 1, 2015, which:

175 (1) Identifies personal identification information, as
176 defined in s. 282.801, Florida Statutes, and the records in
177 which such information is contained, held by a state agency. For
178 purposes of this section, the term "state agency" has the same
179 meaning as in s. 216.011(1)(qq), but does not include state
180 attorneys, public defenders, criminal conflict and civil
181 regional counsel, capital collateral regional counsel, the
182 Justice Administrative Commission, the Florida Housing Finance
183 Corporation, the Florida Public Service Commission, and the
184 judicial branch.

185 (2) Describes the processes by which an individual may
186 currently view and verify his or her personal identification
187 information held by an agency, including how an individual may
188 request the correction of incorrect personal identification
189 information.

190 (3) Identifies any obstacles that inhibit an individual's
191 access to such records.

192 Section 4. Section 429.55, Florida Statutes, is created to
193 read:

194 429.55 Public access to data; comment page.-

195 (1) By November 1, 2014, the agency shall provide,
196 maintain, and update at least quarterly, electronically
197 accessible data on assisted living facilities. Such data must be
198 searchable, downloadable, and available in generally accepted
199 formats. At a minimum, such data must include:

200 (a) Information on each assisted living facility licensed
201 under this part, including:



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202 1. The name and address of the facility.
203 2. The number and type of licensed beds in the facility.
204 3. The types of licenses held by the facility.
205 4. The facility's license expiration date and status.
206 5. Other relevant information that the agency currently

207 collects.

208 (b) A list of the facility's violations, including, for
209 each violation:

210 1. A summary of the violation presented in a manner
211 understandable by the general public;

212 2. Any sanctions imposed by final order; and

213 3. The date the corrective action was confirmed by the
214 agency.

215 (c) Links to inspection reports on file with the agency.

216 (2) (a) The agency may provide a monitored comment webpage
217 that allows members of the public to comment on specific
218 assisted living facilities licensed to operate in this state. At
219 a minimum, the comment webpage must allow members of the public
220 to identify themselves, provide comments on their experiences
221 with, or observations of, an assisted living facility, and view
222 others' comments.

223 (b) The agency shall review comments for profanities and
224 redact any profanities before posting the comments to the
225 webpage. After redacting any profanities, the agency shall post
226 all comments, and shall retain all comments as they were
227 originally submitted, which are subject to the requirements of
228 chapter 119, Florida Statutes, and which shall be retained by
229 the agency for inspection by the public without further
230 redaction pursuant to retention schedules and disposal processes



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for such records.

(c) A controlling interest, as defined in s. 408.803, Florida Statutes, in an assisted living facility, or an employee or owner of an assisted living facility, is prohibited from posting comments on the page. A controlling interest, employee, or owner may respond to comments on the page, and the agency shall ensure that such responses are identified as being from a representative of the facility.

(3) The agency may provide links to third-party websites that use the data published pursuant to this section to assist consumers in evaluating the quality of care and service in assisted living facilities.

(4) The agency may adopt rules to administer this section.

Section 5. Section 408.05, Florida Statutes, is amended to read:

408.05 Florida Health Information Transparency Initiative Center for Health Information and Policy Analysis.—

(1) CREATION AND PURPOSE ESTABLISHMENT.—The agency shall create a comprehensive health information system to promote accessibility, transparency, and utility of state-collected data and information about health providers, facilities, services, and payment sources. The agency is responsible for making state-collected health data available in a manner that allows for and encourages multiple and innovative uses of data sets. Subject to funding by the General Appropriations Act, the agency shall develop and deploy, through a contract award with one or more vendors or internal development, new methods of dissemination and ways to convert data into easily usable electronic formats establish a Florida Center for Health Information and Policy



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~~Analysis. The center shall establish a comprehensive health information system to provide for the collection, compilation, coordination, analysis, indexing, dissemination, and utilization of both purposefully collected and extant health-related data and statistics. The center shall be staffed with public health experts, biostatisticians, information system analysts, health policy experts, economists, and other staff necessary to carry out its functions.~~

(2) HEALTH-RELATED DATA.—The comprehensive health information system must include the following data and information operated by the Florida Center for Health Information and Policy Analysis shall identify the best available data sources and coordinate the compilation of extant health-related data and statistics and purposefully collect data on:

(a) The extent and nature of illness and disability of the state population, including life expectancy, the incidence of various acute and chronic illnesses, and infant and maternal morbidity and mortality.

(b) The impact of illness and disability of the state population on the state economy and on other aspects of the well-being of the people in this state.

(c) Environmental, social, and other health hazards.

(d) Health knowledge and practices of the people in this state and determinants of health and nutritional practices and status.

(a)(e) Health resources, including licensed health professionals, licensed health care facilities, managed care organizations, and other health services regulated or funded by



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289 ~~the state physicians, dentists, nurses, and other health~~
290 ~~professionals, by specialty and type of practice and acute,~~
291 ~~long-term care and other institutional care facility supplies~~
292 ~~and specific services provided by hospitals, nursing homes, home~~
293 ~~health agencies, and other health care facilities.~~

294 ~~(b)(f) Utilization of health resources care by type of~~
295 ~~provider.~~

296 ~~(c)(g) Health care costs and financing, including Medicaid~~
297 ~~claims and encounter data and data from other public and private~~
298 ~~payors trends in health care prices and costs, the sources of~~
299 ~~payment for health care services, and federal, state, and local~~
300 ~~expenditures for health care.~~

301 ~~(h) Family formation, growth, and dissolution.~~

302 ~~(d)(i) The extent, source, and type of public and private~~
303 ~~health insurance coverage in this state.~~

304 ~~(e)(j) The data necessary for measuring value and quality~~
305 ~~of care provided by various health care providers, including~~
306 ~~applicable credentials, accreditation status, use, revenues and~~
307 ~~expenses, outcomes, site visits, and other regulatory reports,~~
308 ~~and the results of administrative and civil litigation related~~
309 ~~to health care.~~

310 ~~(3) COORDINATION COMPREHENSIVE HEALTH INFORMATION SYSTEM.-~~
311 ~~In order to collect comprehensive produce comparable and uniform~~
312 ~~health information and statistics and to disseminate such~~
313 ~~information to for the public, as well as for the development of~~
314 ~~policy recommendations, the agency shall perform the following~~
315 ~~functions:~~

316 ~~(a) Collect and compile data from all agencies and programs~~
317 ~~that provide, regulate, and pay for health services Coordinate~~



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318 ~~the activities of state agencies involved in the design and~~
319 ~~implementation of the comprehensive health information system.~~

320 ~~(b) Promote data sharing through the Undertake research,~~
321 ~~development, dissemination, and evaluation of state-collected~~
322 ~~health data and by making such data available, transferable, and~~
323 ~~readily usable respecting the comprehensive health information~~
324 ~~system.~~

325 ~~(e) Review the statistical activities of state agencies to~~
326 ~~ensure that they are consistent with the comprehensive health~~
327 ~~information system.~~

328 ~~(c)(d) Develop written agreements with local, state, and~~
329 ~~federal agencies for the sharing of health-care-related data or~~
330 ~~using the facilities and services of such agencies. State~~
331 ~~agencies, local health councils, and other agencies under state~~
332 ~~contract shall assist the agency center in obtaining, compiling,~~
333 ~~and transferring health-care-related data maintained by state~~
334 ~~and local agencies. Written agreements must specify the types,~~
335 ~~methods, and periodicity of data exchanges and specify the types~~
336 ~~of data that will be transferred to the center.~~

337 ~~(d)(e) Enable and facilitate the sharing and use of all~~
338 ~~state-collected health data to the maximum extent allowed by law~~
339 ~~Establish by rule the types of data collected, compiled,~~
340 ~~processed, used, or shared. Decisions regarding center data sets~~
341 ~~should be made based on consultation with the State Consumer~~
342 ~~Health Information and Policy Advisory Council and other public~~
343 ~~and private users regarding the types of data which should be~~
344 ~~collected and their uses. The center shall establish~~
345 ~~standardized means for collecting health information and~~
346 ~~statistics under laws and rules administered by the agency.~~



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347 ~~(f) Establish minimum health care-related data sets which~~
348 ~~are necessary on a continuing basis to fulfill the collection~~
349 ~~requirements of the center and which shall be used by state~~
350 ~~agencies in collecting and compiling health care-related data.~~
351 ~~The agency shall periodically review ongoing health care data~~
352 ~~collections of the Department of Health and other state agencies~~
353 ~~to determine if the collections are being conducted in~~
354 ~~accordance with the established minimum sets of data.~~

355 ~~(g) Establish advisory standards to ensure the quality of~~
356 ~~health statistical and epidemiological data collection,~~
357 ~~processing, and analysis by local, state, and private~~
358 ~~organizations.~~

359 ~~(e)(h) Monitor data collection procedures, test data~~
360 ~~quality, and take such corrective actions as are necessary to~~
361 ~~ensure that data and information disseminated under the~~
362 ~~initiative are accurate, valid, reliable, and complete Prescribe~~
363 ~~standards for the publication of health care-related data~~
364 ~~reported pursuant to this section which ensure the reporting of~~
365 ~~accurate, valid, reliable, complete, and comparable data. Such~~
366 ~~standards should include advisory warnings to users of the data~~
367 ~~regarding the status and quality of any data reported by or~~
368 ~~available from the center.~~

369 ~~(f)(i) Initiate and maintain activities necessary to~~
370 ~~collect, edit, verify, archive, and retrieve data compiled~~
371 ~~pursuant to this section Prescribe standards for the maintenance~~
372 ~~and preservation of the center's data. This should include~~
373 ~~methods for archiving data, retrieval of archived data, and data~~
374 ~~editing and verification.~~

375 ~~(j) Ensure that strict quality control measures are~~



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376 ~~maintained for the dissemination of data through publications,~~
377 ~~studies, or user requests.~~

378 ~~(k) Develop, in conjunction with the State Consumer Health~~
379 ~~Information and Policy Advisory Council, and implement a long-~~
380 ~~range plan for making available health care quality measures and~~
381 ~~financial data that will allow consumers to compare health care~~
382 ~~services. The health care quality measures and financial data~~
383 ~~the agency must make available include, but are not limited to,~~
384 ~~pharmaceuticals, physicians, health care facilities, and health~~
385 ~~plans and managed care entities. The agency shall update the~~
386 ~~plan and report on the status of its implementation annually.~~
387 ~~The agency shall also make the plan and status report available~~
388 ~~to the public on its Internet website. As part of the plan, the~~
389 ~~agency shall identify the process and timeframes for~~
390 ~~implementation, barriers to implementation, and recommendations~~
391 ~~of changes in the law that may be enacted by the Legislature to~~
392 ~~eliminate the barriers. As preliminary elements of the plan, the~~
393 ~~agency shall:~~

394 ~~1. Make available patient safety indicators, inpatient~~
395 ~~quality indicators, and performance outcome and patient charge~~
396 ~~data collected from health care facilities pursuant to s.~~
397 ~~408.061(1)(a) and (2). The terms "patient safety indicators" and~~
398 ~~"inpatient quality indicators" have the same meaning as that~~
399 ~~ascribed by the Centers for Medicare and Medicaid Services, an~~
400 ~~accrediting organization whose standards incorporate comparable~~
401 ~~regulations required by this state, or a national entity that~~
402 ~~establishes standards to measure the performance of health care~~
403 ~~providers, or by other states. The agency shall determine which~~
404 ~~conditions, procedures, health care quality measures, and~~



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405 ~~patient charge data to disclose based upon input from the~~
406 ~~council. When determining which conditions and procedures are to~~
407 ~~be disclosed, the council and the agency shall consider~~
408 ~~variation in costs, variation in outcomes, and magnitude of~~
409 ~~variations and other relevant information. When determining~~
410 ~~which health care quality measures to disclose, the agency:~~

411 a. ~~Shall consider such factors as volume of cases, average~~
412 ~~patient charges, average length of stay, complication rates,~~
413 ~~mortality rates, and infection rates, among others, which shall~~
414 ~~be adjusted for case mix and severity, if applicable.~~

415 b. ~~May consider such additional measures that are adopted~~
416 ~~by the Centers for Medicare and Medicaid Studies, an accrediting~~
417 ~~organization whose standards incorporate comparable regulations~~
418 ~~required by this state, the National Quality Forum, the Joint~~
419 ~~Commission on Accreditation of Healthcare Organizations, the~~
420 ~~Agency for Healthcare Research and Quality, the Centers for~~
421 ~~Disease Control and Prevention, or a similar national entity~~
422 ~~that establishes standards to measure the performance of health~~
423 ~~care providers, or by other states.~~

424
425 ~~When determining which patient charge data to disclose, the~~
426 ~~agency shall include such measures as the average of~~
427 ~~undiscounted charges on frequently performed procedures and~~
428 ~~preventive diagnostic procedures, the range of procedure charges~~
429 ~~from highest to lowest, average net revenue per adjusted patient~~
430 ~~day, average cost per adjusted patient day, and average cost per~~
431 ~~admission, among others.~~

432 2. ~~Make available performance measures, benefit design, and~~
433 ~~premium cost data from health plans licensed pursuant to chapter~~



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434 ~~627 or chapter 641. The agency shall determine which health care~~
435 ~~quality measures and member and subscriber cost data to~~
436 ~~disclose, based upon input from the council. When determining~~
437 ~~which data to disclose, the agency shall consider information~~
438 ~~that may be required by either individual or group purchasers to~~
439 ~~assess the value of the product, which may include membership~~
440 ~~satisfaction, quality of care, current enrollment or membership,~~
441 ~~coverage areas, accreditation status, premium costs, plan costs,~~
442 ~~premium increases, range of benefits, copayments and~~
443 ~~deductibles, accuracy and speed of claims payment, credentials~~
444 ~~of physicians, number of providers, names of network providers,~~
445 ~~and hospitals in the network. Health plans shall make available~~
446 ~~to the agency such data or information that is not currently~~
447 ~~reported to the agency or the office.~~

448 3. ~~Determine the method and format for public disclosure of~~
449 ~~data reported pursuant to this paragraph. The agency shall make~~
450 ~~its determination based upon input from the State Consumer~~
451 ~~Health Information and Policy Advisory Council. At a minimum,~~
452 ~~the data shall be made available on the agency's Internet~~
453 ~~website in a manner that allows consumers to conduct an~~
454 ~~interactive search that allows them to view and compare the~~
455 ~~information for specific providers. The website must include~~
456 ~~such additional information as is determined necessary to ensure~~
457 ~~that the website enhances informed decisionmaking among~~
458 ~~consumers and health care purchasers, which shall include, at a~~
459 ~~minimum, appropriate guidance on how to use the data and an~~
460 ~~explanation of why the data may vary from provider to provider.~~

461 4. ~~Publish on its website undiscounted charges for no fewer~~
462 ~~than 150 of the most commonly performed adult and pediatric~~



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463 ~~procedures, including outpatient, inpatient, diagnostic, and~~
464 ~~preventative procedures.~~

465 ~~(4) TECHNICAL ASSISTANCE.—~~

466 ~~(a) The center shall provide technical assistance to~~
467 ~~persons or organizations engaged in health planning activities~~
468 ~~in the effective use of statistics collected and compiled by the~~
469 ~~center. The center shall also provide the following additional~~
470 ~~technical assistance services:~~

471 ~~1. Establish procedures identifying the circumstances under~~
472 ~~which, the places at which, the persons from whom, and the~~
473 ~~methods by which a person may secure data from the center,~~
474 ~~including procedures governing requests, the ordering of~~
475 ~~requests, timeframes for handling requests, and other procedures~~
476 ~~necessary to facilitate the use of the center's data. To the~~
477 ~~extent possible, the center should provide current data timely~~
478 ~~in response to requests from public or private agencies.~~

479 ~~2. Provide assistance to data sources and users in the~~
480 ~~areas of database design, survey design, sampling procedures,~~
481 ~~statistical interpretation, and data access to promote improved~~
482 ~~health care-related data sets.~~

483 ~~3. Identify health care data gaps and provide technical~~
484 ~~assistance to other public or private organizations for meeting~~
485 ~~documented health care data needs.~~

486 ~~4. Assist other organizations in developing statistical~~
487 ~~abstracts of their data sets that could be used by the center.~~

488 ~~5. Provide statistical support to state agencies with~~
489 ~~regard to the use of databases maintained by the center.~~

490 ~~6. To the extent possible, respond to multiple requests for~~
491 ~~information not currently collected by the center or available~~



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492 ~~from other sources by initiating data collection.~~

493 ~~7. Maintain detailed information on data maintained by~~
494 ~~other local, state, federal, and private agencies in order to~~
495 ~~advise those who use the center of potential sources of data~~
496 ~~which are requested but which are not available from the center.~~

497 ~~8. Respond to requests for data which are not available in~~
498 ~~published form by initiating special computer runs on data sets~~
499 ~~available to the center.~~

500 ~~9. Monitor innovations in health information technology,~~
501 ~~informatics, and the exchange of health information and maintain~~
502 ~~a repository of technical resources to support the development~~
503 ~~of a health information network.~~

504 ~~(b) The agency shall administer, manage, and monitor grants~~
505 ~~to not-for-profit organizations, regional health information~~
506 ~~organizations, public health departments, or state agencies that~~
507 ~~submit proposals for planning, implementation, or training~~
508 ~~projects to advance the development of a health information~~
509 ~~network. Any grant contract shall be evaluated to ensure the~~
510 ~~effective outcome of the health information project.~~

511 ~~(c) The agency shall initiate, oversee, manage, and~~
512 ~~evaluate the integration of health care data from each state~~
513 ~~agency that collects, stores, and reports on health care issues~~
514 ~~and make that data available to any health care practitioner~~
515 ~~through a state health information network.~~

516 ~~(5) PUBLICATIONS; REPORTS; SPECIAL STUDIES.—The center~~
517 ~~shall provide for the widespread dissemination of data which it~~
518 ~~collects and analyzes. The center shall have the following~~
519 ~~publication, reporting, and special study functions:~~

520 ~~(a) The center shall publish and make available~~



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521 ~~periodically to agencies and individuals health statistics~~
522 ~~publications of general interest, including health plan consumer~~
523 ~~reports and health maintenance organization member satisfaction~~
524 ~~surveys; publications providing health statistics on topical~~
525 ~~health policy issues; publications that provide health status~~
526 ~~profiles of the people in this state; and other topical health~~
527 ~~statistics publications.~~

528 ~~(b) The center shall publish, make available, and~~
529 ~~disseminate, promptly and as widely as practicable, the results~~
530 ~~of special health surveys, health care research, and health care~~
531 ~~evaluations conducted or supported under this section. Any~~
532 ~~publication by the center must include a statement of the~~
533 ~~limitations on the quality, accuracy, and completeness of the~~
534 ~~data.~~

535 ~~(c) The center shall provide indexing, abstracting,~~
536 ~~translation, publication, and other services leading to a more~~
537 ~~effective and timely dissemination of health care statistics.~~

538 ~~(d) The center shall be responsible for publishing and~~
539 ~~disseminating an annual report on the center's activities.~~

540 ~~(e) The center shall be responsible, to the extent~~
541 ~~resources are available, for conducting a variety of special~~
542 ~~studies and surveys to expand the health care information and~~
543 ~~statistics available for health policy analyses, particularly~~
544 ~~for the review of public policy issues. The center shall develop~~
545 ~~a process by which users of the center's data are periodically~~
546 ~~surveyed regarding critical data needs and the results of the~~
547 ~~survey considered in determining which special surveys or~~
548 ~~studies will be conducted. The center shall select problems in~~
549 ~~health care for research, policy analyses, or special data~~



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550 ~~collections on the basis of their local, regional, or state~~
551 ~~importance; the unique potential for definitive research on the~~
552 ~~problem; and opportunities for application of the study~~
553 ~~findings.~~

554 ~~(4)(6) PROVIDER DATA REPORTING.~~—This section does not
555 confer on the agency the power to demand or require that a
556 health care provider or professional furnish information,
557 records of interviews, written reports, statements, notes,
558 memoranda, or data other than as expressly required by law.

559 ~~(5)(7) HEALTH INFORMATION ENTERPRISE BUDGET; FEES.~~—

560 ~~(a) The agency shall implement the comprehensive health~~
561 ~~information system in a manner that recognizes state-collected~~
562 ~~data as an asset and rewards taxpayer investment in information~~
563 ~~collection and management Legislature intends that funding for~~
564 ~~the Florida Center for Health Information and Policy Analysis be~~
565 ~~appropriated from the General Revenue Fund.~~

566 ~~(b) The agency Florida Center for Health Information and~~
567 ~~Policy Analysis may apply for, and receive, and accept grants,~~
568 ~~gifts, and other payments, including property and services, from~~
569 ~~a any governmental or other public or private entity or person~~
570 ~~and make arrangements for as to the use of such funds same,~~
571 ~~including the undertaking of special studies and other projects~~
572 ~~relating to health-care-related topics. Funds obtained pursuant~~
573 ~~to this paragraph may not be used to offset annual~~
574 ~~appropriations from the General Revenue Fund.~~

575 ~~(c) The agency shall ensure that a vendor who enters into a~~
576 ~~contract with the state under this section does not inhibit or~~
577 ~~impede public access to state-collected health data and~~
578 ~~information center may charge such reasonable fees for services~~



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579 ~~as the agency prescribes by rule. The established fees may not~~
580 ~~exceed the reasonable cost for such services. Fees collected may~~
581 ~~not be used to offset annual appropriations from the General~~
582 ~~Revenue Fund.~~

583 ~~(8) STATE CONSUMER HEALTH INFORMATION AND POLICY ADVISORY~~
584 ~~COUNCIL.~~

585 ~~(a) There is established in the agency the State Consumer~~
586 ~~Health Information and Policy Advisory Council to assist the~~
587 ~~center in reviewing the comprehensive health information system,~~
588 ~~including the identification, collection, standardization,~~
589 ~~sharing, and coordination of health related data, fraud and~~
590 ~~abuse data, and professional and facility licensing data among~~
591 ~~federal, state, local, and private entities and to recommend~~
592 ~~improvements for purposes of public health, policy analysis, and~~
593 ~~transparency of consumer health care information. The council~~
594 ~~shall consist of the following members:~~

595 ~~1. An employee of the Executive Office of the Governor, to~~
596 ~~be appointed by the Governor.~~

597 ~~2. An employee of the Office of Insurance Regulation, to be~~
598 ~~appointed by the director of the office.~~

599 ~~3. An employee of the Department of Education, to be~~
600 ~~appointed by the Commissioner of Education.~~

601 ~~4. Ten persons, to be appointed by the Secretary of Health~~
602 ~~Care Administration, representing other state and local~~
603 ~~agencies, state universities, business and health coalitions,~~
604 ~~local health councils, professional health care related~~
605 ~~associations, consumers, and purchasers.~~

606 ~~(b) Each member of the council shall be appointed to serve~~
607 ~~for a term of 2 years following the date of appointment, except~~



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608 ~~the term of appointment shall end 3 years following the date of~~
609 ~~appointment for members appointed in 2003, 2004, and 2005. A~~
610 ~~vacancy shall be filled by appointment for the remainder of the~~
611 ~~term, and each appointing authority retains the right to~~
612 ~~reappoint members whose terms of appointment have expired.~~

613 ~~(c) The council may meet at the call of its chair, at the~~
614 ~~request of the agency, or at the request of a majority of its~~
615 ~~membership, but the council must meet at least quarterly.~~

616 ~~(d) Members shall elect a chair and vice chair annually.~~

617 ~~(e) A majority of the members constitutes a quorum, and the~~
618 ~~affirmative vote of a majority of a quorum is necessary to take~~
619 ~~action.~~

620 ~~(f) The council shall maintain minutes of each meeting and~~
621 ~~shall make such minutes available to any person.~~

622 ~~(g) Members of the council shall serve without compensation~~
623 ~~but shall be entitled to receive reimbursement for per diem and~~
624 ~~travel expenses as provided in s. 112.061.~~

625 ~~(h) The council's duties and responsibilities include, but~~
626 ~~are not limited to, the following:~~

627 ~~1. To develop a mission statement, goals, and a plan of~~
628 ~~action for the identification, collection, standardization,~~
629 ~~sharing, and coordination of health-related data across federal,~~
630 ~~state, and local government and private sector entities.~~

631 ~~2. To develop a review process to ensure cooperative~~
632 ~~planning among agencies that collect or maintain health-related~~
633 ~~data.~~

634 ~~3. To create ad hoc issue-oriented technical workgroups on~~
635 ~~an as-needed basis to make recommendations to the council.~~

636 ~~(9) APPLICATION TO OTHER AGENCIES. Nothing in this section~~



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637 ~~shall limit, restrict, affect, or control the collection,~~
638 ~~analysis, release, or publication of data by any state agency~~
639 ~~pursuant to its statutory authority, duties, or~~
640 ~~responsibilities.~~

641 Section 6. The Office of Program Policy Analysis and
642 Government Accountability (OPPAGA) shall monitor the Agency for
643 Health Care Administration's implementation of s. 408.05,
644 Florida Statutes, as amended by this act. No later than 1 year
645 after the agency completes implementation, OPPAGA shall provide
646 a report to the President of the Senate and the Speaker of the
647 House of Representatives containing recommendations regarding
648 the application of data practices made pursuant to s. 408.05,
649 Florida Statutes, to other executive branch agencies.

650 Section 7. For the purpose of incorporating the amendment
651 made by this act to section 257.36, Florida Statutes, in a
652 reference thereto, subsection (8) of section 120.54, Florida
653 Statutes, is reenacted to read:

654 120.54 Rulemaking.—

655 (8) RULEMAKING RECORD.—In all rulemaking proceedings the
656 agency shall compile a rulemaking record. The record shall
657 include, if applicable, copies of:

658 (a) All notices given for the proposed rule.

659 (b) Any statement of estimated regulatory costs for the
660 rule.

661 (c) A written summary of hearings on the proposed rule.

662 (d) The written comments and responses to written comments
663 as required by this section and s. 120.541.

664 (e) All notices and findings made under subsection (4).

665 (f) All materials filed by the agency with the committee



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666 under subsection (3).

667 (g) All materials filed with the Department of State under
668 subsection (3).

669 (h) All written inquiries from standing committees of the
670 Legislature concerning the rule.

671
672 Each state agency shall retain the record of rulemaking as long
673 as the rule is in effect. When a rule is no longer in effect,
674 the record may be destroyed pursuant to the records-retention
675 schedule developed under s. 257.36(6).

676 Section 8. Subsection (3) of section 20.42, Florida
677 Statutes, is amended to read:

678 20.42 Agency for Health Care Administration.—

679 (3) The department is ~~shall be~~ the chief health policy and
680 planning entity for the state. The department is responsible for
681 health facility licensure, inspection, and regulatory
682 enforcement; investigation of consumer complaints related to
683 health care facilities and managed care plans; the
684 implementation of the certificate of need program; ~~the operation~~
685 ~~of the Florida Center for Health Information and Policy~~
686 ~~Analysis~~; the administration of the Medicaid program; the
687 administration of the contracts with the Florida Healthy Kids
688 Corporation; the certification of health maintenance
689 organizations and prepaid health clinics as set forth in part
690 III of chapter 641; and any other duties prescribed by statute
691 or agreement.

692 Section 9. Paragraph (c) of subsection (4) of section
693 381.026, Florida Statutes, is amended to read:

694 381.026 Florida Patient's Bill of Rights and



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695 Responsibilities.—

696 (4) RIGHTS OF PATIENTS.—Each health care facility or
697 provider shall observe the following standards:

698 (c) *Financial information and disclosure.*—

699 1. A patient has the right to be given, upon request, by
700 the responsible provider, his or her designee, or a
701 representative of the health care facility full information and
702 necessary counseling on the availability of known financial
703 resources for the patient's health care.

704 2. A health care provider or a health care facility shall,
705 upon request, disclose to each patient who is eligible for
706 Medicare, before treatment, whether the health care provider or
707 the health care facility in which the patient is receiving
708 medical services accepts assignment under Medicare reimbursement
709 as payment in full for medical services and treatment rendered
710 in the health care provider's office or health care facility.

711 3. A primary care provider may publish a schedule of
712 charges for the medical services that the provider offers to
713 patients. The schedule must include the prices charged to an
714 uninsured person paying for such services by cash, check, credit
715 card, or debit card. The schedule must be posted in a
716 conspicuous place in the reception area of the provider's office
717 and must include, but is not limited to, the 50 services most
718 frequently provided by the primary care provider. The schedule
719 may group services by three price levels, listing services in
720 each price level. The posting must be at least 15 square feet in
721 size. A primary care provider who publishes and maintains a
722 schedule of charges for medical services is exempt from the
723 license fee requirements for a single period of renewal of a



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724 professional license under chapter 456 for that licensure term
725 and is exempt from the continuing education requirements of
726 chapter 456 and the rules implementing those requirements for a
727 single 2-year period.

728 4. If a primary care provider publishes a schedule of
729 charges pursuant to subparagraph 3., he or she shall ~~must~~
730 continually post it at all times for the duration of active
731 licensure in this state when primary care services are provided
732 to patients. If a primary care provider fails to post the
733 schedule of charges in accordance with this subparagraph, the
734 provider shall ~~be required to~~ pay any license fee and comply
735 with ~~any~~ continuing education requirements for which an
736 exemption was received.

737 5. A health care provider or a health care facility shall,
738 upon request, furnish a person, before the provision of medical
739 services, a reasonable estimate of charges for such services.
740 The health care provider or the health care facility shall
741 provide an uninsured person, before the provision of a planned
742 nonemergency medical service, a reasonable estimate of charges
743 for such service and information regarding the provider's or
744 facility's discount or charity policies for which the uninsured
745 person may be eligible. Such estimates by a primary care
746 provider must be consistent with the schedule posted under
747 subparagraph 3. To the extent possible, estimates shall, ~~to the~~
748 ~~extent possible,~~ be written in language comprehensible to an
749 ordinary layperson. Such reasonable estimate does not preclude
750 the health care provider or health care facility from exceeding
751 the estimate or making additional charges based on changes in
752 the patient's condition or treatment needs.



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753 6. Each licensed facility not operated by the state shall
754 make available to the public on its ~~Internet~~ website or by other
755 electronic means a description of and a link to the performance
756 outcome and financial data that is published by the agency
757 ~~pursuant to s. 408.05(3)(k)~~. The facility shall place in its
758 reception area a notice stating that the ~~in the reception area~~
759 ~~that such~~ information is available electronically and providing
760 the facility's website address. The licensed facility may
761 indicate that the pricing information is based on a compilation
762 of charges for the average patient and that each patient's bill
763 may vary from the average depending upon the severity of illness
764 and individual resources consumed. The licensed facility may
765 also indicate that the price of service is negotiable for
766 eligible patients based upon the patient's ability to pay.

767 7. A patient has the right to receive a copy of an itemized
768 bill and upon request. ~~A patient has a right to be given an~~
769 explanation of charges upon request.

770 Section 10. Subsection (11) of section 395.301, Florida
771 Statutes, is amended to read:

772 395.301 Itemized patient bill; form and content prescribed
773 by the agency.—

774 (11) Each licensed facility shall make available on its
775 ~~Internet~~ website a link to the performance outcome and financial
776 data that is published by the Agency for Health Care
777 Administration ~~pursuant to s. 408.05(3)(k)~~. The facility shall
778 place in its reception area a notice stating in the reception
779 area that the information is available electronically and
780 providing the facility's ~~Internet~~ website address.

781 Section 11. Paragraph (e) of subsection (2) of section



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782 395.602, Florida Statutes, is amended to read:

783 395.602 Rural hospitals.—

784 (2) DEFINITIONS.—As used in this part:

785 (e) "Rural hospital" means an acute care hospital licensed
786 under this chapter, having 100 or fewer licensed beds and an
787 emergency room, which is:

788 1. The sole provider within a county with a population
789 density of no greater than 100 persons per square mile;

790 2. An acute care hospital, in a county with a population
791 density of no greater than 100 persons per square mile, which is
792 at least 30 minutes of travel time, on normally traveled roads
793 under normal traffic conditions, from any other acute care
794 hospital within the same county;

795 3. A hospital supported by a tax district or subdistrict
796 whose boundaries encompass a population of 100 persons or fewer
797 per square mile;

798 4. A hospital in a constitutional charter county with a
799 population of more than over 1 million persons that has imposed
800 a local option health service tax pursuant to law and in an area
801 that was directly impacted by a catastrophic event on August 24,
802 1992, for which the Governor of Florida declared a state of
803 emergency pursuant to chapter 125, and has 120 beds or less that
804 serves an agricultural community with an emergency room
805 utilization of no less than 20,000 visits and a Medicaid
806 inpatient utilization rate greater than 15 percent;

807 5. A hospital with a service area that has a population of
808 100 persons or fewer per square mile. As used in this
809 subparagraph, the term "service area" means the fewest number of
810 zip codes that account for 75 percent of the hospital's



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811 discharges for the most recent 5-year period, based on
812 information available from the agency's hospital inpatient
813 discharge database in the ~~Florida Center for Health Information~~
814 ~~and Policy Analysis at the agency;~~ or

815 6. A hospital designated as a critical access hospital, as
816 defined in s. 408.07.

817

818 Population densities used in this paragraph must be based upon
819 the most recently completed United States census. A hospital
820 that received funds under s. 409.9116 for a quarter beginning no
821 later than July 1, 2002, is deemed to have been and shall
822 continue to be a rural hospital from that date through June 30,
823 2015, if the hospital continues to have 100 or fewer licensed
824 beds and an emergency room, or meets the criteria of
825 subparagraph 4. An acute care hospital that has not previously
826 been designated as a rural hospital and that meets the criteria
827 of this paragraph shall be granted such designation upon
828 application, including supporting documentation, to the agency.
829 A hospital that was licensed as a rural hospital during the
830 2010-2011 or 2011-2012 fiscal year shall continue to be a rural
831 hospital from the date of designation through June 30, 2015, if
832 the hospital continues to have 100 or fewer licensed beds and an
833 emergency room.

834 Section 12. Section 395.6025, Florida Statutes, is amended
835 to read:

836 395.6025 Rural hospital replacement facilities.—
837 Notwithstanding ~~the provisions of~~ s. 408.036, a hospital defined
838 as a statutory rural hospital in accordance with s. 395.602, or
839 a not-for-profit operator of rural hospitals, is not required to



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840 obtain a certificate of need for the construction of a new
841 hospital located in a county with a population of at least
842 15,000 but no more than 18,000 and a density of less than 30
843 persons per square mile, or a replacement facility, if provided
844 ~~that~~ the replacement, or new, facility is located within 10
845 miles of the site of the currently licensed rural hospital and
846 within the current primary service area. As used in this
847 section, the term "service area" means the fewest number of zip
848 codes that account for 75 percent of the hospital's discharges
849 for the most recent 5-year period, based on information
850 available from the Agency for Health Care Administration's
851 hospital inpatient discharge database in the ~~Florida Center for~~
852 ~~Health Information and Policy Analysis at the Agency for Health~~
853 ~~Care Administration.~~

854 Section 13. Subsection (43) of section 408.07, Florida
855 Statutes, is amended to read:

856 408.07 Definitions.—As used in this chapter, with the
857 exception of ss. 408.031-408.045, the term:

858 (43) "Rural hospital" means an acute care hospital licensed
859 under chapter 395, having 100 or fewer licensed beds and an
860 emergency room, and which is:

861 (a) The sole provider within a county with a population
862 density of no greater than 100 persons per square mile;

863 (b) An acute care hospital, in a county with a population
864 density of no greater than 100 persons per square mile, which is
865 at least 30 minutes of travel time, on normally traveled roads
866 under normal traffic conditions, from another acute care
867 hospital within the same county;

868 (c) A hospital supported by a tax district or subdistrict



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869 whose boundaries encompass a population of 100 persons or fewer
870 per square mile;

871 (d) A hospital with a service area that has a population of
872 100 persons or fewer per square mile. As used in this paragraph,
873 the term "service area" means the fewest number of zip codes
874 that account for 75 percent of the hospital's discharges for the
875 most recent 5-year period, based on information available from
876 the Agency for Health Care Administration's hospital inpatient
877 discharge database in the Florida Center for Health Information
878 and Policy Analysis at the Agency for Health Care
879 Administration; or

880 (e) A critical access hospital.

881
882 Population densities used in this subsection must be based upon
883 the most recently completed United States census. A hospital
884 that received funds under s. 409.9116 for a quarter beginning no
885 later than July 1, 2002, is deemed to have been and shall
886 continue to be a rural hospital from that date through June 30,
887 2015, if the hospital continues to have 100 or fewer licensed
888 beds and an emergency room, or meets the criteria of s.
889 395.602(2)(e)4. An acute care hospital that has not previously
890 been designated as a rural hospital and that meets the criteria
891 of this subsection shall be granted such designation upon
892 application, including supporting documentation, to the Agency
893 for Health Care Administration.

894 Section 14. Paragraph (a) of subsection (4) of section
895 408.18, Florida Statutes, is amended to read:

896 408.18 Health Care Community Antitrust Guidance Act;
897 antitrust no-action letter; market-information collection and



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898 education.-

899 (4) (a) Members of the health care community who seek
900 antitrust guidance may request a review of their proposed
901 business activity by the Attorney General's office. In
902 conducting its review, the Attorney General's office may seek
903 whatever documentation, data, or other material it deems
904 necessary from the Agency for Health Care Administration, ~~the~~
905 ~~Florida Center for Health Information and Policy Analysis,~~ and
906 the Office of Insurance Regulation of the Financial Services
907 Commission.

908 Section 15. Section 465.0244, Florida Statutes, is amended
909 to read:

910 465.0244 Information disclosure.—Every pharmacy shall make
911 available on its ~~Internet~~ website a link to the performance
912 outcome and financial data that is published by the Agency for
913 Health Care Administration ~~pursuant to s. 408.05(3)(k)~~ and shall
914 place in the area where customers receive filled prescriptions
915 notice that such information is available electronically and the
916 address of its ~~Internet~~ website.

917 Section 16. Subsection (2) of section 627.6499, Florida
918 Statutes, is amended to read:

919 627.6499 Reporting by insurers and third-party
920 administrators.—

921 (2) Each health insurance issuer shall make available on
922 its ~~Internet~~ website a link to the performance outcome and
923 financial data that is published by the Agency for Health Care
924 Administration ~~pursuant to s. 408.05(3)(k)~~ and shall include in
925 every policy delivered or issued for delivery to any person in
926 the state or any materials provided as required by s. 627.64725



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927 notice that such information is available electronically and the
928 address of its ~~Internet~~ website.

929 Section 17. Subsection (7) of section 641.54, Florida
930 Statutes, is amended to read:

931 641.54 Information disclosure.—

932 (7) Each health maintenance organization shall make
933 available on its ~~Internet~~ website a link to the performance
934 outcome and financial data that is published by the Agency for
935 Health Care Administration pursuant to s. 408.05(3)(*) and shall
936 include in every policy delivered or issued for delivery to any
937 person in the state or ~~any~~ materials provided as required by s.
938 627.64725 notice that such information is available
939 electronically and the address of its ~~Internet~~ website.

940 Section 18. This act shall take effect July 1, 2014.

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 782

INTRODUCER: Appropriations Committee (Recommended by Subcommittee on Health and Human Services); Governmental Oversight and Accountability Committee; and Senator Brandes

SUBJECT: Government Data Practices

DATE: April 14, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McKay	McVaney	GO	Fav/CS
2.	Brown	Pigott	AHS	Fav/CS
3.	Brown	Kynoch	AP	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 782 requires state agencies that collect and maintain personal identification information through websites to post privacy policies on those websites and to provide alerts and options about Internet cookies¹ on agency websites.

The bill requires the Agency for Health Care Administration (AHCA) to provide electronic access to basic information on each state-licensed assisted living facility (ALF). The AHCA must provide a monitored comment web page where the public can comment on ALFs and representatives of ALFs may respond.

The bill eliminates the AHCA's Florida Center for Health Information and Policy Analysis and replaces it with the Florida Health Information Transparency Initiative. The bill requires reports from the Office of Program Policy Analysis and Government Accountability.

The bill appropriates the sums of \$104,909 in recurring funds and \$101,579 in nonrecurring funds to the AHCA from the Health Care Trust Fund in order for the AHCA to implement the web site enhancement provisions in Section 4 of the bill. Other provisions in the bill have indeterminate fiscal impacts.

¹ A "cookie" is an electronic message sent to a web browser from a web server. The browser stores the message in a computer's random access memory or on a computer's long-term data storage device. The message may be retrieved by the web server each time the browser requests to view a web page from the server, under various circumstances.

II. Present Situation:

Records Management

Section 257.36, F.S., creates a records and information management program within the Division of Library and Information Services (division) of the Department of State. The division must establish and administer a records management program directed to the application of efficient and economical management methods relating to the creation, utilization, maintenance, retention, preservation, and disposal of records, including public records. Each government agency, defined as any state, county, district, or municipal officer, department, division, bureau, board, commission, or other separate unit of government created or established by law, must establish and maintain an active and continuing program for economical and efficient records management.

Under s. 257.36(6), F.S., a public record may be destroyed or otherwise disposed of only in accordance with retention schedules established by the division. The division must adopt rules, which are binding on all agencies, relating to the destruction and disposition of records. The rules must provide at least the following:

- Procedures for complying and submitting to the division's records-retention schedules;
- Procedures for the physical destruction or other disposal of records; and
- Standards for the reproduction of records for security or with a view to the disposal of the original record.

The division issues General Records Schedules² that establish minimum retention requirements for series of records that are common to all agencies or specified types of agencies based on the legal, fiscal, administrative, and historical value of those record series to the agencies and to the State of Florida.³ If an agency has a type of record not covered by an existing General Record Schedule, the agency must request that the division create a Records Retention Schedule for that type of record. When the division creates and approves such a schedule, the agency must adhere to it.⁴

Public Records Laws

The Florida Constitution provides every person the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or of persons acting on their behalf.⁵ The records of the legislative, executive, and judicial branches are specifically included.⁶

The Florida Statutes also specify conditions under which public access must be provided to government records. The Public Records Act guarantees every person's right to inspect and copy

² The 13 active schedules for the various types of public entities are available at: http://dliis.dos.state.fl.us/recordsmgmt/gen_records_schedules.cfm

³ The General Records Schedules are referenced in in Rule 1B-24.003, F.A.C.

⁴ Rule 1B-24.003(7), F.A.C.

⁵ FLA. CONST., Art. I, s. 24(a).

⁶ *Id.*

any state or local government public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁷

Assisted Living Facilities

An assisted living facility (ALF) is a residential establishment, or part of a residential establishment, that provides housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator.⁸ A personal service is direct physical assistance with, or supervision of, the activities of daily living and the self-administration of medication.⁹ Activities of daily living include ambulation, bathing, dressing, eating, grooming, toileting, and other similar tasks.¹⁰

An ALF is required to provide care and services appropriate to the needs of the residents accepted for admission to the facility.¹¹ The owner or facility administrator determines whether an individual is appropriate for admission to the facility based on a number of criteria.¹² If a resident no longer meets the criteria for continued residency, or the facility is unable to meet the resident's needs, as determined by the facility administrator or health care provider, the resident must be discharged in accordance with the Resident Bill of Rights.¹³

In March of 2013, there were 3,036 licensed ALFs in Florida with 85,413 beds.¹⁴ An ALF must have a standard license issued by the Agency for Health Care Administration (AHCA), pursuant to part I of ch. 429, F.S., and part II of ch. 408, F.S. In addition to a standard license, an ALF may have one or more specialty licenses that allow the ALF to provide additional care. These specialty licenses include limited nursing services,¹⁵ limited mental health services,¹⁶ and extended congregate care services.¹⁷ There are 1,073 facilities having limited nursing services specialty licenses (LNS licenses), 279 having extended congregate care licenses (ECC licenses), and 1,084 having limited mental health specialty licenses (LMH licenses).¹⁸

The Florida Center for Health Information and Policy Analysis

The Florida Center for Health Information and Policy Analysis (Florida Center or Center), housed within the AHCA, is responsible for collecting, compiling, coordinating, analyzing, and disseminating health-related data and statistics for the purposes of developing public policy and

⁷ Section 119.07(1)(a), F.S.

⁸ Section 429.02(5), F.S. An ALF does not include an adult family-care home or a non-transient public lodging establishment.

⁹ Section 429.02(16), F.S.

¹⁰ Section 429.02(1), F.S.

¹¹ For specific minimum standards see Rule 58A-5.0182, F.A.C.

¹² Section 429.26, F.S., and Rule 58A-5.0181, F.A.C.

¹³ Section 429.28, F.S.

¹⁴ Agency for Health Care Administration, information provided to Senate Children, Families, and Elder Affairs Committee February 4, 2013.

¹⁵ Section 429.07(3)(c), F.S.

¹⁶ Section 429.075, F.S.

¹⁷ Section 429.07(3)(b), F.S.

¹⁸ Agency for Health Care Administration, information provided to Senate Children, Families, and Elder Affairs Committee February 4, 2013.

promoting the transparency of consumer health care information.¹⁹ The Center is divided into five offices, each handling an area of Center responsibility:

- The Office of Data Collection and Quality Assurance collects patient discharge data from all licensed acute care hospitals (including psychiatric and comprehensive rehabilitation units), comprehensive rehabilitation hospitals, ambulatory surgical centers, and hospital emergency departments.²⁰
- The Office of Risk Management and Patient Safety conducts in-depth analyses of reported incidents to determine what caused the incident and how the involved facility responded to the incident.²¹
- The Office of Data Dissemination and Communication maintains the AHCA's health information website,²² provides technical assistance to data users, and creates consumer brochures and other publications.²³
- The Office of Health Policy and Research conducts research and analysis of health care data from facilities and develops policy recommendations aimed at improving the delivery of health care services in Florida.²⁴
- The Office of Health Information Exchange monitors innovations in health information technology, informatics, and the exchange of health information, and provides a clearinghouse of technical resources on health information exchange, electronic prescribing, privacy and security, and other relevant issues.²⁵

Florida Center Data Collection

The Florida Center electronically collects patient data from every Florida-licensed inpatient hospital, ambulatory surgery center (ASC), emergency department, and comprehensive rehabilitation hospital on a quarterly basis. The data is validated for accuracy and maintained in three major databases, including the hospital inpatient database, the ambulatory surgery database, and the emergency department database:²⁶

- The hospital inpatient database contains records for each patient stay at Florida acute care facilities, including long-term care hospitals and psychiatric hospitals. These records contain extensive patient information including discharge records, patient demographics, admission information, medical information, and charge data.²⁷ This database also includes comprehensive inpatient rehabilitation data on patient-level discharge information from

¹⁹ Florida Center for Health Information and Policy Analysis, found at: <http://ahca.myflorida.com/SCHS/index.shtml>, last visited on Mar. 14, 2014.

²⁰ Office of Data Collection & Quality Assurance, found at <http://www.fdhc.state.fl.us/SCHS/division.shtml#DataC>, last visited on Mar. 14, 2014.

²¹ Office of Risk Management and Patient Safety, found at: <http://www.fdhc.state.fl.us/SCHS/division.shtml#PatientSafety>, last visited on Mar. 14, 2014.

²² www.FloridaHealthFinder.gov

²³ The Office of Data Dissemination and Communication, found at <http://www.fdhc.state.fl.us/SCHS/division.shtml#DataD>, last visited on Mar. 14, 2014.

²⁴ The Office of Health Policy and Research, found at http://www.fdhc.state.fl.us/SCHS/division.shtml#Policy_Research, last visited on Mar. 14, 2014.

²⁵ Office of Health Information Exchange, found at: <http://www.fdhc.state.fl.us/SCHS/division.shtml#HIE>, last visited on Mar. 14, 2014.

²⁶ Florida Center for Health Information and Policy Analysis, *2011 Annual Report*, p. 2, found at: http://edocs.dlis.state.fl.us/fldocs/ahca/schs/schs_ar2011.pdf, last visited on Mar. 14, 2014.

²⁷ *Id.*, p. 3

Florida's licensed freestanding comprehensive inpatient rehabilitation hospitals and acute care hospital distinct part rehabilitation units.²⁸

- The ambulatory surgery database contains “same-day surgery” data on reportable patient visits to Florida health care facilities, including freestanding ambulatory surgery centers, short-term acute care hospitals, lithotripsy centers, and cardiac catheterization laboratories.²⁹ Ambulatory surgery data records include, but are not limited to, patient demographics, medical information, and charge data.³⁰
- The emergency department database collects reports of all patients who visited an emergency department, but were not admitted for inpatient care. Reports are electronically submitted to the AHCA and include the hour of arrival, the patient's chief complaint, principal diagnosis, race, ethnicity, and external causes of injury.³¹

In addition to these databases, the Office of Risk Management and Patient Safety collects adverse incident reports from health care providers including, hospitals, ambulatory surgical centers, nursing homes, and assisted living facilities.³²

Florida Center Data Dissemination

The Office of Data Dissemination and Communication makes data collected by the Florida Center available in three ways: by updating and maintaining the AHCA's health information website at www.FloridaHealthFinder.gov, by issuing standard and ad hoc reports, and by responding to requests for de-identified data.³³

- The Florida Center maintains www.FloridaHealthFinder.gov (website) which was established to assist consumers in making informed health care decisions and to facilitate improvements in quality of care in Florida. The website provides a wide array of search and comparative tools to the public which allow easy access to information on hospitals, ambulatory surgery centers, emergency departments, hospice providers, physician volume, health plans, nursing homes, and prices for prescription drugs in Florida. The website also provides tools to researchers and professionals which allow specialized data queries that require users to have some knowledge of medical coding and terminology.³⁴ Some of the features and data available on the website include a multimedia encyclopedia and symptoms navigator, hospital and ambulatory surgery centers performance data, data on mortality, complication, and infection rates for hospitals, and a facility/provider locator.³⁵
- *Standard and Ad Hoc Reports* - The Center disseminates three standard reports which detail hospital fiscal data, including a prior-year report, an audited financial statement, and hospital financial data report. Also, ad hoc reports may be requested for customers looking for very specific information not included on a standard report or for customers who do not wish to purchase an entire data set to obtain information. One example of an ad hoc report would be a request for the average length of stay of patients admitted to a hospital with diabetes as a

²⁸ *Id.*, p. 4

²⁹ *Id.*, p. 3

³⁰ *Id.*, p. 4

³¹ *Id.*, p. 5

³² *Id.*

³³ *Id.*, pp. 6-9

³⁴ *Id.*, p. 9

³⁵ *Id.*, pp. 9-13

principle or secondary diagnosis.³⁶ The Center charges a regular fee for standard reports³⁷ and a variable fee based on the extensiveness of an ad hoc report.³⁸

- *Requests for De-identified Data* - The Center also sells hospital inpatient, ambulatory surgery, and emergency department data to the general public in a non-confidential format. However, the requester must sign a limited set data use agreement which binds the requester to only using the data in a way specified in the agreement. Information not available in these limited data sets include: patient ID number, medical record number, social security number, dates of admission and discharge, visit beginning and end dates, age in days, payer, date of birth, and procedure dates.³⁹

The State Consumer Health Information and Policy Advisory Council

Also created by s. 408.05, F.S., the State Consumer Health Information and Policy Advisory Council (Advisory Council) was established to make recommendations to the Florida Center for Health Information and Policy Analysis. The mission of the Advisory Council is to assist the Florida Center in reviewing the comprehensive health information system, including the identification, collection, standardization, sharing, and coordination of health-related data, fraud and abuse data, and professional and facility licensing data among federal, state, local, and private entities and to recommend improvements for purposes of public health, policy analysis, health information exchange and transparency of consumer health care information.

The Advisory Council assists the AHCA in determining the method and format for the public disclosure of data collected by the Florida Center and also works with the Florida Center in the development and implementation of a long-range plan for making available health care quality measures and financial data that will allow consumers to compare health care services.⁴⁰ The Advisory Council met four times in 2013. The membership of the Advisory Council is detailed in s. 408.05(8), F.S., and includes:

- An employee of the Executive Office of the Governor.
- An employee of the Office of Insurance Regulation.
- An employee of the Department of Education.
- Ten persons appointed by the secretary of health care administration, representing other state and local agencies, state universities, business and health coalitions, and local health councils.

III. Effect of Proposed Changes:

Government Data Collection and Retention Practices

Section 1 amends s. 257.36, F.S., by requiring that the Department of State's Division of Library and Information Services rules on the destruction and disposition of records must provide

³⁶ *Id.*, p. 8

³⁷ The price list for purchasing data from the Center is available at:

<http://floridahealthfinderstore.blob.core.windows.net/documents/researchers/OrderData/documents/PriceList%20Jan%202011.pdf>, last visited on Mar. 14, 2014.

³⁸ *Supra* note 8, p. 7

³⁹ *Id.*, pp. 7-8. Also see note 19 for a price list.

⁴⁰ State Consumer Health Information and Policy Advisory Council, *Executive Summary*, found at:

<http://ahca.myflorida.com/SCHS/CommiteesCouncils/docs/AC-ExecutiveSummary0113.pdf>, last visited on Mar. 14, 2014.

procedures for an agency to establish schedules for the physical destruction or other disposal of records held by the agency which contain personal identification information, as defined in s. 282.801, after meeting retention requirements. Unless otherwise required by law, an agency may indefinitely retain records containing information that is not identifiable as related to a unique individual.

Section 2 creates s. 282.801, F.S., and Part IV of ch. 282, F.S., relating to government data collection practices.

The bill provides the following definitions:

- “Agency” means any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of ch. 282, F.S., the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.
- “Cookie” means data installed and used in tracking website information.
- “Personal identification information” means an item, collection, or grouping of information that may be used, alone or in conjunction with other information, to identify a unique individual, including, but not limited to, his or her:
 - Name;
 - Postal or e-mail address;
 - Telephone number;
 - Social security number;
 - Date of birth;
 - Mother’s maiden name;
 - Official state-issued or United States-issued driver license or identification number, alien registration number, government passport number, employer or taxpayer identification number, or Medicaid or food assistance account number;
 - Bank account number, credit or debit card number, or other number or information that can be used to access an individual’s financial resources;
 - Educational records;
 - Medical records;
 - License plate number of a registered motor vehicle;
 - Images, including facial images;
 - Biometric identification information;
 - Criminal history; or
 - Employment history.

An agency that collects personal identification information through a website and retains the information must conspicuously post a privacy policy on the website. The privacy policy must provide:

- A description of the services the website provides;
- A description of the personal identification information that the agency collects and maintains from an individual accessing or using the website;
- An explanation of whether the agency’s data collecting and sharing practices are mandatory or allow a user to opt-out of those practices;

- Any available alternatives to using the website;
- A statement as to how the agency uses the personal identification information, including whether and under what circumstances the agency discloses such information;
- Whether any other individual or public or private entity collects personal identification information through the website;
- A general description of the security measures in place to protect personal identification information; and
- An explanation of public records requirements relating to the personal identification information of an individual using the website and if such information may be disclosed in response to a public records request.

An agency that uses a website to install cookies must inform an individual accessing the website of the use of cookies and request permission to install a cookie. Individuals declining the installation of cookies must still be allowed to use the website. This provision doesn't apply to a temporarily installed cookie that is deleted from memory when the website browser or website application is closed.

Any contract between a public agency and a contractor must specify that the contractor must comply with the privacy policy and cookie requirements in the bill for applicable services the contractor performs for the public agency, except that the privacy policy and cookie requirements in the bill do not apply to a contractor providing a service that is limited to administering, facilitating, processing, or enforcing a financial transaction initiated by an individual with no direct relationship with the contractor.

The bill provides that the failure of an agency to comply with these provisions does not create a civil cause of action.

Section 3 requires the Office of Program Policy Analysis and Government Accountability (OPPAGA) to submit a report to the president of the Senate and the speaker of the House of Representatives by July 1, 2015, which:

- Identifies personal identification information, as defined in s. 282.801, F.S., and the records in which such information is contained, held by a state agency;
- Describes the processes by which an individual may currently view and verify his or her personal identification information held by an agency, including how an individual may request the correction of incorrect personal identification information; and
- Identifies any obstacles that inhibit an individual's access to such records.

Section 7 reenacts 120.54(8), F.S., in order to incorporate the amendment made to s. 257.36, F.S., by this bill. This is a technical provision undertaken to ensure that agency rulemaking records are retained according to all the records retention provisions in s. 257.36(6), F.S.

Data on Assisted Living Facilities

Section 4 creates s. 429.55, F.S., to require the AHCA, by November 1, 2014, to provide, maintain, and update electronically accessible data on assisted living facilities (ALFs). The data must include:

- Specified information on each licensed ALF;
- A list of the facility's regulatory violations, if any; and
- Links to inspection reports on file with the AHCA.

The AHCA may provide a monitored comment web page that allows the public to comment on specific state-licensed ALFs. If the web page is provided, the AHCA must review comments for profanities and redact profanities before posting the comments to the web page. The AHCA must retain all comments as they were originally submitted, which are subject to Florida public records law. A controlling interest in an ALF, or an employee or owner of an ALF, is prohibited from posting comments on the page but may respond to comments posted on the page by others. The AHCA must ensure that such responses are identified as being from a representative of the facility.

The AHCA may provide links to third-party websites that use the published data to assist consumers in evaluating ALF quality of care and services.

The AHCA may adopt rules to administer this section.

The Florida Health Information Transparency Initiative

Section 5 amends s. 408.05, F.S., to:

- Eliminate the Florida Center for Health Information and Policy Analysis;
- Create the Florida Health Information Transparency Initiative (Initiative);
- Require the AHCA to make state-collected data on health providers, facilities, services, and payment sources available in a manner that allows for and encourages multiple innovative uses for the data;
- Require the AHCA, subject to the General Appropriations Act, to develop new methods of dissemination and to convert data into an easily usable electronic format, either by internal development or by contract with one or more vendors;
- Detail the types of data and information the AHCA must include in the comprehensive health information system, including data and information on:
 - Health resources,
 - Utilization of health resources,
 - Health care costs and financing,
 - The extent, source, and type of public and private health insurance coverage in the state, and
 - Data necessary for measuring value and quality of care provided by various health care providers;
- Require the AHCA to perform certain functions in order to collect and disseminate comprehensive health information and statistics to the public and to support the development of policy recommendations, including:
 - Collecting and compiling data from all state agencies and programs involved in providing, regulating, and paying for health services,
 - Promoting data sharing through the development, dissemination, and evaluation of state-collected health data and making such data available, transferable, and readily useable,

- Developing written agreements with local, state, and federal agencies for the sharing of health-care-related data,
- Enabling and facilitating the sharing and use of all state-collected health data to the maximum extent allowed by law,
- Monitoring data collection procedures, testing data quality, and taking such corrective actions as may be necessary to ensure that data disseminated under the Initiative are accurate, valid, reliable and complete, and
- Initiating and maintaining the activities necessary to collect, edit, verify, archive and retrieve the data;
- Require that the AHCA implement the Initiative in a manner that recognizes state-collected data as an asset and rewards taxpayer investment in information collection and management;
- Require that the AHCA ensure that any vendor who enters into a contract with the state under this section does not inhibit or impede consumer access to state-collected health data;
- Remove significant portions of the statute regarding the Comprehensive Health Information System; and
- Eliminate the State Consumer Health Information and Policy Advisory Council.

Section 6 requires the OPPAGA to monitor the AHCA's implementation of section 5 of the bill. No later than one year after the AHCA completes implementation, the OPPAGA must provide a report to the president of the Senate and the speaker of the House of Representatives containing recommendations regarding the application of data practices made pursuant to s. 408.05, F.S., to other executive branch agencies

Sections 8 through 17 amend ss. 20.42, 381.026, 395.301, 395.602, 395.6025, 408.07, 408.18, 465.0244, 627.6499, and 641.54, F.S., respectively, to strike references made obsolete by the changes made to s. 408.05, F.S.

Section 18 appropriates the sums of \$104,909 in recurring funds and \$101,579 in nonrecurring funds to the AHCA from the Health Care Trust Fund in order for the AHCA to implement the web site enhancement provisions in Section 4 of the bill. The bill provides that these appropriations will not take effect if CS/CS/SB 248 or similar legislation and CS/CS/SB 782 are both enacted into law during the 2014 Regular Session or any extension of the Regular Session and if both bills provide for and appropriate funds for the AHCA to create a monitored comment web page allowing members of the public to comment on specific ALFs licensed in Florida.

Effective Date

Section 19 provides an effective date of July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The Florida Health Information Transparency Initiative is intended to modernize health care data collection and dissemination functions to facilitate public access to this data for innovative uses.

C. Government Sector Impact:

CS/CS/SB 782 contains provisions for the Agency for Health Care Administration (AHCA) to create and maintain a public information web page on assisted living facilities (ALFs) which are very similar to provisions contained in CS/CS/SB 248 as passed by the Senate. Both bills contain appropriations of \$104,909 in recurring funds and \$101,579 in non-recurring funds from the AHCA's Health Care Trust Fund to fund the AHCA's implementation of the ALF public information web page.⁴¹ CS/CS/SB 782 provides that if CS/CS/SB 248 or similar legislation and CS/CS/SB 782 are enacted into law and both provide for the web site enhancements and the appropriations, then the appropriations in CS/CS/SB 782 will not take effect.

The fiscal impact of the bill's provisions regarding the Florida Health Information Transparency Initiative is indeterminate and would depend largely on services and functions that could be outsourced and whether such outsourcing would lead to reduction of AHCA staff. Any such vendor contracts are subject to the General Appropriations Act.

The Department of State reports no fiscal impact.

VI. Technical Deficiencies:

None.

⁴¹ CS/CS/SB 248 amends statutes regarding the enforcement of regulations for ALFs by revising fines imposed for licensure violations, clarifying existing enforcement tools, and requiring an additional inspection for ALFs having significant violations. The Senate passed that bill on March 18, 2014.

VII. Related Issues:

Section 4 requires the Agency for Health Care Administration (AHCA) to give public access to data about assisted living facilities. These provisions are substantially similar to provisions in section 15 of CS/CS/SB 248.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.42, 120.54, 257.36, 381.026, 395.301, 395.602, 395.6025, 408.05, 408.07, 408.18, 465.0244, 627.6499, and 641.54.

This bill creates the following sections of the Florida Statutes: 282.801 and 429.55.

The bill creates three undesignated sections of Florida law.

IX. Additional Information:

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

CS/CS by Appropriations on April 10, 2014:

The committee substitute appropriates \$104,909 in recurring funds and \$101,579 in nonrecurring funds to the Agency for Health Care Administration (AHCA) from the Health Care Trust Fund to the AHCA to implement the web site enhancement provisions in Section 4 of the bill. The committee substitute provides that these appropriations will not take effect if CS/CS/SB 248 or similar legislation and CS/CS/SB 782 are both enacted into law during the 2014 Regular Session, or any extension, and if both bills provide for and appropriate funds for the AHCA to create a monitored comment web page allowing members of the public to comment on specific assisted living facilities licensed in Florida.

CS by Governmental Oversight and Accountability on March 20, 2014:

The CS provides a definition of “state agency” for purposes of an OPPAGA report, clarifies that AHCA must maintain and update the assisted living facility database, and clarifies AHCA’s duties with regards to redacting profanities on a comment webpage.

- B. **Amendments:**

None.

By the Committee on Governmental Oversight and Accountability;
and Senator Brandes

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1 A bill to be entitled
2 An act relating to government data practices; amending
3 s. 257.36, F.S.; requiring the Division of Library and
4 Information Services of the Department of State to
5 adopt rules providing procedures for an agency to
6 establish schedules for the physical destruction or
7 other disposal of records containing personal
8 identification information; creating part IV of ch.
9 282, F.S., consisting of s. 282.801, F.S.; providing
10 definitions; requiring an agency that collects and
11 maintains personal identification information to post
12 a privacy policy on the agency's website; prescribing
13 minimum requirements for a privacy policy; requiring
14 an agency to provide notice of the installation of
15 cookies on an individual's computer; requiring that an
16 individual who would otherwise be granted access to an
17 agency's website be granted access even if he or she
18 declines to have the cookie installed; providing an
19 exception; requiring that privacy policy requirements
20 be specified in a contract between a public agency and
21 a contractor; specifying that a violation does not
22 create a civil cause of action; requiring the Office
23 of Program Policy Analysis and Government
24 Accountability to submit a report to the Legislature
25 by a specified date; providing report requirements;
26 creating s. 429.55, F.S.; requiring the Agency for
27 Health Care Administration to provide specified data
28 on assisted living facilities by a certain date;
29 providing minimum requirements for such data;

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30 authorizing the agency to create a comment webpage
31 regarding assisted living facilities; providing
32 minimum requirements; authorizing the agency to
33 provide links to certain third-party websites;
34 authorizing the agency to adopt rules; amending s.
35 408.05, F.S.; dissolving the Center for Health
36 Information and Policy Analysis within the Agency for
37 Health Care Administration; requiring the agency to
38 coordinate a system to promote access to certain data
39 and information; requiring that certain health-related
40 data be included within the system; assigning duties
41 to the agency relating to the collection and
42 dissemination of data; establishing conditions for the
43 funding of the system; requiring the Office of Program
44 Policy Analysis and Government Accountability to
45 monitor the agency's implementation of the health
46 information system; requiring the Office of Program
47 Policy Analysis and Government Accountability to
48 submit a report to the Legislature after completion of
49 the implementation; providing report requirements;
50 reenacting s. 120.54(8), F.S., relating to rulemaking,
51 to incorporate the amendment made to s. 257.36, F.S.,
52 in a reference thereto; amending ss. 20.42, 381.026,
53 395.301, 395.602, 395.6025, 408.07, 408.18, 465.0244,
54 627.6499, and 641.54, F.S.; conforming provisions to
55 changes made by the act; providing an effective date.

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

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Section 1. Subsection (6) of section 257.36, Florida Statutes, is amended to read:

257.36 Records and information management.—

(6) A public record may be destroyed or otherwise disposed of only in accordance with retention schedules established by the division. The division shall adopt ~~reasonable~~ rules consistent not inconsistent with this chapter which ~~are shall be~~ binding on all agencies relating to the destruction and disposition of records. Such rules ~~must shall~~ must provide, but need not be limited to:

(a) Procedures for complying and submitting to the division records-retention schedules.

(b) Procedures for the physical destruction or other disposal of records.

(c) Procedures for an agency to establish schedules for the physical destruction or other disposal of records held by the agency which contain personal identification information, as defined in s. 282.801, after meeting retention requirements. Unless otherwise required by law, an agency may indefinitely retain records containing information that is not identifiable as related to a unique individual.

~~(d)(e)~~ Standards for the reproduction of records for security or with a view to the disposal of the original record.

Section 2. Part IV of chapter 282, Florida Statutes, consisting of section 282.801, Florida Statutes, is created to read:

PART IV

GOVERNMENT DATA COLLECTION PRACTICES

282.801 Government data practices.—

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(1) For purposes of this part, the term:

(a) "Agency" has the same meaning as in s. 119.011.

(b) "Cookie" means data sent from a website which is electronically installed on a computer or electronic device of an individual who has accessed the website and transmits certain information to the server of that website.

(c) "Individual" means a human being and does not include a corporation, a partnership, or any other business entity.

(d) "Personal identification information" means an item, collection, or grouping of information that may be used, alone or in conjunction with other information, to identify a unique individual, including, but not limited to, his or her:

1. Name;

2. Postal or e-mail address;

3. Telephone number;

4. Social security number;

5. Date of birth;

6. Mother's maiden name;

7. Official state-issued or United States-issued driver license or identification number, alien registration number, government passport number, employer or taxpayer identification number, or Medicaid or food assistance account number;

8. Bank account number, credit or debit card number, or other number or information that can be used to access an individual's financial resources;

9. Educational records;

10. Medical records;

11. License plate number of a registered motor vehicle;

12. Images, including facial images;

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117 13. Biometric identification information;
 118 14. Criminal history; or
 119 15. Employment history.
 120 (2) An agency that collects personal identification
 121 information through a website and retains such information shall
 122 maintain and conspicuously post a privacy policy on such
 123 website. At a minimum, the privacy policy must provide:
 124 (a) A description of the services the website provides.
 125 (b) A description of the personal identification
 126 information that the agency collects and maintains from an
 127 individual accessing or using the website.
 128 (c) An explanation of whether the agency's data collecting
 129 and sharing practices are mandatory or allow a user to opt out
 130 of those practices.
 131 (d) Any available alternatives to using the website.
 132 (e) A statement as to how the agency uses the personal
 133 identification information, including, but not limited to,
 134 whether and under what circumstances the agency discloses such
 135 information.
 136 (f) Whether any other person, as defined in s. 671.201,
 137 collects personal identification information through the
 138 website.
 139 (g) A general description of the security measures in place
 140 to protect personal identification information; however, such
 141 description must not compromise the integrity of the security
 142 measures.
 143 (h) An explanation of public records requirements relating
 144 to the personal identification information of an individual
 145 using the website and if such information may be disclosed in

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146 response to a public records request.
 147 (3) (a) An agency that uses a website to install a cookie on
 148 an individual's computer or electronic device shall inform an
 149 individual accessing the website of the use of cookies and
 150 request permission to install a cookie on the individual's
 151 computer.
 152 (b) If an individual accessing the website of an agency
 153 declines to have cookies installed, such individual shall still
 154 be allowed to access and use the website.
 155 (c) This subsection does not apply to a cookie temporarily
 156 installed on an individual's computer or electronic device by an
 157 agency if the cookie is installed only in the computer's or
 158 electronic device's memory and is deleted from such memory when
 159 the website browser or website application is closed.
 160 (4) Any contract between a public agency, as defined in s.
 161 119.0701(1)(b), and a contractor, as defined in s.
 162 119.0701(1)(a), must specify that the contractor must comply
 163 with the requirements in subsections (2) and (3).
 164 (5) The failure of an agency to comply with this section
 165 does not create a civil cause of action.
 166 Section 3. The Office of Program Policy Analysis and
 167 Government Accountability shall submit a report to the President
 168 of the Senate and the Speaker of the House of Representatives by
 169 July 1, 2015, which:
 170 (1) Identifies personal identification information, as
 171 defined in s. 282.801, Florida Statutes, and the records in
 172 which such information is contained, held by a state agency. For
 173 purposes of this section, the term "state agency" has the same
 174 meaning as in s. 216.011(1)(qq), but does not include state

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attorneys, public defenders, criminal conflict and civil regional counsel, capital collateral regional counsel, the Justice Administrative Commission, the Florida Housing Finance Corporation, the Florida Public Service Commission, and the judicial branch.

(2) Describes the processes by which an individual may currently view and verify his or her personal identification information held by an agency, including how an individual may request the correction of incorrect personal identification information.

(3) Identifies any obstacles that inhibit an individual's access to such records.

Section 4. Section 429.55, Florida Statutes, is created to read:

429.55 Public access to data; comment page.-

(1) By November 1, 2014, the agency shall provide, maintain, and update at least quarterly, electronically accessible data on assisted living facilities. Such data must be searchable, downloadable, and available in generally accepted formats. At a minimum, such data must include:

(a) Information on each assisted living facility licensed under this part, including:

1. The name and address of the facility.
2. The number and type of licensed beds in the facility.
3. The types of licenses held by the facility.
4. The facility's license expiration date and status.
5. Other relevant information that the agency currently collects.

(b) A list of the facility's violations, including, for

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each violation:

1. A summary of the violation presented in a manner understandable by the general public;

2. Any sanctions imposed by final order; and

3. The date the corrective action was confirmed by the agency.

(c) Links to inspection reports on file with the agency.

(2) (a) The agency may provide a monitored comment webpage that allows members of the public to comment on specific assisted living facilities licensed to operate in this state. At a minimum, the comment webpage must allow members of the public to identify themselves, provide comments on their experiences with, or observations of, an assisted living facility, and view others' comments.

(b) The agency shall review comments for profanities and redact any profanities before posting the comments to the webpage. After redacting any profanities, the agency shall post all comments, and shall retain all comments as they were originally submitted, which are subject to the requirements of chapter 119, Florida Statutes, and which shall be retained by the agency for inspection by the public without further redaction pursuant to retention schedules and disposal processes for such records.

(c) A controlling interest, as defined in s. 408.803, Florida Statutes, in an assisted living facility, or an employee or owner of an assisted living facility, is prohibited from posting comments on the page. A controlling interest, employee, or owner may respond to comments on the page, and the agency shall ensure that such responses are identified as being from a

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representative of the facility.

(3) The agency may provide links to third-party websites that use the data published pursuant to this section to assist consumers in evaluating the quality of care and service in assisted living facilities.

(4) The agency may adopt rules to administer this section.

Section 5. Section 408.05, Florida Statutes, is amended to read:

408.05 Florida Health Information Transparency Initiative Center for Health Information and Policy Analysis.-

(1) CREATION AND PURPOSE ESTABLISHMENT.-The agency shall create a comprehensive health information system to promote accessibility, transparency, and utility of state-collected data and information about health providers, facilities, services, and payment sources. The agency is responsible for making state-collected health data available in a manner that allows for and encourages multiple and innovative uses of data sets. Subject to funding by the General Appropriations Act, the agency shall develop and deploy, through a contract award with one or more vendors or internal development, new methods of dissemination and ways to convert data into easily usable electronic formats establish a Florida Center for Health Information and Policy Analysis. The center shall establish a comprehensive health information system to provide for the collection, compilation, coordination, analysis, indexing, dissemination, and utilization of both purposefully collected and extant health-related data and statistics. The center shall be staffed with public health experts, biostatisticians, information system analysts, health policy experts, economists, and other staff necessary to carry

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~~out its functions.~~

(2) HEALTH-RELATED DATA.-The comprehensive health information system must include the following data and ~~information operated by the Florida Center for Health Information and Policy Analysis shall identify the best available data sources and coordinate the compilation of extant health-related data and statistics and purposefully collect data on:~~

~~(a) The extent and nature of illness and disability of the state population, including life expectancy, the incidence of various acute and chronic illnesses, and infant and maternal morbidity and mortality.~~

~~(b) The impact of illness and disability of the state population on the state economy and on other aspects of the well-being of the people in this state.~~

~~(c) Environmental, social, and other health hazards.~~

~~(d) Health knowledge and practices of the people in this state and determinants of health and nutritional practices and status.~~

~~(a)(e) Health resources, including licensed health professionals, licensed health care facilities, managed care organizations, and other health services regulated or funded by the state physicians, dentists, nurses, and other health professionals, by specialty and type of practice and acute, long-term care and other institutional care facility supplies and specific services provided by hospitals, nursing homes, home health agencies, and other health care facilities.~~

~~(b)(f) Utilization of health resources care by type of provider.~~

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291 (c)(g) Health care costs and financing, including Medicaid
 292 claims and encounter data and data from other public and private
 293 payors trends in health care prices and costs, the sources of
 294 payment for health care services, and federal, state, and local
 295 expenditures for health care.

296 ~~(h) Family formation, growth, and dissolution.~~

297 (d)(i) The extent, source, and type of public and private
 298 health insurance coverage in this state.

299 (e)(j) The data necessary for measuring value and quality
 300 of care provided by various health care providers, including
 301 applicable credentials, accreditation status, use, revenues and
 302 expenses, outcomes, site visits, and other regulatory reports,
 303 and the results of administrative and civil litigation related
 304 to health care.

305 (3) COORDINATION COMPREHENSIVE HEALTH INFORMATION SYSTEM.—
 306 In order to collect comprehensive ~~produce comparable and uniform~~
 307 health information and statistics and to disseminate such
 308 information to for the public, as well as for the development of
 309 policy recommendations, the agency shall perform the following
 310 functions:

311 (a) Collect and compile data from all agencies and programs
 312 that provide, regulate, and pay for health services ~~Coordinate~~
 313 ~~the activities of state agencies involved in the design and~~
 314 ~~implementation of the comprehensive health information system.~~

315 (b) Promote data sharing through the ~~Undertake research,~~
 316 development, dissemination, and evaluation of state-collected
 317 health data and by making such data available, transferable, and
 318 readily usable ~~respecting the comprehensive health information~~
 319 ~~system.~~

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320 ~~(e) Review the statistical activities of state agencies to~~
 321 ~~ensure that they are consistent with the comprehensive health~~
 322 ~~information system.~~

323 (c)(d) Develop written agreements with local, state, and
 324 federal agencies for the sharing of health-care-related data or
 325 using the facilities and services of such agencies. State
 326 agencies, local health councils, and other agencies under state
 327 contract shall assist the agency center ~~center~~ in obtaining, compiling,
 328 and transferring health-care-related data maintained by state
 329 and local agencies. ~~Written agreements must specify the types,~~
 330 ~~methods, and periodicity of data exchanges and specify the types~~
 331 ~~of data that will be transferred to the center.~~

332 (d)(e) Enable and facilitate the sharing and use of all
 333 state-collected health data to the maximum extent allowed by law
 334 Establish by rule the types of data collected, compiled,
 335 processed, used, or shared. Decisions regarding center data sets
 336 should be made based on consultation with the State Consumer
 337 Health Information and Policy Advisory Council and other public
 338 and private users regarding the types of data which should be
 339 collected and their uses. The center shall establish
 340 standardized means for collecting health information and
 341 statistics under laws and rules administered by the agency.

342 ~~(f) Establish minimum health-care-related data sets which~~
 343 ~~are necessary on a continuing basis to fulfill the collection~~
 344 ~~requirements of the center and which shall be used by state~~
 345 ~~agencies in collecting and compiling health-care-related data.~~
 346 ~~The agency shall periodically review ongoing health care data~~
 347 ~~collections of the Department of Health and other state agencies~~
 348 ~~to determine if the collections are being conducted in~~

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accordance with the established minimum sets of data.

~~(g) Establish advisory standards to ensure the quality of health statistical and epidemiological data collection, processing, and analysis by local, state, and private organizations.~~

(e)(h) Monitor data collection procedures, test data quality, and take such corrective actions as are necessary to ensure that data and information disseminated under the initiative are accurate, valid, reliable, and complete Prescribe standards for the publication of health care-related data reported pursuant to this section which ensure the reporting of accurate, valid, reliable, complete, and comparable data. Such standards should include advisory warnings to users of the data regarding the status and quality of any data reported by or available from the center.

(f)(i) Initiate and maintain activities necessary to collect, edit, verify, archive, and retrieve data compiled pursuant to this section Prescribe standards for the maintenance and preservation of the center's data. This should include methods for archiving data, retrieval of archived data, and data editing and verification.

~~(j) Ensure that strict quality control measures are maintained for the dissemination of data through publications, studies, or user requests.~~

~~(k) Develop, in conjunction with the State Consumer Health Information and Policy Advisory Council, and implement a long-range plan for making available health care quality measures and financial data that will allow consumers to compare health care services. The health care quality measures and financial data~~

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~~the agency must make available include, but are not limited to, pharmaceuticals, physicians, health care facilities, and health plans and managed care entities. The agency shall update the plan and report on the status of its implementation annually. The agency shall also make the plan and status report available to the public on its Internet website. As part of the plan, the agency shall identify the process and timeframes for implementation, barriers to implementation, and recommendations of changes in the law that may be enacted by the Legislature to eliminate the barriers. As preliminary elements of the plan, the agency shall:~~

~~1. Make available patient safety indicators, inpatient quality indicators, and performance outcome and patient charge data collected from health care facilities pursuant to s. 408.061(1)(a) and (2). The terms "patient safety indicators" and "inpatient quality indicators" have the same meaning as that ascribed by the Centers for Medicare and Medicaid Services, an accrediting organization whose standards incorporate comparable regulations required by this state, or a national entity that establishes standards to measure the performance of health care providers, or by other states. The agency shall determine which conditions, procedures, health care quality measures, and patient charge data to disclose based upon input from the council. When determining which conditions and procedures are to be disclosed, the council and the agency shall consider variation in costs, variation in outcomes, and magnitude of variations and other relevant information. When determining which health care quality measures to disclose, the agency:~~

~~a. Shall consider such factors as volume of cases; average~~

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patient charges, average length of stay, complication rates, mortality rates, and infection rates, among others, which shall be adjusted for case mix and severity, if applicable.

b. ~~May consider such additional measures that are adopted by the Centers for Medicare and Medicaid Studies, an accrediting organization whose standards incorporate comparable regulations required by this state, the National Quality Forum, the Joint Commission on Accreditation of Healthcare Organizations, the Agency for Healthcare Research and Quality, the Centers for Disease Control and Prevention, or a similar national entity that establishes standards to measure the performance of health care providers, or by other states.~~

When determining which patient charge data to disclose, the agency shall include such measures as the average of undiscounted charges on frequently performed procedures and preventive diagnostic procedures, the range of procedure charges from highest to lowest, average net revenue per adjusted patient day, average cost per adjusted patient day, and average cost per admission, among others.

2. ~~Make available performance measures, benefit design, and premium cost data from health plans licensed pursuant to chapter 627 or chapter 641. The agency shall determine which health care quality measures and member and subscriber cost data to disclose, based upon input from the council. When determining which data to disclose, the agency shall consider information that may be required by either individual or group purchasers to assess the value of the product, which may include membership satisfaction, quality of care, current enrollment or membership,~~

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coverage areas, accreditation status, premium costs, plan costs, premium increases, range of benefits, copayments and deductibles, accuracy and speed of claims payment, credentials of physicians, number of providers, names of network providers, and hospitals in the network. Health plans shall make available to the agency such data or information that is not currently reported to the agency or the office.

3. ~~Determine the method and format for public disclosure of data reported pursuant to this paragraph. The agency shall make its determination based upon input from the State Consumer Health Information and Policy Advisory Council. At a minimum, the data shall be made available on the agency's Internet website in a manner that allows consumers to conduct an interactive search that allows them to view and compare the information for specific providers. The website must include such additional information as is determined necessary to ensure that the website enhances informed decisionmaking among consumers and health care purchasers, which shall include, at a minimum, appropriate guidance on how to use the data and an explanation of why the data may vary from provider to provider.~~

4. ~~Publish on its website undiscounted charges for no fewer than 150 of the most commonly performed adult and pediatric procedures, including outpatient, inpatient, diagnostic, and preventative procedures.~~

~~(4) TECHNICAL ASSISTANCE.—~~

~~(a) The center shall provide technical assistance to persons or organizations engaged in health planning activities in the effective use of statistics collected and compiled by the center. The center shall also provide the following additional~~

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technical assistance services:

1. Establish procedures identifying the circumstances under which, the places at which, the persons from whom, and the methods by which a person may secure data from the center, ~~including procedures governing requests, the ordering of requests, timeframes for handling requests, and other procedures necessary to facilitate the use of the center's data. To the extent possible, the center should provide current data timely in response to requests from public or private agencies.~~

2. Provide assistance to data sources and users in the areas of database design, survey design, sampling procedures, statistical interpretation, and data access to promote improved health care related data sets.

3. Identify health care data gaps and provide technical assistance to other public or private organizations for meeting documented health care data needs.

4. Assist other organizations in developing statistical abstracts of their data sets that could be used by the center.

5. Provide statistical support to state agencies with regard to the use of databases maintained by the center.

6. To the extent possible, respond to multiple requests for information not currently collected by the center or available from other sources by initiating data collection.

7. Maintain detailed information on data maintained by other local, state, federal, and private agencies in order to advise those who use the center of potential sources of data which are requested but which are not available from the center.

8. Respond to requests for data which are not available in published form by initiating special computer runs on data sets

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available to the center.

9. Monitor innovations in health information technology, informatics, and the exchange of health information and maintain a repository of technical resources to support the development of a health information network.

(b) The agency shall administer, manage, and monitor grants to not-for-profit organizations, regional health information organizations, public health departments, or state agencies that submit proposals for planning, implementation, or training projects to advance the development of a health information network. Any grant contract shall be evaluated to ensure the effective outcome of the health information project.

(c) The agency shall initiate, oversee, manage, and evaluate the integration of health care data from each state agency that collects, stores, and reports on health care issues and make that data available to any health care practitioner through a state health information network.

(5) PUBLICATIONS; REPORTS; SPECIAL STUDIES. The center shall provide for the widespread dissemination of data which it collects and analyzes. The center shall have the following publication, reporting, and special study functions:

(a) The center shall publish and make available periodically to agencies and individuals health statistics publications of general interest, including health plan consumer reports and health maintenance organization member satisfaction surveys; publications providing health statistics on topical health policy issues; publications that provide health status profiles of the people in this state; and other topical health statistics publications.

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~~(b) The center shall publish, make available, and disseminate, promptly and as widely as practicable, the results of special health surveys, health care research, and health care evaluations conducted or supported under this section. Any publication by the center must include a statement of the limitations on the quality, accuracy, and completeness of the data.~~

~~(c) The center shall provide indexing, abstracting, translation, publication, and other services leading to a more effective and timely dissemination of health care statistics.~~

~~(d) The center shall be responsible for publishing and disseminating an annual report on the center's activities.~~

~~(e) The center shall be responsible, to the extent resources are available, for conducting a variety of special studies and surveys to expand the health care information and statistics available for health policy analyses, particularly for the review of public policy issues. The center shall develop a process by which users of the center's data are periodically surveyed regarding critical data needs and the results of the survey considered in determining which special surveys or studies will be conducted. The center shall select problems in health care for research, policy analyses, or special data collections on the basis of their local, regional, or state importance, the unique potential for definitive research on the problem, and opportunities for application of the study findings.~~

~~(4)(6) PROVIDER DATA REPORTING.~~-This section does not confer on the agency the power to demand or require that a health care provider or professional furnish information,

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records of interviews, written reports, statements, notes, memoranda, or data other than as expressly required by law.

~~(5)(7) HEALTH INFORMATION ENTERPRISE BUDGET, FEES.-~~

~~(a) The agency shall implement the comprehensive health information system in a manner that recognizes state-collected data as an asset and rewards taxpayer investment in information collection and management. Legislature intends that funding for the Florida Center for Health Information and Policy Analysis be appropriated from the General Revenue Fund.~~

~~(b) The agency Florida Center for Health Information and Policy Analysis may apply for, and receive, and accept grants, gifts, and other payments, including property and services, from a any governmental or other public or private entity or person and make arrangements for as to the use of such funds same, including the undertaking of special studies and other projects relating to health-care-related topics. Funds obtained pursuant to this paragraph may not be used to offset annual appropriations from the General Revenue Fund.~~

~~(c) The agency shall ensure that a vendor who enters into a contract with the state under this section does not inhibit or impede public access to state-collected health data and information center may charge such reasonable fees for services as the agency prescribes by rule. The established fees may not exceed the reasonable cost for such services. Fees collected may not be used to offset annual appropriations from the General Revenue Fund.~~

~~(8) STATE CONSUMER HEALTH INFORMATION AND POLICY ADVISORY COUNCIL.-~~

~~(a) There is established in the agency the State Consumer~~

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Health Information and Policy Advisory Council to assist the center in reviewing the comprehensive health information system, including the identification, collection, standardization, sharing, and coordination of health-related data, fraud and abuse data, and professional and facility licensing data among federal, state, local, and private entities and to recommend improvements for purposes of public health, policy analysis, and transparency of consumer health care information. The council shall consist of the following members:

1. An employee of the Executive Office of the Governor, to be appointed by the Governor.

2. An employee of the Office of Insurance Regulation, to be appointed by the director of the office.

3. An employee of the Department of Education, to be appointed by the Commissioner of Education.

4. Ten persons, to be appointed by the Secretary of Health Care Administration, representing other state and local agencies, state universities, business and health coalitions, local health councils, professional health-care-related associations, consumers, and purchasers.

(b) Each member of the council shall be appointed to serve for a term of 2 years following the date of appointment, except the term of appointment shall end 3 years following the date of appointment for members appointed in 2003, 2004, and 2005. A vacancy shall be filled by appointment for the remainder of the term, and each appointing authority retains the right to reappoint members whose terms of appointment have expired.

(c) The council may meet at the call of its chair, at the request of the agency, or at the request of a majority of its

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membership, but the council must meet at least quarterly.

(d) Members shall elect a chair and vice chair annually.

(e) A majority of the members constitutes a quorum, and the affirmative vote of a majority of a quorum is necessary to take action.

(f) The council shall maintain minutes of each meeting and shall make such minutes available to any person.

(g) Members of the council shall serve without compensation but shall be entitled to receive reimbursement for per diem and travel expenses as provided in s. 112.061.

(h) The council's duties and responsibilities include, but are not limited to, the following:

1. To develop a mission statement, goals, and a plan of action for the identification, collection, standardization, sharing, and coordination of health-related data across federal, state, and local government and private sector entities.

2. To develop a review process to ensure cooperative planning among agencies that collect or maintain health-related data.

3. To create ad hoc issue-oriented technical workgroups on an as-needed basis to make recommendations to the council.

(9) APPLICATION TO OTHER AGENCIES. Nothing in this section shall limit, restrict, affect, or control the collection, analysis, release, or publication of data by any state agency pursuant to its statutory authority, duties, or responsibilities.

Section 6. The Office of Program Policy Analysis and Government Accountability (OPFAGA) shall monitor the Agency for Health Care Administration's implementation of s. 408.05,

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Florida Statutes, as amended by this act. No later than 1 year after the agency completes implementation, OPPAGA shall provide a report to the President of the Senate and the Speaker of the House of Representatives containing recommendations regarding the application of data practices made pursuant to s. 408.05, Florida Statutes, to other executive branch agencies.

Section 7. For the purpose of incorporating the amendment made by this act to section 257.36, Florida Statutes, in a reference thereto, subsection (8) of section 120.54, Florida Statutes, is reenacted to read:

120.54 Rulemaking.—

(8) RULEMAKING RECORD.—In all rulemaking proceedings the agency shall compile a rulemaking record. The record shall include, if applicable, copies of:

(a) All notices given for the proposed rule.

(b) Any statement of estimated regulatory costs for the rule.

(c) A written summary of hearings on the proposed rule.

(d) The written comments and responses to written comments as required by this section and s. 120.541.

(e) All notices and findings made under subsection (4).

(f) All materials filed by the agency with the committee under subsection (3).

(g) All materials filed with the Department of State under subsection (3).

(h) All written inquiries from standing committees of the Legislature concerning the rule.

Each state agency shall retain the record of rulemaking as long

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as the rule is in effect. When a rule is no longer in effect, the record may be destroyed pursuant to the records-retention schedule developed under s. 257.36(6).

Section 8. Subsection (3) of section 20.42, Florida Statutes, is amended to read:

20.42 Agency for Health Care Administration.—

(3) The department ~~is shall be~~ the chief health policy and planning entity for the state. The department is responsible for health facility licensure, inspection, and regulatory enforcement; investigation of consumer complaints related to health care facilities and managed care plans; the implementation of the certificate of need program; ~~the operation of the Florida Center for Health Information and Policy Analysis;~~ the administration of the Medicaid program; the administration of the contracts with the Florida Healthy Kids Corporation; the certification of health maintenance organizations and prepaid health clinics as set forth in part III of chapter 641; and any other duties prescribed by statute or agreement.

Section 9. Paragraph (c) of subsection (4) of section 381.026, Florida Statutes, is amended to read:

381.026 Florida Patient's Bill of Rights and Responsibilities.—

(4) RIGHTS OF PATIENTS.—Each health care facility or provider shall observe the following standards:

(c) *Financial information and disclosure.*—

1. A patient has the right to be given, upon request, by the responsible provider, his or her designee, or a representative of the health care facility full information and

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necessary counseling on the availability of known financial resources for the patient's health care.

2. A health care provider or a health care facility shall, upon request, disclose to each patient who is eligible for Medicare, before treatment, whether the health care provider or the health care facility in which the patient is receiving medical services accepts assignment under Medicare reimbursement as payment in full for medical services and treatment rendered in the health care provider's office or health care facility.

3. A primary care provider may publish a schedule of charges for the medical services that the provider offers to patients. The schedule must include the prices charged to an uninsured person paying for such services by cash, check, credit card, or debit card. The schedule must be posted in a conspicuous place in the reception area of the provider's office and must include, but is not limited to, the 50 services most frequently provided by the primary care provider. The schedule may group services by three price levels, listing services in each price level. The posting must be at least 15 square feet in size. A primary care provider who publishes and maintains a schedule of charges for medical services is exempt from the license fee requirements for a single period of renewal of a professional license under chapter 456 for that licensure term and is exempt from the continuing education requirements of chapter 456 and the rules implementing those requirements for a single 2-year period.

4. If a primary care provider publishes a schedule of charges pursuant to subparagraph 3., he or she shall ~~must~~ continually post it at all times for the duration of active

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licensure in this state when primary care services are provided to patients. If a primary care provider fails to post the schedule of charges in accordance with this subparagraph, the provider shall ~~be required to~~ pay any license fee and comply with ~~any~~ continuing education requirements for which an exemption was received.

5. A health care provider or a health care facility shall, upon request, furnish a person, before the provision of medical services, a reasonable estimate of charges for such services. The health care provider or the health care facility shall provide an uninsured person, before the provision of a planned nonemergency medical service, a reasonable estimate of charges for such service and information regarding the provider's or facility's discount or charity policies for which the uninsured person may be eligible. Such estimates by a primary care provider must be consistent with the schedule posted under subparagraph 3. To the extent possible, estimates shall, ~~to the extent possible,~~ be written in language comprehensible to an ordinary layperson. Such reasonable estimate does not preclude the health care provider or health care facility from exceeding the estimate or making additional charges based on changes in the patient's condition or treatment needs.

6. Each licensed facility not operated by the state shall make available to the public on its ~~Internet~~ website or by other electronic means a description of and a link to the performance outcome and financial data that is published by the agency ~~pursuant to s. 408.05(3)(k).~~ The facility shall place in its reception area a notice stating that the ~~in the reception area~~ ~~that such~~ information is available electronically and providing

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the facility's website address. The licensed facility may indicate that the pricing information is based on a compilation of charges for the average patient and that each patient's bill may vary from the average depending upon the severity of illness and individual resources consumed. The licensed facility may also indicate that the price of service is negotiable for eligible patients based upon the patient's ability to pay.

7. A patient has the right to receive a copy of an itemized bill and upon request. ~~A patient has a right to be given an~~ explanation of charges upon request.

Section 10. Subsection (11) of section 395.301, Florida Statutes, is amended to read:

395.301 Itemized patient bill; form and content prescribed by the agency.—

(11) Each licensed facility shall make available on its ~~Internet~~ website a link to the performance outcome and financial data that is published by the Agency for Health Care Administration ~~pursuant to s. 408.05(3)(k)~~. The facility shall place in its reception area a notice stating in the reception area that the information is available electronically and providing the facility's ~~Internet~~ website address.

Section 11. Paragraph (e) of subsection (2) of section 395.602, Florida Statutes, is amended to read:

395.602 Rural hospitals.—

(2) DEFINITIONS.—As used in this part:

(e) "Rural hospital" means an acute care hospital licensed under this chapter, having 100 or fewer licensed beds and an emergency room, which is:

1. The sole provider within a county with a population

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density of no greater than 100 persons per square mile;

2. An acute care hospital, in a county with a population density of no greater than 100 persons per square mile, which is at least 30 minutes of travel time, on normally traveled roads under normal traffic conditions, from any other acute care hospital within the same county;

3. A hospital supported by a tax district or subdistrict whose boundaries encompass a population of 100 persons or fewer per square mile;

4. A hospital in a constitutional charter county with a population of more than ~~over~~ 1 million persons that has imposed a local option health service tax pursuant to law and in an area that was directly impacted by a catastrophic event on August 24, 1992, for which the Governor of Florida declared a state of emergency pursuant to chapter 125, and has 120 beds or less that serves an agricultural community with an emergency room utilization of no less than 20,000 visits and a Medicaid inpatient utilization rate greater than 15 percent;

5. A hospital with a service area that has a population of 100 persons or fewer per square mile. As used in this subparagraph, the term "service area" means the fewest number of zip codes that account for 75 percent of the hospital's discharges for the most recent 5-year period, based on information available from the agency's hospital inpatient discharge database ~~in the Florida Center for Health Information and Policy Analysis at the agency;~~ or

6. A hospital designated as a critical access hospital, as defined in s. 408.07.

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Population densities used in this paragraph must be based upon the most recently completed United States census. A hospital that received funds under s. 409.9116 for a quarter beginning no later than July 1, 2002, is deemed to have been and shall continue to be a rural hospital from that date through June 30, 2015, if the hospital continues to have 100 or fewer licensed beds and an emergency room, or meets the criteria of subparagraph 4. An acute care hospital that has not previously been designated as a rural hospital and that meets the criteria of this paragraph shall be granted such designation upon application, including supporting documentation, to the agency. A hospital that was licensed as a rural hospital during the 2010-2011 or 2011-2012 fiscal year shall continue to be a rural hospital from the date of designation through June 30, 2015, if the hospital continues to have 100 or fewer licensed beds and an emergency room.

Section 12. Section 395.6025, Florida Statutes, is amended to read:

395.6025 Rural hospital replacement facilities.—
Notwithstanding ~~the provisions of~~ s. 408.036, a hospital defined as a statutory rural hospital in accordance with s. 395.602, or a not-for-profit operator of rural hospitals, is not required to obtain a certificate of need for the construction of a new hospital located in a county with a population of at least 15,000 but no more than 18,000 and a density of less than 30 persons per square mile, or a replacement facility, if provided ~~that~~ the replacement, or new, facility is located within 10 miles of the site of the currently licensed rural hospital and within the current primary service area. As used in this

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section, the term "service area" means the fewest number of zip codes that account for 75 percent of the hospital's discharges for the most recent 5-year period, based on information available from the Agency for Health Care Administration's hospital inpatient discharge database ~~in the Florida Center for Health Information and Policy Analysis at the Agency for Health Care Administration.~~

Section 13. Subsection (43) of section 408.07, Florida Statutes, is amended to read:

408.07 Definitions.—As used in this chapter, with the exception of ss. 408.031-408.045, the term:

(43) "Rural hospital" means an acute care hospital licensed under chapter 395, having 100 or fewer licensed beds and an emergency room, and which is:

(a) The sole provider within a county with a population density of no greater than 100 persons per square mile;

(b) An acute care hospital, in a county with a population density of no greater than 100 persons per square mile, which is at least 30 minutes of travel time, on normally traveled roads under normal traffic conditions, from another acute care hospital within the same county;

(c) A hospital supported by a tax district or subdistrict whose boundaries encompass a population of 100 persons or fewer per square mile;

(d) A hospital with a service area that has a population of 100 persons or fewer per square mile. As used in this paragraph, the term "service area" means the fewest number of zip codes that account for 75 percent of the hospital's discharges for the most recent 5-year period, based on information available from

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871 the Agency for Health Care Administration's hospital inpatient
 872 discharge database ~~in the Florida Center for Health Information~~
 873 ~~and Policy Analysis at the Agency for Health Care~~
 874 ~~Administration; or~~
 875 (e) A critical access hospital.
 876
 877 Population densities used in this subsection must be based upon
 878 the most recently completed United States census. A hospital
 879 that received funds under s. 409.9116 for a quarter beginning no
 880 later than July 1, 2002, is deemed to have been and shall
 881 continue to be a rural hospital from that date through June 30,
 882 2015, if the hospital continues to have 100 or fewer licensed
 883 beds and an emergency room, or meets the criteria of s.
 884 395.602(2)(e)4. An acute care hospital that has not previously
 885 been designated as a rural hospital and that meets the criteria
 886 of this subsection shall be granted such designation upon
 887 application, including supporting documentation, to the Agency
 888 for Health Care Administration.
 889 Section 14. Paragraph (a) of subsection (4) of section
 890 408.18, Florida Statutes, is amended to read:
 891 408.18 Health Care Community Antitrust Guidance Act;
 892 antitrust no-action letter; market-information collection and
 893 education.—
 894 (4)(a) Members of the health care community who seek
 895 antitrust guidance may request a review of their proposed
 896 business activity by the Attorney General's office. In
 897 conducting its review, the Attorney General's office may seek
 898 whatever documentation, data, or other material it deems
 899 necessary from the Agency for Health Care Administration, ~~the~~

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900 ~~Florida Center for Health Information and Policy Analysis,~~ and
 901 the Office of Insurance Regulation of the Financial Services
 902 Commission.
 903 Section 15. Section 465.0244, Florida Statutes, is amended
 904 to read:
 905 465.0244 Information disclosure.—Every pharmacy shall make
 906 available on its ~~Internet~~ website a link to the performance
 907 outcome and financial data that is published by the Agency for
 908 Health Care Administration ~~pursuant to s. 408.05(3)(k)~~ and shall
 909 place in the area where customers receive filled prescriptions
 910 notice that such information is available electronically and the
 911 address of its ~~Internet~~ website.
 912 Section 16. Subsection (2) of section 627.6499, Florida
 913 Statutes, is amended to read:
 914 627.6499 Reporting by insurers and third-party
 915 administrators.—
 916 (2) Each health insurance issuer shall make available on
 917 its ~~Internet~~ website a link to the performance outcome and
 918 financial data that is published by the Agency for Health Care
 919 Administration ~~pursuant to s. 408.05(3)(k)~~ and shall include in
 920 every policy delivered or issued for delivery to any person in
 921 the state or any materials provided as required by s. 627.64725
 922 notice that such information is available electronically and the
 923 address of its ~~Internet~~ website.
 924 Section 17. Subsection (7) of section 641.54, Florida
 925 Statutes, is amended to read:
 926 641.54 Information disclosure.—
 927 (7) Each health maintenance organization shall make
 928 available on its ~~Internet~~ website a link to the performance

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929 outcome and financial data that is published by the Agency for
930 Health Care Administration pursuant to ~~s. 408.05(3)(k)~~ and shall
931 include in every policy delivered or issued for delivery to any
932 person in the state or ~~any~~ materials provided as required by s.
933 627.64725 notice that such information is available
934 electronically and the address of its ~~Internet~~ website.

935 Section 18. This act shall take effect July 1, 2014.



The Florida Senate

Committee Agenda Request

To: Senator Joe Negron, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: April 2, 2014

I respectfully request that **Senate Bill # 782**, relating to Government Data Practices, be placed on the:

- ☐ committee agenda at your earliest possible convenience.
- ☒ next committee agenda.

A handwritten signature in black ink, appearing to read "Jeff Brandes", is written over a horizontal line.

Senator Jeff Brandes
Florida Senate, District 22

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 834

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Latvala

SUBJECT: Legal Notices

DATE: April 10, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kim	McVaney	GO	Fav/CS
2.	Davis	Cibula	JU	Favorable
3.	Carey	Kynoch	AP	Favorable
4.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 834 ensures that access to legal notices is free and more user friendly. A newspaper's legal notice webpage must be clearly titled, accessible for free, and may not require registration. The statewide website for legal notices, which is maintained by the Florida Press Association, must also be accessible for free, searchable by case name and number, and keep legal notices online for at least 90 consecutive days. This bill repeals a provision which states that an error in a legal notice appearing on a newspaper's website or on the statewide website is harmless if the legal notice was correctly published in the print version of the newspaper.

II. Present Situation:

Publication of Legal Notices

The publication of legal notices in newspapers is a long established practice. Legal notices and publication in newspapers occur for a variety of cases, such as when the government is proposing

to take an action¹ or when a plaintiff is not able to personally serve a defendant.² In most civil cases in which service may be accomplished by publication, notice must be published in a newspaper in the county where the lawsuit is filed once a week for 4 consecutive weeks.³ Foreclosure proceedings are published once a week for 2 weeks.⁴

Publication Requirements

The requirements for legal publication are located in ch. 50, F.S. The law requires that publication be in a newspaper that is printed and published at least once a week and that contains at least 25 percent of its words in the English language.⁵ The newspaper must qualify or be entered to qualify as a periodical at the post office in the county where it is published, and be generally available to the public for the purpose of publication of notices.⁶ All official notices and legal advertisements must be charged and paid for on the basis of 6-point type on 6-point body, unless otherwise specified in statute.⁷

¹ There are many types of situations where legal notices are required, and the publication requirements for those situations are particular to each law. An example would be a judicial sale, when there is a court order or judgment for the sale of real or personal property, pursuant to ch. 45, F.S. Another example in s. 125.66, F.S., requires the board of county commissioners to publish in a newspaper a notice of intent to enact or amend ordinances at least 10 days before the meeting in which the ordinance may be enacted or amended.

² In general, laws addressing constructive service of process by publication are located in ch. 49, F.S. Section 49.011, F.S., provides that service of process by publication is permitted in the following types of cases:

- (1) To enforce any legal or equitable lien or claim to any title or interest in real or personal property within the jurisdiction of the court or any fund held or debt owing by any party on whom process can be served within this state.
- (2) To quiet title or remove any encumbrance, lien, or cloud on the title to any real or personal property within the jurisdiction of the court or any fund held or debt owing by any party on whom process can be served within this state.
- (3) To partition real or personal property within the jurisdiction of the court.
- (4) For dissolution or annulment of marriage.
- (5) For the construction of any will, deed, contract, or other written instrument and for a judicial declaration or enforcement of any legal or equitable right, title, claim, lien, or interest thereunder.
- (6) To reestablish a lost instrument or record which has or should have its situs within the jurisdiction of the court.
- (7) In which a writ of replevin, garnishment, or attachment has been issued and executed.
- (8) In which any other writ or process has been issued and executed which places any property, fund, or debt in the custody of a court.
- (9) To revive a judgment by motion or scire facias.
- (10) For adoption.
- (11) In which personal service of process or notice is not required by the statutes or constitution of this state or by the Constitution of the United States.
- (12) In probate or guardianship proceedings in which personal service of process or notice is not required by the statutes or constitution of this state or by the Constitution of the United States.
- (13) For termination of parental rights pursuant to part VIII of ch. 39 or ch. 63.
- (14) For temporary custody of a minor child, under ch. 751.
- (15) To determine paternity, but only as to the legal father in a paternity action in which another man is alleged to be the biological father, in which case it is necessary to serve process on the legal father in order to establish paternity with regard to the alleged biological father.

³ Section 49.10(1)(b), F.S.

⁴ Section 49.10(1)(c), F.S.

⁵ Section 50.011, F.S.

⁶ Section 50.011, F.S.

⁷ Section 50.061(6), F.S.

Publication Costs

The amount a newspaper can charge for publication is standardized at 70 cents per square inch for the first insertion, and 40 cents per square inch for each subsequent insertion.⁸ Where the regular established minimum commercial rate per square inch of the newspaper publishing the official notice or legal advertisement is greater than the per square inch rate established in statute, the minimum commercial rate may be charged.⁹ If the government is required to publish a notice multiple times, a newspaper may only charge 85 percent of the allowable rate for the subsequent publications.¹⁰ The government may also procure publication through bids.¹¹

Newspaper's Website

The law requires that the following legal actions must be published on a newspaper's website at the same time that they appear in print:

constructive service, or the initiating, assuming, reviewing, exercising or enforcing jurisdiction or power, by any court in this state, or any notice of sale of property, real or personal, for taxes, state, county or municipal, or sheriff's, guardian's or administrator's or any sale made pursuant to any judicial order, decree or statute or any other publication or notice pertaining to any affairs of the state, or any county, municipality or other political subdivision thereof.¹²

Legal notices must be placed on a newspaper's website on the same day the notices appear in print, and the front page of a newspaper's website must have a link to the legal notices webpage.¹³ The legal notices webpage must be searchable and accessible for free to the public.¹⁴ If there are size requirements for a printed legal notice, then the newspaper's website is required to optimize online visibility of the legal notice; in addition, the legal notices must be the dominant feature of the webpage.¹⁵ Effective July 1, 2013, newspapers are required to provide free e-mail notification of publication of new legal notices.¹⁶

Statewide Website

A newspaper is also required to place a legal notice published in its newspaper on a statewide website maintained by the Florida Press Association.¹⁷ Finally, any error in the legal notice published on a newspaper's webpage or the statewide website is considered harmless if the legal notice printed in the newspaper is correct.¹⁸

⁸ Section 50.061(2), F.S.

⁹ Section 50.061(3), F.S.

¹⁰ Section 50.061(2), F.S.

¹¹ Section 50.061(4), F.S.

¹² Section 50.031, F.S.

¹³ Section 50.0211(2), F.S.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ Section 50.0211(4), F.S.

¹⁷ Section 50.0211(3), F.S. See www.floridapublicnotices.com.

¹⁸ Section 50.0211(5), F.S.

III. Effect of Proposed Changes:

Newspaper Websites

Legal notices webpages for newspapers must be titled “Legal Notices,” “Legal Advertising,” or use similar language. The legal notices webpages must also be the “leading” as well as dominant subject of the page.

If the legal notice is published in a newspaper, the newspaper is prohibited from charging a fee or requiring a person to register with the newspaper in order to view or search a legal notice webpage.

Statewide Website

The statewide legal notice website must be accessible and searchable by name and case number and legal notices must be posted for at least 90 consecutive days. Effective October 1, 2014, the statewide website must keep a legal notice posted for 18 months, be searchable, and free to the public.

Conflicting Notices

The bill deletes s. 50.0211(5), F.S., which provides that an error in the internet version of a legal notice is harmless if the printed version is correct.¹⁹

Technical changes

Obsolete effective date clauses are removed from s. 50.0211, F.S., and editorial changes are made to ss. 50.0211 and 50.061, F.S.

Effective Date

The bill takes effect October 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

¹⁹ Section 50.0211(5), F.S. provides that “[a]n error in the notice placed on the newspaper or statewide website shall be considered a harmless error and proper legal notice requirements shall be considered met if the notice published in the newspaper is correct.”

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

CS/SB 834 prohibits newspapers and the Florida Press Association from charging fees for viewing legal notices on their websites. It is unknown if newspapers and the Florida Press Association are currently charging the public for viewing their legal notices websites and if this bill will reduce existing or potential revenue streams.

The Florida Press Association estimates that the initial cost associated with making changes to their website to conform to this bill is \$3,600.00, but may increase. The Florida Press Association did not have an estimate for the financial impact this bill will have on newspapers, but did state that only a few newspapers would be affected.²⁰

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

Section 50.0211(5), F.S. provides that an error placed on the newspaper website or statewide website is considered a harmless error and proper legal notice requirements are considered to be met if the notice published in the newspaper is correct. This subsection is repealed by this bill. If an error occurs on either of those websites once this bill becomes law, it is not clear which published version will control, the printed newspaper version or the websites. It is also unclear if an ambiguity results from the error what redress is available for someone who relied upon the erroneous publication.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 50.0211 and 50.061.

²⁰ E-mail from Sam Morley, General Counsel for the Florida Press Association (March 26, 2014) (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 Governmental Oversight and Accountability on March 13, 2014:

The CS removes clauses which permit, but do not require, a clerk of court to link his or her website to a newspaper's legal notices website.

The CS also removes a provision stating that if there is a conflict between the electronic and the printed versions of a legal notice, the printed version controls. The CS also deletes a provision stating that a person adversely affected by a mistake in a judicial sale notice is permitted to seek relief if the error is in the printed legal notice or appears on the statewide website.

- B. **Amendments:**

None.

By the Committee on Governmental Oversight and Accountability;
and Senator Latvala

585-02544-14

2014834c1

A bill to be entitled

An act relating to legal notices; amending s. 50.0211, F.S.; requiring legal notices to be posted on a newspaper's website on web pages with specified titles; prohibiting charging a fee or requiring registration for viewing online legal notices; establishing the period for which legal notices are required to be published on the statewide website; requiring that legal notices be archived on the statewide website for a specified period; deleting a provision relating to harmless error; amending s. 50.061, F.S.; clarifying payment provisions; providing an effective date.

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

Section 1. Section 50.0211, Florida Statutes, is amended to read:

50.0211 Internet website publication.—

(1) This section applies to legal notices that must be published in accordance with this chapter unless otherwise specified.

(2) Each legal notice must be posted ~~placed~~ on the newspaper's website on the same day that the printed notice appears in the newspaper, at no additional charge, in a separate web page titled "Legal Notices," "Legal Advertising," or comparable identifying language. A link to the legal notices web page shall be provided on the front page of the newspaper's website that provides access to the legal notices ~~without~~

Page 1 of 4

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

585-02544-14

2014834c1

~~charge~~. If there is a specified size and placement required for a printed legal notice, the size and placement of the notice on the newspaper's website must ~~should~~ optimize its online visibility in keeping with the print requirements. The newspaper's web pages that contain legal notices must ~~shall~~ present the legal notices as the dominant and leading subject matter of those pages. The newspaper's website must ~~shall~~ contain a search function to facilitate searching the legal notices. A fee may not be charged, and registration may not be required, for viewing or searching legal notices on a newspaper's website if the legal notice is published in a newspaper ~~This subsection shall take effect July 1, 2013.~~

(3) (a) If a legal notice is published in a newspaper, the newspaper publishing the notice shall place the notice on the statewide website established and maintained as an initiative of the Florida Press Association as a repository for such notices located at the following address: www.floridapublicnotices.com.

(b) A legal notice placed on the statewide website created under this subsection must be:

1. Accessible and searchable by party name and case number.
2. Posted for a period of at least 90 consecutive days after the first day of posting.

(c) The statewide website created under this subsection shall maintain a searchable archive of all legal notices posted on the publicly accessible website on or after October 1, 2014, for 18 months after the first day of posting. Such searchable archive shall be provided and accessible to the general public without charge.

(4) Newspapers that publish legal notices shall, upon

Page 2 of 4

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

585-02544-14

2014834c1

request, provide e-mail notification of new legal notices when they are printed in the newspaper and added to the newspaper's website. Such e-mail notification shall be provided without charge, and notification for such an e-mail registry shall be available on the front page of the legal notices section of the newspaper's website. ~~This subsection shall take effect July 1, 2013.~~

~~(5) An error in the notice placed on the newspaper or statewide website shall be considered a harmless error and proper legal notice requirements shall be considered met if the notice published in the newspaper is correct.~~

Section 2. Subsections (2) and (3) of section 50.061, Florida Statutes, are amended to read:

50.061 Amounts chargeable.—

(2) The charge for publishing each such official public notice or legal advertisement shall be 70 cents per square inch for the first insertion and 40 cents per square inch for each subsequent insertion, except that government notices required to be published more than once, the cost of which ~~whose cost~~ is paid for by the government and not paid in advance by or allowed to be recouped from private parties, may not be charged for the second and successive insertions at a rate greater than 85 percent of the original rate.

(3) Where the regular established minimum commercial rate per square inch of the newspaper publishing such official public notices or legal advertisements is in excess of the rate herein stipulated, said minimum commercial rate per square inch may be charged for all such legal advertisements or official public notices for each insertion, except that government notices

585-02544-14

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required to be published more than once, the cost of which ~~whose cost~~ is paid for by the government and not paid in advance by or allowed to be recouped from private parties, may not be charged for the second and successive insertions at a rate greater than 85 percent of the original rate.

Section 3. This act shall take effect October 1, 2014.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

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

SENATOR JACK LATVALA

20th District

April 1, 2014

The Honorable Joe Negron, Chairman
Senate Appropriations Committee
404 S. Monroe St., 201 The Capitol
Tallahassee, FL 32399-1100

Dear Chairman Negron:

I respectfully request that my bill, SB 834/Legal Notices, be placed on the agenda of the Senate Appropriations Committee at the earliest possible time. The bill was favorably referred in the Senate Judiciary Committee on April 1, 2014.

This bill authorizes of the clerks of courts to provide legal notices on websites for 90 days at no cost to the public for viewing the website. It also eliminates the harmless error clause in the statute to satisfy due process concerns. In the event of a conflict between the printed version and the website version, the printed version prevails.

Please contact me if you have any questions regarding this request. I appreciate your consideration.

Sincerely,

Jack Latvala
State Senator
District 20

JL:tc

CC: Cindy Kynoch, Staff Director; Alicia Weiss, 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

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/10/2014
Meeting Date

Topic _____

Bill Number 834
(if applicable)

Name Brian Pitts

Amendment Barcode _____
(if applicable)

Job Title Trustee

Address 1119 Newton Ave S
Street
St Petersburg FL 33705
City State Zip

Phone 727/897-9291

E-mail justice2jesus@yahoo.com

Speaking: ☒ For ☐ Against ☐ Information

Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-10-14

Meeting Date

Topic Support the electronic notice bill

Bill Number 834

(if applicable)

Name Martha Edenfield

Amendment Barcode

(if applicable)

Job Title

Address 215 So. Monroe St #815

Phone 850-999-4100

Street

Tallahassee

FL

32301

City

State

Zip

E-mail medenfield@deanmead.com

Speaking: ☒ For ☐ Against ☐ Information Support the bill

Representing The Real Property, Probate & Trust Law Section of the Florida Bar

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4.10.14

Meeting Date

Topic LEGAL NOTICE

Bill Number 834
(if applicable)

Name WAYNE MALANEY

Amendment Barcode _____
(if applicable)

Job Title _____

Address P.O. Box 12514
Street

Phone 933-7001

Tally FL 32317
City State Zip

E-mail FLLOBBYIST@AOL.COM

Speaking: ☒ For ☐ Against ☐ Information

Representing AMERICAN LAWYER MEDIA, LLC + BAILEY PUBLISHING

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-10-2014

Meeting Date

Topic

Legal Notices

Bill Number

834

(if applicable)

Name

Sam Morley

Amendment Barcode

(if applicable)

Job Title

Gen. Counsel

Address

336 College Ave

Street

Tall

FL

City

State

Zip

Phone

850 212 4395

E-mail

smorley@flpress.com

Speaking:



For



Against



Information

Representing

FLORIDA PRESS ASSOCIATION

Appearing at request of Chair:



Yes



No

Lobbyist registered with Legislature:



Yes



No

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

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

S-001 (10/20/11)

The Florida Senate
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 958

INTRODUCER: Transportation Committee and Senator Simpson and others

SUBJECT: Fee Waivers for Purple Heart Recipients

DATE: April 9, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Ryon	Ryon	MS	Favorable
2.	Everette	Eichin	TR	Fav/CS
3.	Carey	Kynoch	AP	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 958 provides Purple Heart recipients a free lifetime family annual pass for entrance into Florida state parks.

The bill will have an indeterminate, but expected insignificant negative fiscal impact to the State Park Trust Fund in the Department of Environment Protection.

II. Present Situation:

The Purple Heart

The Purple Heart is one of the oldest and most recognized American military medals, awarded to service members who were killed or wounded by enemy action. The Purple Heart was established by General George Washington on August 7, 1782, during the Revolutionary War, and reestablished by President Franklin D. Roosevelt in 1932.¹ The Purple Heart differs from all other decorations in that an individual is not “recommended” for the decoration; rather he or she is entitled to it upon meeting specific criteria.² The Purple Heart is ranked immediately behind

¹ Paragraph 2-8(a), Army Regulation 600-8-22.

² Paragraph 1-14(c), Army Regulation 600-8-22.

the Bronze Star Medal³ and ahead of the Defense Meritorious Service Medal⁴ in order of precedence.

The Purple Heart currently is awarded pursuant to executive order and federal law.⁵ The award is given in the name of the President of the United States to a member of the U.S. Armed Forces who, while serving under component authority in any capacity after April 5, 1917, was wounded or killed:

- In any action against an enemy of the U.S.
- In any action with an opposing armed force of a foreign country in which the Armed Forces of the U.S. are, or have been engaged.
- While serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the U.S. is not a belligerent party.
- As a result of an act of any such enemy of opposing armed forces.
- As the result of an act of any hostile foreign force.
- As a result of an international terrorist attack against the U.S. or a foreign nation friendly to the U.S.
- As a result of military operations while serving outside the territory of the U.S. as part of the peacekeeping force.⁶

A wound qualifying for a Purple Heart must have required treatment, not just examination, by a military medical officer or other medical professional. That treatment must be noted in the service member's medical record. Additionally, while possession of a Purple Heart definitively infers that a service member was wounded in combat, the award itself is not an indicator that the service member has established the existence of a service-connected disability.

Purple Heart Recipients in Florida

Florida has the third largest population of veterans in the country, with over 1.5 million veterans residing in the state.⁷ While there are numerous statistics available on the demographics of Florida's veterans and military service members, the number of Purple Heart recipients in Florida is unknown. The lack of data on the number of Purple Heart recipients is due to inconsistent record keeping during the early years in which the medal was awarded and also the infamous fire at the National Personnel Records Center in St. Louis, Missouri in 1973 that destroyed approximately 16-18 million veteran's records.⁸ The only reliable indicator of the number of Purple Heart recipients in Florida, which is not fully indicative of the total Purple

³ The Bronze Star Medal is awarded to a person in any branch of the military service who, while serving in any capacity with the Armed Forces of the United States on or after December 7, 1941, has distinguished himself or herself by heroic or meritorious achievement or service, not involving participation in aerial flight, in connection with military operations against an armed enemy.

⁴ The Defense Meritorious Service Medal is awarded in the name of the Secretary of Defense to members of the Armed Forces of the United States who, after 3 November 1977, distinguished themselves by noncombat meritorious achievement or service.

⁵ Executive Order 11016, April 25, 1962; Executive Order 12464, February 23, 1984; and Public Law 98-525, October 19, 1984.

⁶ Paragraph 2-8(a), Army Regulation 600-8-22.

⁷ Florida Department of Veterans Affairs. *Fast Facts*. Available at: http://floridavets.org/?page_id=50.

⁸ National Archives: The 1973 Fire, National Personnel Records Center. Available at: <http://www.archives.gov/st-louis/military-personnel/fire-1973.html>

Heart population, is the number of special use license plates issued to Purple Heart recipients.⁹ There are currently 12,276 Florida-issued Purple Heart special use license plates in circulation.¹⁰

Recipients of the Purple Heart are entitled to certain state benefits in Florida due to their classification as a Purple Heart recipient. Purple Heart recipients are currently entitled to free tuition at state colleges and universities¹¹ and are able to purchase a Purple Heart special use license plate.¹² Only one Purple Heart license plate may be issued to a qualified registrant.¹³ Additionally, the Purple Heart special use license plate is issued free of charge only if the recipient is also a service-disabled veteran.¹⁴

Recipients of the Purple Heart are able to document receipt of the award by presenting the Department of Defense Form 214 (DD Form 214). The DD Form 214 is the official report of separation from the U.S. military issued to a service member that has served on active duty for at least 90 consecutive days. The DD Form 214 contains information normally needed to verify military service for benefits, retirement, employment and membership in veterans' organizations. Included on the DD Form 214 is the complete listing of military awards received during a service member's tenure in the military.

State Park Entrance Fee Discounts and Waivers

The Division of Recreation and Parks (DRP) within the Department of Environmental Protection oversees Florida's 160 state parks. The DRP offers two types of annual entrance passes: the individual annual entrance pass for \$60 and the family annual entrance pass for \$120. The DRP currently provides park entrance fee discounts and waivers pursuant to the following:¹⁵

- Active duty members and honorably discharged veterans of the U.S. Armed Forces, National Guard, or reserve components receive a 25 percent discount on an annual entrance pass;
- Veterans with service-connected disabilities receive a free-for-life family annual entrance pass;
- Surviving spouses and parents of deceased members of the U.S. Armed Forces, National Guard, or reserve components who have fallen in combat receive a free-for-life family annual entrance pass; and
- Surviving spouses and parents of a law enforcement officer or firefighter who have died in the line of duty receive a free-for-life family annual entrance pass.

⁹ Section 320.089(1), F.S., authorizes the Purple Heart special use license plate to be issued to qualifying individuals upon proof of being a Purple Heart recipient.

¹⁰ E-mail correspondence with Department of Highway Safety and Motor Vehicles staff. Feb. 28, 2014. (On file with the Military and Veterans Affairs, Space, and Domestic Security Committee.)

¹¹ Section 1009.26(8), F.S.

¹² Section 320.089(1)(a), F.S.

¹³ A Purple Heart license plate may be issued to the un-remarried surviving spouse of a deceased recipient of the Purple Heart medal upon receipt of all other requirements, a copy of the death certificate and an affidavit stating the applicant is the un-remarried surviving spouse. The spouse is subject to the same registration tax and fees as the recipient of the Purple Heart medal. An existing Purple Heart license plate may be transferred from the deceased spouse to the un-remarried surviving spouse.

¹⁴ Section 320.089(1)(c), F.S.

¹⁵ Section 258.0145, F.S.

The table below reflects the application of the Florida state park entrance fee discounts provided in s. 258.0145, F.S., from Fiscal Year 2009-2010 to Fiscal Year 2012-2013.¹⁶

State Park Entrance Fee Discounts and Waivers (Pursuant to s. 258.0145, F.S.)						
Pass Type/ Discount	FY 2009-2010	FY 2010- 2011	FY 2011-2012	FY 2012-2013	Total Passes	Total Discount Value
Individual Annual Pass (25% Discount)	14	771	984	1,115	2,884	\$43,260
Family Annual Pass (25% Discount)	24	2,125	2,819	3,200	8,168	\$245,040
Lifetime Family Annual Pass (No charge)	n/a	11,500	11,600	14,381	37,481	\$4,497,720
Totals	38	14,396	15,403	18,696	<u>48,533</u>	<u>\$4,786,020</u>

III. Effect of Proposed Changes:

Section 1 amends s. 258.0145, F.S., to add Purple Heart recipients to the list of individuals who are entitled to receive a lifetime family annual entrance pass for Florida state parks at no charge.

Section 2 provides an effective date of July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

¹⁶ Data provided by Department of Environmental Protection staff on Feb. 12, 2014. On file with the Military and Veterans Affairs, Space, and Domestic Security Committee.

B. Private Sector Impact:

A Purple Heart recipient will benefit from waived state park entrance fees.

C. Government Sector Impact:

It is unknown how many Purple Heart recipients will take advantage of the free entry into Florida state parks. The recurring fiscal impact of CS/SB 958 to the State Park Trust Fund is indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 258.0145 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 Transportation on March 26, 2014:**

The CS removes the provision allowing Purple Heart recipients using state-owned toll facilities free access. The bill also removes the requirement for the FDOT to establish a prepaid toll account providing a window sticker transponder to eligible Purple Heart recipients when using state-owned toll facilities.

B. Amendments:

None.

By the Committee on Transportation; and Senators Simpson, Benacquisto, Altman, Sobel, Joyner, Bradley, Thompson, Stargel, Ring, Garcia, Thrasher, Montford, Sachs, Gibson, Evers, Richter, Clemens, Detert, Dean, Latvala, Soto, Bullard, Abruzzo, Galvano, Hukill, Diaz de la Portilla, and Negron

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A bill to be entitled

An act relating to fee waivers for Purple Heart recipients; amending s. 258.0145, F.S.; providing that a Purple Heart recipient is eligible to receive a lifetime family annual entrance pass to state parks at no charge; providing an effective date.

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

Section 1. Subsection (5) is added to section 258.0145, Florida Statutes, to read:

258.0145 Military, law enforcement, and firefighter state park fee discounts.—The Division of Recreation and Parks shall provide the following discounts on park fees to persons who present written documentation satisfactory to the division which evidences their eligibility for the discounts:

(5) Recipients of a Purple Heart shall receive lifetime family annual entrance passes at no charge.

Section 2. This act shall take effect July 1, 2014.

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 1008

INTRODUCER: Appropriations Committee and Senator Stargel

SUBJECT: Article V Constitutional Conventions

DATE: April 14, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Cibula	JU	Favorable
2.	Shettle	Kynoch	AP	Fav/CS
3.			RC	

I. Summary:

CS/SB 1008 creates the “Article V Constitutional Convention Act” and establishes a framework for selecting and authorizing delegates to attend an Article V convention for the purpose of proposing amendments to the United States Constitution.

The bill provides that:

- Delegates and alternate delegates will be appointed by the Senate and House of Representatives pursuant to joint rules adopted by both chambers;
- Delegates must execute a written oath stating that the delegate will support the U.S. Constitution and the State Constitution and abide by any instructions adopted by the Legislature;
- The Legislature must adopt a concurrent resolution once delegates are appointed and provide instructions to the delegates regarding the rules of procedure and relevant matters relating to the Article V convention;
- A delegate who votes outside the scope of the instructions established by a concurrent resolution is subject to criminal penalties, forfeits his or her appointment, and the vote is void; and
- An advisory group shall be appointed to advise the delegates on whether certain actions would violate the instructions established by a concurrent resolution.

The bill is not expected to have a significant fiscal impact.

II. Present Situation:

Methods of Amending the U.S. Constitution

Article V of the United States Constitution provides two methods for proposing amendments to the Constitution. The first method authorizes Congress to propose amendments to the states

which are approved by a two-thirds vote of both Houses of Congress.¹ Amendments approved in this manner do not require the President's signature and are transmitted to each state for ratification.² Starting with the Bill of Rights in 1789, Congress used this method to submit 33 amendments to the states. Of those 33 proposals, 27 amendments to the Constitution were approved by the states.³

The second method, which has never been used, requires Congress to call a convention for proposing amendments when two-thirds of the state legislatures apply to Congress to call an Article V convention.⁴ Currently, 34 states would need to make applications to meet the two-thirds requirement to call an Article V Convention. Because an Article V convention has never been conducted, what might actually occur procedurally or substantively is unclear.⁵

With the recent passage of a Michigan balanced budget memorial,⁶ it has been suggested that the requisite 34 states have now made application to Congress for an Article V convention. Because some states have passed and rescinded their applications, the final count is unclear and will likely involve legal analysis by Congress as to how to best proceed.

If an Article V convention is called by Congress, nothing in Florida law or federal law provides guidance as to how delegates will be selected or what the scope of their authority will be. Also unclear is how delegates to a convention will be apportioned. One approach could be a model similar to the Electoral College which is based on population. Another could be based on the Senate model of two people per state. Accordingly, how many delegates Florida would have is also unknown.

III. Effect of Proposed Changes:

Purpose

This bill creates the "Article V Constitutional Convention Act" and establishes a framework for selecting and authorizing delegates to attend an Article V convention to propose amendments to the United States Constitution. The legislation is similar to a format adopted by Indiana for the same purpose.

¹ U.S. CONST. Article V.

² U.S. National Archives and Records Administration, *The Constitutional Amendment Process*, <http://www.archives.gov/federal-register/constitution> (last visited February 4, 2014).

³ Thomas H. Neale, Congressional Research Service, *The Article V Convention: Contemporary Issues for Congress* (July 9, 2012), <http://www.fas.org/sgp/crs/misc/R42589.pdf>.

⁴ U.S. CONST. Article V.

⁵ Article V further provides that the amendments shall become a part of the Constitution when ratified by the Legislatures of three-fourths of the states or by conventions in three-fourths of the states. This would require ratification by 38 states. Because Article V provides that the amendments become valid when ratified by three-fourths of the legislatures or conventions "as the one or the other Mode of Ratification may be proposed by the Congress," Congress may choose the method of ratification. With the exception of the 21st Amendment, which repealed the 18th Amendment and prohibition, Congress has sent all proposed amendments to the legislatures for ratification.

⁶ Stephan Dinan, *Constitutional conundrum: Michigan demand for a balanced budget could trigger amendment convention*, THE WASHINGTON TIMES, March 31, 2014, <http://www.washingtontimes.com/news/2014/mar/31/constitutional-conundrum-michigan-demand-for-a-bal/>; Barnini Chakraborty, *Did Michigan just trigger 'constitutional convention'? Bid gains steam*, FOX NEWS, April 2, 2014, <http://www.foxnews.com/politics/2014/04/02/rare-option-forcing-congress-to-meet-change-constitution-gains-momentum/>.

Appointment of Delegates

Under the bill, the Senate and House of Representatives will appoint an equal number of delegates and alternate delegates by concurrent resolution pursuant to joint rules adopted by each chamber. The bill presumes that Florida will have two delegates, but authority is provided to appoint the number of delegates that the state is allocated.

If the Legislature is not in session at the time that delegates must be appointed, the President of the Senate and the Speaker of the House of Representatives must call the Legislature into special session for the purpose of appointing the delegates.

To be appointed as a delegate or alternate delegate a person must receive, in each chamber, a vote of a majority of all the members elected to that chamber. At the time of appointment each alternate delegate will be paired with a delegate. An alternate delegate must act in the place of the paired delegate if the delegate is absent from the Article V convention or vacates the office.

The Legislature may recall a delegate or alternate delegate and replace that person at any time. If the Legislature is not in session when a vacancy needs to be filled, the President of the Senate and Speaker of the House of Representatives shall call a special session for that purpose.

Qualifications of Delegates and Alternate Delegates

A delegate or alternate delegate must:

- Reside in the state;
- Be a registered voter in the state; and
- Not be registered or required to be registered as a lobbyist under state law.

A person may not be a delegate if he or she holds a federal office.

Reimbursement of Expenses

Delegates serve without compensation but may be reimbursed, at the expense of the Senate and House of Representatives, for their per diem and travel expenses pursuant to s. 112.061, F.S.

Oath of Office

Each delegate and alternate delegate is required to execute an oath in the state, and in writing before exercising any function of that position. The oath provides that he or she will:

- Support the United States Constitution and the State Constitution;
- Faithfully abide by and execute any instructions adopted by the Legislature; and
- Otherwise faithfully discharge the duties of a delegate or alternate delegate.

The executed oath must be filed with the Secretary of State. After the oath is filed, the Governor will issue a commission to the delegate or alternate delegate.

Instructions

After delegates and alternate delegates are appointed, the Legislature must adopt a concurrent resolution to provide instructions to the delegates and alternate delegates to provide instructions on the rules of procedure and any other matter relating to the Article V convention that the Legislature deems necessary. Those instructions may be amended by the Legislature at any time by a concurrent resolution.

Votes Cast Outside the Scope of Instructions or Limits

A vote cast by a delegate or alternate delegate at an Article V convention is void if the vote is:

- Outside the scope of the instructions established by the Legislature's concurrent resolution; or
- Outside the limits placed by the Legislature in its application calling for the Article V convention.

Status of Appointment

If a delegate or alternate delegate votes or attempts to vote outside the Legislature's instructions or the limits of the Legislature's application for a convention, the delegate or alternate forfeits his or her appointment. If the delegate forfeits an appointment for these reasons, the paired alternate delegate assumes the role of the delegate at the time that the forfeiture occurs.

Status of Application

If all of the delegates and alternate delegates vote or attempt to vote outside the scope of the Legislature's instructions or outside the limits placed by the Legislature in its application for the constitutional convention, then the Legislature's application for the constitutional convention ceases to be a continuing application and is to be treated as having no effect.

Criminal Liability

If a delegate or alternate delegate knowingly or intentionally votes or attempts to vote outside the scope of the instructions or limits as discussed above, he or she commits a third degree felony, which is punishable by a term of imprisonment that does not exceed 5 years⁷ and a fine that does not exceed \$5,000.⁸

Advisory Group***Membership and Policies***

The bill establishes an Article V convention advisory group. The advisory group consists of an attorney appointed by the President of the Senate, an attorney appointed by the Speaker of the House of Representatives, and an attorney selected by agreement of the appointed attorneys, who will serve as chair of the advisory group. The group will meet at the call of the chair and

⁷ Section 775.082, F.S.

⁸ Section 775.083, F.S.

establish policies and procedures that the group deems necessary to carry out the provisions of this bill.

Responsibilities

The advisory group is responsible to advise a delegate or alternate delegate, when asked by the delegate or alternate delegate, whether an action or attempt to take an action would:

- Violate the instructions established by the Legislature; or
- Exceed the limits placed by the Legislature in the application for an Article V convention on the subjects and amendments that may be considered by the convention.

The advisory group must render an advisory determination within 24 hours after receiving a request and must transmit a copy of its determination to the requester as expeditiously as possible.

Upon the request of the President of the Senate, the Speaker of the House, the Attorney General, or on its own motion, the advisory group shall advise the Attorney General whether there is reason to believe that a vote or attempt to vote has violated the instructions of the Legislature or the limits placed in the application for an Article V convention. The opinion may be issued without notice or an evidentiary proceeding, or after a hearing conducted by the advisory group. The advisory determination must be rendered within 24 hours after the request and a copy of the opinion must be transmitted to the Attorney General as expeditiously as possible.

Revocation of Credentials

When the Attorney General receives an advisory determination stating that a vote or attempt to vote is a violation of the Legislature's instructions or exceeds the limits placed by the Legislature in the Article V convention application, he or she must inform the delegates, alternate delegates, President of the Senate, Speaker of the House, and the Article V convention that:

- The vote or attempt to vote did not comply with Florida law and is void and has no effect; and
- The credentials of the delegate or alternate delegate who is the subject of the determination are revoked.

The bill takes effect July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

CS/SB 1008 is not expected to have a significant fiscal impact. Delegates or alternate delegates will serve without compensation but may be reimbursed for per diem and travel expenses.

VI. Technical Deficiencies:

Section 4 of the bill describes the qualifications of delegates and alternate delegates. Beginning on line 80, the bill states that “A person may not be appointed as a delegate if he or she holds a federal office.” The other qualifications in this section apply to both delegates and alternate delegates.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates the following sections of the Florida Statutes: 11.93, 11.931, 11.932, 11.933, 11.9331, 11.9332, 11.9333, 11.9334, 11.9335, 11.9336, 11.9337, 11.934, 11.9341, 11.9342, 11.9343, 11.9344, 11.9345, 11.935, 11.9351, and 11.9352.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

CS by Appropriations on April 10, 2014:

The committee substitute:

- Provides that the President of the Senate and the Speaker of the House of Representatives, rather than the Governor, shall call the Legislature into special session for the purpose of appointing delegates and alternate delegates.
- Requires that the oath executed by a delegate or alternate delegate is executed in the state.

- Provides that the advisory group will consist of an attorney appointed by the President of the Senate, an attorney appointed by the Speaker of the House of Representatives, and an attorney selected by agreement of the appointed attorneys, who will serve as chair of the advisory group.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/11/2014	.	
	.	
	.	
	.	

The Committee on Appropriations (Hays) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 11.93, Florida Statutes, is created to
read:

11.93 Short title.—Sections 11.93-11.9352 may be cited as
the "Article V Constitutional Convention Act."

Section 2. Section 11.931, Florida Statutes, is created to
read:



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11 11.931 Applicability.—Sections 11.93-11.9352 shall apply
12 when an Article V convention is called for the purpose of
13 proposing amendments to the Constitution of the United States.

14 Section 3. Section 11.932, Florida Statutes, is created to
15 read:

16 11.932 Definitions.—As used in ss. 11.93-11.9352, the term:

17 (1) "Alternate delegate" means an individual who is
18 appointed as an alternate delegate as provided by law.

19 (2) "Article V convention" means a convention called for by
20 the states under Article V of the Constitution of the United
21 States for the purpose of proposing amendments to the
22 Constitution of the United States.

23 (3) "Chamber" means either the Senate or the House of
24 Representatives.

25 (4) "Delegate" means an individual appointed to represent
26 Florida at an Article V convention.

27 (5) "Paired delegate" means the delegate with whom an
28 alternate delegate is paired.

29 Section 4. Section 11.933, Florida Statutes, is created to
30 read:

31 11.933 Qualifications of delegates and alternate
32 delegates.—

33 (1) To be appointed as a delegate or alternate delegate to
34 an Article V convention, a person must:

35 (a) Reside in this state.

36 (b) Be a registered voter in this state.

37 (c) Not be registered or required to be registered as a
38 lobbyist under the laws of this state.

39 (2) A person may not be appointed as a delegate if he or



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she holds a federal office.

Section 5. Section 11.9331, Florida Statutes, is created to read:

11.9331 Appointment of delegates by Legislature.-

(1) Whenever an Article V convention is called, the Senate and House of Representatives shall appoint, under rules adopted jointly by the Senate and House of Representatives:

(a) The number of delegates allocated to represent Florida.

(b) An equal number of alternate delegates.

(2) Unless otherwise established by the rules of procedure of an Article V convention, it is presumed that Florida has two delegates and two alternate delegates designated to represent the state.

(3) If the Legislature is not in session when delegates must be appointed, the President of the Senate and the Speaker of the House of Representatives shall call the Legislature into special session pursuant to s. 11.011 for the purpose of appointing delegates and alternate delegates.

Section 6. Section 11.9332, Florida Statutes, is created to read:

11.9332 Appointment by majority vote of each chamber; pairing delegates and alternate delegates.-

(1) To be appointed as a delegate or an alternate delegate, a person must receive, in each chamber, the vote of a majority of all the members elected to that chamber.

(2) At the time of appointment, each alternate delegate must be paired with a delegate as provided by a concurrent resolution adopted by the Legislature.

Section 7. Section 11.9333, Florida Statutes, is created to



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read:

11.9333 Recall; filling a vacancy; special legislative session.—

(1) The Legislature may, at any time, recall a delegate or alternate delegate and replace that delegate or alternate delegate with an individual appointed under s. 11.9331.

(2) The Legislature may, at any time, fill a vacancy in the office of delegate or alternate delegate with a person appointed under s. 11.9331. If the Legislature is not in session when a vacancy occurs with respect to both a delegate and the paired alternate delegate, the President of the Senate and the Speaker of the House of Representatives shall call the Legislature into special session pursuant to s. 11.011 for the purpose of appointing a delegate and an alternate delegate to fill the vacancies.

Section 8. Section 11.9334, Florida Statutes, is created to read:

11.9334 Method of appointment and recall.—The Legislature shall appoint or recall delegates or alternate delegates by concurrent resolution.

Section 9. Section 11.9335, Florida Statutes, is created to read:

11.9335 Reimbursement of per diem and travel expenses.—A delegate or alternate delegate shall serve without compensation but may be reimbursed for per diem and travel expenses pursuant to s. 112.061.

Section 10. Section 11.9336, Florida Statutes, is created to read:

11.9336 Oath.—Each delegate and alternate delegate shall,



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before exercising any function of the position, execute an oath in the state and in writing that the delegate or alternative delegate will:

(1) Support the Constitution of the United States and the State Constitution.

(2) Faithfully abide by and execute any instructions to delegates and alternate delegates adopted by the Legislature.

(3) Otherwise faithfully discharge the duties of a delegate or alternate delegate.

Section 11. Section 11.9337, Florida Statutes, is created to read:

11.9337 Filing of oath; issuance of commission.—The executed oath of a delegate or alternate delegate shall be filed with the Secretary of State. After the oath is filed, the Governor shall issue a commission to the delegate or alternate delegate.

Section 12. Section 11.934, Florida Statutes, is created to read:

11.934 Instructions to delegates.—

(1) When delegates and alternate delegates are appointed, the Legislature shall adopt a concurrent resolution to provide instructions to the delegates and alternate delegates regarding the rules of procedure and any other matter relating to the Article V convention that the Legislature considers necessary.

(2) The Legislature may amend the instructions at any time by concurrent resolution.

Section 13. Section 11.9341, Florida Statutes, is created to read:

11.9341 Duties of alternate delegates.—An alternate



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delegate:

(1) Shall act in the place of the paired delegate when the paired delegate is absent from the Article V convention.

(2) Replaces the paired delegate if the alternate delegate's paired delegate vacates the office.

Section 14. Section 11.9342, Florida Statutes, is created to read:

11.9342 Vote cast outside the scope of instructions or limits; status of vote.—A vote cast by a delegate or an alternate delegate at an Article V convention is void if the vote is outside the scope of:

(1) The instructions established by a concurrent resolution adopted pursuant to s. 11.934; or

(2) The limits placed by the Legislature in a concurrent resolution or memorial that calls for an Article V convention for the purpose of proposing one or more amendments to the Constitution of the United States on the subjects and amendments that may be considered by the Article V Convention.

Section 15. Section 11.9343, Florida Statutes, is created to read:

11.9343 Vote cast outside the scope of instructions or limits; appointment forfeited.—

(1) A delegate or alternate delegate forfeits his or her appointment by virtue of a vote or attempt to vote that is outside the scope of:

(a) The instructions established by a concurrent resolution adopted pursuant to s. 11.934; or

(b) The limits placed by the Legislature in a concurrent resolution or memorial that calls for an Article V convention



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for the purpose of proposing one or more amendments to the Constitution of the United States on the subjects and amendments that may be considered by the Article V convention.

(2) If a delegate forfeits an appointment under subsection (1), the paired alternate delegate of the delegate becomes the delegate at the time the forfeiture of the appointment occurs.

Section 16. Section 11.9344, Florida Statutes, is created to read:

11.9344 Vote cast outside the scope of instructions or limits; status of application.—The application of the Legislature to call an Article V convention for proposing amendments to the Constitution of the United States ceases to be a continuing application and shall be treated as having no effect if all of the delegates and alternate delegates vote or attempt to vote outside the scope of:

(1) The instructions established by a concurrent resolution adopted pursuant to s. 11.934; or

(2) The limits placed by the Legislature in a concurrent resolution or memorial that calls for an Article V convention for the purpose of proposing one or more amendments to the Constitution of the United States on the subjects and amendments that may be considered by the Article V convention.

Section 17. Section 11.9345, Florida Statutes, is created to read:

11.9345 Vote cast outside the scope of instructions; criminal liability.—A delegate or alternate delegate commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083, who signs an oath of office as required by s. 11.9336 in the state and who thereafter violates the oath by



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185 knowingly or intentionally voting or attempting to vote outside
186 the scope of:

187 (1) The instructions established by a concurrent resolution
188 adopted pursuant to s. 11.934; or

189 (2) The limits placed by the Legislature in a concurrent
190 resolution or memorial that calls for an Article V convention
191 for the purpose of proposing one or more amendments to the
192 Constitution of the United States on the subjects and amendments
193 that may be considered by the Article V convention.

194 Section 18. Section 11.935, Florida Statutes, is created to
195 read:

196 11.935 Article V convention advisory group.—

197 (1) As used in this section, the term "advisory group"
198 means the Article V convention delegate advisory group.

199 (2) The advisory group consists of the following members:

200 (a) An attorney appointed by the President of the Senate.

201 (b) An attorney appointed by the Speaker of the House of
202 Representatives.

203 (c) An attorney selected by agreement of the attorneys
204 appointed under paragraphs (a) and (b), who shall serve as chair
205 of the advisory group.

206 (3) The advisory group shall meet at the call of the chair
207 and shall establish the policies and procedures that the
208 advisory group determines necessary to carry out ss. 11.93-
209 11.9352.

210 (4) Upon the request of a delegate or alternate delegate,
211 the advisory group shall advise the delegate or alternate
212 delegate whether there is reason to believe that an action or an
213 attempt to take an action by a delegate or alternate delegate



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would:

(a) Violate the instructions established by a concurrent resolution adopted by the Legislature under s. 11.934; or

(b) Exceed the limits placed by the Legislature in a concurrent resolution or memorial that calls for an Article V convention for the purpose of proposing one or more amendments to the Constitution of the United States on the subjects and amendments that may be considered by the Article V convention.

(5) The advisory group:

(a) May render an advisory determination under this section in any summary manner considered appropriate by the advisory group.

(b) Shall render an advisory determination under this section within 24 hours after receiving a request for a determination.

(c) Shall transmit a copy of an advisory determination under this section in the most expeditious manner possible to the delegate or alternate delegate who requested the advisory determination.

(d) If the advisory group renders an advisory determination under this section, the advisory group may also take an action permitted under s. 11.9351.

Section 19. Section 11.9351, Florida Statutes, is created to read:

11.9351 Oversight of delegates with respect to instructions.—

(1) The advisory group, on its own motion, or upon the request of the President of the Senate, the Speaker of the House of Representatives, or the Attorney General, shall advise the



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Attorney General whether there is reason to believe that a vote
or an attempt to vote by a delegate or alternate delegate has:

(a) Violated the instructions established by a concurrent
resolution adopted by the Legislature under s. 11.934; or

(b) Exceeded the limits placed by the Legislature in a
concurrent resolution or memorial that calls for an Article V
convention for the purpose of proposing one or more amendments
to the Constitution of the United States on the subjects and
amendments that may be considered by the Article V convention.

(2) The advisory group shall issue the advisory
determination under this section by one of the following summary
procedures:

(a) Without notice or an evidentiary proceeding; or

(b) After a hearing conducted by the advisory group.

(3) The advisory group shall render an advisory
determination under this section within 24 hours after receiving
a request for an advisory determination.

(4) The advisory group shall transmit a copy of an advisory
determination in the most expeditious manner possible to the
Attorney General.

Section 20. Section 11.9352, Florida Statutes, is created
to read:

11.9352 Advisory determination concerning a vote outside
the scope of instructions.—Immediately, upon receipt of an
advisory determination that finds that a vote or attempt to vote
by a delegate or alternate delegate is a violation as described
in s. 11.9351 or in excess of the authority of the delegate or
alternate delegate, the Attorney General shall inform the
delegates, alternate delegates, the President of the Senate, the



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Speaker of the House of Representatives, and the Article V
convention that:

(1) The vote or attempt to vote did not comply with Florida
law, is void, and has no effect.

(2) The credentials of the delegate or alternate delegate
who is the subject of the determination are revoked.

Section 21. This act shall take effect July 1, 2014.

===== 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 Article V constitutional
conventions; creating s. 11.93, F.S.; providing a
short title; creating s. 11.931, F.S.; providing for
applicability; creating s. 11.932, F.S.; providing
definitions; creating s. 11.933, F.S.; establishing
qualifications of delegates and alternate delegates to
an Article V constitutional convention; creating s.
11.9331, F.S.; providing for the appointment of
delegates by the Legislature; creating s. 11.9332,
F.S.; requiring majority vote approval in each chamber
for the appointment of delegates; creating s. 11.9333,
F.S.; authorizing the Legislature to recall a delegate
and fill a vacancy; authorizing the presiding officers
of the Legislature to call for a special legislative
session to fill a vacancy; creating s. 11.9334, F.S.;
establishing a legislative method for appointments and



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recalls; creating s. 11.9335, F.S.; providing for the reimbursement of delegates and alternate delegates for per diem and travel expenses; creating s. 11.9336, F.S.; requiring delegates and alternate delegates to execute a written oath of responsibilities; creating s. 11.9337, F.S.; providing for the filing of delegates' oaths and the issuance of commissions; creating s. 11.934, F.S.; providing for instructions to delegates and alternate delegates; creating s. 11.9341, F.S.; establishing duties of alternate delegates; creating s. 11.9342, F.S.; establishing circumstances under which a convention vote is declared void; creating s. 11.9343, F.S.; providing circumstances under which a delegate or alternate delegate's appointment is forfeited; creating s. 11.9344, F.S.; establishing circumstances under which the application to call an Article V convention ceases to be a continuing application and is deemed to have no effect; creating s. 11.9345, F.S.; providing penalties for a delegate or alternate delegate who votes or attempts to vote outside the scope of the Legislature's instructions or the limits of the call for a constitutional convention; creating ss. 11.935, 11.9351, and 11.9352, F.S.; establishing a delegate advisory group, its membership, duties, and responsibilities; providing an effective date.

By Senator Stargel

15-00197-14

20141008__

1 A bill to be entitled
 2 An act relating to Article V constitutional
 3 conventions; creating s. 11.93, F.S.; providing a
 4 short title; creating s. 11.931, F.S.; providing for
 5 applicability; creating s. 11.932, F.S.; providing
 6 definitions; creating s. 11.933, F.S.; establishing
 7 qualifications of delegates and alternate delegates to
 8 an Article V constitutional convention; creating s.
 9 11.9331, F.S.; providing for the appointment of
 10 delegates by the Legislature; creating s. 11.9332,
 11 F.S.; requiring majority vote approval in each chamber
 12 for the appointment of delegates; creating s. 11.9333,
 13 F.S.; authorizing the Legislature to recall a delegate
 14 and fill a vacancy; authorizing the Governor to call a
 15 special legislative session to fill a vacancy;
 16 creating s. 11.9334, F.S.; establishing a legislative
 17 method for appointments and recalls; creating s.
 18 11.9335, F.S.; providing for the reimbursement of
 19 delegates and alternate delegates for per diem and
 20 travel expenses; creating s. 11.9336, F.S.; requiring
 21 delegates and alternate delegates to execute a written
 22 oath of responsibilities; creating s. 11.9337, F.S.;
 23 providing for the filing of delegates' oaths and the
 24 issuance of commissions; creating s. 11.934, F.S.;
 25 providing for instructions to delegates and alternate
 26 delegates; creating s. 11.9341, F.S.; establishing
 27 duties of alternate delegates; creating s. 11.9342,
 28 F.S.; establishing circumstances under which a
 29 convention vote is declared void; creating s. 11.9343,

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

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30 F.S.; providing circumstances under which a delegate
 31 or alternate delegate's appointment is forfeited;
 32 creating s. 11.9344, F.S.; establishing circumstances
 33 under which the application to call an Article V
 34 convention ceases to be a continuing application and
 35 is deemed to have no effect; creating s. 11.9345,
 36 F.S.; providing penalties for a delegate or alternate
 37 delegate who votes or attempts to vote outside the
 38 scope of the Legislature's instructions or the limits
 39 of the call for a constitutional convention; creating
 40 ss. 11.935, 11.9351, and 11.9352, F.S.; establishing a
 41 delegate advisory group, its membership, duties, and
 42 responsibilities; providing an effective date.
 43

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

45
 46 Section 1. Section 11.93, Florida Statutes, is created to
 47 read:

48 11.93 Short title.—Sections 11.93-11.9352 may be cited as
 49 the "Article V Constitutional Convention Act."

50 Section 2. Section 11.931, Florida Statutes, is created to
 51 read:

52 11.931 Applicability.—Sections 11.93-11.9352 shall apply
 53 when an Article V convention is called for the purpose of
 54 proposing amendments to the Constitution of the United States.

55 Section 3. Section 11.932, Florida Statutes, is created to
 56 read:

57 11.932 Definitions.—As used in ss. 11.93-11.9352, the term:
 58 (1) "Alternate delegate" means an individual who is

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

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59 appointed as an alternate delegate as provided by law.

60 (2) "Article V convention" means a convention called for by

61 the states under Article V of the Constitution of the United

62 States for the purpose of proposing amendments to the

63 Constitution of the United States.

64 (3) "Chamber" means either the Senate or the House of

65 Representatives.

66 (4) "Delegate" means an individual appointed to represent

67 Florida at an Article V convention.

68 (5) "Paired delegate" means the delegate with whom an

69 alternate delegate is paired.

70 Section 4. Section 11.933, Florida Statutes, is created to

71 read:

72 11.933 Qualifications of delegates and alternate

73 delegates.—

74 (1) To be appointed as a delegate or alternate delegate to

75 an Article V convention, a person must:

76 (a) Reside in this state.

77 (b) Be a registered voter in this state.

78 (c) Not be registered or required to be registered as a

79 lobbyist under the laws of this state.

80 (2) A person may not be appointed as a delegate if he or

81 she holds a federal office.

82 Section 5. Section 11.9331, Florida Statutes, is created to

83 read:

84 11.9331 Appointment of delegates by Legislature.—

85 (1) Whenever an Article V convention is called, the Senate

86 and House of Representatives shall appoint, under rules adopted

87 jointly by the Senate and House of Representatives:

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88 (a) The number of delegates allocated to represent Florida.

89 (b) An equal number of alternate delegates.

90 (2) Unless otherwise established by the rules of procedure

91 of an Article V convention, it is presumed that Florida has two

92 delegates and two alternate delegates designated to represent

93 the state.

94 (3) If the Legislature is not in session when delegates

95 must be appointed, the Governor shall call the Legislature into

96 special session pursuant to s. 3(c), Art. III of the State

97 Constitution for the purpose of appointing delegates and

98 alternate delegates.

99 Section 6. Section 11.9332, Florida Statutes, is created to

100 read:

101 11.9332 Appointment by majority vote of each chamber;

102 pairing delegates and alternate delegates.—

103 (1) To be appointed as a delegate or an alternate delegate,

104 a person must receive, in each chamber, the vote of a majority

105 of all the members elected to that chamber.

106 (2) At the time of appointment, each alternate delegate

107 must be paired with a delegate as provided by a concurrent

108 resolution adopted by the Legislature.

109 Section 7. Section 11.9333, Florida Statutes, is created to

110 read:

111 11.9333 Recall; filling a vacancy; special legislative

112 session.—

113 (1) The Legislature may, at any time, recall a delegate or

114 alternate delegate and replace that delegate or alternate

115 delegate with an individual appointed under ss. 11.93-11.9352.

116 (2) The Legislature may, at any time, fill a vacancy in the

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117 office of delegate or alternate delegate with a person appointed
 118 under ss. 11.93-11.9352. If the Legislature is not in session
 119 when a vacancy occurs with respect to both a delegate and the
 120 paired alternate delegate, the Governor shall call the
 121 Legislature into special session pursuant to s. 3(c), Art. III
 122 of the State Constitution for the purpose of appointing a
 123 delegate and an alternate delegate to fill the vacancies.

124 Section 8. Section 11.9334, Florida Statutes, is created to
 125 read:

126 11.9334 Method of appointment and recall.—The Legislature
 127 shall appoint or recall delegates or alternate delegates by
 128 concurrent resolution.

129 Section 9. Section 11.9335, Florida Statutes, is created to
 130 read:

131 11.9335 Reimbursement of per diem and travel expenses.—A
 132 delegate or alternate delegate shall serve without compensation
 133 but may be reimbursed for per diem and travel expenses pursuant
 134 to s. 112.061.

135 Section 10. Section 11.9336, Florida Statutes, is created
 136 to read:

137 11.9336 Oath.—Each delegate and alternate delegate shall,
 138 before exercising any function of the position, execute an oath
 139 in writing that the delegate or alternate delegate will:

140 (1) Support the Constitution of the United States and the
 141 State Constitution.

142 (2) Faithfully abide by and execute any instructions to
 143 delegates and alternate delegates adopted by the Legislature.

144 (3) Otherwise faithfully discharge the duties of a delegate
 145 or alternate delegate.

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146 Section 11. Section 11.9337, Florida Statutes, is created
 147 to read:

148 11.9337 Filing of oath; issuance of commission.—The
 149 executed oath of a delegate or alternate delegate shall be filed
 150 with the Secretary of State. After the oath is filed, the
 151 Governor shall issue a commission to the delegate or alternate
 152 delegate.

153 Section 12. Section 11.934, Florida Statutes, is created to
 154 read:

155 11.934 Instructions to delegates.—

156 (1) When delegates and alternate delegates are appointed,
 157 the Legislature shall adopt a concurrent resolution to provide
 158 instructions to the delegates and alternate delegates regarding
 159 the rules of procedure and any other matter relating to the
 160 Article V convention that the Legislature considers necessary.

161 (2) The Legislature may amend the instructions at any time
 162 by concurrent resolution.

163 Section 13. Section 11.9341, Florida Statutes, is created
 164 to read:

165 11.9341 Duties of alternate delegates.—An alternate
 166 delegate:

167 (1) Shall act in the place of the paired delegate when the
 168 paired delegate is absent from the Article V convention.

169 (2) Replaces the paired delegate if the alternate
 170 delegate's paired delegate vacates the office.

171 Section 14. Section 11.9342, Florida Statutes, is created
 172 to read:

173 11.9342 Vote cast outside the scope of instructions or
 174 limits; status of vote.—A vote cast by a delegate or an

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175 alternate delegate at an Article V convention is void if the
 176 vote is outside the scope of:
 177 (1) The instructions established by a concurrent resolution
 178 adopted pursuant to ss. 11.93-11.9352; or
 179 (2) The limits placed by the Legislature in a concurrent
 180 resolution or memorial that calls for an Article V convention
 181 for the purpose of proposing one or more amendments to the
 182 Constitution of the United States on the subjects and amendments
 183 that may be considered by the Article V convention.
 184 Section 15. Section 11.9343, Florida Statutes, is created
 185 to read:
 186 11.9343 Vote cast outside the scope of instructions or
 187 limits; appointment forfeited.-
 188 (1) A delegate or alternate delegate forfeits his or her
 189 appointment by virtue of a vote or attempt to vote that is
 190 outside the scope of:
 191 (a) The instructions established by a concurrent resolution
 192 adopted pursuant to ss. 11.93-11.9352; or
 193 (b) The limits placed by the Legislature in a concurrent
 194 resolution or memorial that calls for an Article V convention
 195 for the purpose of proposing one or more amendments to the
 196 Constitution of the United States on the subjects and amendments
 197 that may be considered by the Article V convention.
 198 (2) If a delegate forfeits an appointment under subsection
 199 (1), the paired alternate delegate of the delegate becomes the
 200 delegate at the time the forfeiture of the appointment occurs.
 201 Section 16. Section 11.9344, Florida Statutes, is created
 202 to read:
 203 11.9344 Vote cast outside the scope of instructions or

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204 limits; status of application.-The application of the
 205 Legislature to call an Article V convention for proposing
 206 amendments to the Constitution of the United States ceases to be
 207 a continuing application and shall be treated as having no
 208 effect if all of the delegates and alternate delegates vote or
 209 attempt to vote outside the scope of:
 210 (1) The instructions established by a concurrent resolution
 211 adopted pursuant to ss. 11.93-11.9352; or
 212 (2) The limits placed by the Legislature in a concurrent
 213 resolution or memorial that calls for an Article V convention
 214 for the purpose of proposing one or more amendments to the
 215 Constitution of the United States on the subjects and amendments
 216 that may be considered by the Article V convention.
 217 Section 17. Section 11.9345, Florida Statutes, is created
 218 to read:
 219 11.9345 Vote cast outside the scope of instructions;
 220 criminal liability.-A delegate or alternate delegate commits a
 221 felony of the third degree, punishable as provided in s. 775.082
 222 or s. 775.083, who knowingly or intentionally votes or attempts
 223 to vote outside the scope of:
 224 (1) The instructions established by a concurrent resolution
 225 adopted pursuant to ss. 11.93-11.9352; or
 226 (2) The limits placed by the Legislature in a concurrent
 227 resolution or memorial that calls for an Article V convention
 228 for the purpose of proposing one or more amendments to the
 229 Constitution of the United States on the subjects and amendments
 230 that may be considered by the Article V convention.
 231 Section 18. Section 11.935, Florida Statutes, is created to
 232 read:

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233 11.935 Article V convention advisory group.-
 234 (1) As used in this section, the term "advisory group"
 235 means the Article V convention delegate advisory group.
 236 (2) The advisory group consists of the following members:
 237 (a) The Chief Justice of the Supreme Court, who shall serve
 238 as the chair.
 239 (b) An attorney appointed by the President of the Senate.
 240 (c) An attorney appointed by the Speaker of the House of
 241 Representatives.
 242 (3) The advisory group shall meet at the call of the chair
 243 and shall establish the policies and procedures that the
 244 advisory group determines necessary to carry out ss. 11.93-
 245 11.9352.
 246 (4) Upon the request of a delegate or alternate delegate,
 247 the advisory group shall advise the delegate or alternate
 248 delegate whether there is reason to believe that an action or an
 249 attempt to take an action by a delegate or alternate delegate
 250 would:
 251 (a) Violate the instructions established by a concurrent
 252 resolution adopted by the Legislature under ss. 11.93-11.9352;
 253 or
 254 (b) Exceed the limits placed by the Legislature in a
 255 concurrent resolution or memorial that calls for an Article V
 256 convention for the purpose of proposing one or more amendments
 257 to the Constitution of the United States on the subjects and
 258 amendments that may be considered by the Article V convention.
 259 (5) The advisory group:
 260 (a) May render an advisory determination under this section
 261 in any summary manner considered appropriate by the advisory

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262 group.
 263 (b) Shall render an advisory determination under this
 264 section within 24 hours after receiving a request for a
 265 determination.
 266 (c) Shall transmit a copy of an advisory determination
 267 under this section in the most expeditious manner possible to
 268 the delegate or alternate delegate who requested the advisory
 269 determination.
 270 (d) If the advisory group renders an advisory determination
 271 under this section, the advisory group may also take an action
 272 permitted under s. 11.9351.
 273 Section 19. Section 11.9351, Florida Statutes, is created
 274 to read:
 275 11.9351 Oversight of delegates with respect to
 276 instructions.-
 277 (1) The advisory group, on its own motion, or upon the
 278 request of the President of the Senate, the Speaker of the House
 279 of Representatives, or the Attorney General, shall advise the
 280 Attorney General whether there is reason to believe that a vote
 281 or an attempt to vote by a delegate or alternate delegate has:
 282 (a) Violated the instructions established by a concurrent
 283 resolution adopted by the Legislature under ss. 11.93-11.9352;
 284 or
 285 (b) Exceeded the limits placed by the Legislature in a
 286 concurrent resolution or memorial that calls for an Article V
 287 convention for the purpose of proposing one or more amendments
 288 to the Constitution of the United States on the subjects and
 289 amendments that may be considered by the Article V convention.
 290 (2) The advisory group shall issue the advisory

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determination under this section by one of the following summary
procedures:

(a) Without notice or an evidentiary proceeding; or

(b) After a hearing conducted by the advisory group.

(3) The advisory group shall render an advisory
determination under this section within 24 hours after receiving
a request for an advisory determination.

(4) The advisory group shall transmit a copy of an advisory
determination in the most expeditious manner possible to the
Attorney General.

Section 20. Section 11.9352, Florida Statutes, is created
to read:

11.9352 Advisory determination concerning a vote outside
the scope of instructions.—Immediately, upon receipt of an
advisory determination that finds that a vote or attempt to vote
by a delegate or alternate delegate is a violation as described
in s. 11.9351 or in excess of the authority of the delegate or
alternate delegate, the Attorney General shall inform the
delegates, alternate delegates, the President of the Senate, the
Speaker of the House of Representatives, and the Article V
convention that:

(1) The vote or attempt to vote did not comply with Florida
law, is void, and has no effect.

(2) The credentials of the delegate or alternate delegate
who is the subject of the determination are revoked.

Section 21. This act shall take effect July 1, 2014.

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-10-14

Meeting Date

Topic Article V Convention

Bill Number SB 1008
(if applicable)

Name Amy Datz

Amendment Barcode _____
(if applicable)

Job Title Retiree

Address 1130 Crestview Ave

Phone 850 322-7597

Tallahassee FL 32303
City State Zip

E-mail amali.datz@mac.com

Speaking: ☐ For ☒ Against ☐ Information

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 (10/20/11)

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 1142

INTRODUCER: Commerce and Tourism Committee and Senators Lee and Soto

SUBJECT: Ticket Sales

DATE: April 10, 2014

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Hrdlicka	Hrdlicka	CM	Fav/CS
2. Sumner	Cannon	CJ	Favorable
3. Clodfelter	Kynoch	AP	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1142 increases the criminal penalties related to counterfeit tickets and sales of “multiuse tickets” to theme parks. The bill also creates criminal penalties for cloning a ticket or counterfeiting, forging, altering, cloning, or possessing a card, wristband, or other medium that accesses or is associated with a ticket.

The Criminal Justice Impact Conference has not yet considered the fiscal impact of the bill. However, the Department of Corrections (DOC) expects the bill to have an insignificant impact on the need for prison beds and a minimal impact on the number of offenders who are on community supervision.

II. Present Situation:

Generally there is little regulation on the initial sale of tickets by original ticket issuers and their agents. The resale of tickets is regulated by states for various reasons, including the belief that resale can lead to fraud by the sale of fake tickets and harms innocent consumers.¹ Ticket issuers have also made efforts to limit fraudulent tickets, including the use of credit cards to purchase

¹ Benitah, Jonathan C., “Anti-Scalping Laws: Should They Be Forgotten?” 6 TXRESL 55, 60 (2005). Resale of tickets in Florida is generally regulated under s. 817.36, F.S.

tickets, barcodes placed on tickets, and electronic tickets to provide ways for an original ticket issuer to link a ticket to a particular person and keep track of ownership of a ticket.²

Regulation of Fraudulent Ticket Sales in Florida

Section 817.361, F.S., makes it a second degree misdemeanor to offer for sale, sell, or transfer, with or without consideration, any nontransferable multiday or multievent ticket which has been used at least once for admission.³ A second or subsequent violation is a first degree misdemeanor.⁴ A nontransferable ticket is one on which is clearly printed the phrase: “Nontransferable; must be used by the same person on all days” or a similar phrase.

Section 817.355, F.S., makes it a first degree misdemeanor to counterfeit, forge, alter, or possess an admission ticket, token, or paper with the intent to defraud a sports, amusement, concert, or other facility that offers service to the general public.

Section 817.357, F.S., states it is a violation of the Florida Deceptive and Unfair Trade Practices Act⁵ to knowingly purchase tickets from the original ticket seller in excess of the seller’s posted maximum ticket limit quantity with the intent to resell such tickets. The statute does not apply to the “original ticket seller”, which includes both the issuer of the ticket and any entity which provides distribution services or ticket sales services under contract with the issuer.

III. Effect of Proposed Changes:

Penalties

Section 1 amends s. 817.355, F.S., to expand the list of specifically prohibited activities and to create increased penalties when the offense involves ten or more items or is a repeat offense.

Under current law, it is a first degree misdemeanor to counterfeit, forge, alter, or possess any ticket, token, or paper with the intention to defraud a facility. The bill adds a prohibition against cloning and applies the restrictions to cards, wristbands, or other media that access or are associated with a ticket.

The bill enhances the penalty for a second or subsequent violation of s. 817.355(1), F.S., from a first degree misdemeanor to a third degree felony. It also provides that the offense is a third degree felony if it involves ten or more items, regardless of whether it is a first or subsequent offense.

² For example, Disney recently invested in a new form of ticket which is a wireless radio-frequency identification wristband. See Garcia, Jason, Orlando Sentinel (March 29, 2013), available at <http://www.orlandosentinel.com/the-daily-disney/os-disney-nextgen-ticket-laws-20130329,0,2136300.story>; and Shaw Brown, Genevieve, ABC News (January 9, 2013), available at <http://abcnews.go.com/Travel/magicband-disney-park-entry/story?id=18161268> (last visited 3/13/2014).

³ A second degree misdemeanor is punishable by up to sixty days imprisonment and a fine of up to \$500 (ss. 775.082 and 775.083, F.S.).

⁴ A first degree misdemeanor is punishable by up to one year imprisonment and a fine of up to \$1,000 (ss. 775.082 and 775.083, F.S.).

⁵ Sections 501.201 – 501.213, F.S. The associated civil penalty for a violation of the act is up to \$10,000 per violation.

The bill creates a third degree felony for the counterfeiting, forging, altering, cloning, or possession of ten or more tickets, cards, wristbands, or other media that access or are associated with a ticket with the intention to defraud a facility.⁶

Section 2 amends s. 817.361, F.S., relating to the unauthorized sale or transfer of nontransferable tickets after the ticket that has been used at least once for admission.

Under current law it is a second degree misdemeanor to offer for sale, sell, or transfer, with or without consideration, any nontransferable ticket or other nontransferable medium which has been used at least once for admission. The bill specifies that the offense applies to nontransferable multiuse tickets and to a “card, wristband, or other medium which accesses or is associated with a nontransferable multiuse ticket.”

The bill defines a “multiuse ticket” as a ticket, other medium, or right designed for admission to:

- More than one theme park complex;
- More than one amusement location or other facility in a theme park complex;
- One or more amusement locations or other facilities in a theme park complex for more than one day; or
- One or more amusement locations or other facilities in a theme park complex more than once in the same day.

The current statute applies to sale or transfer of nontransferable tickets or other media designed for admission to more than one amusement location or other facility offering entertainment to the general public. The bill applies only to admission to theme park complexes or amusement areas within a theme park complex.⁷ This change has the effect of repealing penalties for the resale of used nontransferable multiday or multievent tickets to entertainment venues other than theme parks.

The bill increases the penalty for the offense to a first degree misdemeanor, and enhances the penalty for a second or subsequent offense to a third degree felony. Currently, the first offense is a second degree misdemeanor which is enhanced to a first degree misdemeanor for a second or subsequent offense.

Nontransferable Multiuse Tickets

Under current law, a ticket is transferable unless otherwise stated on the ticket itself. Section 2 repeals that provision, and instead states a multiuse ticket is nontransferable unless either:

- The phrase “may be used by more than one person” is printed clearly on the ticket; or
- The issuer of the ticket explicitly states on its website the ticket may be used by more than one person.

⁶ A third degree felony is generally punishable by up to five years imprisonment and a fine of up to \$5,000 (ss. 775.082 and 775.083, F.S.). However, s. 775.084(4)(a), F.S., provides that a habitual felony offender may be sentenced to a term of imprisonment not exceeding ten years.

⁷ The bill defines “theme park complex” as “an area comprised of at least 25 acres of land owned by the same business entity and which contains rides or other recreational activities.”

Section 3 provides an effective date of July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Individuals who counterfeit tickets or sell or transfer used multiuse tickets or associated cards or wristbands will be subject to increased criminal penalties.

However, individuals will no longer be subject to criminal penalties for the resale or transfer of multiday or multievent tickets to entertainment venues other than theme parks.

C. Government Sector Impact:

The Department of Corrections indicated the impact on the prison population is expected to be insignificant and the impact on community supervision population is expected to be minimal.

The Department of Corrections stated CS/SB 1142 would require the department to create a new offense code for the Offender Based Information System, requiring IT programing.⁸

VI. Technical Deficiencies:

In Section 1 of the bill, the amendments to subsections (1) and (3) of s. 817.355, F.S., use different phrasing to describe the items that cannot be counterfeited, forged, etc. In subsection (1), the items are “a ticket, card, wristband, or other medium that accesses or is associated with a

⁸ Department of Corrections, 2014 Agency Legislative Bill Analysis: SB 1142 (3/6/2014). The department’s estimated average cost to program new offense codes each year due to legislation passed with penalties is \$7,650 (estimated 90 hours at \$85.00 per hour). “This amount could fluctuate due to the number of new offense codes required or other programming exceptions.”

ticket; or a ticket, token or paper . . .”. In subsection (3), the items are “tickets, cards, wristbands, or other media that access or are associated with a ticket, token, or paper . . .”. It is recommended that the bill be amended to make the phrasing the same in both subsections except as to plurality of the nouns.

VII. Related Issues:

There may be confusion as to when a multiuse ticket is transferrable. The bill does not provide any direction to an issuer how to “explicitly state” on its website when a ticket may be used by more than one person.

Current law prohibits the resale of tickets for more than \$1 over the original admission price for multiday or multievent access to a park or entertainment complex, or a concert, entertainment event, permanent exhibition, or recreational activity within a park or complex, including an entertainment/resort complex.⁹

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 817.355 and 817.361.

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 Commerce and Tourism on March 24, 2014:

The committee substitute does the following:

- Adds “cloning” a ticket as a criminal act under s. 817.355, F.S.;
- Adds counterfeiting, forging, altering, cloning, or possessing a card, wristband, or other medium that accesses or is associated with a ticket with the intention to defraud a facility as a criminal act under s. 817.355, F.S.;
- Limits the penalty for counterfeiting, forging, altering, or possessing 10 or more tickets to the following items that access or are associated with a ticket: tickets, cards, wristbands, or other media;
- Adds to the definition of “multiuse ticket” a ticket, other medium, or right designed for admission to more than one theme park complex;
- Repeals the provisions creating criminal penalties for purchasing used multiuse tickets; and
- Repeals the provision creating a penalty to sell a card, wristband, or other medium that accesses or is associated with a nontransferable multiuse ticket that already has a card, wristband, or other medium accessing or associated with it. The provisions of the CS related to cloning address this issue.

⁹ Section 817.36(1)(b), F.S. “Entertainment/resort complex” is defined in s. 516.01(18), F.S.

B. Amendments:

None.

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

By the Committee on Commerce and Tourism; and Senator Lee

577-03120-14

20141142c1

A bill to be entitled

An act relating to ticket sales; amending s. 817.355, F.S.; providing that a person who counterfeits, forges, alters, clones, or possesses a ticket, card, wristband, or other medium that accesses or is associated with a specified ticket, token, or paper with the intent to defraud commits a misdemeanor of the first degree; providing enhanced criminal penalties for second and subsequent violations concerning fraudulent creation or possession of an admission ticket; providing criminal penalties for persons who commit such violations involving more than a specified number of tickets, cards, wristbands, or other media that access or are associated with a specified ticket, token, or paper; amending s. 817.361, F.S.; defining terms; prohibiting the sale, offer for sale, or transfer of certain multiuse tickets or a card, wristband, or other medium that accesses or is associated with such multiuse ticket; providing criminal penalties; providing enhanced criminal penalties for second or subsequent violations of provisions relating to the sale, offer for sale, or transfer of certain multiuse tickets; providing an effective date.

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

Section 1. Section 817.355, Florida Statutes, is amended to read:

Page 1 of 4

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

577-03120-14

20141142c1

817.355 Fraudulent creation or possession of admission ticket.—

(1) Except as provided in subsections (2) and (3), a ~~any~~ person who counterfeits, forges, alters, clones, or possesses a ~~any~~ ticket, card, wristband, or other medium that accesses or is associated with a ticket; or a ticket, token, or paper designed for admission to or the rendering of services by a ~~any~~ sports, amusement, concert, or other facility offering services to the general public, with the intent to defraud such facility, commits is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) A person who commits a second or subsequent violation of subsection (1) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) A person who counterfeits, forges, alters, clones, or possesses 10 or more tickets, cards, wristbands, or other media that access or are associated with a ticket, token, or paper designed for admission to or the rendering of services by a sports, amusement, concert, or other facility offering services to the general public with the intent to defraud such facility, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 2. Section 817.361, Florida Statutes, is amended to read:

817.361 Sale or transfer ~~Resale~~ of multiuse tickets ~~multiday or multievent ticket.~~—

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

(a) "Issuer" means the person or entity that created a multiuse ticket and is obligated to allow admission thereunder.

Page 2 of 4

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

577-03120-14

201411142c1

(b) "Multiuse ticket" means a ticket, other medium, or right designed for admission to more than one theme park complex, or to more than one amusement location or other facility in a theme park complex, or for admission for more than 1 day or more than once in the same day to one or more such locations or facilities in a theme park complex.

(c) "Theme park complex" means an area comprised of at least 25 acres of land owned by the same business entity and which contains rides or other recreational activities.

(2) A person who ~~Whoever~~ offers for sale, sells, or transfers in connection with a commercial transaction, with or without consideration, a ~~any~~ nontransferable multiuse ticket or a card, wristband, or other medium that accesses or is associated with any such nontransferable multiuse ticket ~~or other nontransferable medium designed for admission to more than one amusement location or other facility offering entertainment to the general public, or for admission for more than 1 day thereto,~~ after the nontransferable multiuse ~~said~~ ticket ~~or other medium~~ has been used at least once for admission commits a violation of this subsection. For purposes of this subsection, a multiuse ticket is nontransferable unless the phrase "may be used by more than one person" is printed clearly on the multiuse ticket by the issuer or the issuer explicitly states on its website that the multiuse ticket may be used by more than one person, ~~is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. A nontransferable ticket or other nontransferable medium is one on which is clearly printed the phrase: "Nontransferable; must be used by the same person on all days" or words of similar import.~~

577-03120-14

201411142c1

(3) (a) Except as provided in paragraph (b), a person who violates subsection (2) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) A person who commits ~~Upon conviction for~~ a second or subsequent violation of ~~this subsection (2) commits, such person is guilty of a felony misdemeanor~~ of the ~~third~~ first degree, punishable as provided in s. 775.082, ~~or~~ s. 775.083, or s. 775.084.

Section 3. This act shall take effect July 1, 2014.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Judiciary, *Chair*
Appropriations
Appropriations Subcommittee on Health
and Human Services
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Banking and Insurance
Ethics and Elections
Gaming
Rules
Transportation

SENATOR TOM LEE

Deputy Majority Leader
24th District

April 7, 2014

The Honorable Senator Negron
Senate Appropriations Committee, Chair
412 Senate Office Building
404 South Monroe St.
Tallahassee, FL 32399

Dear Chair Negron,

I respectfully request that SB 1142 related to *Ticket Sales*, be placed on the Senate Committee agenda at your earliest convenience.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink that reads "Tom Lee".

Tom Lee
Senator, District 24

Cc: Cindy Kynoch, Staff Director

REPLY TO:

- ☐ 915 Oakfield Drive, Suite D, Brandon, Florida 33511 (813) 653-7061
- ☐ 418 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5024

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/10/2014

Meeting Date

Topic _____

Bill Number 1142
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title Trustee

Address 1119 Newton Ave S
Street

Phone 727/897-9291

City _____ *State* _____ *Zip* _____

E-mail justice2jesus@yahoo.com

Speaking: ☐ For ☒ Against ☐ Information

Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/10/14

Meeting Date

Topic TICKET SALES

Bill Number 1142
(if applicable)

Name GENE MCGEE

Amendment Barcode _____
(if applicable)

Job Title _____

Address 215 S. MONROE ST. STE 306
Street

Phone 850.222.0500

TLH
City

FL
State

32301
Zip

E-mail PGEE@GMAIL.COM

Speaking: ☒ For ☐ Against ☐ Information

Representing SEAWORLD

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

4/10/14

Meeting Date

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

Topic Ticket Fraud

Bill Number 1142
(if applicable)

Name Adam Babington

Amendment Barcode _____
(if applicable)

Job Title Manager, Government Relations

Address 1385 E Buena Vista Drive
Street

Phone 407 8281360

Lake Buena Vista FL 34787
City State Zip

E-mail _____

Speaking: ☒ For ☐ Against ☐ Information

Representing Walt Disney World

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/10/14
Meeting Date

Topic Tickets

Bill Number 1142
(if applicable)

Name Greg Black

Amendment Barcode _____
(if applicable)

Job Title _____

Address 215 S. Monroe Street, Suite 505
Street

Phone 205-9000

Tallahassee FL 32301
City State Zip

E-mail greg.black@metzlaw.com

Speaking: ☒ For ☐ Against ☐ Information

Representing ~~Democrat~~ FRLA

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4.10.14

Meeting Date

Topic Ticket Sales

Bill Number SB 1142
(if applicable)

Name Will McKinley

Amendment Barcode _____
(if applicable)

Job Title _____

Address 106 E College Ave Suite 1100

Phone 681-1980

Street

Jallahassen

FL

State

32301

Zip

E-mail _____

Speaking: ☒ For ☐ Against ☐ Information

Representing Universal Studios

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/10/14
Meeting Date

Topic Ticket Sales

Bill Number SB 1142
(if applicable)

Name Brewster Bevis

Amendment Barcode _____
(if applicable)

Job Title Senior Vice President

Address 516 W Adams St
Street

Phone 224-7173

Tallah FL 32312
City State Zip

E-mail bbevis@airlion

Speaking: ☒ For ☐ Against ☐ Information

Representing Associated Industries of Florida

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 (10/20/11)

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 1150

INTRODUCER: Health Policy Committee; Commerce and Tourism Committee; and Senator Bean

SUBJECT: Medical Tourism

DATE: April 10, 2014

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Askey</u>	<u>Hrdlicka</u>	<u>CM</u>	Fav/CS
2. <u>Looke</u>	<u>Stovall</u>	<u>HP</u>	Fav/CS
3. <u>Pingree</u>	<u>Kynoch</u>	<u>AP</u>	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1150 directs Enterprise Florida, Inc., (EFI) and the Florida Tourism Industry Marketing Corporation (Visit Florida) to promote medical tourism and market the state as a healthcare destination.

Visit Florida is required to include the promotion of medical tourism in the 4-year marketing plan and showcase Florida providers. The bill also requires Visit Florida to create a matching grant program for local and regional economic development organizations to create targeted medical tourism marketing initiatives.

The bill requires Visit Florida to annually allocate at least \$3.5 million of the funds appropriated by the Legislature to Visit Florida to develop, implement, and maintain the medical tourism marketing plan. The bill also requires Visit Florida to annually allocate at least \$1.5 million of appropriated funds for the medical tourism matching grant program.

The bill requires the Office of Program Policy Analysis and Government Accountability (OPPAGA) and the Office of Economic and Demographic Research (EDR) to include the medical tourism programs when analyzing Visit Florida and its programs as part of their Economic Development Programs Evaluation that must be presented to the Governor and the Legislature by January 1, 2015, and every three years thereafter.

II. Present Situation:

Medical Tourism

Medical tourism is a term used to describe the act of traveling to receive medical treatment. Traditionally, the term referred to travel across international boundaries. Recently, consumer travel across state lines, referred to as domestic medical tourism, has become more common. Medical tourism can include both sophisticated treatments, such as cardiac surgery and orthopedics, as well as elective or routine procedures for dental care or cosmetic surgeries. The industry has “medical tourism facilitators” that market medical tourism “models” to consumers. These facilitators could be compared to travel agents.

Medical tourism occurs for a variety of reasons including the globalization of healthcare services and increases in geriatric populations in the United States and Europe. Consumer preference in medical care will depend on factors that a consumer normally applies when purchasing a good or service. These factors can include cost, income, substitutions, or complimentary goods. Due to the size and scope of the healthcare industry, there is no one “trend” in medical tourism.

A recent report by the National Institute for Health Research found that outward medical tourism¹ had increased in the United Kingdom while inward medical tourism² remained reasonably steady.³ The results from this report also highlighted several other factors that made general “trends” in medical tourism difficult to define. The report found that:

- Economic implications of medical tourism are not uniform;
- The medical tourism industry is almost entirely unregulated and there are potential risks to the consumer;
- Existing information is variable and there is no authoritative source of information;
- Medical tourists are a heterogeneous group of all ages and a range of socio-demographic groups;
- Tourists lack information and appear to make uninformed decisions without considering all associated risks;
- Tourists seem to make use of informal treatment-based or cultural networks to make their decisions;
- Patients are travelling to further or “new” markets in medical tourism; and
- Cost is never a sole motivator and often not the primary motivation for seeking treatment abroad.⁴

Additionally, the report concluded that more research was needed to:

- Better understand the health and social outcomes of treatment for those who travel for medical treatment;
- Generate more robust data that better capture the size and flows of medical tourism;

¹ Traveling from the UK to another country.

² Traveling from another country to the UK.

³National Institute for Health Research, *Implications for the NHS of inward and outward medical tourism; a policy and economic analysis using literature review and mixed-methods approaches* (February 2014), p. 28, available at: <http://www.journalslibrary.nihr.ac.uk/hsdr/volume-2/issue-2> (Last visited Mar. 20, 2014).

⁴ *Id.* at pp. 115-119

- Gather more information on patients including their origins, procedures, and outcomes;
- Develop better economic costing; and,
- Explore the issues of clinical relationships and networks.⁵

Medical tourism can have political obstacles as well. While inward medical tourism is seen as an opportunity for economic growth, outward medical tourism has been criticized as an admission of domestic healthcare policy failure.⁶

Medical tourism is often presented as a way to lower costs for medical treatment. Cost savings is an incentive for some employers to adopt domestic medical tourism practices within the United States. Changes to healthcare law in the United States have highlighted medical treatment cost disparities. In May 2013, National Public Radio (NPR) reported on data released by the Federal Department of Health and Human Services on hospital charges for treatment of Medicare patients.⁷ NPR reported that there were large differences in the costs of the 100 most common treatments that require hospitalization. Differences occurred across states and hospitals miles from each other. The differences in cost ranged in multiples of 5 to 40. Similar reports produced supporting examples including a joint replacement procedure that cost \$297,000 at Centinela Hospital and \$84,000 at St. John's Health Center, two California hospitals about 12 miles apart.⁸ The reports suggest similar levels of disparity in costs to private insurers and uninsured patients.

Healthcare in Florida

Florida is the fourth largest state in terms of population with an estimated 19.5 million people. According to a report by the Wall Street Journal, Florida paid an average of \$7,156 per person on healthcare in 2009.⁹ The largest portions of that amount was spent on hospital care (\$2,207) and physician/clinical services (\$1,950). The U.S. average for the same time period was \$6,815 per person. In Florida there are currently licensed: 301 hospitals,¹⁰ 1,987 health care clinics,¹¹ 45,939 medical doctors, 10,445 dentists, 203,648 registered nurses, 20,850 pharmacists, and various other licensed practitioners totaling 863,270.¹²

⁵ *Id.* at pp. 119 and 120

⁶The Economist, *Médecine avec frontières: Why health care has failed to globalize* (February 15, 2014), available at: <http://www.economist.com/news/international/21596563-why-health-care-has-failed-globalise-m-decine-avec-fronti-res> (Last visited Mar. 20, 2014).

⁷ NPR, *Government Data Reveals Wild Disparity in Health Care Costs* (May 8, 2013), available at: <http://www.npr.org/templates/story/story.php?storyId=182337915> (Last visited March 20, 2014).

⁸ Christian Science Monitor, *New report reveals stunning disparities in health-care costs* (May 8, 2013), available at: <http://www.csmonitor.com/Business/2013/0508/New-report-reveals-stunning-disparities-in-health-care-costs> (Last visited Mar. 20, 2014).

⁹The Wall Street Journal, *Health-Care Costs: A State-by-State Comparison* (April 8, 2013), available at: <http://online.wsj.com/news/articles/SB10001424127887323884304578328173966380066> (Last visited Mar. 20, 2014).

¹⁰Florida Agency for Health Care Administration, available at: <http://www.floridahealthfinder.gov/facilitylocator/ListFacilities.aspx> (Last visited Mar. 20, 2014).

¹¹ *Id.*

¹² Florida Dept. of Health, Division of Medical Quality Assurance, *Annual Report and Long Range Plan: FY 2012-2013*, (Dec. 31, 2013).

Tourism in Florida

Enterprise Florida, Inc. (EFI) is a public-private partnership between Florida's business and government leaders and is the principal economic development organization for the State of Florida. Visit Florida is the state's official tourism marketing corporation, and has been a direct-support organization of EFI since 2011. EFI contracts with Visit Florida to promote Florida as a tourist destination and EFI's Division of Tourism Marketing supports Visit Florida in its activities. Visit Florida is required to adopt a four-year tourism marketing plan.¹³ The plan is annually reviewed and approved by EFI's board of directors.

According to Visit Florida, the tourism industry in Florida was responsible for attracting 91.5 million tourists in 2012 who spent more than \$71.8 billion, generated 23 percent of the state's sales tax revenue and employed more than one million Floridians.¹⁴ The Fiscal Year 2013-2014 General Appropriations Act appropriated over \$63 million of state funds to Visit Florida.¹⁵ Visit Florida raises matching funds from the private sector, and in 2012 raised more than \$108.6 million.¹⁶

The Economic Development Programs Evaluation

Chapters 2013-39 and 2013-42, L.O.F., require the Office of Economic and Demographic Research (EDR) and the Office of Program Policy Analysis and Government Accountability (OPPAGA) to provide a detailed analysis of state economic development programs according to a recurring schedule established in law.¹⁷ Programs added to s. 288.0001(2)(b), F.S., must be evaluated by January 1, 2015, and then every three years thereafter.

In this review, EDR will evaluate and determine the economic benefits of each program over the previous three years. For the purposes of EDR's analysis, the calculation of economic benefits is the same as the state's return on investment. The analysis will also identify the number of jobs created, the increase or decrease in personal income, and the impact on state gross domestic product from the direct, indirect, and induced effects of the state's investment in each program over the previous three years.¹⁸

The OPPAGA will evaluate each program over the previous three years for effectiveness and value to the state's taxpayers and include recommendations for consideration by the Legislature. The analysis may include relevant economic development reports or analyses prepared by the Department of Economic Opportunity, Enterprise Florida, Inc., or local or regional economic development organizations; interviews with parties involved; or any other relevant data.¹⁹

¹³ Section 288.923(4), F.S., sets forth the plan requirements.

¹⁴ Visit Florida, available at <http://www.visitflorida.com/en-us/about-visit-florida.html> (Last visited Mar. 20, 2014).

¹⁵ Fiscal Year 2013-14 General Appropriations Act, Line Item 2228, ch. 2013-40, L.O.F.

¹⁶ Visit Florida, available at <http://www.visitflorida.com/en-us/about-visit-florida.html> (Last visited Mar. 25, 2014).

¹⁷ Florida Economic Development Program Evaluations – Year 1, available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1401rpt.pdf>, (last visited Mar. 25, 2014).

¹⁸ *Id.*

¹⁹ *Id.*

III. Effect of Proposed Changes:

Section 1 amends s. 288.0001(2)(b), F.S., to require the OPPAGA and the EDR to add the medical tourism marketing and matching grant programs to the Economic Development Programs Evaluation that will be presented to the Governor and the Legislature by January 1, 2015, and every three years thereafter.

Section 2 amends s. 288.901(2), F.S., to direct EFI to market the state as a health care destination by using the medical tourism initiatives described in s. 288.924, F.S., to promote quality health care services in Florida.

Section 3 amends s. 288.923(4)(c), F.S., to include the promotion of medical tourism as a part of Visit Florida's four-year tourism marketing plan.

Section 4 creates s. 288.924, F.S., establishing requirements for the medical tourism marketing plan and creating a matching grant program to support local medical tourism marketing.

The bill requires Visit Florida to include specific initiatives to advance Florida as a healthcare destination within the four-year marketing plan. The marketing plan must:

- Promote national and international awareness of the qualifications, scope of services, and specialized healthcare expertise of providers in Florida;
- Promote national and international awareness of medical conferences, training, and other business opportunities to attract medical practitioners to the state; and
- Include an initiative that showcases select qualified providers offering bundled healthcare packages and support services.

The showcased providers must be selected through a solicitation of proposals from licensed providers for plans. The plans must describe available services, provider qualifications, logistic arrangements, and other services and amenities that may be provided to patients and their families. A single health care provider may submit a proposal describing the available health care services that will be offered through a network of multiple providers and explaining any support services or other amenities associated with the health care provided.

Visit Florida must assess the qualifications and credentials of providers submitting proposals. To the extent funding is available, all qualified providers must be selected to be showcased.

To qualify as a showcased provider in the medical tourism marketing initiative, a provider must:

- Ensure that all participating providers in a proposal have full, active, and unencumbered Florida licenses;
- Have a current accreditation that is not conditional or provisional from a nationally recognized accrediting body;
- Be recognized as a Cancer Center of Excellence²⁰ or have a current national or international recognition in a specialty area; and
- Meet other criteria established by Visit Florida in collaboration with the Florida Agency for Health Care Administration and the Department of Health.

²⁰ Section 381.925, F.S.

Visit Florida is also required to create a matching grant program to provide funding to local or regional economic development organizations for targeted medical tourism marketing initiatives. The initiatives must promote Florida as a destination for healthcare services. Providers involved in the local initiative must meet the criteria specified for showcased qualified providers. The local or regional economic development organization must show an ability to involve a variety of businesses to collaboratively welcome and support patients and their families who travel to Florida for medical services. Cash or in-kind services available from the local or regional economic development board must be at least equal to the amount of state financial support provided.

The bill requires Visit Florida to annually allocate at least \$3.5 million of the funds appropriated by the Legislature in the General Appropriations Act to Visit Florida to develop, implement, and maintain the medical tourism marketing plan. The bill also requires Visit Florida to annually allocate at least \$1.5 million of appropriated funds for the medical tourism matching grant program.

Section 5 provides an effective date of July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

CS/CS/SB 1150 will have an indeterminate positive fiscal impact on health care providers and other affiliated businesses that are showcased as part of the medical tourism marketing programs created in the bill.

C. Government Sector Impact:

The Legislature appropriated \$63.5 million to Visit Florida in the Fiscal Year 2013-2014 General Appropriations Act. Of that amount, \$43.5 million is recurring and \$20 million is nonrecurring.

The bill requires Visit Florida to annually allocate at least \$3.5 million of the funds appropriated by the Legislature to Visit Florida in the General Appropriations Act to develop, implement and maintain the medical tourism marketing plan. The bill also requires Visit Florida to annually allocate at least \$1.5 million of appropriated funds for the medical tourism matching grant program.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 288.0001, 288.901, and 288.923.

This bill creates section 288.924 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 Health Policy on March 25, 2014:

The CS requires OPPAGA and EDR to include the medical tourism program in their Economic Development Programs Evaluation that will reported to the Governor and the Legislature by January 1, 2015 and every 3 years afterwards.

CS by Commerce and Tourism on March 17, 2014:

The committee substitute requires that Visit Florida also include promoting medical conferences, training, and other business opportunities to attract medical practitioners to the state in the 4-year tourism marketing plan. The committee substitute removes the application deadline and requirement of equal division of funds related to the matching grant program.

B. Amendments:

None.

By the Committees on Health Policy; and Commerce and Tourism;
and Senator Bean

588-03227-14

20141150c2

1 A bill to be entitled
2 An act relating to medical tourism; amending s.
3 288.0001, F.S.; requiring an analysis of medical
4 tourism in the Economic Development Programs
5 Evaluation; amending s. 288.901, F.S.; requiring
6 Enterprise Florida, Inc., to collaborate with the
7 Department of Economic Opportunity to market this
8 state as a health care destination; amending s.
9 288.923, F.S.; requiring the Division of Tourism
10 Marketing to include in its 4-year plan a discussion
11 of the promotion of medical tourism; creating s.
12 288.924, F.S.; requiring the plan to promote national
13 and international awareness of the qualifications,
14 scope of services, and specialized expertise of health
15 care providers in this state, to promote national and
16 international awareness of certain business
17 opportunities to attract practitioners to destinations
18 in this state, and to include an initiative to
19 showcase qualified health care providers; requiring a
20 specified amount of funds appropriated to the Florida
21 Tourism Industry Marketing Corporation to be allocated
22 for the medical tourism marketing plan; requiring the
23 Florida Tourism Industry Marketing Corporation to
24 create a matching grant program; specifying criteria
25 for the grant program; requiring that a specified
26 amount of funds appropriated to the Florida Tourism
27 Industry Marketing Corporation be allocated for the
28 grant program; providing an effective date.
29

Page 1 of 7

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

588-03227-14

20141150c2

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

31
32 Section 1. Paragraph (b) of subsection (2) of section
33 288.0001, Florida Statutes, is amended to read:
34 288.0001 Economic Development Programs Evaluation.—The
35 Office of Economic and Demographic Research and the Office of
36 Program Policy Analysis and Government Accountability (OPPAGA)
37 shall develop and present to the Governor, the President of the
38 Senate, the Speaker of the House of Representatives, and the
39 chairs of the legislative appropriations committees the Economic
40 Development Programs Evaluation.

41 (2) The Office of Economic and Demographic Research and
42 OPPAGA shall provide a detailed analysis of economic development
43 programs as provided in the following schedule:

44 (b) By January 1, 2015, and every 3 years thereafter, an
45 analysis of the following:

46 1. The entertainment industry financial incentive program
47 established under s. 288.1254.

48 2. The entertainment industry sales tax exemption program
49 established under s. 288.1258.

50 3. VISIT Florida and its programs established or funded
51 under ss. 288.122, 288.1226, 288.12265, ~~and~~ 288.124, and
52 288.924.

53 4. The Florida Sports Foundation and related programs
54 established under ss. 288.1162, 288.11621, 288.1166, 288.1167,
55 288.1168, 288.1169, and 288.1171.

56 Section 2. Subsection (2) of section 288.901, Florida
57 Statutes, is amended to read:

58 288.901 Enterprise Florida, Inc.—

Page 2 of 7

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

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(2) PURPOSES.—Enterprise Florida, Inc., shall act as the economic development organization for the state, ~~using~~ utilizing private sector and public sector expertise in collaboration with the department to:

- (a) Increase private investment in Florida;
- (b) Advance international and domestic trade opportunities;
- (c) Market the state both as a probusiness location for new investment and as an unparalleled tourist destination;
- (d) Revitalize Florida's space and aerospace industries, and promote emerging complementary industries;
- (e) Promote opportunities for minority-owned businesses;
- (f) Assist and market professional and amateur sport teams and sporting events in Florida; ~~and~~
- (g) Assist, promote, and enhance economic opportunities in this state's rural and urban communities; and
- (h) Market the state as a health care destination by using the medical tourism initiatives as described in s. 288.924 to promote quality health care services in this state.

Section 3. Paragraph (c) of subsection (4) of section 288.923, Florida Statutes, is amended to read:

288.923 Division of Tourism Marketing; definitions; responsibilities.—

(4) The division's responsibilities and duties include, but are not limited to:

- (c) Developing a 4-year marketing plan.
 - 1. At a minimum, the marketing plan shall discuss the following:
 - a. Continuation of overall tourism growth in this state.
 - b. Expansion to new or under-represented tourist markets.

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- c. Maintenance of traditional and loyal tourist markets.
- d. Coordination of efforts with county destination marketing organizations, other local government marketing groups, privately owned attractions and destinations, and other private sector partners to create a seamless, four-season advertising campaign for the state and its regions.
- e. Development of innovative techniques or promotions to build repeat visitation by targeted segments of the tourist population.
- f. Consideration of innovative sources of state funding for tourism marketing.
- g. Promotion of nature-based tourism and heritage tourism.
- h. Promotion of medical tourism, as provided under s. 288.924.
- ~~i. h.~~ Development of a component to address emergency response to natural and manmade disasters from a marketing standpoint.
- 2. The plan shall be annual in construction and ongoing in nature. Any annual revisions of the plan shall carry forward the concepts of the remaining 3-year portion of the plan and consider a continuum portion to preserve the 4-year timeframe of the plan. The plan also shall include recommendations for specific performance standards and measurable outcomes for the division and direct-support organization. The department, in consultation with the board of directors of Enterprise Florida, Inc., shall base the actual performance metrics on these recommendations.
- 3. The 4-year marketing plan shall be developed in collaboration with the Florida Tourism Industry Marketing

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Corporation. The plan shall be annually reviewed and approved by the board of directors of Enterprise Florida, Inc.

Section 4. Section 288.924, Florida Statutes, is created to read:

288.924 Medical tourism.-

(1) MEDICAL TOURISM MARKETING PLAN.-The Division of Tourism Marketing shall include within the 4-year marketing plan required under s. 288.923(4)(c) specific initiatives to advance this state as a destination for quality health care services. The plan must:

(a) Promote national and international awareness of the qualifications, scope of services, and specialized expertise of health care providers throughout this state;

(b) Promote national and international awareness of medical-related conferences, training, or other business opportunities to attract practitioners from the medical field to destinations in this state; and

(c) Include an initiative that showcases selected, qualified providers offering bundled packages of health care and support services for defined care episodes. The selection of providers to be showcased must be conducted through a solicitation of proposals from Florida hospitals and other licensed providers for plans that describe available services, provider qualifications, and special arrangements for food, lodging, transportation, or other support services and amenities that may be provided to visiting patients and their families. A single health care provider may submit a proposal describing the available health care services that will be offered through a network of multiple providers and explaining any support

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services or other amenities associated with the care episode. The Florida Tourism Industry Marketing Corporation shall assess the qualifications and credentials of providers submitting proposals. To the extent funding is available, all qualified providers shall be selected to be showcased in the initiative. To be qualified, a health care provider must:

1. Have a full, active, and unencumbered Florida license and ensure that all health care providers participating in the proposal have full, active, and unencumbered Florida licenses;

2. Have a current accreditation that is not conditional or provisional from a nationally recognized accrediting body;

3. Be recognized as a Cancer Center of Excellence under s. 381.925 or have a current national or international recognition in another specialty area, if such recognition is given through a specific qualifying process; and

4. Meet other criteria as determined by the Florida Tourism Industry Marketing Corporation in collaboration with the Agency for Health Care Administration and the Department of Health.

(2) ALLOCATION OF FUNDS FOR MARKETING PLAN.-Annually, at least \$3.5 million of the funds appropriated in the General Appropriations Act to the Florida Tourism Industry Marketing Corporation shall be allocated for the development and implementation of the medical tourism marketing plan.

(3) MEDICAL TOURISM MATCHING GRANTS.-The Florida Tourism Industry Marketing Corporation shall create a matching grant program to provide funding to local or regional economic development organizations for targeted medical tourism marketing initiatives. The initiatives must promote and advance Florida as a destination for quality health care services. Selection of

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175 recipients of a matching grant shall be based on the following
176 criteria:

177 (a) The providers involved in the local initiative must
178 meet the criteria specified in subsection (1).

179 (b) The local or regional economic development organization
180 must demonstrate an ability to involve a variety of businesses
181 in a collaborative effort to welcome and support patients and
182 their families who travel to this state to obtain medical
183 services.

184 (c) The cash or in-kind services available from the local
185 or regional economic development organization must be at least
186 equal to the amount of available state financial support.

187 (4) ALLOCATION OF FUNDS FOR MATCHING GRANTS.-Annually, at
188 least \$1.5 million of the funds appropriated in the General
189 Appropriations Act to the Florida Tourism Industry Marketing
190 Corporation shall be allocated for the matching grant program.

191 Section 5. This act shall take effect July 1, 2014.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Health Policy, *Chair*
Appropriations
Appropriations Subcommittee on Education
Appropriations Subcommittee on Health
and Human Services
Commerce and Tourism
Communications, Energy, and Public Utilities
Governmental Oversight and Accountability

SELECT COMMITTEE:

Select Committee on Patient Protection
and Affordable Care Act

SENATOR AARON BEAN

4th District

March 31, 2014

Senator Joe Negron
Chairman, Committee on Appropriations
412 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Negron:

This letter is to request that CS/CS/SB 1150 relating to an act of Medical Tourism be placed on the agenda of the next possible committee meeting.

Thank you for your consideration of this request.

Respectfully,

A handwritten signature in blue ink that reads "Aaron Bean".

Aaron Bean
State Senator, 4th District

Cc: Cindy Kynoch, Staff Director
Ann Roberts, Committee Administrative Assistant

REPLY TO:

- ☐ 1919 Atlantic Boulevard, Jacksonville, Florida 32207 (904) 346-5039 FAX: (888) 263-1578
- ☐ 302 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5004 FAX: (850) 410-4805

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/10/2014

Meeting Date

Topic _____

Bill Number 1150
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG FLORIDA 33705

E-mail JUSTICE2JESUS@YAHOO.COM

City

State

Zip

Speaking: ☐ For ☐ Against ☒ Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

4/10/14

Meeting Date

Topic Medical tourism

Bill Number 1150
(if applicable)

Name Ellen Anderson

Amendment Barcode _____
(if applicable)

Job Title V.P. State Advocacy

Address 306 E. College Ave.

Phone 850.288.7959

Street

Tallahassee

FL

State

32301

Zip

E-mail ellen@fha.org

Speaking: ☒ For ☐ Against ☐ Information

Representing FL Hospital Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/10/14
Meeting Date

Topic Medical Tourism

Bill Number 1157
(if applicable)

Name David Christman

Amendment Barcode _____
(if applicable)

Job Title VP - Gov't Affairs

Address 136 S. Bronough St.

Phone 850/521-1200

Street

Tallahassee FL 32307

City

State

Zip

E-mail _____

Speaking: ☒ For ☐ Against ☐ Information

Representing FL Chamber

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/SB 1210

INTRODUCER: Banking and Insurance Committee and Senator Bean

SUBJECT: Division of Insurance Agents and Agency Services

DATE: April 10, 2014

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Billmeier	Knudson	BI	Fav/CS
2. Betta	DeLoach	AGG	Favorable
3. Betta	Kynoch	AP	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 1210 amends statutes relating to the regulation of insurance agents and agencies by the Department of Financial Services (DFS or department). This bill:

- Eliminates the insurance agency licensing requirement for agencies owned and operated by a single licensed agent under certain conditions.
- Allows third parties to sign agency applications.
- Specifies circumstances under which branch agencies do not have to be licensed.
- Repeals a provision allowing insurance agencies to obtain a registration in lieu of a license, converts all agency registrations to licenses, and eliminates the three-year expiration period for agency licenses.
- Repeals current law governing branch agencies and defines agent in charge and specifies the responsibilities of the agent in charge.
- Provides for agency licenses to automatically expire if the agency does not designate a new agent in charge with the DFS within 90 days after the agent in charge on record has left the agency.
- Creates a new type of insurance agent, an unaffiliated insurance agent, and specifies the scope of the license.
- Requires the DFS to immediately suspend the license or appointment of licensees charged with crimes that would preclude them from applying for licensure from the DFS.
- Exempts members of the United States Armed Forces, their spouses, and veterans who have retired within 24 months from the application filing fee for specified licenses.

- Requires agents who recommend the surrender of an annuity or life insurance policy to provide financial information to the consumer.
- Amends eligibility requirements for mediators under alternative dispute resolution programs administered by the DFS.
- Requires the DFS to deny an application to be a mediator or neutral evaluator or revoke or suspend a mediator or neutral evaluator in certain circumstances.
- Authorizes the DFS to investigate improper conduct of mediators, neutral evaluators, and navigators.
- Allows the DFS to share investigative information with other regulatory bodies.
- Amends requirements for licensure as a nonresident surplus lines agent.
- Bars issuance of any new limited customer representative licenses after September 30, 2014.
- Authorizes additional methods for service of process in certain administrative actions.
- Deletes requirement that applicants who take a licensure examination in Spanish must pay all associated costs.

According to the DFS, the exemption from licensing application fees for members of the military will have a minimal fiscal impact. In addition, the DFS has indicated an insignificant potential cost savings with regard to service of process deliveries and insignificant costs relating to changes in current systems. Any costs can be handled within existing resources.

The bill is effective July 1, 2014, except as otherwise provided.

II. Present Situation:

The Department of Financial Services

The DFS licenses insurance agencies and agents. The department's Division of Agent and Agency Services receives licensing applications, issues licenses, and investigates violations of the Insurance Code.¹ In order to transact insurance, a person must be licensed by the DFS and appointed by an insurer to transact insurance on its behalf.² If an agent fails to maintain an appointment during a four-year period, the agent's license expires and the agent must qualify as a first time applicant before transacting insurance.³

Section 624.310, F.S., gives the DFS the authority to initiate administrative proceedings to seek cease and desist orders, to seek the removal of affiliated parties, to impose administrative fines, and to suspend or revoke licenses. Any service of documents authorized or required by s. 624.310, F.S., must be made by certified mail, personal delivery, or by service of process in accordance with ch. 48, F.S. Section 624.310, F.S., does not allow for service by electronic mail.

¹ The Division of Agent and Agency Services website is found at <http://www.myfloridacfo.com/Division/Agents/#.UxnmwPldUeG> (last accessed March 7, 2013).

² See ss. 626.015(3) and 626.112 F.S.

³ See s. 626.431, F.S.

Insurance Agency Licensure and Registration

The DFS is responsible for licensing insurance agencies in accordance with s. 626.172, F.S. An application for licensure must be signed by the owner of the agency.⁴ Insurance agents who are sole proprietors and do not employ other insurance agents must be licensed as both an insurance agent and an insurance agency.⁵

Each place of business where an agent transacts insurance must have an agency license.⁶ Section 626.747, F.S., requires a licensed insurance agent to be at each branch location where activities requiring licensure as an insurance agent occur. Such an agent is commonly referred to as the “agent in charge.”

Section 626.112(7), F.S., provides that agencies existing prior to January 1, 2003, are allowed to file an application for registration in lieu of applying for licensure. A benefit of registration over licensing is that registrations do not expire, whereas licenses expire every three years.⁷

Insurance Agents

A “general lines agent” is an agent who transacts property insurance, casualty insurance, surety insurance, certain types of health insurance, and marine insurance.⁸ A “customer representative” means an individual appointed by a general lines agent or agency to assist that agent or agency in transacting the business of insurance from the office of that agent or agency.⁹ A “limited customer representative” is a customer representative appointed by a general lines agent or agency to assist that agent or agency in transacting only the business of private passenger motor vehicle insurance from the office of that agent or agency.¹⁰

Regulation of Navigators

In 2010, the federal Patient Protection and Affordable Care Act became law. The act created “navigators” to aid consumers in selecting a health plan. Part XIII of ch. 626, F.S., requires navigators to register with the DFS and creates a registration process for navigators.¹¹ Section 626.9957, F.S., provides disciplinary rules for navigators and grounds for the denial of registration.

⁴ See s. 626.172(2), F.S.

⁵ See s. 626.112(7), F.S.

⁶ See s. 626.112(7), F.S.

⁷ See s. 626.382, F.S.

⁸ See s. 626.015(5), F.S.

⁹ See s. 626.015(4), F.S.

¹⁰ See, S. 626.015(11), F.S.

¹¹ <http://www.myfloridacfo.com/Division/Agents/Industry/News/Navigators.htm#.UxsW4vldUeE> (last accessed March 8, 2014).

Alternative Dispute Resolution Programs

The DFS administers alternative dispute programs for various types of insurance and has mediation programs for property insurance¹² and automobile insurance¹³ claims. The department has a neutral evaluation program, similar to mediation, for sinkhole insurance claims¹⁴ and approves mediators used in the two mediation programs and certifies the neutral evaluators used in neutral evaluations for sinkhole insurance claims.¹⁵

To qualify as a mediator for the property or automobile mediation programs, a person must possess graduate level degrees in specified areas, be a member of the Florida Bar, be a licensed certified public accountant, or be a mediator for four years.¹⁶ In addition, an applicant must complete a training program approved by the DFS.¹⁷

To qualify as a neutral evaluator for sinkhole insurance claims, a neutral evaluator must be a professional engineer or a professional geologist who has completed a course of study in alternative dispute resolution approved by the department and who is determined by the department to be fair and impartial.¹⁸

According to an analysis provided by the DFS,¹⁹ the number of reported mediations and neutral evaluations is:

	Fiscal Year 2010-2011	Fiscal Year 2011-2012	Fiscal Year 2012-2013
Mediations	3,489	3,323	3,966
Neutral Evaluations	2,245	2,681	1,867

The DFS does not have the explicit authority to investigate, remove, or discipline mediators and neutral evaluators.

III. Effect of Proposed Changes:

Unaffiliated Agents (Sections 4, 5, 14)

According to the DFS, some insurance agents act as advisors to clients for a fee. These agents provide advice and recommendations regarding, among other things, insurance products but do not sell the products. This bill defines in statute a new type of insurance agent, an unaffiliated insurance agent, and specifies the scope of the license. This agent acts as an independent

¹² See s. 627.7015, F.S.

¹³ See s. 626.745, F.S.

¹⁴ See s. 627.7074, F.S.

¹⁵ See ss. 627.7015, 627.7074, and 627.745, F.S.

¹⁶ See ss. 627.7015, 627.745(3), F.S.

¹⁷ See ss. 627.7015, 627.745(3), F.S.

¹⁸ See s. 627.706, F.S.

¹⁹ See Department of Financial Services, *Senate Bill 708 Analysis* (February 4, 2014) (on file with the Committee on Banking and Insurance).

consultant in the business of analyzing or abstracting insurance policies, providing insurance advice or counseling, or making specific recommendations or comparisons of insurance products for a fee established in advance by a written contract signed by the parties. This bill defines this type of agent as a licensed insurance agent, except a limited lines agent, who is not appointed by or affiliated with any insurer, but is self-appointed. This bill prohibits an unaffiliated insurance agent from holding an appointment from an insurer, from transacting an insurance contract for an insurer, and from interfering with commissions from an appointed insurance agent. Unaffiliated insurance agents may continue to receive commissions on sales made before the date of appointment as an unaffiliated insurance agent as long as the agent discloses the receipt of commissions to the client when making recommendations or evaluating products of the entity from which commissions are received.

The unaffiliated agent is not appointed by an insurer to sell insurance products. This can lead to a situation where an agent's license expires because the agent is not appointed during a four-year period.²⁰ This bill allows an unaffiliated agent to appoint himself or herself and requires unaffiliated insurance agents to pay the same agent appointment fees required under current law for agents appointed by insurers.

Agent in Charge and Branch Agencies (Section 6, 22)

Effective January 1, 2015, this bill creates s. 626.0428(4), F.S., which defines an agent in charge as the licensed and appointed agent responsible for the supervision of all individuals within an insurance agency location. Each business location established by an agent or insurance agency must be in the active full-time charge of a licensed and appointed agent holding the required licenses for the lines of insurance transacted at the location. The agent in charge of an insurance agency may be the agent in charge of additional branch locations if: (1) insurance activities requiring licensure as an insurance agent do not occur at the locations when an agent is not physically present and (2) unlicensed employees at the locations do not engage in insurance activities that require licensure as an insurance agent or customer representative.

This bill requires each insurance agency and branch office to designate an agent in charge and to file the agent's name, license number, and physical address of the insurance agency location with the department at the department website. A change of the designated agent in charge must be reported to the department within 30 days, and becomes effective upon notification to the department.

This bill provides that an insurance agency location is precluded from conducting the business of insurance unless an agent in charge is designated by and providing services to the agency at all times. When the agent in charge ends his or her affiliation with the agency, the agency must designate another agent in charge within 30 days. If the agency fails to make such designation within 90 days after the designated agent has ended his or her affiliation with the agency, the agency license automatically expires 91 days after the designated agent ended his or her affiliation with the agency.

²⁰ Phone interview with DFS staff.

This bill provides that an agent in charge of an insurance agency is accountable for the wrongful acts, misconduct or violations committed by the licensee or agent or by any person under her or his supervision acting on behalf of the agency. However, the agent in charge is not criminally liable for the misconduct unless she or he personally committed the act or knew or should have known of the acts and of the facts that constitute the violation.

This bill repeals s. 626.747, F.S., relating to branch agencies, effective January 1, 2015. The section is incorporated and expanded in the new s. 624.0428(4), F.S.

Customer Representatives and Limited Customer Representatives (Sections 7, 12, 21)

Section 7 provides that no new limited customer representative licenses may be issued after September 30, 2014. Section 21 of the bill amends s. 626.7355, F.S., to allow an applicant for a customer representative license to obtain a temporary license if the applicant is not disqualified by s. 626.207, F.S. Current law provides an applicant cannot obtain a temporary license if the applicant has been convicted of or entered a guilty or nolo contendere plea to a felony within the previous five years. Section 626.207, F.S., provides that persons convicted of felony crimes are disqualified from applying for licensure for periods ranging from seven years to a permanent bar. The length of the disqualification depends on the severity of the crime.

Insurance Agency Licensing and Registration (Sections 8, 10, 15, 16)

Section 8 of this bill eliminates the insurance agency licensing requirement for agencies that are owned and operated by a single licensed agent who conducts business in her/his own name and does not employ or use other insurance licensees. Section 8 is effective January 1, 2015.

The bill provides that a branch place of business established by a licensed agency is considered a branch agency.²¹ A branch agency is not required to be licensed if it: (1) transacts business under the same name and federal tax identification number as the licensed agency and has designated with the DFS a licensed agent in charge of the branch location; and (2) has submitted to the DFS for inclusion in the licensing record of the licensed agency the address and telephone number of the branch location within 30 days after insurance transactions began at the branch location.

This bill repeals current law allowing certain insurance agencies to obtain a registration in lieu of a license and makes conforming changes due to this repeal. This bill converts all agency registrations to licenses effective October 1, 2015. Effective January 1, 2015, the bill also eliminates the three-year expiration of an agency license. Thus, an agency license will continue in force until canceled, suspended, revoked, or until it is otherwise terminated or it expires by operation of law.

Section 10 allows an owner, partner, officer, director, president, senior vice president, secretary, treasurer, and limited liability company member who directs or participates in the management and control of the agency, to complete and sign an insurance agency application. This bill also allows a third party to complete, submit, and sign an agency license application on the agency's

²¹ This bill further provides that a license issued to a business entity that offers motor vehicles for rent encompasses each employee or authorized representative at a designated branch.

behalf. However, the agency is responsible for ensuring that the information provided by the third party is true and correct and is accountable for any misstatements or misrepresentations.

This bill also requires additional information relating to an agency or branch agency to be provided on the agency license application. Such additional information includes the name, address, and e-mail address of the agency's registered agent or person authorized to accept service on the agency's behalf, the physical address of the branch location, including its name, e-mail address, and telephone number, the date that the branch office began transacting insurance, and the fingerprints of each individual required to be listed in the agency application.

Licensure Filing Fees and Members of the Military (Section 9)

This bill exempts members of the United States Armed Forces, their spouses, and veterans who have retired within 24 months who apply for licensure as an insurance agent, customer representative, adjuster, service representative, managing general agent, or reinsurance intermediary from the application filing fee. This bill lists documents applicants can submit with the application to establish eligibility for the exemption.

Suspension of Licenses (Sections 11, 18)

This bill requires the DFS, upon receipt of information or an indictment, to immediately temporarily suspend a license or appointment when the licensee is charged with a felony enumerated in s. 626.207(3), F.S. Those felonies include all capital and first degree felonies, crimes involving fraud, embezzlement, or money laundering, or a felony directly related to the financial services business. The suspension shall continue if the licensee is found guilty of, or pleads guilty or nolo contendere to, the crime, regardless of whether a judgment or conviction is entered, during a pending appeal.

Licensure Examinations in Spanish (Section 13)

Current law requires that an applicant who wishes to take licensure examinations in Spanish must bear the cost of the development, preparation, administration, grading, and evaluation of the examination. This bill removes that requirement. The DFS said the changes will be implemented using the current budget.²²

Mediators, Navigators, and Neutral Evaluators (Sections 17, 29, 30, 31, 32)

Section 17 gives the DFS the authority to investigate mediators, neutral evaluators, and navigators in the same manner it investigates agencies and agents. This bill allows the department to initiate investigations of neutral evaluators, navigators, and mediators on its own authority or after a complaint is received. The department may require a neutral evaluator, navigator, or mediator to open its books and records for inspection.

The bill gives the department the authority to discipline mediators and neutral evaluators. Section 29 of the bill requires the department to adopt rules for the denial of application,

²² Department of Financial Services, *Bill Analysis and Fiscal Impact Statement*, (February 25, 2014) (on file with the Senate Committee on Banking and Insurance).

suspension, and other penalties for mediators. Section 31 requires the department to adopt rules for certifying, denying certification, and revoking the certification as a neutral evaluator.

Section 31 provides that the DFS must deny an application of a neutral evaluator or suspend or revoke the approval of a neutral evaluator if there is:

- A material misstatement, misrepresentation, or fraud in the attempt to obtain approval;
- A demonstrated lack of fitness and trustworthiness to act as a neutral evaluator; and
- Fraudulent or dishonest practices in the conduct of an evaluation or in the conduct of financial services business, or violations of statutes, department rules, or department orders.

The DFS has similar power to discipline insurance agents and other regulated persons or entities.

Section 32 provides that the DFS must deny an application as a mediator or suspend or revoke the certification of a mediator if there is:

- A material misstatement, misrepresentation, or fraud in the attempt to obtain approval or certification;
- A demonstrated lack of fitness and trustworthiness to act as a mediator;
- Fraudulent or dishonest practices in the conduct of mediation or financial services business; and
- A violation of statutes, department rules, department orders, or the Florida Rules for Certified and Court-Appointed Mediators.

The DFS has similar power to discipline insurance agents and other regulated persons or entities.

Section 32 replaces the DFS mediator education, experience, and training program requirements. The bill provides that an individual with an active certification as a Florida Circuit Court Mediator is qualified to be a mediator for the department. An individual not certified as a Florida Circuit Court Mediator can be a DFS mediator if the person is an approved department mediator on July 1, 2014, and has conducted at least one department mediation from July 1, 2010, through July 1, 2014. This provision essentially grandfathers in current and active department mediators so they can continue to be department mediators, even if they are not certified as a Florida Circuit Court Mediator.

In order to become certified as a Florida Circuit Court Mediator, one must fulfil education requirements set by the Florida Supreme Court, complete a mediation training program certified by the Florida Supreme Court, and observe and conduct mediations under the supervision of a certified mediator.²³

Appointment of Agents by Insurers (Section 20)

When certain entities enter into an agency contract with an insurer, all members, corporate officers and stockholders who solicit, negotiate, or effect insurance contracts must qualify and be licensed individually as agents or customer representatives. Each property and casualty insurer entering into an agency contract is required to individually appoint each such agent, unless the insurer's aggregate net written premium in the agency is \$25,000 or less. The bill deletes the

²³ See <http://www.flcourts.org/core/fileparse.php/283/urlt/HowToBecomeMediator.pdf> (last accessed February 7, 2014).

exception for insurers within no more than \$25,000 in net written premium within an agency, and requires insurers to appoint only those agents who solicit, negotiate, or effect insurance contracts for the insurer.

Licensure Examination to Solicit or Sell Variable Products (Section 23)

Current law prohibits individuals from soliciting or selling variable life insurance, variable annuity contracts, or any other indeterminate value or variable contract unless the person has successfully completed a DFS authorized and approved licensure examination relating to variable “annuity” contracts. This bill deletes language limiting the scope of the licensing examination to variable annuity contracts, and requires that the examination relate to variable contracts.

Nonresident Surplus Lines Agents (Sections 27, 33)

Surplus lines insurers are only permitted to write coverage that is not available in the private market. Under current law, applicants for licensure as nonresident surplus lines agents must satisfy the same licensing requirements as resident surplus lines agents. This bill amends licensing requirements for nonresident surplus lines agents to exempt these applicants from the experience or coursework and examination requirements.

Section 627.952, F.S., requires that persons who offer, solicit, sell, purchase, administer, or service insurance contracts, certificates, or agreements for any purchasing group or risk retention group to any Florida resident must be licensed and appointed as a general lines agent (either a resident or nonresident agent). To place business through Florida eligible surplus lines carriers, the agent must also be licensed and appointed as either a resident or nonresident surplus lines agent. Nonresident agents must be licensed and appointed as a surplus lines agent in their state of residence and file a fidelity bond payable to the State of Florida. The bill eliminates the fidelity bond requirement and requires that such persons be licensed and appointed as a surplus lines agent in their state of residence and be licensed and appointed as a nonresident surplus lines agent in Florida.

Information Required With the Surrender of Life Insurance or Annuity (Section 28)

This bill creates s. 627.4553, F.S., to require insurance agents, insurers, or persons performing insurance agent activities under an exemption from licensure, who recommend that a consumer surrender an annuity or life insurance policy with a cash value, but who do not recommend that another such policy be purchased with the proceeds from the surrender, to provide the consumer with information relating to the product to be surrendered before execution of the surrender. The information must include that the amount of any surrender charge, tax consequences resulting from the transaction, and forfeited death benefit. The consumer must also be informed about the loss of any minimum interest rate guarantees and the value of any other investment performance guarantees that will be forfeited as a result of the transaction. This bill requires the DFS to adopt rules and forms so the required information can be provided.

Other Provisions (Sections 1-3 and 34-37)

Section 1 of this bill changes the name of the Division of Insurance Agents and Agency Services to the Division of Agent and Agency Services.

Section 2 of this bill authorizes the DFS to serve administrative complaints and other documents required to be served pursuant to s. 624.310, F.S., by electronic mail if service by mail cannot be obtained. This bill allows for service by hand delivery by department investigators. The department will send electronic mail and will receive an electronic receipt from the person once the email is received. The department will receive a second receipt once the email is opened. In addition, the department will ask the recipient to respond and confirm receipt of the email. If the recipient does not confirm receipt, the department will serve the document by delivery or publication.²⁴

Section 3 prohibits the DFS and the OIR investigators from removing original records from the offices of any person that is being examined or investigated without the advance, written consent of such person or pursuant to a court order.

Section 34 requires insurers that write bail bonds to submit a sample power of attorney to Office of Insurance Regulation for approval. Currently, these forms are submitted to and approved by the DFS.

Section 35 prohibits bail bond agents whose license has been suspended or revoked from engaging in any transaction requiring a license or appointment under ch. 648, F.S., until the license is reinstated or a new license is issued.

Sections 36 and 37 prohibits individuals seeking licensure from the DFS who have sealed or expunged criminal history records from denying or failing to acknowledge the arrests covered by the records.

Except as otherwise provided, the bill is effective July 1, 2014.

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

²⁴ Interview with DFS staff, March 6, 2014.

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

CS/SB 1210 exempts members of the United States Armed Forces, their spouses, and veterans who have retired within 24 months from the application filing fee for specified licenses. The DFS has indicated there is an insignificant, indeterminate fiscal impact of exempting the fee.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The fiscal impact of CS/SB 1210 is insignificant. The DFS has indicated changes to current systems required by this bill will be implemented within existing resources.²⁵

The department has also indicated a potential cost savings relating to the ability to email and hand deliver service of process for agent and agency cases. The department utilized process servers 121 times for agent and agency cases, at an average cost of \$97 per service.²⁶

The DFS has indicated there is an insignificant, indeterminate fiscal impact of exempting members of the United States Armed Forces, their spouses, and veterans who have retired within 24 months from the application filing fee for specified licenses.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.121, 624.310, 624.318, 624.501, 626.015, 626.0428, 626.112, 626.171, 626.172, 626.207, 626.241, 626.261, 626.311, 626.321, 626.382, 626.601, 626.611, 626.641, 626.733, 626.7355, 626.7845, 626.8411, 626.861, 626.862, 626.9272, 627.7015, 627.706, 627.7074, 627.745, 627.952, 648.43, 648.49, 943.0585, and 943.059.

This bill creates section 627.4553 of the Florida Statutes.

This bill repeals section 626.747 of the Florida Statutes.

²⁵ Department of Financial Services, *Bill Analysis and Fiscal Impact Statement*, (February 25, 2014).

²⁶ Email from the DFS staff (on file with the Committee on Banking and Insurance).

IX. Additional Information:

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

CS by Banking and Insurance on March 11, 2014:

The committee adopted two amendments to correct a drafting error relating to the effective date of one section of the bill and to add statutory citations.

- B. **Amendments:**

None.

By the Committee on Banking and Insurance; and Senator Bean

597-02469-14

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1 A bill to be entitled
 2 An act relating to the Division of Insurance Agents
 3 and Agency Services; amending s. 20.121, F.S.;
 4 revising the name of the division; amending s.
 5 624.310, F.S.; revising service delivery methods;
 6 amending s. 624.318, F.S.; prohibiting the removal of
 7 specified original documents under certain conditions;
 8 amending s. 624.501, F.S.; revising original
 9 appointment and renewal fees related to certain
 10 insurance representatives; amending s. 626.015, F.S.;
 11 defining the term "unaffiliated insurance agent";
 12 amending s. 626.0428, F.S.; requiring a branch place
 13 of business to have an agent in charge; authorizing an
 14 agent to be in charge of more than one branch office
 15 under certain circumstances; providing requirements
 16 relating to the designation of an agent in charge;
 17 providing that the agent in charge is accountable for
 18 wrongful acts, misconduct, and violations committed by
 19 the licensee and any person under his or her
 20 supervision; prohibiting an insurance agency from
 21 conducting insurance business at a location without a
 22 designated agent in charge; providing for expiration
 23 of an agency license under specified circumstances;
 24 amending s. 626.112, F.S.; prohibiting new limited
 25 customer representative licenses from being issued
 26 after a specified date; providing licensure exemptions
 27 that allow specified individuals or entities to
 28 conduct insurance business at specified locations
 29 under certain circumstances; revising licensure

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30 requirements and penalties with respect to registered
 31 insurance agencies; providing that the registration of
 32 an approved registered insurance agency automatically
 33 converts to an insurance agency license on a specified
 34 date; amending s. 626.171, F.S.; providing an
 35 exemption from certain licensure application fees;
 36 amending s. 626.172, F.S.; revising requirements
 37 relating to applications for insurance agency
 38 licenses; amending s. 626.207, F.S.; conforming a
 39 cross-reference; amending s. 626.241, F.S.; revising
 40 the scope of the examination for a limited agent
 41 license; amending s. 626.261, F.S.; deleting a
 42 provision requiring certain costs to be paid by
 43 applicants who request licensure examinations in
 44 Spanish; amending s. 626.311, F.S.; limiting the types
 45 of business that may be transacted by certain agents;
 46 amending s. 626.321, F.S.; providing that a license
 47 issued to a business renting or leasing motor vehicles
 48 applies to employees and authorized representatives;
 49 amending s. 626.382, F.S.; providing that an insurance
 50 agency license continues in force until canceled,
 51 suspended, revoked, terminated, or expired; amending
 52 s. 626.601, F.S.; revising terminology relating to
 53 investigations conducted by the Department of
 54 Financial Services and the Office of Insurance
 55 Regulation with respect to individuals and entities
 56 involved in the insurance industry; amending s.
 57 626.611, F.S.; requiring the department to suspend
 58 certain licenses and appointments; amending s.

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59 626.641, F.S.; conforming a cross-reference; amending
60 s. 626.733, F.S.; revising applicability of certain
61 appointment provisions; amending s. 626.7355, F.S.;
62 revising qualifications for a temporary customer
63 representative's license; repealing s. 626.747, F.S.,
64 relating to branch agencies, agents in charge, and the
65 payment of additional county tax under certain
66 circumstances on a specified date; amending s.
67 626.7845, F.S.; revising a prohibition against
68 unlicensed transaction of life insurance; amending ss.
69 626.8411, 626.861, and 626.862, F.S.; conforming
70 cross-references; amending s. 626.9272, F.S.; revising
71 requirements for the licensure of nonresident surplus
72 lines agents; creating s. 627.4553, F.S.; requiring an
73 insurance agent who recommends the surrender of
74 certain annuity or life insurance to provide certain
75 information to the department; amending s. 627.7015,
76 F.S.; revising the rulemaking authority of the
77 department with respect to qualifications and
78 specified types of penalties covered under the
79 property insurance mediation program; amending s.
80 627.706, F.S.; revising the definition of the term
81 "neutral evaluator"; amending s. 627.7074, F.S.;
82 providing grounds for the department to deny an
83 application, or suspend or revoke approval of
84 certification, of a neutral evaluator; requiring the
85 department to adopt rules; amending s. 627.745, F.S.;
86 revising qualifications for approval as a mediator by
87 the department; providing grounds for the department

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88 to deny an application, or suspend or revoke approval,
89 of a mediator; requiring the department to adopt
90 rules; amending s. 627.952, F.S.; providing that
91 certain persons who are not residents of this state
92 must be licensed and appointed as nonresident surplus
93 lines agents in this state in order to engage in
94 specified activities with respect to servicing
95 insurance contracts, certificates, or agreements for
96 purchasing or risk retention groups; deleting a
97 fidelity bond requirement applicable to certain
98 nonresident agents who are licensed as surplus lines
99 agents in another state; amending s. 648.43, F.S.;
100 revising requirements for the submission of a power of
101 attorney; amending s. 648.49, F.S.; revising
102 provisions relating to the duration of suspension or
103 revocation of a license; amending ss. 943.0585 and
104 943.059, F.S.; prohibiting a person seeking a license
105 from the Division of Insurance Agent and Agency
106 Services who is the subject of an expunged or sealed
107 criminal history record from denying or failing to
108 acknowledge arrests covered by the record; providing
109 effective dates.

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

112
113 Section 1. Paragraph (g) of subsection (2) of section
114 20.121, Florida Statutes, is amended to read:

115 20.121 Department of Financial Services.—There is created a
116 Department of Financial Services.

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(2) DIVISIONS.—The Department of Financial Services shall consist of the following divisions:

(g) The Division of Insurance ~~Agent Agents~~ and Agency Services.

Section 2. Subsection (6) of section 624.310, Florida Statutes, is amended to read:

624.310 Enforcement; cease and desist orders; removal of certain persons; fines.—

(6) ADMINISTRATIVE PROCEDURES.—All administrative proceedings under subsections (3), (4), and (5) shall be conducted in accordance with chapter 120. Any service required or authorized to be made by the department or office under this code shall be made:

(a) By certified mail, return receipt requested, delivered to the addressee only;

(b) By e-mail, delivery receipt required, sent to the most recent e-mail address provided to the department by the applicant or licensee in accordance with s. 626.171, s. 626.551, s. 648.34, or s. 648.421, if service by mail cannot be obtained at the last address provided to the department by the recipient;

(c) By personal delivery, including hand delivery by department investigators;

(d) By publication in accordance with s. 120.60; or

(e) In accordance with chapter 48.

The service provided for in this subsection ~~herein~~ shall be effective from the date of delivery.

Section 3. Subsection (5) of section 624.318, Florida Statutes, is amended to read:

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624.318 Conduct of examination or investigation; access to records; correction of accounts; appraisals.—

(5) ~~Neither~~ The department, the office, or ~~an~~ ~~or any~~ examiner ~~may not shall~~ remove an original ~~any~~ record, account, document, file, or other property of the person being examined from the offices of such person except with the person's written consent ~~of such person~~ given in advance of such removal or pursuant to a court ~~an order of court~~ ~~duly obtained~~.

Section 4. Paragraphs (a) and (c) of subsection (6) and subsections (7) and (8) of section 624.501, Florida Statutes, are amended to read:

624.501 Filing, license, appointment, and miscellaneous fees.—The department, commission, or office, as appropriate, shall collect in advance, and persons so served shall pay to it in advance, fees, licenses, and miscellaneous charges as follows:

(6) Insurance representatives, property, marine, casualty, and surety insurance.

(a) Agent's original appointment and biennial renewal or continuation thereof, each insurer or unaffiliated agent making an appointment:

Appointment fee.....	\$42.00
State tax.....	12.00
County tax.....	6.00
Total.....	\$60.00

(c) Nonresident agent's original appointment and biennial renewal or continuation thereof, appointment fee, each insurer or unaffiliated agent making an appointment.....\$60.00

(7) Life insurance agents.

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175 (a) Agent's original appointment and biennial renewal or
 176 continuation thereof, each insurer or unaffiliated agent making
 177 an appointment:
 178 Appointment fee.....\$42.00
 179 State tax.....12.00
 180 County tax.....6.00
 181 Total.....\$60.00
 182 (b) Nonresident agent's original appointment and biennial
 183 renewal or continuation thereof, appointment fee, each insurer
 184 or unaffiliated agent making an appointment \$60.00
 185 (8) Health insurance agents.
 186 (a) Agent's original appointment and biennial renewal or
 187 continuation thereof, each insurer or unaffiliated agent making
 188 an appointment:
 189 Appointment fee.....\$42.00
 190 State tax.....12.00
 191 County tax.....6.00
 192 Total.....\$60.00
 193 (b) Nonresident agent's original appointment and biennial
 194 renewal or continuation thereof, appointment fee, each insurer
 195 or unaffiliated agent making an appointment \$60.00
 196 Section 5. Present subsection (18) of section 626.015,
 197 Florida Statutes, is renumbered as subsection (19), and a new
 198 subsection (18) is added to that section, to read:
 199 626.015 Definitions.—As used in this part:
 200 (18) "Unaffiliated insurance agent" means a licensed
 201 insurance agent, except a limited lines agent, who is self-
 202 appointed and who practices as an independent consultant in the
 203 business of analyzing or abstracting insurance policies,

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204 providing insurance advice or counseling, or making specific
 205 recommendations or comparisons of insurance products for a fee
 206 established in advance by written contract signed by the
 207 parties. An unaffiliated insurance agent may not be affiliated
 208 with an insurer, insurer-appointed insurance agent, or insurance
 209 agency contracted with or employing insurer-appointed insurance
 210 agents.
 211 Section 6. Effective January 1, 2015, section 626.0428,
 212 Florida Statutes, is amended to read:
 213 626.0428 Agency personnel powers, duties, and limitations.—
 214 (1) An employee ~~or individual employed by~~ an agent or
 215 agency on salary who devotes full time to clerical work, with
 216 incidental taking of insurance applications or quoting or
 217 receiving premiums on incoming inquiries in the office of the
 218 agent or agency, is not ~~deemed to be~~ an agent or customer
 219 representative if his or her compensation does not include in
 220 whole or in part any commissions on such business and is not
 221 related to the production of applications, insurance, or
 222 premiums.
 223 (2) An employee, or an authorized representative located at
 224 a designated branch of an agent or agency may not bind insurance
 225 coverage unless licensed and appointed as an agent or customer
 226 representative.
 227 (3) An employee or an authorized representative located at
 228 a designated branch of an agent or agency may not initiate
 229 contact with any person for the purpose of soliciting insurance
 230 unless licensed and appointed as an agent or customer
 231 representative. As to title insurance, an employee of an agent
 232 or agency may not initiate contact with an ~~any~~ individual

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proposed to be insured for the purpose of soliciting title insurance unless licensed as a title insurance agent or exempt from such licensure pursuant to s. 626.8417(4).

(4) (a) Each place of business established by an agent or agency, firm, corporation, or association must be in the active full-time charge of a licensed and appointed agent holding the required agent licenses to transact the lines of insurance being handled at the location.

(b) However, the licensed agent in charge of an insurance agency may also be the agent in charge of additional branch office locations of the agency if insurance activities requiring licensure as an insurance agent do not occur at a location when an agent is not physically present and unlicensed employees at the location do not engage in insurance activities requiring licensure as an insurance agent or customer representative.

(c) An insurance agency and each branch place of business of an insurance agency shall designate an agent in charge and file the name and license number of the agent in charge and the physical address of the insurance agency location with the department at the department's designated website. The designation of the agent in charge may be changed at the option of the agency. A change of the designated agent in charge is effective upon notification to the department, which shall be provided within 30 days after such change.

(d) For the purposes of this subsection, an "agent in charge" is the licensed and appointed agent who is responsible for the supervision of all individuals within an insurance agency location, regardless of whether the agent in charge handles a specific transaction or deals with the general public

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in the solicitation or negotiation of insurance contracts or the collection or accounting of moneys.

(e) An agent in charge of an insurance agency is accountable for wrongful acts, misconduct, or violations of this code committed by the licensee or agent or by any person under his or her supervision while acting on behalf of the agency. This section does not render an agent in charge criminally liable for an act unless the agent in charge personally committed the act or knew or should have known of the act and of the facts constituting a violation of this chapter.

(f) An insurance agency location may not conduct the business of insurance unless an agent in charge is designated by, and providing services to, the agency at all times. If the agent in charge designated with the department ends his or her affiliation with the agency and the agency fails to designate another agent in charge within the 30 days provided for in paragraph (c) and such failure continues for 90 days, the agency license shall automatically expire on the 91st day after the date the designated agent in charge ended his or her affiliation with the agency.

Section 7. Paragraph (b) of subsection (1) of section 626.112, Florida Statutes, is amended to read:

626.112 License and appointment required; agents, customer representatives, adjusters, insurance agencies, service representatives, managing general agents.—

(1)

(b) Except as provided in subsection (6) or in applicable department rules, and in addition to other conduct described in this chapter with respect to particular types of agents, a

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291 license as an insurance agent, service representative, customer
 292 representative, or limited customer representative is required
 293 in order to engage in the solicitation of insurance. Effective
 294 October 1, 2014, new limited customer representative licenses
 295 may not be issued. For purposes of this requirement, as
 296 applicable to ~~any of~~ the license types described in this
 297 section, the solicitation of insurance is the attempt to
 298 persuade any person to purchase an insurance product by:
 299 1. Describing the benefits or terms of insurance coverage,
 300 including premiums or rates of return;
 301 2. Distributing an invitation to contract to prospective
 302 purchasers;
 303 3. Making general or specific recommendations as to
 304 insurance products;
 305 4. Completing orders or applications for insurance
 306 products;
 307 5. Comparing insurance products, advising as to insurance
 308 matters, or interpreting policies or coverages; or
 309 6. Offering or attempting to negotiate on behalf of another
 310 person a viatical settlement contract as defined in s. 626.9911.

311
 312 However, an employee leasing company licensed under ~~pursuant to~~
 313 chapter 468 which is seeking to enter into a contract with an
 314 employer that identifies products and services offered to
 315 employees may deliver proposals for the purchase of employee
 316 leasing services to prospective clients of the employee leasing
 317 company setting forth the terms and conditions of doing
 318 business; classify employees as permitted by s. 468.529; collect
 319 information from prospective clients and other sources as

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320 necessary to perform due diligence on the prospective client and
 321 to prepare a proposal for services; provide and receive
 322 enrollment forms, plans, and other documents; and discuss or
 323 explain in general terms the conditions, limitations, options,
 324 or exclusions of insurance benefit plans available to the client
 325 or employees of the employee leasing company were the client to
 326 contract with the employee leasing company. Any advertising
 327 materials or other documents describing specific insurance
 328 coverages must identify and be from a licensed insurer or its
 329 licensed agent or a licensed and appointed agent employed by the
 330 employee leasing company. The employee leasing company may not
 331 advise or inform the prospective business client or individual
 332 employees of specific coverage provisions, exclusions, or
 333 limitations of particular plans. As to clients for which the
 334 employee leasing company is providing services pursuant to s.
 335 468.525(4), the employee leasing company may engage in
 336 activities permitted by ss. 626.7315, 626.7845, and 626.8305,
 337 subject to the restrictions specified in those sections. If a
 338 prospective client requests more specific information concerning
 339 the insurance provided by the employee leasing company, the
 340 employee leasing company must refer the prospective business
 341 client to the insurer or its licensed agent or to a licensed and
 342 appointed agent employed by the employee leasing company.

343 Section 8. Effective January 1, 2015, subsection (7) of
 344 section 626.112, Florida Statutes, is amended to read:

345 626.112 License and appointment required; agents, customer
 346 representatives, adjusters, insurance agencies, service
 347 representatives, managing general agents.-

348 (7)(a) ~~An~~ Effective October 1, 2006, no individual, firm,

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partnership, corporation, association, or ~~any~~ other entity may
~~not shall~~ act in its own name or under a trade name, directly or
indirectly, as an insurance agency, unless it complies with s.
626.172 with respect to possessing an insurance agency license
for each place of business at which it engages in an ~~any~~
activity that ~~which~~ may be performed only by a licensed
insurance agent. However, an insurance agency that is owned and
operated by a single licensed agent conducting business in his
or her individual name and not employing or otherwise using the
services of or appointing other licensees is exempt from the
agency licensing requirements of this subsection.

(a) A branch location of a business which is established by
a licensed insurance agency is considered a branch agency and is
not required to be licensed if it transacts business under the
same name and federal tax identification number as the licensed
agency and has designated with the department a licensed agent
in charge of the branch location as required by s. 626.0428 and
the address and telephone number of the branch location have
been submitted to the department for inclusion in the licensing
record of the licensed agency within 30 days after insurance
transactions begin at the branch location ~~Each agency engaged in~~
~~business in this state before January 1, 2003, which is wholly~~
~~owned by insurance agents currently licensed and appointed under~~
~~this chapter, each incorporated agency whose voting shares are~~
~~traded on a securities exchange, each agency designated and~~
~~subject to supervision and inspection as a branch office under~~
~~the rules of the National Association of Securities Dealers, and~~
~~each agency whose primary function is offering insurance as a~~
~~service or member benefit to members of a nonprofit corporation~~

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~~may file an application for registration in lieu of licensure in~~
~~accordance with s. 626.172(3). Each agency engaged in business~~
~~before October 1, 2006, shall file an application for licensure~~
~~or registration on or before October 1, 2006.~~

(b) ~~1~~ If an agency is required to be licensed but fails to
file an application for licensure in accordance with this
section, the department shall impose ~~on the agency~~ an
administrative penalty ~~in an amount~~ of up to \$10,000.

2. If an agency is eligible for registration but fails to
file an application for registration or an application for
licensure in accordance with this section, the department shall
impose on the agency an administrative penalty in an amount of
up to \$5,000.

(c) ~~(b)~~ Effective October 1, 2015, the department must
convert the registration of an approved ~~a~~ registered insurance
agency to shall, as a condition precedent to continuing
business, obtain an insurance agency license if the department
finds that, with respect to any majority owner, partner,
manager, director, officer, or other person who manages or
controls the agency, any person has:

1. Been found guilty of, or has pleaded guilty or nolo
contendere to, a felony in this state or any other state
relating to the business of insurance or to an insurance agency,
without regard to whether a judgment of conviction has been
entered by the court having jurisdiction of the cases.

2. Employed any individual in a managerial capacity or in a
capacity dealing with the public who is under an order of
revocation or suspension issued by the department. An insurance
agency may request, on forms prescribed by the department,

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verification of any person's license status. If a request is mailed within 5 working days after an employee is hired, and the employee's license is currently suspended or revoked, the agency shall not be required to obtain a license, if the unlicensed person's employment is immediately terminated.

3. Operated the agency or permitted the agency to be operated in violation of s. 626.747.

4. With such frequency as to have made the operation of the agency hazardous to the insurance-buying public or other persons:

a. Solicited or handled controlled business. This subparagraph shall not prohibit the licensing of any lending or financing institution or creditor, with respect to insurance only, under credit life or disability insurance policies of borrowers from the institutions, which policies are subject to part IX of chapter 627.

b. Misappropriated, converted, or unlawfully withheld moneys belonging to insurers, insureds, beneficiaries, or others and received in the conduct of business under the license.

c. Unlawfully rebated, attempted to unlawfully rebate, or unlawfully divided or offered to divide commissions with another.

d. Misrepresented any insurance policy or annuity contract, or used deception with regard to any policy or contract, done either in person or by any form of dissemination of information or advertising.

e. Violated any provision of this code or any other law applicable to the business of insurance in the course of dealing under the license.

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f. Violated any lawful order or rule of the department.

g. Failed or refused, upon demand, to pay over to any insurer he or she represents or has represented any money coming into his or her hands belonging to the insurer.

h. Violated the provision against twisting as defined in s. 626.9541(1)(1).

i. In the conduct of business, engaged in unfair methods of competition or in unfair or deceptive acts or practices, as prohibited under part IX of this chapter.

j. Willfully overinsured any property insurance risk.

k. Engaged in fraudulent or dishonest practices in the conduct of business arising out of activities related to insurance or the insurance agency.

l. Demonstrated lack of fitness or trustworthiness to engage in the business of insurance arising out of activities related to insurance or the insurance agency.

m. Authorized or knowingly allowed individuals to transact insurance who were not then licensed as required by this code.

5. Knowingly employed any person who within the preceding 3 years has had his or her relationship with an agency terminated in accordance with paragraph (d).

6. Willfully circumvented the requirements or prohibitions of this code.

Section 9. Present subsection (6) of section 626.171, Florida Statutes, is renumbered as subsection (7), and a new subsection (6) is added to that section, to read:

626.171 Application for license as an agent, customer representative, adjuster, service representative, managing general agent, or reinsurance intermediary.—

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(6) Members of the United States Armed Forces and their spouses, and veterans of the United States Armed Forces who have retired within 24 months before application for licensure, are exempt from the application filing fee prescribed in s. 624.501. Qualified individuals must provide a copy of a military identification card, military dependent identification card, military service record, military personnel file, veteran record, discharge paper, or separation document, or separation document that indicates such members of the United States Armed Forces are currently in good standing or were honorably discharged.

Section 10. Subsections (2), (3), and (4) of section 626.172, Florida Statutes, are amended to read:

626.172 Application for insurance agency license.—

(2) An application for an insurance agency license must be signed by an individual specified in paragraph (a) shall be signed by the owner or owners of the agency. An insurance agency may permit a third party to complete, submit, and sign an application on the insurance agency's behalf; however, the insurance agency is responsible for ensuring that the information on the application is true and correct and is accountable for any misstatements or misrepresentations. If the agency is incorporated, the application shall be signed by the president and secretary of the corporation. The application must for an insurance agency license shall include:

(a) The name of each ~~majority~~ owner, partner, officer, and director, president, senior vice president, secretary, treasurer, and limited liability company member who directs or participates in the management or control of the insurance

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agency, whether through ownership of voting securities, by contract, by ownership of an agency bank account, or otherwise.

(b) The residence address of each person required to be listed in the application under paragraph (a).

(c) The name, principal business street address, and valid e-mail address of the insurance agency and the name, address, and e-mail address of the agency's registered agent or person or company authorized to accept service on behalf of the agency and its principal business address.

(d) The physical address location of each branch agency, including its name, e-mail address, and telephone number, and the date that the branch location began transacting insurance office and the name under which each agency office conducts or will conduct business.

(e) The name of the each agent to be in full-time charge of the an agency office, including branch locations, and his or her corresponding location specification of which office.

(f) The fingerprints of each of the following:

1. A sole proprietor;

2. Each individual specified in paragraph (a) partner; and

~~3. Each owner of an unincorporated agency;~~

3.4. Each individual owner who directs or participates in the management or control of an incorporated agency whose shares are not traded on a securities exchange;

~~5. The president, senior vice presidents, treasurer, secretary, and directors of the agency; and~~

~~6. Any other person who directs or participates in the management or control of the agency, whether through the ownership of voting securities, by contract, or otherwise.~~

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Fingerprints must be taken by a law enforcement agency or other entity approved by the department and must be accompanied by the fingerprint processing fee specified in s. 624.501. Fingerprints ~~must shall~~ be processed in accordance with s. 624.34. However, fingerprints need not be filed for an any individual who is currently licensed and appointed under this chapter. This paragraph does not apply to corporations whose voting shares are traded on a securities exchange.

(g) Such additional information as the department requires by rule to ascertain the trustworthiness and competence of persons required to be listed on the application and to ascertain that such persons meet the requirements of this code. However, the department may not require that credit or character reports be submitted for persons required to be listed on the application.

(3)(h) Beginning October 1, 2005, The department must shall accept the uniform application for nonresident agency licensure. The department may adopt by rule revised versions of the uniform application.

~~(3) The department shall issue a registration as an insurance agency to any agency that files a written application with the department and qualifies for registration. The application for registration shall require the agency to provide the same information required for an agency licensed under subsection (2), the agent identification number for each owner who is a licensed agent, proof that the agency qualifies for registration as provided in s. 626.112(7), and any other additional information that the department determines is~~

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~~necessary in order to demonstrate that the agency qualifies for registration. The application must be signed by the owner or owners of the agency. If the agency is incorporated, the application must be signed by the president and the secretary of the corporation. An agent who owns the agency need not file fingerprints with the department if the agent obtained a license under this chapter and the license is currently valid.~~

~~(a) If an application for registration is denied, the agency must file an application for licensure no later than 30 days after the date of the denial of registration.~~

~~(b) A registered insurance agency must file an application for licensure no later than 30 days after the date that any person who is not a licensed and appointed agent in this state acquires any ownership interest in the agency. If an agency fails to file an application for licensure in compliance with this paragraph, the department shall impose an administrative penalty in an amount of up to \$5,000 on the agency.~~

~~(c) Sections 626.6115 and 626.6215 do not apply to agencies registered under this subsection.~~

(4) The department must shall issue a license ~~or registration~~ to each agency upon approval of the application, and each agency location must shall display the license ~~or registration~~ prominently in a manner that makes it clearly visible to any customer or potential customer who enters the agency location.

Section 11. Subsection (7) of section 626.207, Florida Statutes, is amended to read:

626.207 Disqualification of applicants and licensees; penalties against licensees; rulemaking authority.-

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(7) After the disqualifying period has been met, the burden is on the applicant to demonstrate that the applicant has been rehabilitated, does not pose a risk to the insurance-buying public, is fit and trustworthy to engage in the business of insurance pursuant to s. 626.611(1)(g) ~~s. 626.611(7)~~, and is otherwise qualified for licensure.

Section 12. Subsection (5) of section 626.241, Florida Statutes, is amended to read:

626.241 Scope of examination.—

(5) Examinations given applicants for a limited agent license ~~as agent or as customer representative~~ shall be limited in scope to the kind of business to be transacted under such license.

Section 13. Subsection (5) of section 626.261, Florida Statutes, is amended to read:

626.261 Conduct of examination.—

(5) The department may provide licensure examinations in Spanish. ~~Applicants requesting examination or reexamination in Spanish must bear the full cost of the department's development, preparation, administration, grading, and evaluation of the Spanish-language examination.~~ When determining whether it is in the public interest to allow the examination to be translated into and administered in Spanish, the department shall consider the percentage of the population who speak Spanish.

Section 14. Present subsection (6) of section 626.311, Florida Statutes, is renumbered as subsection (7), and a new subsection (6) is added to that section, to read:

626.311 Scope of license.—

(6) An agent who appoints his or her license as an

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unaffiliated insurance agent may not hold an appointment from an insurer for any license he or she holds; transact, solicit, or service an insurance contract on behalf of an insurer; interfere with commissions received or to be received by an insurer-appointed insurance agent or an insurance agency contracted with or employing insurer-appointed insurance agents; or receive compensation or any other thing of value from an insurer, an insurer-appointed insurance agent, or an insurance agency contracted with or employing insurer-appointed insurance agents for any transaction or referral occurring after the date of appointment as an unaffiliated insurance agent. An unaffiliated insurance agent may continue to receive commissions on sales that occurred before the date of appointment as an unaffiliated insurance agent if the receipt of such commissions is disclosed when making recommendations or evaluating products for a client that involve products of the entity from which the commissions are received.

Section 15. Paragraph (d) of subsection (1) of section 626.321, Florida Statutes, is amended to read:

626.321 Limited licenses.—

(1) The department shall issue to a qualified applicant a license as agent authorized to transact a limited class of business in any of the following categories of limited lines insurance:

(d) *Motor vehicle rental insurance.*—

1. License covering only insurance of the risks set forth in this paragraph when offered, sold, or solicited with and incidental to the rental or lease of a motor vehicle and which applies only to the motor vehicle that is the subject of the

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639 lease or rental agreement and the occupants of the motor
640 vehicle:

641 a. Excess motor vehicle liability insurance providing
642 coverage in excess of the standard liability limits provided by
643 the lessor in the lessor's lease to a person renting or leasing
644 a motor vehicle from the licensee's employer for liability
645 arising in connection with the negligent operation of the leased
646 or rented motor vehicle.

647 b. Insurance covering the liability of the lessee to the
648 lessor for damage to the leased or rented motor vehicle.

649 c. Insurance covering the loss of or damage to baggage,
650 personal effects, or travel documents of a person renting or
651 leasing a motor vehicle.

652 d. Insurance covering accidental personal injury or death
653 of the lessee and any passenger who is riding or driving with
654 the covered lessee in the leased or rented motor vehicle.

655 2. Insurance under a motor vehicle rental insurance license
656 may be issued only if the lease or rental agreement is for no
657 more than 60 days, the lessee is not provided coverage for more
658 than 60 consecutive days per lease period, and the lessee is
659 given written notice that his or her personal insurance policy
660 providing coverage on an owned motor vehicle may provide
661 coverage of such risks and that the purchase of the insurance is
662 not required in connection with the lease or rental of a motor
663 vehicle. If the lease is extended beyond 60 days, the coverage
664 may be extended one time only for up to 60 ~~a period not to~~
665 ~~exceed an~~ additional 60 days. Insurance may be provided to the
666 lessee as an additional insured on a policy issued to the
667 licensee's employer.

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668 3. The license may be issued only to the full-time salaried
669 employee of a licensed general lines agent or to a business
670 entity that offers motor vehicles for rent or lease if insurance
671 sales activities authorized by the license are in connection
672 with and incidental to the rental or lease of a motor vehicle.

673 a. A license issued to a business entity that offers motor
674 vehicles for rent or lease encompasses each office, branch
675 office, employee, and authorized representative located at a
676 designated branch or place of business making use of the
677 entity's business name in order to offer, solicit, and sell
678 insurance pursuant to this paragraph.

679 b. The application for licensure must list the name,
680 address, and phone number for each office, branch office, or
681 place of business that is to be covered by the license. The
682 licensee shall notify the department of the name, address, and
683 phone number of any new location that is to be covered by the
684 license before the new office, branch office, or place of
685 business engages in the sale of insurance pursuant to this
686 paragraph. The licensee must notify the department within 30
687 days after closing or terminating an office, branch office, or
688 place of business. Upon receipt of the notice, the department
689 shall delete the office, branch office, or place of business
690 from the license.

691 c. A licensed and appointed entity is directly responsible
692 and accountable for all acts of the licensee's employees.

693 Section 16. Effective January 1, 2015, section 626.382,
694 Florida Statutes, is amended to read:

695 626.382 Continuation, expiration of license; insurance
696 agencies.—The license of an ~~any~~ insurance agency ~~shall be issued~~

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697 ~~for a period of 3 years and shall continue in force until~~
 698 ~~canceled, suspended, or revoked, or until it is otherwise~~
 699 ~~terminated or expires by operation of law. A license may be~~
 700 ~~renewed by submitting a renewal request to the department on a~~
 701 ~~form adopted by department rule.~~

702 Section 17. Section 626.601, Florida Statutes, is amended
 703 to read:

704 626.601 Improper conduct; investigation inquiry;
 705 fingerprinting.—

706 (1) The department or office may, upon its own motion or
 707 upon a written complaint signed by an ~~any~~ interested person and
 708 filed with the department or office, inquire into the ~~any~~
 709 alleged improper conduct of any licensed, approved, or certified
 710 licensee, insurance agency, agent, adjuster, service
 711 representative, managing general agent, customer representative,
 712 title insurance agent, title insurance agency, mediator, neutral
 713 evaluator, navigator, continuing education course provider,
 714 instructor, school official, or monitor group under this code.
 715 The department or office may thereafter initiate an
 716 investigation of any such individual or entity licensee if it
 717 has reasonable cause to believe that the individual or entity
 718 licensee has violated any provision of the insurance code.
 719 During the course of its investigation, the department or office
 720 shall contact the individual or entity licensee being
 721 investigated unless it determines that contacting such
 722 individual or entity person could jeopardize the successful
 723 completion of the investigation or cause injury to the public.

724 (2) In the investigation by the department or office of any
 725 ~~the~~ alleged misconduct, an individual or entity the licensee

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726 shall, ~~if whenever~~ so required by the department or office,
 727 cause the individual's or entity's ~~his or her~~ books and records
 728 to be open for inspection for the purpose of such investigation
 729 inquiries.

730 (3) ~~The~~ Complaints against an individual or entity ~~any~~
 731 licensee may be informally alleged and are not required to
 732 include ~~need not be in any such~~ language ~~as is~~ necessary to
 733 charge a crime on an indictment or information.

734 (4) The expense for ~~any~~ hearings or investigations
 735 conducted under this section law, as well as the fees and
 736 mileage of witnesses, may be paid out of the appropriate fund.

737 (5) ~~If the department or office~~, after investigation, the
 738 department or office has reason to believe that an individual a
 739 licensee may have been found guilty of or pleaded guilty or nolo
 740 contendere to a felony or a crime related to the business of
 741 insurance in this or any other state or jurisdiction, the
 742 department or office may require the individual licensee to file
 743 with the department or office a complete set of his or her
 744 fingerprints, ~~which shall be~~ accompanied by the fingerprint
 745 processing fee set forth in s. 624.501. The fingerprints shall
 746 be taken by an authorized law enforcement agency or other
 747 department-approved entity.

748 (6) The complaint and any information obtained pursuant to
 749 the investigation by the department or office are confidential
 750 and are exempt from ~~the provisions of~~ s. 119.07, unless the
 751 department or office files a formal administrative complaint,
 752 emergency order, or consent order against the individual or
 753 entity licensee. ~~Nothing in This subsection does not shall be~~
 754 ~~construed to prevent the department or office from disclosing~~

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the complaint or such information as it deems necessary to conduct the investigation, to update the complainant as to the status and outcome of the complaint, or to share such information with any law enforcement agency or other regulatory body.

Section 18. Section 626.611, Florida Statutes, is amended to read:

626.611 Grounds for compulsory refusal, suspension, or revocation of agent's, title agency's, adjuster's, customer representative's, service representative's, or managing general agent's license or appointment.—

(1) The department shall deny an application for, suspend, revoke, or refuse to renew or continue the license or appointment of an ~~any~~ applicant, agent, title agency, adjuster, customer representative, service representative, or managing general agent, and it shall suspend or revoke the eligibility to hold a license or appointment of any such person, if it finds that as to the applicant, licensee, or appointee any one or more of the following applicable grounds exist:

(a) ~~(1)~~ Lack of one or more of the qualifications for the license or appointment as specified in this code.

(b) ~~(2)~~ Material misstatement, misrepresentation, or fraud in obtaining the license or appointment or in attempting to obtain the license or appointment.

(c) ~~(3)~~ Failure to pass to the satisfaction of the department any examination required under this code.

(d) ~~(4)~~ If the license or appointment is willfully used, or to be used, to circumvent any of the requirements or prohibitions of this code.

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(e) ~~(5)~~ Willful misrepresentation of any insurance policy or annuity contract or willful deception with regard to any such policy or contract, done either in person or by any form of dissemination of information or advertising.

(f) ~~(6)~~ If, as an adjuster, or as an agent licensed and appointed to adjust claims under this code, he or she has materially misrepresented to an insured or other interested party the terms and coverage of an insurance contract with intent and for the purpose of effecting settlement of claim for loss or damage or benefit under such contract on less favorable terms than those provided in and contemplated by the contract.

(g) ~~(7)~~ Demonstrated lack of fitness or trustworthiness to engage in the business of insurance.

(h) ~~(8)~~ Demonstrated lack of reasonably adequate knowledge and technical competence to engage in the transactions authorized by the license or appointment.

(i) ~~(9)~~ Fraudulent or dishonest practices in the conduct of business under the license or appointment.

(j) ~~(10)~~ Misappropriation, conversion, or unlawful withholding of moneys belonging to insurers or insureds or beneficiaries or to others and received in conduct of business under the license or appointment.

(k) ~~(11)~~ Unlawfully rebating, attempting to unlawfully rebate, or unlawfully dividing or offering to divide his or her commission with another.

(l) ~~(12)~~ Having obtained or attempted to obtain, or having used or using, a license or appointment as agent or customer representative for the purpose of soliciting or handling "controlled business" as defined in s. 626.730 with respect to

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general lines agents, s. 626.784 with respect to life agents,
and s. 626.830 with respect to health agents.

~~(m)(13)~~ Willful failure to comply with, or willful
violation of, any proper order or rule of the department or
willful violation of any provision of this code.

~~(n)(14)~~ Having been found guilty of or having pleaded
guilty or nolo contendere to a felony or a crime punishable by
imprisonment of 1 year or more under the law of the United
States of America or of any state thereof or under the law of
any other country which involves moral turpitude, without regard
to whether a judgment of conviction has been entered by the
court having jurisdiction of such cases.

~~(o)(15)~~ Fraudulent or dishonest practice in submitting or
aiding or abetting any person in the submission of an
application for workers' compensation coverage under chapter 440
containing false or misleading information as to employee
payroll or classification for the purpose of avoiding or
reducing the amount of premium due for such coverage.

~~(p)(16)~~ Sale of an unregistered security that was required
to be registered, pursuant to chapter 517.

~~(q)(17)~~ In transactions related to viatical settlement
contracts as defined in s. 626.9911:

~~1.(a)~~ Commission of a fraudulent or dishonest act.

~~2.(b)~~ No longer meeting the requirements for initial
licensure.

~~3.(c)~~ Having received a fee, commission, or other valuable
consideration for his or her services with respect to viatical
settlements that involved unlicensed viatical settlement
providers or persons who offered or attempted to negotiate on

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behalf of another person a viatical settlement contract as
defined in s. 626.9911 and who were not licensed life agents.

~~4.(d)~~ Dealing in bad faith with viators.

(2) Upon receipt of an information or indictment, the
department shall immediately temporarily suspend a license or
appointment issued under this chapter if the licensee is charged
with a felony enumerated in s. 626.207(3). The suspension shall
continue if the licensee is found guilty of, or pleads guilty or
nolo contendere to, the crime, regardless of whether a judgment
or conviction is entered, during a pending appeal. A person may
not transact insurance business after suspension of his or her
license or appointment.

Section 19. Subsection (2) of section 626.641, Florida
Statutes, is amended to read:

626.641 Duration of suspension or revocation.—

(2) No person or appointee under any license or appointment
revoked by the department, nor any person whose eligibility to
hold same has been revoked by the department, shall have the
right to apply for another license or appointment under this
code within 2 years after ~~from~~ the effective date of such
revocation or, if judicial review of such revocation is sought,
within 2 years after ~~from~~ the date of final court order or
decree affirming the revocation. An applicant for another
license or appointment pursuant to this subsection must apply
and qualify for licensure in the same manner as a first-time
applicant, and the application may be denied on the same grounds
that apply to first-time applicants for licensure pursuant to
ss. 626.207, 626.611, and 626.621. In addition, the department
may ~~shall~~ not grant a new license or appointment or reinstate

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871 eligibility to hold such license or appointment if it finds that
 872 the circumstance or circumstances for which the eligibility was
 873 revoked or for which the previous license or appointment was
 874 revoked still exist or are likely to recur, ~~or, if an~~
 875 individual's license as agent or customer representative or
 876 eligibility to hold same has been revoked upon the ground
 877 specified in s. 626.611(1)(1) ~~s. 626.611(12)~~, the department
 878 shall refuse to grant or issue any new license or appointment so
 879 applied for.

880 Section 20. Section 626.733, Florida Statutes, is amended
 881 to read:

882 626.733 Agency firms and corporations; special
 883 requirements.—If a sole proprietorship, partnership,
 884 corporation, or association holds an agency contract, all
 885 members thereof who solicit, negotiate, or effect insurance
 886 contracts, and all officers and stockholders of the corporation
 887 who solicit, negotiate, or effect insurance contracts, must are
 888 ~~required to~~ qualify and be licensed individually as agents or
 889 customer representatives, ~~and~~ and all of such agents must be
 890 individually appointed as to each property and casualty insurer
 891 entering into an agency contract with such agency. Each ~~such~~
 892 appointing insurer ~~as soon as known to it~~ shall comply with this
 893 section and shall determine and require that each agent so
 894 associated ~~in or so connected~~ with such agency is likewise
 895 appointed as to the same such insurer and for the same type and
 896 class of license. However, an ~~no~~ insurer is not required to
 897 comply with the appointment provisions of this section for an
 898 agent within an agency who does not solicit, negotiate, or
 899 effect insurance contracts for that insurer if such insurer

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900 ~~satisfactorily demonstrates to the department that the insurer~~
 901 ~~has issued an aggregate net written premium, in an agency, in an~~
 902 ~~amount of \$25,000 or less.~~

903 Section 21. Paragraphs (a) and (g) of subsection (1) of
 904 section 626.7355, Florida Statutes, are amended to read:

905 626.7355 Temporary license as customer representative
 906 pending examination.—

907 (1) The department shall issue a temporary customer
 908 representative's license with respect to a person who has
 909 applied for such license upon finding that the person:

910 (a) Has filed an application for a customer
 911 representative's license ~~or a limited customer representative's~~
 912 ~~license~~ and has paid any fees required under s. 624.501(5) in
 913 connection with such application ~~for a customer representative's~~
 914 ~~license or limited customer representative's license.~~

915 (g) Is not disqualified from licensure by the department
 916 under s. 626.207 ~~Within the last 5 years, has not been~~
 917 ~~convicted, found guilty or pleaded nolo contendere to a felony~~
 918 ~~or a crime punishable by imprisonment of 1 year or more under~~
 919 ~~the law of any municipality, county, state, territory, or~~
 920 ~~country, whether or not a judgment of conviction has been~~
 921 ~~entered.~~

922 Section 22. Effective January 1, 2015, section 626.747,
 923 Florida Statutes, is repealed.

924 Section 23. Subsection (1) of section 626.7845, Florida
 925 Statutes, is amended to read:

926 626.7845 Prohibition against unlicensed transaction of life
 927 insurance.—

928 (1) An individual may not solicit or sell variable life

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929 insurance, variable annuity contracts, or any other
 930 indeterminate value or variable contract as defined in s.
 931 627.8015, unless the individual has successfully completed a
 932 licensure examination relating to variable ~~annuity~~ contracts
 933 authorized and approved by the department.
 934 Section 24. Effective January 1, 2015, subsection (1) of
 935 section 626.8411, Florida Statutes, is amended to read:
 936 626.8411 Application of Florida Insurance Code provisions
 937 to title insurance agents or agencies.—
 938 (1) The following provisions ~~of part II~~ applicable to
 939 general lines agents or agencies also apply to title insurance
 940 agents or agencies:
 941 (a) Section 626.734, relating to liability of certain
 942 agents.
 943 (b) Section 626.0428(4)(a) and (b) 626.747, relating to
 944 branch agencies.
 945 (c) Section 626.749, relating to place of business in
 946 residence.
 947 (d) Section 626.753, relating to sharing of commissions.
 948 (e) Section 626.754, relating to rights of agent following
 949 termination of appointment.
 950 Section 25. Subsection (2) of section 626.861, Florida
 951 Statutes, is amended to read:
 952 626.861 Insurer's officers, insurer's employees, reciprocal
 953 insurer's representatives; adjustments by.—
 954 (2) If any such officer, employee, attorney, or agent in
 955 connection with the adjustment of any such claim, loss, or
 956 damage engages in ~~any of~~ the misconduct described in or
 957 contemplated by s. 626.611(1)(f) ~~s. 626.611(6)~~, the office may

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958 suspend or revoke the insurer's certificate of authority.
 959 Section 26. Section 626.862, Florida Statutes, is amended
 960 to read:
 961 626.862 Agents; adjustments by.—A licensed and appointed
 962 insurance agent may, without being licensed as an adjuster,
 963 adjust losses for the insurer represented by him or her as agent
 964 if ~~se~~ authorized by the insurer. The license and appointment of
 965 the agent may be suspended or revoked for violation of or
 966 misconduct prohibited by s. 626.611(1)(f) ~~s. 626.611(6)~~.
 967 Section 27. Subsection (2) of section 626.9272, Florida
 968 Statutes, is amended to read:
 969 626.9272 Licensing of nonresident surplus lines agents.—
 970 (2) The department may not issue a license unless the
 971 applicant satisfies the same licensing requirements under s.
 972 626.927 as required of a resident surplus lines agent, excluding
 973 the required experience or coursework and examination. The
 974 department may refuse to issue such license or appointment if
 975 ~~when~~ it has reason to believe that any of the grounds exist for
 976 denial, suspension, or revocation of a license as set forth in
 977 ss. 626.611 and 626.621.
 978 Section 28. Section 627.4553, Florida Statutes, is created
 979 to read:
 980 627.4553 Recommendations to surrender.—If an insurance
 981 agent recommends the surrender of an annuity or life insurance
 982 policy containing a cash value but does not recommend that the
 983 proceeds from the surrender be used to fund or purchase another
 984 annuity or life insurance policy, before execution of the
 985 surrender, the insurance agent, or the insurance company if no
 986 agent is involved, must provide, on a form that satisfies the

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requirements of the rule adopted by the department, information relating to the annuity or policy to be surrendered. Such information must include, but need not limited to, the amount of any surrender charge, the loss of any minimum interest rate guarantees, the amount of any tax consequences resulting from the transaction, the amount of any forfeited death benefit, and the value of any other investment performance guarantees being forfeited as a result of the transaction. This section also applies to a person performing insurance agent activities pursuant to an exemption from licensure under this part.

Section 29. Paragraph (b) of subsection (4) of section 627.7015, Florida Statutes, is amended to read:

627.7015 Alternative procedure for resolution of disputed property insurance claims.—

(4) The department shall adopt by rule a property insurance mediation program to be administered by the department or its designee. The department may also adopt special rules which are applicable in cases of an emergency within the state. The rules shall be modeled after practices and procedures set forth in mediation rules of procedure adopted by the Supreme Court. The rules shall provide for:

(b) Qualifications, denial of application, suspension, revocation, and other penalties for ~~of~~ mediators as provided in s. 627.745 and ~~in the Florida Rules for of Certified and Court-Appointed Court Appointed Mediators, and for such other individuals as are qualified by education, training, or experience as the department determines to be appropriate.~~

Section 30. Paragraph (c) of subsection (2) of section 627.706, Florida Statutes, is amended to read:

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627.706 Sinkhole insurance; catastrophic ground cover collapse; definitions.—

(2) As used in ss. 627.706-627.7074, and as used in connection with any policy providing coverage for a catastrophic ground cover collapse or for sinkhole losses, the term:

(c) "Neutral evaluator" means a professional engineer or a professional geologist who has completed a course of study in alternative dispute resolution designed or approved by the department for use in the neutral evaluation process, ~~and~~ who is determined by the department to be fair and impartial, and who is not otherwise ineligible for certification as provided in s. 627.7074.

Section 31. Subsections (7) and (18) of section 627.7074, Florida Statutes, are amended to read:

627.7074 Alternative procedure for resolution of disputed sinkhole insurance claims.—

(7) Upon receipt of a request for neutral evaluation, the department shall provide the parties a list of certified neutral evaluators. The department shall allow the parties to submit requests to disqualify evaluators on the list for cause.

(a) The department shall disqualify neutral evaluators for cause based only on any of the following grounds:

1. A familial relationship exists between the neutral evaluator and either party or a representative of either party within the third degree.

2. The proposed neutral evaluator has, in a professional capacity, previously represented either party or a representative of either party, in the same or a substantially related matter.

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3. The proposed neutral evaluator has, in a professional capacity, represented another person in the same or a substantially related matter and that person's interests are materially adverse to the interests of the parties. The term "substantially related matter" means participation by the neutral evaluator on the same claim, property, or adjacent property.

4. The proposed neutral evaluator has, within the preceding 5 years, worked as an employer or employee of a any party to the case.

(b) The department shall deny an application, or suspend or revoke its certification, of a neutral evaluator to serve in such capacity if the department finds that one or more of the following grounds exist:

1. Lack of one or more of the qualifications specified in this section for certification.

2. Material misstatement, misrepresentation, or fraud in obtaining or attempting to obtain certification.

3. Demonstrated lack of fitness or trustworthiness to act as a neutral evaluator.

4. Fraudulent or dishonest practices in the conduct of an evaluation or in the conduct of financial services business.

5. Violation of any provision of this code or of a lawful order or rule of the department or aiding, instructing, or encouraging another party in committing such a violation.

(c) (b) The parties shall appoint a neutral evaluator from the department list and promptly inform the department. If the parties cannot agree to a neutral evaluator within 14 business days, the department shall appoint a neutral evaluator from the

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list of certified neutral evaluators. The department shall allow each party to disqualify two neutral evaluators without cause. Upon selection or appointment, the department shall promptly refer the request to the neutral evaluator.

(d) (e) Within 14 business days after the referral, the neutral evaluator shall notify the policyholder and the insurer of the date, time, and place of the neutral evaluation conference. The conference may be held by telephone, if feasible and desirable. The neutral evaluator shall make reasonable efforts to hold the conference within 90 days after the receipt of the request by the department. Failure of the neutral evaluator to hold the conference within 90 days does not invalidate either party's right to neutral evaluation or to a neutral evaluation conference held outside this timeframe.

(18) The department shall adopt rules of procedure for the neutral evaluation process and rules for certifying, denying certification of, suspending certification of, and revoking certification as a neutral evaluator.

Section 32. Subsection (3) of section 627.745, Florida Statutes, is amended, present subsections (4) and (5) of that section are renumbered as subsections (5) and (6), respectively, and a new subsection (4) is added to that section, to read:

627.745 Mediation of claims.—

(3) ~~(a)~~ The department shall approve Mediators who ~~to~~ conduct mediations pursuant to this section. ~~All mediators must file an application under oath and be approved by the department for approval as a mediator.~~

~~(b)~~ To qualify for approval as a mediator, an individual a ~~person~~ must meet one of the following qualifications:

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1103 (a)1- Possess active certification as a Florida Supreme
 1104 Court certified circuit court mediator. A Florida Supreme Court
 1105 certified circuit court mediator in a lapsed, suspended,
 1106 sanctioned, or decertified status is not eligible to participate
 1107 in the mediation program ~~a masters or doctorate degree in~~
 1108 psychology, counseling, business, accounting, or economics, be a
 1109 member of The Florida Bar, be licensed as a certified public
 1110 accountant, or demonstrate that the applicant for approval has
 1111 been actively engaged as a qualified mediator for at least 4
 1112 years prior to July 1, 1990.

1113 (b)2- Be an approved department mediator as of July 1,
 1114 2014, and have conducted at least one mediation on behalf of the
 1115 department within 4 years immediately preceding that the date
 1116 the application for approval is filed with the department, have
 1117 completed a minimum of a 40-hour training program approved by
 1118 the department and successfully passed a final examination
 1119 included in the training program and approved by the department.
 1120 The training program shall include and address all of the
 1121 following:

- 1122 a. Mediation theory.
- 1123 b. Mediation process and techniques.
- 1124 c. Standards of conduct for mediators.
- 1125 d. Conflict management and intervention skills.
- 1126 e. Insurance nomenclature.

1127 (4) The department shall deny an application, or suspend or
 1128 revoke its approval, of a mediator to serve in such capacity if
 1129 the department finds that one or more of the following grounds
 1130 exist:

1131 (a) Lack of one or more of the qualifications specified in

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1132 this section for approval or certification.

1133 (b) Material misstatement, misrepresentation, or fraud in
 1134 obtaining or attempting to obtain the approval or certification.

1135 (c) Demonstrated lack of fitness or trustworthiness to act
 1136 as a mediator.

1137 (d) Fraudulent or dishonest practices in the conduct of
 1138 mediation or in the conduct of business in the financial
 1139 services industry.

1140 (e) Violation of any provision of this code or of a lawful
 1141 order or rule of the department, violation of the Florida Rules
 1142 for Certified and Court Appointed Mediators, or aiding,
 1143 instructing, or encouraging another party in committing such a
 1144 violation.

1145 The department shall adopt rules for the approval or denial
 1146 of mediator applications and the suspension and revocation of
 1147 approval of mediators.

1148 Section 33. Paragraph (b) of subsection (1) of section
 1149 627.952, Florida Statutes, is amended to read:

1150 627.952 Risk retention and purchasing group agents.—

1152 (1) Any person offering, soliciting, selling, purchasing,
 1153 administering, or otherwise servicing insurance contracts,
 1154 certificates, or agreements for any purchasing group or risk
 1155 retention group to any resident of this state, either directly
 1156 or indirectly, by the use of mail, advertising, or other means
 1157 of communication, shall obtain a license and appointment to act
 1158 as a resident general lines agent, if a resident of this state,
 1159 or a nonresident general lines agent if not a resident. Any such
 1160 person shall be subject to all requirements of the Florida

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Insurance Code.

(b) ~~Any person required to be licensed and appointed under this subsection,~~ In order to place business through a Florida-eligible Florida-eligible surplus lines carrier carriers, a person required to be licensed and appointed under this subsection must:

1. If a resident of this state, be licensed and appointed as a surplus lines agent.

2. If not a resident of this state, ~~such person must be licensed and appointed as a surplus lines agent in her or his state of residence and be licensed and appointed as a nonresident surplus lines agent in this state file and maintain a fidelity bond in favor of the people of the State of Florida executed by a surety company admitted in this state and payable to the State of Florida; however, such nonresident is limited to the provision of insurance for purchasing groups. The bond must be continuous in form and in the amount of not less than \$50,000, aggregate liability. The bond must remain in force and effect until the surety is released from liability by the department or until the bond is canceled by the surety. The surety may cancel the bond and be released from further liability upon 30 days' prior written notice to the department. The cancellation does not affect any liability incurred or accrued before the termination of the 30-day period. Upon receipt of a notice of cancellation, the department shall immediately notify the agent.~~

Section 34. Subsection (1) of section 648.43, Florida Statutes, is amended to read:

648.43 Power of attorney; to be approved by department;

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filing of copies; notification of transfer bond.-

(1) Every insurer engaged in the writing of bail bonds through bail bond agents in this state shall submit ~~and have approved by the department~~ a sample power of attorney to the office for prior approval, which ~~shall~~ will be the only form of power of attorney the insurer ~~issues~~ will issue to bail bond agents in this state.

Section 35. Subsection (3) of section 648.49, Florida Statutes, is amended to read:

648.49 Duration of suspension or revocation.-

(3) During the period of suspension, ~~or after~~ revocation of the license and until the license is reinstated or a new license is issued, the former licensee may not engage in or attempt to profess to engage in any transaction or business for which a license or appointment is required under this chapter. ~~A~~ Any person who violates this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 36. Paragraphs (a) and (c) of subsection (4) of section 943.0585, Florida Statutes, are amended to read:

943.0585 Court-ordered expunction of criminal history records.-The courts of this state have jurisdiction over their own procedures, including the maintenance, expunction, and correction of judicial records containing criminal history information to the extent such procedures are not inconsistent with the conditions, responsibilities, and duties established by this section. Any court of competent jurisdiction may order a criminal justice agency to expunge the criminal history record of a minor or an adult who complies with the requirements of

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1219 this section. The court shall not order a criminal justice
 1220 agency to expunge a criminal history record until the person
 1221 seeking to expunge a criminal history record has applied for and
 1222 received a certificate of eligibility for expunction pursuant to
 1223 subsection (2). A criminal history record that relates to a
 1224 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,
 1225 s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s.
 1226 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.
 1227 893.135, s. 916.1075, a violation enumerated in s. 907.041, or
 1228 any violation specified as a predicate offense for registration
 1229 as a sexual predator pursuant to s. 775.21, without regard to
 1230 whether that offense alone is sufficient to require such
 1231 registration, or for registration as a sexual offender pursuant
 1232 to s. 943.0435, may not be expunged, without regard to whether
 1233 adjudication was withheld, if the defendant was found guilty of
 1234 or pled guilty or nolo contendere to the offense, or if the
 1235 defendant, as a minor, was found to have committed, or pled
 1236 guilty or nolo contendere to committing, the offense as a
 1237 delinquent act. The court may only order expunction of a
 1238 criminal history record pertaining to one arrest or one incident
 1239 of alleged criminal activity, except as provided in this
 1240 section. The court may, at its sole discretion, order the
 1241 expunction of a criminal history record pertaining to more than
 1242 one arrest if the additional arrests directly relate to the
 1243 original arrest. If the court intends to order the expunction of
 1244 records pertaining to such additional arrests, such intent must
 1245 be specified in the order. A criminal justice agency may not
 1246 expunge any record pertaining to such additional arrests if the
 1247 order to expunge does not articulate the intention of the court

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1248 to expunge a record pertaining to more than one arrest. This
 1249 section does not prevent the court from ordering the expunction
 1250 of only a portion of a criminal history record pertaining to one
 1251 arrest or one incident of alleged criminal activity.
 1252 Notwithstanding any law to the contrary, a criminal justice
 1253 agency may comply with laws, court orders, and official requests
 1254 of other jurisdictions relating to expunction, correction, or
 1255 confidential handling of criminal history records or information
 1256 derived therefrom. This section does not confer any right to the
 1257 expunction of any criminal history record, and any request for
 1258 expunction of a criminal history record may be denied at the
 1259 sole discretion of the court.

1260 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.—Any
 1261 criminal history record of a minor or an adult which is ordered
 1262 expunged by a court of competent jurisdiction pursuant to this
 1263 section must be physically destroyed or obliterated by any
 1264 criminal justice agency having custody of such record; except
 1265 that any criminal history record in the custody of the
 1266 department must be retained in all cases. A criminal history
 1267 record ordered expunged that is retained by the department is
 1268 confidential and exempt from the provisions of s. 119.07(1) and
 1269 s. 24(a), Art. I of the State Constitution and not available to
 1270 any person or entity except upon order of a court of competent
 1271 jurisdiction. A criminal justice agency may retain a notation
 1272 indicating compliance with an order to expunge.

1273 (a) The person who is the subject of a criminal history
 1274 record that is expunged under this section or under other
 1275 provisions of law, including former s. 893.14, former s. 901.33,
 1276 and former s. 943.058, may lawfully deny or fail to acknowledge

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1277 the arrests covered by the expunged record, except when the
 1278 subject of the record:
 1279 1. Is a candidate for employment with a criminal justice
 1280 agency;
 1281 2. Is a defendant in a criminal prosecution;
 1282 3. Concurrently or subsequently petitions for relief under
 1283 this section, s. 943.0583, or s. 943.059;
 1284 4. Is a candidate for admission to The Florida Bar;
 1285 5. Is seeking to be employed or licensed by or to contract
 1286 with the Department of Children and Families, the Division of
 1287 Vocational Rehabilitation within the Department of Education,
 1288 the Agency for Health Care Administration, the Agency for
 1289 Persons with Disabilities, the Department of Health, the
 1290 Department of Elderly Affairs, or the Department of Juvenile
 1291 Justice or to be employed or used by such contractor or licensee
 1292 in a sensitive position having direct contact with children, the
 1293 disabled, or the elderly; ~~or~~
 1294 6. Is seeking to be employed or licensed by the Department
 1295 of Education, any district school board, any university
 1296 laboratory school, any charter school, any private or parochial
 1297 school, or any local governmental entity that licenses child
 1298 care facilities; or
 1299 7. Is seeking to be licensed by the Division of Insurance
 1300 Agent and Agency Services within the Department of Financial
 1301 Services.
 1302 (c) Information relating to the existence of an expunged
 1303 criminal history record which is provided in accordance with
 1304 paragraph (a) is confidential and exempt from the provisions of
 1305 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,

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1306 except that the department shall disclose the existence of a
 1307 criminal history record ordered expunged to the entities set
 1308 forth in subparagraphs (a)1., 4., 5., 6., and ~~7.~~ ~~7.~~ for their
 1309 respective licensing, access authorization, and employment
 1310 purposes, and to criminal justice agencies for their respective
 1311 criminal justice purposes. It is unlawful for any employee of an
 1312 entity set forth in subparagraph (a)1., subparagraph (a)4.,
 1313 subparagraph (a)5., subparagraph (a)6., or subparagraph (a)7.
 1314 ~~subparagraph (a)7.~~ to disclose information relating to the
 1315 existence of an expunged criminal history record of a person
 1316 seeking employment, access authorization, or licensure with such
 1317 entity or contractor, except to the person to whom the criminal
 1318 history record relates or to persons having direct
 1319 responsibility for employment, access authorization, or
 1320 licensure decisions. Any person who violates this paragraph
 1321 commits a misdemeanor of the first degree, punishable as
 1322 provided in s. 775.082 or s. 775.083.

1323 Section 37. Paragraphs (a) and (c) of subsection (4) of
 1324 section 943.059, Florida Statutes, are amended to read:

1325 943.059 Court-ordered sealing of criminal history records.-
 1326 The courts of this state shall continue to have jurisdiction
 1327 over their own procedures, including the maintenance, sealing,
 1328 and correction of judicial records containing criminal history
 1329 information to the extent such procedures are not inconsistent
 1330 with the conditions, responsibilities, and duties established by
 1331 this section. Any court of competent jurisdiction may order a
 1332 criminal justice agency to seal the criminal history record of a
 1333 minor or an adult who complies with the requirements of this
 1334 section. The court shall not order a criminal justice agency to

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1335 seal a criminal history record until the person seeking to seal
 1336 a criminal history record has applied for and received a
 1337 certificate of eligibility for sealing pursuant to subsection
 1338 (2). A criminal history record that relates to a violation of s.
 1339 393.135, s. 394.4593, s. 787.025, chapter 794, s. 796.03, s.
 1340 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071, chapter
 1341 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135, s.
 1342 916.1075, a violation enumerated in s. 907.041, or any violation
 1343 specified as a predicate offense for registration as a sexual
 1344 predator pursuant to s. 775.21, without regard to whether that
 1345 offense alone is sufficient to require such registration, or for
 1346 registration as a sexual offender pursuant to s. 943.0435, may
 1347 not be sealed, without regard to whether adjudication was
 1348 withheld, if the defendant was found guilty of or pled guilty or
 1349 nolo contendere to the offense, or if the defendant, as a minor,
 1350 was found to have committed or pled guilty or nolo contendere to
 1351 committing the offense as a delinquent act. The court may only
 1352 order sealing of a criminal history record pertaining to one
 1353 arrest or one incident of alleged criminal activity, except as
 1354 provided in this section. The court may, at its sole discretion,
 1355 order the sealing of a criminal history record pertaining to
 1356 more than one arrest if the additional arrests directly relate
 1357 to the original arrest. If the court intends to order the
 1358 sealing of records pertaining to such additional arrests, such
 1359 intent must be specified in the order. A criminal justice agency
 1360 may not seal any record pertaining to such additional arrests if
 1361 the order to seal does not articulate the intention of the court
 1362 to seal records pertaining to more than one arrest. This section
 1363 does not prevent the court from ordering the sealing of only a

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1364 portion of a criminal history record pertaining to one arrest or
 1365 one incident of alleged criminal activity. Notwithstanding any
 1366 law to the contrary, a criminal justice agency may comply with
 1367 laws, court orders, and official requests of other jurisdictions
 1368 relating to sealing, correction, or confidential handling of
 1369 criminal history records or information derived therefrom. This
 1370 section does not confer any right to the sealing of any criminal
 1371 history record, and any request for sealing a criminal history
 1372 record may be denied at the sole discretion of the court.

(4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.—A criminal
 1374 history record of a minor or an adult which is ordered sealed by
 1375 a court of competent jurisdiction pursuant to this section is
 1376 confidential and exempt from the provisions of s. 119.07(1) and
 1377 s. 24(a), Art. I of the State Constitution and is available only
 1378 to the person who is the subject of the record, to the subject's
 1379 attorney, to criminal justice agencies for their respective
 1380 criminal justice purposes, which include conducting a criminal
 1381 history background check for approval of firearms purchases or
 1382 transfers as authorized by state or federal law, to judges in
 1383 the state courts system for the purpose of assisting them in
 1384 their case-related decisionmaking responsibilities, as set forth
 1385 in s. 943.053(5), or to those entities set forth in
 1386 subparagraphs (a)1., 4., 5., 6., and 8. ~~8.~~ for their respective
 1387 licensing, access authorization, and employment purposes.

(a) The subject of a criminal history record sealed under
 1389 this section or under other provisions of law, including former
 1390 s. 893.14, former s. 901.33, and former s. 943.058, may lawfully
 1391 deny or fail to acknowledge the arrests covered by the sealed
 1392 record, except when the subject of the record:

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1393 1. Is a candidate for employment with a criminal justice
 1394 agency;
 1395 2. Is a defendant in a criminal prosecution;
 1396 3. Concurrently or subsequently petitions for relief under
 1397 this section, s. 943.0583, or s. 943.0585;
 1398 4. Is a candidate for admission to The Florida Bar;
 1399 5. Is seeking to be employed or licensed by or to contract
 1400 with the Department of Children and Families, the Division of
 1401 Vocational Rehabilitation within the Department of Education,
 1402 the Agency for Health Care Administration, the Agency for
 1403 Persons with Disabilities, the Department of Health, the
 1404 Department of Elderly Affairs, or the Department of Juvenile
 1405 Justice or to be employed or used by such contractor or licensee
 1406 in a sensitive position having direct contact with children, the
 1407 disabled, or the elderly;
 1408 6. Is seeking to be employed or licensed by the Department
 1409 of Education, any district school board, any university
 1410 laboratory school, any charter school, any private or parochial
 1411 school, or any local governmental entity that licenses child
 1412 care facilities; ~~or~~
 1413 7. Is attempting to purchase a firearm from a licensed
 1414 importer, licensed manufacturer, or licensed dealer and is
 1415 subject to a criminal history check under state or federal law;
 1416 or
 1417 8. Is seeking to be licensed by the Division of Insurance
 1418 Agent and Agency Services within the Department of Financial
 1419 Services.
 1420 (c) Information relating to the existence of a sealed
 1421 criminal record provided in accordance with the provisions of

597-02469-14

20141210c1

1422 paragraph (a) is confidential and exempt from the provisions of
 1423 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,
 1424 except that the department shall disclose the sealed criminal
 1425 history record to the entities set forth in subparagraphs (a)1.,
 1426 4., 5., 6., and 8. ~~8.~~ for their respective licensing, access
 1427 authorization, and employment purposes. It is unlawful for any
 1428 employee of an entity set forth in subparagraph (a)1.,
 1429 subparagraph (a)4., subparagraph (a)5., subparagraph (a)6., or
 1430 subparagraph (a)8. ~~subparagraph (a)8.~~ to disclose information
 1431 relating to the existence of a sealed criminal history record of
 1432 a person seeking employment, access authorization, or licensure
 1433 with such entity or contractor, except to the person to whom the
 1434 criminal history record relates or to persons having direct
 1435 responsibility for employment, access authorization, or
 1436 licensure decisions. Any person who violates the provisions of
 1437 this paragraph commits a misdemeanor of the first degree,
 1438 punishable as provided in s. 775.082 or s. 775.083.
 1439 Section 38. Except as otherwise expressly provided in this
 1440 act, and except for this section which shall take effect upon
 1441 becoming law, this act shall take effect July 1, 2014.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Health Policy, *Chair*
Appropriations
Appropriations Subcommittee on Education
Appropriations Subcommittee on Health
and Human Services
Commerce and Tourism
Communications, Energy, and Public Utilities
Governmental Oversight and Accountability

SELECT COMMITTEE:

Select Committee on Patient Protection
and Affordable Care Act

SENATOR AARON BEAN

4th District

April 4, 2014

Senator Joe Negron
Chairman, Committee on Appropriations
412 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Negron:

This letter is to request that CS/SB 1210 relating to an act of the division of Insurance Agents and agency services be placed on the agenda of the next possible committee meeting if received.

Thank you for your consideration of this request.

Respectfully,

A handwritten signature in blue ink that reads "Aaron Bean". The signature is fluid and cursive, with the first name "Aaron" and the last name "Bean" clearly visible.

Aaron Bean
State Senator, 4th District

Cc: Cindy Kynoch, Staff Director
Ann Roberts, Committee Administrative Assistant

REPLY TO:

- ☐ 1919 Atlantic Boulevard, Jacksonville, Florida 32207 (904) 346-5039 FAX: (888) 263-1578
- ☐ 302 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5004 FAX: (850) 410-4805

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/10/14
Meeting Date

Topic Division of Insurance Agents + Agency Services Bill Number SB 1210
(if applicable)

Name Laura Pearce Amendment Barcode _____
(if applicable)

Job Title General Counsel

Address _____
Street
City _____ State _____ Zip _____

Phone 850-566-8615

E-mail Lpearce@faia.com

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida Association of Insurance Agents

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/10/2014
Meeting Date

Topic _____

Bill Number 1210
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title Trustee

Address 1119 Newton Ave S.
Street
St Petersburg FL 33705
City State Zip

Phone 727/897-9291

E-mail justicedjesus@yahoo.com

Speaking: ☐ For ☒ Against ☐ Information

Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/16

Meeting Date

Topic SB 1210

Bill Number SB 1210
(if applicable)

Name Logan McFaddin

Amendment Barcode _____
(if applicable)

Job Title Director, Legislative Affairs

Address 400 N Monroe St
Street
Tallahassee FL 32399
City State Zip

Phone 413-2863

E-mail Logan.mcfaddin@myfloridacfo.com

Speaking: ☒ For ☐ Against ☐ Information

Representing CFO'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 (10/20/11)

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 1216

INTRODUCER: Appropriations Committee; Commerce and Tourism Committee; and Senator Latvala

SUBJECT: Professional Sports Facilities

DATE: April 14, 2014

REVISED: 04/04/14

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Askey	Hrdlicka	CM	Fav/CS
2.	Fournier	Kynoch	AP	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1216 creates the Sports Development Program which allows for distributions of state sales and use tax revenue to fund professional sports franchise facilities, up to an annual cap of \$13 million for all certified applicants. Applicants must be evaluated and recommended by the Department of Economic Opportunity (DEO) and distributions must be approved by the Legislature. Distributed funds may be used for the construction or improvement of a professional sports facility. The maximum annual distribution for a single facility is \$3 million, and distributions can be made for up to 30 years for a potential maximum amount of \$90 million per certified applicant.

Applicants who have started a project or a new facility between March 1, 2013, and July 1, 2014, may apply to the DEO beginning May 1, 2014, for review. If the DEO recommends approval, the Legislative Budget Committee may approve the application no earlier than January 1, 2015. Approved applicants would be eligible to receive distributions during Fiscal Year 2014-2015, but distributions during that year may not exceed \$6 million.

The bill allows a municipality or county to use its half-cent sales tax revenue to reimburse the state as required in the Sports Development Program. The bill increases the amount of a municipality's or county's half-cent sales tax revenue that can be used to fund a professional sports facility or motorsport entertainment complex from \$2 million \$3 million.

The bill increases the annual distribution of state sales and use tax available to a spring training facility under s. 288.11631, F.S., and decreases from 30 to 20 the number of years the

distribution will be made. It permits an applicant that has never received state funding as a spring training facility and is applying for funding for a facility that was constructed before January 1, 2000, to apply for the program based on an agreement with a franchise that was signed at any time before the expiration of the previous agreement with the franchise. Under current law, a new agreement cannot be signed more than 4 years before the expiration of the previous agreement.

The bill allows up to \$6 million of state sales and use tax revenue to be distributed in Fiscal Year 2014-2015 to new facilities or projects commenced between March 1, 2014 and July 1, 2014. Receipts to the General Revenue Fund will decrease by the amount of any distribution.

Changes in the funding of spring training facilities included in this bill will reduce revenue in the General Revenue Fund by \$4.7 million annually beginning in Fiscal Year 2016-2017.

II. Present Situation:

Professional Sports in Florida

Florida currently has 10 major professional sports teams. The oldest major professional sports team in the state is the Miami Dolphins football franchise of the National Football League. The Dolphins franchise began in 1966 as an expansion team as part of the now-defunct American Football League. The newest major professional sports team in the state is the Orlando Lions (Orlando City Soccer Club) in Major League Soccer (MLS). The club will become the MLS's 21st franchise in 2015. Below is a summary table of information on major professional sports franchises in Florida:

Franchise	Sport	League	Year Founded	Facility	Facility Opened	County
Miami Dolphins	Football	NFL	1966	Sun Life Stadium	1987	Miami-Dade
Tampa Bay Buccaneers	Football	NFL	1976	Raymond James Stadium	1998	Hillsborough
Miami Heat	Basketball	NBA	1988	American Airlines Arena	1999	Miami-Dade
Orlando Magic	Basketball	NBA	1989	Amway Center	2010	Orange
Tampa Bay Lightning	Hockey	NHL	1992	Tampa Bay Times Forum	1996	Hillsborough
Florida Panthers	Hockey	NHL	1993	BB&T Center	1998	Broward
Miami Marlins	Baseball	MLB	1993	Marlins Park	2012	Miami-Dade
Jacksonville Jaguars	Football	NFL	1995	EverBank Field	1995	Duval
Tampa Bay Rays	Baseball	MLB	1998	Tropicana Field	1990, occupied by Rays since 1998	Pinellas
Orlando City Soccer Club/ "Lions"	Soccer	MLS	2015	Orlando City Stadium	2015-2016 (est.)	Orange

In addition to the 10 major professional sports teams, Florida is also home to 33 Minor League franchises in various sports, three Arena Football League teams, and two NASCAR sanctioned tracks. MLB's Spring Training Grapefruit League is also based in Florida, with 15 teams holding preseason training and exhibition games in the state.

State Incentives for Professional Sports Teams

Section 288.1162, F.S., provides the procedure by which professional sports franchises in Florida may be certified to receive state sales and use tax revenue to pay for the acquisition, construction, reconstruction, or renovation of a facility for a new or retained professional sports franchise. Local governments, non-profit, and for-profit entities may apply to the program.

The DEO is responsible for screening and certifying applicants for state funding. An applicant qualifying as a new professional sports franchise must be a professional sports franchise that was not based in Florida prior to April 1, 1987. Applicants qualifying as retained professional sports franchises must have had a league-authorized location in the state on or before December 31, 1976, and be continuously located at the location. The number of certified professional sports franchises, both new and retained, is limited to eight total franchises.

For both new and retained franchises, the DEO must confirm and verify that:

- A local government is responsible for the construction, management, or operation of the professional sports franchise facility, or holds title to the property where the facility is located.
- The applicant has a verified copy of a signed agreement with a new professional sports franchise for at least 10 years, or for 20 years in the case of a retained franchise.
- The applicant has a verified copy of the approval by the governing body of the NFL, MLB, NHL, or NBA authorizing the location of a new franchise in the state after April 1, 1987, for new professional sports franchises, or verified evidence of a league-authorized location in the state on or before December 31, 1976, for a retained professional sports franchise.
- The applicant has projections demonstrating a paid annual attendance of over 300,000 annually.
- The applicant has an independent analysis demonstrating that the amount of sales taxes generated by the use or operation of the facility is \$2 million annually.
- The city or county where the facility is located has certified by resolution after a public hearing that the application serves a public purpose.
- The applicant has demonstrated that it has provided or is capable of providing financial or other commitments of more than one-half of the costs incurred or related to the improvement or development of the facility.

Any applicant who meets the above-mentioned criteria as verified by the DEO is eligible to receive monthly payments from the state of \$166,667 for not more than 30 years,¹ for an annual payment totaling \$2,000,004. The Department of Revenue (DOR) disburses the payments.

Further, payments may be used only for the public purposes of paying for the acquisition, construction, reconstruction, or renovation of a facility for a new or retained professional sports

¹ Section 212.20(6)(d)6.b., F.S.

franchise; reimbursing associated costs for such activities; paying or pledging payments of debt service on bonds issued for such activities; funding debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect to bonds issued for such activities; or refinancing the bonds. The state may only pursue recovery of funds if the Auditor General finds that the distributions were not expended as required by statute.

No facility may be certified more than once, and no sports franchise can be the basis for more than one certification unless the previous certification was withdrawn by the facility or invalidated by the DEO before any funds were disbursed under s. 212.20(6)(d), F.S.

As of January 8, 2013, there were eight certified new or retained professional sports franchise facilities in Florida. The facilities and the payment distribution for each are listed below:

Facility name	Certified entity	Franchise	First Payment	Final Payment	Total payments as of January 2014
Sun Life Stadium	Dolphins Stadium/ South Florida Stadium	Florida (Miami) Marlins ²	06/1994	06/2023	\$41,166,749
Everbank Field	City of Jacksonville	Jacksonville Jaguars	06/1994	05/2024	\$39,333,412
Tropicana Field	City of St. Petersburg	Tampa Bay Rays	06/1995	06/2025	\$37,166,741
Tampa Bay Times Forum	Tampa Bay Sports Authority	Tampa Bay Lightning	09/1995	08/2025	\$36,833,407
BB&T Center	Broward County	Florida Panthers	08/1996	07/2026	\$35,000,070
Raymond James Stadium	Hillsborough County	Tampa Bay Buccaneers	01/1997	12/2026	\$34,166,729
American Airlines Arena	BPL, LTD	Miami Heat	03/1998	03/2028	\$31,666,730
Amway Center	City of Orlando	Orlando Magic	02/2008	01/2038	\$12,000,024

(Information from the Department of Economic Opportunity and Department of Revenue)

A local government may be certified to receive funding for the purpose of acquiring, constructing, reconstructing, or renovating a spring training facility.³ There are 10 local governments certified to receive funding for spring training facilities under s. 288.11621, F.S. Each certified local government receives up to \$41,667 monthly for up to 30 years.

In 2013, the Legislature approved a new funding program for spring training facilities. Section 288.11631, F.S., provides a facility used by a single spring training franchise a distribution up to \$55,555 per month for up to 30 years; and a facility used by more than one franchise can receive

² The Marlins franchise relocated from Sun Life Stadium to Marlins Park for the 2012 baseball season.

³ Sections 288.11621 and 288.11631, F.S.

up to \$111,110 monthly for up to 37.5 years.⁴ Distributions under this new program may not begin until July 1, 2016.

Monthly sales tax distributions (\$166,667 for up to 300 months) also fund the professional golf hall of fame.⁵ The International Game Fish Association World Center facility received a lump-sum payment (\$999,996) after it was certified in 2000 and received a monthly distribution (\$83,333 for up to 168 months) which ended in Fiscal Year 2013-2014.⁶

Sales and Use Tax

Chapter 212, F.S., contains the state's statutory provisions authorizing the levy and collection of Florida's sales and use tax, as well as the exemptions and credits applicable to certain items or uses under specified circumstances. A 6 percent sales and use tax is levied on tangible personal property and a limited number of services. The statutes currently provide for more than 200 different exemptions.

Local Government Half-cent Sales Tax Program

The Local Government Half-cent Sales Tax Program is the largest source of state-shared revenue received by local governments. The program provides ad valorem and utility tax relief, in addition to providing eligible local governments revenues for local programs.⁷ A local government may also pledge funds from the program for payment of principal and interest on any capital project.⁸

Moneys for the program are collected pursuant to the provisions of ch. 212, F.S. The program distributes funds to eligible local governments through three distributions of sales tax revenues remitted by a sales tax dealer within the eligible participating county.⁹ The *ordinary* distribution transfers 8.814 percent of net sales tax proceeds remitted by a sales tax dealer in the eligible local government's jurisdiction to the Local Government Half-cent Sales Tax Clearing Trust Fund (trust fund).¹⁰ The *emergency* and *supplemental* distributions transfer 0.095 percent of net sales tax proceeds to the trust fund, and are available only to those counties that meet certain fiscal eligibility requirements, or have an inmate population of greater than 7 percent of the total county population.¹¹ An additional, separate distributions from the trust fund are available to qualifying fiscally constrained counties.¹²

A majority of the governing body of a county government and a majority of the members of the governing authority of municipalities representing at least 50 percent of the county's municipal

⁴ Chapter 2013-42, L.O.F. Section 212.20(6)(d)6.e., F.S.

⁵ Sections 212.20(6)(d)6.c. and 288.1168, F.S.

⁶ Sections 212.20(6)(d)6.d. and 288.1169, F.S.

⁷ Office of Economic and Demographic Research, *2013 Local Government Financial Information Handbook*, (December 2013), available at: <http://edr.state.fl.us/Content/local-government/reports/lghih13.pdf>, (last visited on March 6, 2014).

⁸ Section 218.64, F.S.

⁹ Section 218.63, F.S., defines eligibility requirements. In order to participate in the program, a local government must meet the revenue sharing eligibility requirements specified in s. 218.23, F.S. See also s. 218.62, F.S.

¹⁰ Section 212.20(6)(d)2., F.S.

¹¹ Section 212.20(6)(d)3., F.S.

¹² Section 218.67, F.S.

population may, by ordinance, allocate up to \$2 million annually of the Local Government Half-cent Sales Tax Program funds received by that county for the following purposes:^{13, 14}

- Funding a facility certified as a new or retained professional sports franchise under s. 288.1162, F.S., or a facility certified as a spring training franchise under s. 288.11621, F.S.; and
Funding an applicant certified as a “motorsports entertainment complex” under s. 288.1171, F.S.

Designation of a Professional Sports Facility as a Shelter Site for the Homeless

Section 288.1166, F.S., provides that any professional sports facility constructed with financial assistance from the state must be designated as a shelter site for the homeless in accordance with the criteria of locally existing homeless shelter programs, except when the facility is otherwise contractually obligated for a specific event or activity. It further provides that if a local program does not exist in the facility’s area, the county or its designee must establish one. It does not appear that any sports facilities are currently used for this purpose

III. Effect of Proposed Changes:

Sports Development Program

Section 4 of the bill creates s. 288.11625, F.S., which allows for distributions of state sales and use tax revenue to fund professional sports franchise facilities. The program is administered by the DEO which is responsible for screening applicants for state funding. The purpose of the program is to provide state funding to a “beneficiary,” defined as a professional sports franchise of the National Football League (NFL), the National Hockey League (NHL), the National Basketball Association (NBA), the National or American Leagues of Major League Baseball (MLB), the National Association of Professional Baseball Leagues, Major League Soccer (MLS), the North American Soccer League, the Professional Rodeo Cowboys Association, the promoter or host of a signature event administered by Breeders’ Cup Limited, or the promoter of a signature event sanctioned by the National Association for Stock Car Auto Racing (NASCAR) for the construction, reconstruction, renovation, or improvement of a facility, the proposed acquisition of land to construct a new facility, and construction of improvements to state-owned land necessary for the efficient use of the facility. The facility must be the responsibility of, or located on land owned by, a unit of local government. The bill excludes any portion of a facility used for transient lodging.

The term “state sales taxes generated by sales at the facility” (which will be used to determine the distribution the facility is eligible to receive) is defined as “state sales taxes imposed under ch. 212, F.S., and generated by admissions to the facility; parking on property owned or controlled by the beneficiary or the applicant; team operations and necessary leases; sales by the beneficiary; sales by other vendors at the facility and ancillary uses, including, but not limited to, team stores, museums, restaurants, retail, lodging, and commercial uses from economic

¹³ Section 218.64(3)(b), F.S.

¹⁴ If a county and municipal government’s governing body support using program funds to support funding of professional sports, spring training, or motorsports entertainment complexes, their distribution for general use is provided *after* funding is provided for these projects.

development generated by the beneficiary or facility as determined by the Department of Economic Opportunity.” A unit of local government which is responsible for the construction, management, or operation of a facility, or another entity responsible for the construction, management, or operation of a facility located on land owned by a unit of local government may apply for funding under this program. The DEO must complete evaluations of applications within 60 days and notify the applicant if the application has been recommended to the Legislature or denied. Applications can be submitted between June 1 and November 1 annually. By February 1 of each year, the DEO will rank the recommended applications and present them to the Legislature for approval. Applications that are approved by the Legislature in the General Appropriations Act or a conforming bill to the General Appropriations Act and subsequently certified by the DEO do not need to be approved by the Legislature each year to receive funding. Certified applications remain certified for the duration of the agreement between the unit of local government that is responsible for the facility or owns the property the facility is on and the beneficiary of the state funding or 30 years, whichever is less.

The bill provides that an application submitted by either:

- A first-time applicant whose project exceeds \$300 million and commenced on the facility’s existing site before January 1, 2014, or
- A beneficiary that has completed the terms of a previous agreement for distributions under ch. 212, F.S., for an existing facility

shall be considered an application for a new facility for incremental and baseline tax calculations.¹⁵

The bill requires the DEO, prior to recommendation of an application, to verify that:

- The applicant or beneficiary is responsible for the improvements to the facility and has obtained at least three bids on the project.
- The facility is on land owned by local government.
- The local government, in whose jurisdiction the facility will be located, has an exclusive intent agreement to negotiate with the beneficiary in this state.
- The local government supports the application for state funds, verified by adoption of a resolution that the project serves a public purpose.
- The applicant or beneficiary has not defaulted or failed to meet statutory requirements of a previous state-administered sports program under s. 288.1162, F.S. (professional sports franchises), s. 288.11621, F.S. (spring training baseball franchises), or s. 288.1168, F.S. (professional golf hall of fame).
- The applicant or beneficiary is not receiving distributions under s. 212.20, F.S. (An exception to this requirement is provided for an applicant that demonstrates that the franchise that applied for a distribution under s. 212.20, F.S., no longer plays at the facility that is the subject of the application. This exception applies to the Miami Dolphins, who play at a stadium that receives payments under a distribution based on the Miami Marlins. The Marlins relocated to Marlins Park in 2012.)

¹⁵ This provision could be read to mean that facilities meeting these criteria will be eligible for distributions based on their total state sales taxes generated, not the increase in sales taxes attributable to the construction or renovation receiving state funding under this program. However, the bill does not define the term “new facility” and the term is not used when setting forth the requirements for establishing the distribution (see discussion below). The application of this provision is unclear.

- The facility that is the subject of the application is not the subject of distributions under s. 212.20, F.S.
- The applicant has a commitment to employing state residents, contracting with Florida-based firms, and purchasing materials available locally to the greatest extent possible.
- The project will commence within 12 months of receiving state funds or did not commence before March 1, 2013.
- If the applicant is a local government, then it has an agreement between it and the beneficiary for the use of the facility.

If the applicant is the beneficiary (the professional sports franchise that will use the facility), then the beneficiary must enter into an agreement with the DEO that requires: 1) The beneficiary to reimburse the state for any funds that have been and will be distributed if the beneficiary relocates before the expiration of the agreement; and 2) The beneficiary to pay for signage to be displayed in a prominent location and feature Florida advertising approved by the Florida Tourism Industry Marketing Corporation (Visit Florida).

The DEO must rank the applications based on their ability to positively impact the state under the following criteria:

- The proposed use of state funds.
- The length of time a beneficiary has agreed to use the facility.
- The percentage of total project funds provided by the applicant and beneficiary with priority given to applications with 50 percent or more of total project funds not from state distributions.
- The number and type of signature events the facility is likely to attract during the duration of the agreement with the beneficiary.¹⁶
- The increase in ticket sales and attendance annually due to the project.
- The potential to attract out-of-state visitors.
- The length of time a beneficiary has been in-state or partnered with local government, with priority given to franchises new to the state.
- The facility's multiuse capabilities.
- The facility's projected employment of state residents, contracts with Florida-based firms, and locally purchased materials.
- The amount of private and local financial or in-kind contributions.
- The amount of positive advertising or media coverage the facility generates.

At the time of evaluation and review by the DEO, the applicant must provide an analysis by an independent certified public accountant that shows the amount of state sales tax generated at the facility during the 12 months prior to the submission of the application (referred to as the baseline) and the expected amount of new incremental state sales tax that will be generated by sales (above the baseline) as a result of the project. For projects with a total cost of more than \$300 million which are at least 90 percent funded by private sources, the baseline shall be zero for the purposes of this calculation. This means that facilities meeting these criteria will be

¹⁶ The bill defines "signature event" as a professional sports event with significant export factor potential. "Export factor" means the attraction of economic activity or growth into the state which otherwise would not have occurred. Examples of signature events may include but are not limited to: NFL Super Bowls, All-Star games, international sporting events and tournaments, professional motorsports events, and the establishment of a new professional sports franchise in this state.

eligible for distributions based on their total state sales taxes generated, not the increase in sales taxes attributable to the construction or renovation receiving state funding under this program.

In order for an applicant to be eligible for a distribution, the expected average annual incremental sales tax generated by sales at the facility must be at least \$500,000 above the baseline. The DEO determines the annual distribution amount an applicant may receive based on an amount equal to 80 percent of the average annual new incremental state sales tax generated by sales at the facility, up to a maximum amount based on the total project cost. If the total project cost is \$200 million or greater, the annual distribution may be up to \$3 million. If the total project cost is at least \$100 million but less than \$200 million, the annual distribution amount may be up to \$2 million. If the total project cost is less than \$100 million, the annual distribution may be up to \$1 million.. The DOR will begin monthly distributions 45 days after the notification of initial certification by the DEO. Distributions will be made for up to 30 years.

The bill caps total distributions for all applicants for this program at \$13 million for any 12-month period. In Fiscal Year 2014-2015, total distributions to certified applicants are limited to \$6 million.

The bill requires a contract to be signed between a certified applicant and the DEO that specifies the terms of the state's investment and the criteria for a certified applicant to remain certified. The contract requires the certified applicant to submit an annual independent analysis that demonstrates the actual amount of new incremental state sales tax generated during the previous 12 months compared to the baseline established in the application and evaluation. This requirement applies 12 months after completion of the project or 12 months after the first 4 annual distributions, whichever is less. The analysis must be submitted within 60 days after the end of the previous 12-month period. The contract also requires the certified applicant to reimburse the state after all distributions have been made in an amount equal to the difference between the actual new incremental state sales tax generated by sales at the facility during the contract and the total amount of distributions. Any such reimbursement must be made 90 days after the final distribution. The DEO may place a lien on the applicant's facility if it is unwilling or unable to reimburse the state in this matter. If the applicant is a municipality or county, it may reimburse the state from its half-cent sales tax allocation. Reimbursements are sent to the DOR for deposit in the General Revenue Fund. The contract can include any provisions deemed prudent by the DEO and must specify other information that the certified applicant must report to the DEO.

The applicant may use the state funds for the following purposes:

- Construction, reconstruction, renovation, or improving a facility.
- Paying or pledging payment of debt service on bonds issued for construction or renovation of the facility.
- Funding debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect to bonds issued for construction or renovation of the facility.
- Reimbursing the costs of the aforementioned uses for funds or refinancing bonds issued for the construction or renovation of the facility.

The bill requires the certified applicant to submit annually by November 1 any information the DEO requires. The DEO must summarize this information for its inclusion in its annual report to the Legislature due February 1.

Every five years after an applicant receives its first distribution, the DEO must verify that the applicant is still meeting program requirements. If the applicant is not meeting the requirements that information must be included in the annual report for the Governor and the Legislature; the report must also include the DEO's recommended future action. The DEO can consider mitigating circumstances that may have prevented the applicant from meeting program requirements when recommending future action.

The bill permits the Auditor General (AG) to conduct audits on the independent analysis required of the applicant and to verify that the distributions are being expended according to program requirements. If the AG determines that distributions are being improperly expended, the AG must inform the DOR, which may pursue recovery of the distributions.

Applicants who have started a project or a new facility between March 1, 2013 and July 1, 2014 may apply to the DEO beginning May 1, 2014, for review. If the DEO recommends approval, the Legislative Budget Committee may approve the application no earlier than January 1, 2015. Approved applicants would be eligible to receive distributions during Fiscal Year 2014-2015, but distributions during that year may not exceed \$6 million.

A certified applicant may be subject to repayment of distributions if the beneficiary breaks the terms of the agreement for facility use and relocates or if the DEO determines that the applicant has been false, misleading, deceptive, or otherwise untrue in any information submitted to the DEO. The certified applicant must repay the amount of state funds that remain to be distributed. Any repayment must be sent to the DOR for deposit in the General Revenue Fund.

The bill permits the applicant to halt payments of distribution by informing the DEO in writing at least 20 days prior to the next monthly distribution.

The bill permits the DEO to adopt rules to implement the program.

Section 1 amends s. 212.20, F.S., to authorize the DOR to distribute monthly amounts from state sales tax revenue equal to one-twelfth of the annual distribution amount certified by the DEO under the Sports Development Program created by s. 288.11625, F.S. The DOR must begin distributions 45 days from notification by the DEO of an applicant's certification by the DEO and approval by the Legislature. The DOR may not distribute more than \$13 million annually under s. 212.20(6)(d)6.f., F.S. In Fiscal Year 2014-2015, distributions are limited to \$6 million.

Section 2 amends s. 218.64, F.S., to authorize the additional use of half-cent sales tax program revenue for reimbursing the state as required by a contract pursuant to s. 288.11625(7), F.S. Consistent with the annual project cap in s. 288.11625, F.S., the bill also raises the amount of the half-cent sales tax that can be used to \$3 million, from \$2 million, for:

- Funding a facility certified as a new or retained professional sports franchise or a facility certified as a spring training franchise.
- Funding an applicant certified as a "motorsport entertainment complex."

- Reimbursing the state as required by contract in s. 288.11625(7).

Section 3 amends s. 288.0001, F.S., to require the EDR and the OPPAGA to include a detailed analysis of the Sports Development Program created by s. 288.11625, F.S., in the annual Economic Development Programs Evaluation beginning January 1, 2018, and every 3 years thereafter.

Spring Training

Section 1 amends s. 212.20, F.S., to revise the distribution schedule for the spring training program under s. 288.11631, F.S., in order to accelerate payments for spring training facilities. However, no distributions may be made before July 1, 2016, as under current law. The distribution schedule is as follows:

- For a facility used by one spring training franchise, monthly distributions are increased to up to \$83,333 from \$55,555, for a period of 20 years instead of 30 years. The maximum amount that may be distributed remains at \$20 million; and
- For a facility used by more than one spring training franchise, monthly distributions are increased to up to \$166,667 from \$111,110, for a period of 25 years instead of 37.5 years. The maximum amount that may be distributed remains at \$50 million.

Section 5 amends s. 288.11631, F.S., to permit a local government that was certified for use of its facility by one spring training facility to amend its certification if it adds any additional franchises. The bill maintains the existing cap of \$50 million for applicants certified for more than one franchise.

Current law provides that a signed agreement for the use of the facility by a franchise, required in the certification process, cannot be signed more than four years before the expiration of any existing agreement with the spring training franchise for the use of the facility. The bill amends s. 288.11631, F.S., to provide that such an agreement can be signed at any time before the expiration of an existing agreement, as long as the applicant has never received state funding for the facility as a spring training facility under ss. 288.11621 and 288.11631, F.S., and the facility was constructed before January 1, 2000.

Under current law, if a franchise breaks its agreement with the local government, either by relocating or violating the agreement, the franchise must reimburse the state for all state funds expended by the local government. The bill provides an exception that if a franchise breaks or violates the agreement with the local government, but bonds were issued for the construction of the facility, the franchise's reimbursement is limited to the amount of state distributions expected to be paid from the date of the contract break or violation to final bond maturity.

Section 6 amends s. 288.1166, F.S., regarding the designation of a professional sports facility as a homeless shelter. It limits this use to the period of a declared federal, state, or local emergency, and provides exceptions if the facility is otherwise contractually obligated for a specific event or activity, the facility is designated or used by the county as a staging area, or the county owning the facility also owns or operates homeless assistance shelters and determines there is sufficient capacity to meet the sheltering needs of homeless persons within the county.

Section 7 authorizes the DEO to adopt emergency rules to implement the bill.

Section 8 provides an effective date of July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

CS/CS/SB 1216 reduces General Revenue Fund Receipts by \$4.7 million annually beginning in Fiscal Year 2016-2017 due to the changes to the spring training program. The changes may permit certain applicants to apply for certification earlier than under current law, accelerate the distribution schedules, and change the repayment requirements when bonds are issued.

The bill allows up to \$6 million of state sales and use tax revenue to be distributed in Fiscal Year 2014-2015 to new facilities or projects commenced between March 1, 2014 and July 1, 2014. Receipts to the General Revenue Fund will decrease by the amount of any distribution. The Revenue Estimating Conference has not determined the impact of this provision.

B. Private Sector Impact:

Indeterminate.

C. Government Sector Impact:

The DOR reported an insignificant departmental impact.¹⁷

The DEO reported that it would require one FTE to administer the Sports Development Program, at a cost of \$85,000.¹⁸

¹⁷ Department of Revenue, *Legislative Bill Analysis: SB 1216*, March 3, 2014.

¹⁸ Department of Economic Opportunity, *Legislative Bill Analysis: SB 1216*, March 12, 2014.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill permits, and considers all conditions met for, the DEO to adopt emergency rules for the purpose of implementing the bill. The emergency rules will remain in effect for 6 months after being adopted and may be renewed during the process to adopt permanent rules. The DEO is also authorized to adopt rules to implement the Sports Development Program.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 212.20, 218.64, 288.0001, 208.1166, and 288.11631.

This bill creates section 288.11625 of the Florida Statutes.

This bill creates an undesignated section of Florida law.

IX. Additional Information:

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

CS/CS by Appropriations on April 10, 2014:

The CS makes the following changes to the Sports Development program:

- Adds the National Association of Professional Baseball Leagues, the North American Soccer League, the Professional Rodeo Cowboys Association, and the promoter or host of a signature event administered by Breeders' Cup Limited to the list of beneficiaries eligible for distributions under the Sports Development Program.
- Expands the definition of "state sales tax generated by sales at the facility" to include parking on property owned or controlled by the beneficiary or the applicant; team operations and necessary leases; sales by the beneficiary; sales by other vendors at the facility; and ancillary uses, including, but not limited to, team stores, museums, restaurants, retail, lodging, and commercial uses from economic development generated by the beneficiary or facility as determined by the Department of Economic Opportunity.
- Requires Legislative approval of any distribution in the General Appropriations Act or a conforming bill for the General Appropriations Act.
- Provides that applications by certain specified applicants shall be considered an application for a new facility for purposes of baseline tax calculations.
- Provides an exception to the requirement that an applicant or beneficiary is not currently receiving state distributions under s. 212.20 for the facility that is the subject of the application.
- Provides limitations on the annual distribution an applicant may receive based on the total cost of the project.

- Provides that certain large projects are eligible for distributions based on their total, rather than incremental, state sales taxes generated by sales at the facility.
- Provides that an applicant may apply for state funds for a new project or facility commenced between March 1, 2013, and July 1, 2014. The DEO must review such applications and recommend approval to the Legislature. The Legislative Budget Commission may approve such applications on or after January 1, 2015, and the total amount approved for distribution in Fiscal Year 2014-2015 is \$6 million.
- Required designation of a professional sports facility as a shelter site for the homeless has been limited to a period of a declared federal, state, or local emergency.

CS by Commerce and Tourism on March 24, 2014:

The CS makes the following changes to the Sports Development program;

- Defines “beneficiary” to include the promoter of signature events sanctioned by NASCAR and clarifies an example for a signature event to include motorsports events;
- Defines “project” to include the construction of improvements to state owned land for efficient use of the facility;
- Clarifies the application process when the applicant is not a local government;
- Provides that an eligible project may have commenced no earlier than March 1, 2013 (16 months before July 1, 2014);
- Simplifies the distribution under the program by changing the 3-tiers of distribution based on project costs to a distribution of 80 percent of the average annual new state sales tax generated by sales at the facility;
 - The most an applicant could receive is capped at \$3 million; and
 - The bill requires that the estimated average annual new sales tax generated by the facility must be \$500,000 more than the baseline in order to receive distributions;
- Changes the reimbursement requirement from an annual “true-up” to a one-time “true-up.” Instead of an applicant reimbursing the state every year for the difference between the actual and estimated new state sales taxes generated, the applicant will reimburse the state after all distributions have been made for any difference between the total actual new state sales taxes generated and total distributions. Reimbursement must be made within 90 days of the end of the last distribution;
- Limits any required repayment of distributions so that if a team relocates before the end of the contract or is found to have fraudulently received state funds, only the state funds that remain to be distributed must be repaid, instead of all previous and future funds distributed; and
- Clarifies that such repayments are paid to DOR to deposit into the General Revenue Fund.

The CS makes the following changes to the Spring Training program:

- Revises the distribution schedule for the new spring training program under s. 288.11631, F.S.;
 - A facility used by one spring training franchise will receive \$83,333, an increase from \$55,555, but for only 20 years instead of 30 years, which is still a maximum of \$20 million; and

- A facility used by more than one spring training franchise will receive \$166,667, an increase from \$111,110, but for only 25 years instead of 37.5 years, which is still a maximum of \$50 million.
- Provides that if a franchise breaks or violates its agreement with a local government, but bonds were issued for the construction of the facility, the franchise's reimbursement is limited to only the amount of state distributions expected to be paid from the date of the contract break or violation to final bond maturity; and
- Allows a local government that was certified for one spring training facility to amend its certification if it adds an additional team at a later date.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/11/2014	.	
	.	
	.	
	.	

The Committee on Appropriations (Latvala) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (d) of subsection (6) of section
212.20, Florida Statutes, is amended to read:

212.20 Funds collected, disposition; additional powers of
department; operational expense; refund of taxes adjudicated
unconstitutionally collected.—

(6) Distribution of all proceeds under this chapter and s.



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202.18(1)(b) and (2)(b) shall be as follows:

(d) The proceeds of all other taxes and fees imposed pursuant to this chapter or remitted pursuant to s. 202.18(1)(b) and (2)(b) shall be distributed as follows:

1. In any fiscal year, the greater of \$500 million, minus an amount equal to 4.6 percent of the proceeds of the taxes collected pursuant to chapter 201, or 5.2 percent of all other taxes and fees imposed pursuant to this chapter or remitted pursuant to s. 202.18(1)(b) and (2)(b) shall be deposited in monthly installments into the General Revenue Fund.

2. After the distribution under subparagraph 1., 8.814 percent of the amount remitted by a sales tax dealer located within a participating county pursuant to s. 218.61 shall be transferred into the Local Government Half-cent Sales Tax Clearing Trust Fund. Beginning July 1, 2003, the amount to be transferred shall be reduced by 0.1 percent, and the department shall distribute this amount to the Public Employees Relations Commission Trust Fund less \$5,000 each month, which shall be added to the amount calculated in subparagraph 3. and distributed accordingly.

3. After the distribution under subparagraphs 1. and 2., 0.095 percent shall be transferred to the Local Government Half-cent Sales Tax Clearing Trust Fund and distributed pursuant to s. 218.65.

4. After the distributions under subparagraphs 1., 2., and 3., 2.0440 percent of the available proceeds shall be transferred monthly to the Revenue Sharing Trust Fund for Counties pursuant to s. 218.215.

5. After the distributions under subparagraphs 1., 2., and



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3., 1.3409 percent of the available proceeds shall be transferred monthly to the Revenue Sharing Trust Fund for Municipalities pursuant to s. 218.215. If the total revenue to be distributed pursuant to this subparagraph is at least as great as the amount due from the Revenue Sharing Trust Fund for Municipalities and the former Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000, no municipality shall receive less than the amount due from the Revenue Sharing Trust Fund for Municipalities and the former Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000. If the total proceeds to be distributed are less than the amount received in combination from the Revenue Sharing Trust Fund for Municipalities and the former Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000, each municipality shall receive an amount proportionate to the amount it was due in state fiscal year 1999-2000.

6. Of the remaining proceeds:

a. In each fiscal year, the sum of \$29,915,500 shall be divided into as many equal parts as there are counties in the state, and one part shall be distributed to each county. The distribution among the several counties must begin each fiscal year on or before January 5th and continue monthly for a total of 4 months. If a local or special law required that any moneys accruing to a county in fiscal year 1999-2000 under the then-existing provisions of s. 550.135 be paid directly to the district school board, special district, or a municipal government, such payment must continue until the local or special law is amended or repealed. The state covenants with holders of bonds or other instruments of indebtedness issued by



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69 local governments, special districts, or district school boards
70 before July 1, 2000, that it is not the intent of this
71 subparagraph to adversely affect the rights of those holders or
72 relieve local governments, special districts, or district school
73 boards of the duty to meet their obligations as a result of
74 previous pledges or assignments or trusts entered into which
75 obligated funds received from the distribution to county
76 governments under then-existing s. 550.135. This distribution
77 specifically is in lieu of funds distributed under s. 550.135
78 before July 1, 2000.

79 b. The department shall distribute \$166,667 monthly
80 pursuant to s. 288.1162 to each applicant certified as a
81 facility for a new or retained professional sports franchise
82 pursuant to s. 288.1162. Up to \$41,667 shall be distributed
83 monthly by the department to each certified applicant as defined
84 in s. 288.11621 for a facility for a spring training franchise.
85 However, not more than \$416,670 may be distributed monthly in
86 the aggregate to all certified applicants for facilities for
87 spring training franchises. Distributions begin 60 days after
88 such certification and continue for not more than 30 years,
89 except as otherwise provided in s. 288.11621. A certified
90 applicant identified in this sub-subparagraph may not receive
91 more in distributions than expended by the applicant for the
92 public purposes provided for in s. 288.1162(5) or s.
93 288.11621(3).

94 c. Beginning 30 days after notice by the Department of
95 Economic Opportunity to the Department of Revenue that an
96 applicant has been certified as the professional golf hall of
97 fame pursuant to s. 288.1168 and is open to the public, \$166,667



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shall be distributed monthly, for up to 300 months, to the applicant.

d. Beginning 30 days after notice by the Department of Economic Opportunity to the Department of Revenue that the applicant has been certified as the International Game Fish Association World Center facility pursuant to s. 288.1169, and the facility is open to the public, \$83,333 shall be distributed monthly, for up to 168 months, to the applicant. This distribution is subject to reduction pursuant to s. 288.1169. A lump sum payment of \$999,996 shall be made, after certification and before July 1, 2000.

e. The department shall distribute up to \$83,333 ~~\$55,555~~ monthly to each certified applicant as defined in s. 288.11631 for a facility used by a single spring training franchise, or up to \$166,667 ~~\$111,110~~ monthly to each certified applicant as defined in s. 288.11631 for a facility used by more than one spring training franchise. Monthly distributions begin 60 days after such certification or July 1, 2016, whichever is later, and continue for not more than 20 ~~30~~ years to each certified applicant as defined in s. 288.11631 for a facility used by a single spring training franchise or not more than 25 years to each certified applicant as defined in s. 288.11631 for a facility used by more than one spring training franchise, ~~except as otherwise provided in s. 288.11631~~. A certified applicant identified in this sub-subparagraph may not receive more in distributions than expended by the applicant for the public purposes provided in s. 288.11631(3).

f. Beginning 45 days after notice by the Department of Economic Opportunity to the Department of Revenue that an



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applicant has been approved by the Legislature and certified by the Department of Economic Opportunity under s. 288.11625, the department shall distribute each month an amount equal to one-twelfth of the annual distribution amount certified by the Department of Economic Opportunity for the applicant. The department may not distribute more than \$13 million annually under this sub-subparagraph.

7. All other proceeds must remain in the General Revenue Fund.

Section 2. Subsections (2) and (3) of section 218.64, Florida Statutes, are amended to read:

218.64 Local government half-cent sales tax; uses; limitations.—

(2) Municipalities shall expend their portions of the local government half-cent sales tax only for municipality-wide programs, for reimbursing the state as required by a contract pursuant to s. 288.11625(7), or for municipality-wide property tax or municipal utility tax relief. All utility tax rate reductions afforded by participation in the local government half-cent sales tax shall be applied uniformly across all types of taxed utility services.

(3) Subject to ordinances enacted by the majority of the members of the county governing authority and by the majority of the members of the governing authorities of municipalities representing at least 50 percent of the municipal population of such county, counties may use up to \$3 ~~\$2~~ million annually of the local government half-cent sales tax allocated to that county for ~~funding for~~ any of the following purposes ~~applicants~~:

(a) Funding a certified applicant as a facility for a new



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or retained professional sports franchise under s. 288.1162 or a certified applicant as defined in s. 288.11621 for a facility for a spring training franchise. It is the Legislature's intent that the provisions of s. 288.1162, including, but not limited to, the evaluation process by the Department of Economic Opportunity except for the limitation on the number of certified applicants or facilities as provided in that section and the restrictions set forth in s. 288.1162(8), shall apply to an applicant's facility to be funded by local government as provided in this subsection.

(b) Funding a certified applicant as a "motorsport entertainment complex," as provided for in s. 288.1171. Funding for each franchise or motorsport complex shall begin 60 days after certification and shall continue for not more than 30 years.

(c) Reimbursing the state as required by a contract entered into under s. 288.11625(7).

Section 3. Paragraph (d) is added to subsection (2) of section 288.0001, Florida Statutes, to read:

288.0001 Economic Development Programs Evaluation.—The Office of Economic and Demographic Research and the Office of Program Policy Analysis and Government Accountability (OPPAGA) shall develop and present to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairs of the legislative appropriations committees the Economic Development Programs Evaluation.

(2) The Office of Economic and Demographic Research and OPPAGA shall provide a detailed analysis of economic development programs as provided in the following schedule:



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(d) Beginning January 1, 2018, and every 3 years thereafter, an analysis of the Sports Development Program established under s. 288.11625.

Section 4. Section 288.11625, Florida Statutes, is created to read:

288.11625 Sports development.—

(1) ADMINISTRATION.—The department shall serve as the state agency responsible for screening applicants for state funding under s. 212.20(6)(d)6.f.

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

(a) "Agreement" means a signed agreement between a unit of local government and a beneficiary.

(b) "Applicant" means a unit of local government, as defined in s. 218.369, which is responsible for the construction, management, or operation of a facility; or an entity that is responsible for the construction, management, or operation of a facility if a unit of local government holds title to the underlying property on which the facility is located.

(c) "Beneficiary" means a professional sports franchise of the National Football League, the National Hockey League, the National Basketball Association, the National League or American League of Major League Baseball, the National Association of Professional Baseball Leagues, Major League Soccer, the North American Soccer League, the Professional Rodeo Cowboys Association, or the promoter of a signature event sanctioned by the National Association for Stock Car Auto Racing. A beneficiary may also be an applicant under this section.

(d) "Facility" means a structure primarily used to host



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games or events held by a beneficiary and does not include any portion used to provide transient lodging.

(e) "Project" means a proposed construction, reconstruction, renovation, or improvement of a facility or the proposed acquisition of land to construct a new facility and construction of improvements to state-owned land necessary for the efficient use of the facility.

(f) "Signature event" means a professional sports event with significant export factor potential. For purposes of this paragraph, the term "export factor" means the attraction of economic activity or growth into the state which otherwise would not have occurred. Examples of signature events may include, but are not limited to:

1. National Football League Super Bowls.
2. Professional sports All-Star games.
3. International sporting events and tournaments.
4. Professional motorsports events.
5. The establishment of a new professional sports franchise in this state.

(g) "State sales taxes generated by sales at the facility" means state sales taxes imposed under chapter 212 and generated by admissions to the facility; parking on property owned or controlled by the beneficiary or the applicant; team operations and necessary leases; sales by the beneficiary; sales by other vendors at the facility; and ancillary uses, including, but not limited to, team stores, museums, restaurants, retail, lodging, and commercial uses from economic development generated by the beneficiary or facility as determined by the Department of Economic Opportunity.



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(3) PURPOSE.—The purpose of this section is to provide applicants state funding under s. 212.20(6)(d)6.f. for the public purpose of constructing, reconstructing, renovating, or improving a facility.

(4) APPLICATION AND APPROVAL PROCESS.—

(a) The department shall establish the procedures and application forms deemed necessary pursuant to the requirements of this section. The department may notify an applicant of any additional required or incomplete information necessary to evaluate an application.

(b) The annual application period is from June 1 through November 1.

(c) Within 60 days after receipt of a completed application, the department shall complete its evaluation of the application as provided under subsection (5) and notify the applicant in writing of the department's decision to recommend approval of the applicant by the Legislature or to deny the application.

(d) By each February 1, the department shall rank the applicants and provide to the Legislature the list of the recommended applicants in ranked order of projects most likely to positively impact the state based on criteria established under this section. The list must include the department's evaluation of the applicant.

(e) A recommended applicant's request for funding must be approved by the Legislature in the General Appropriations Act or a conforming bill for the General Appropriations Act.

1. An application by a unit of local government which is approved by the Legislature and subsequently certified by the



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department remains certified for the duration of the
beneficiary's agreement with the applicant or for 30 years,
whichever is less, provided the certified applicant has an
agreement with a beneficiary at the time of initial
certification by the department.

2. An application by a beneficiary or other applicant which
is approved by the Legislature and subsequently certified by the
department remains certified for the duration of the
beneficiary's agreement with the unit of local government that
owns the underlying property or for 30 years, whichever is less,
provided the certified applicant has an agreement with the unit
of local government at the time of initial certification by the
department.

3. An applicant that is previously certified pursuant to
this section does not need legislative approval each year to
receive state funding.

(f) An applicant that is recommended by the department but
not approved by the Legislature may reapply and shall update any
information in the original application as required by the
department.

(g) The department may recommend no more than one
distribution under this section for any applicant, facility, or
beneficiary at a time.

(h) An application submitted either by a first-time
applicant whose project exceeds \$300 million and commenced on
the facility's existing site before January 1, 2014, or by a
beneficiary that has completed the terms of a previous agreement
for distributions under chapter 212 for an existing facility
shall be considered an application for a new facility for



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purposes that include, but are not limited to, incremental and baseline tax calculations.

(5) EVALUATION PROCESS.—

(a) Before recommending an applicant to receive a state distribution under s. 212.20(6)(d)6.f., the department must verify that:

1. The applicant or beneficiary is responsible for the construction, reconstruction, renovation, or improvement of a facility and obtained at least three bids for the project.

2. If the applicant is not a unit of local government, a unit of local government holds title to the property on which the facility and project are located.

3. If the applicant is a unit of local government in whose jurisdiction the facility will be located, the unit of local government has an exclusive intent agreement to negotiate in this state with the beneficiary.

4. A unit of local government in whose jurisdiction the facility will be located supports the application for state funds. Such support must be verified by the adoption of a resolution, after a public hearing, that the project serves a public purpose.

5. The applicant or beneficiary has not previously defaulted or failed to meet any statutory requirements of a previous state-administered sports-related program under s. 288.1162, s. 288.11621, or s. 288.1168. Additionally, the applicant or beneficiary is not currently receiving state distributions under s. 212.20 for the facility that is the subject of the application, unless the applicant demonstrates that the franchise that applied for a distribution under s.



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212.20 no longer plays at the facility that is the subject of the application.

6. The applicant or beneficiary has sufficiently demonstrated a commitment to employ residents of this state, contract with Florida-based firms, and purchase locally available building materials to the greatest extent possible.

7. If the applicant is a unit of local government, the applicant has a certified copy of a signed agreement with a beneficiary for the use of the facility. If the applicant is a beneficiary, the beneficiary must enter into an agreement with the department. The applicant's or beneficiary's agreement must also require the following:

a. The beneficiary must reimburse the state for state funds that have been distributed and will be distributed if the beneficiary relocates before the agreement expires.

b. The beneficiary must pay for signage or advertising within the facility. The signage or advertising must be placed in a prominent location as close to the field of play or competition as is practicable, must be displayed consistent with signage or advertising in the same location and of like value, and must feature Florida advertising approved by the Florida Tourism Industry Marketing Corporation.

8. The project will commence within 12 months after receiving state funds or did not commence more than 16 months before July 1, 2014.

(b) The department shall competitively evaluate and rank applicants that timely submit applications for state funding based on their ability to positively impact the state using the following criteria:



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359 1. The proposed use of state funds.

360 2. The length of time that a beneficiary has agreed to use
361 the facility.

362 3. The percentage of total project funds provided by the
363 applicant and the percentage of total project funds provided by
364 the beneficiary, with priority in the evaluation and ranking
365 given to applications with 50 percent or more of total project
366 funds provided by the applicant and beneficiary.

367 4. The number and type of signature events the facility is
368 likely to attract during the duration of the agreement with the
369 beneficiary.

370 5. The anticipated increase in average annual ticket sales
371 and attendance at the facility due to the project.

372 6. The potential to attract out-of-state visitors to the
373 facility.

374 7. The length of time a beneficiary has been in this state
375 or partnered with the unit of local government. In order to
376 encourage new franchises to locate in this state, an application
377 for a new franchise shall be considered to have a significant
378 positive impact on the state and shall be given priority in the
379 evaluation and ranking by the department.

380 8. The multiuse capabilities of the facility.

381 9. The facility's projected employment of residents of this
382 state, contracts with Florida-based firms, and purchases of
383 locally available building materials.

384 10. The amount of private and local financial or in-kind
385 contributions to the project.

386 11. The amount of positive advertising or media coverage
387 the facility generates.



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(6) DISTRIBUTION.—

(a) The department shall determine the annual distribution amount an applicant may receive based on 80 percent of the average annual new incremental state sales taxes generated by sales at the facility, as provided under subparagraph (b)2., and such annual distribution shall be limited by the following:

1. If the total project cost is \$200 million or greater, the annual distribution amount may be up to \$3 million.

2. If the total project cost is at least \$100 million but less than \$200 million, the annual distribution amount may be up to \$2 million.

3. If the total project cost is less than \$100 million, the annual distribution amount may be up to \$1 million.

(b) At the time of initial evaluation and review by the department pursuant to subsection (5), the applicant must provide an analysis by an independent certified public accountant which demonstrates:

1. The amount of state sales taxes generated by sales at the facility during the 12-month period immediately before the beginning of the application period. This amount is the baseline. Notwithstanding any other provision of this section, for projects with a total cost of more than \$300 million which are at least 90 percent funded by private sources, the baseline shall be zero for purposes of this section.

2. The expected amount of average annual new incremental state sales taxes generated by sales at the facility above the baseline which will be generated as a result of the project.

3. The expected amount of average annual new incremental state sales taxes generated by sales at the facility must be at



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least \$500,000 above the baseline for the applicant to be eligible to receive a distribution under this section.

(c) The independent analysis provided in paragraph (b) shall be verified by the department.

(d) The Department of Revenue shall begin distributions within 45 days after notification of initial certification from the department.

(e) The department shall consult with the Department of Revenue and the Office of Economic and Demographic Research to develop a standard calculation for estimating the average annual new incremental state sales taxes generated by sales at the facility.

(f) In any 12-month period when total distributions for all certified applicants reach \$13 million, the department may not certify new distributions for additional applicants.

(7) CONTRACT.—An applicant approved by the Legislature and certified by the department must enter into a contract with the department which:

(a) Specifies the terms of the state's investment.

(b) States the criteria that the certified applicant must meet in order to remain certified.

(c) Requires the applicant to submit the independent analysis required under subsection (6) and an annual independent analysis.

1. The applicant must agree to submit to the department, beginning 12 months after completion of a project or 12 months after the first four annual distributions, whichever is earlier, an annual analysis by an independent certified public accountant demonstrating the actual amount of new incremental state sales



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taxes generated by sales at the facility during the previous 12-month period. The applicant shall certify to the department a comparison of the actual amount of state sales taxes generated by sales at the facility during the previous 12-month period to the baseline under subparagraph (6) (b)1.

2. The applicant must submit the certification within 60 days after the end of the previous 12-month period. The department shall verify the analysis.

(d) Specifies information that the certified applicant must report to the department.

(e) Requires the applicant to reimburse the state, after all distributions have been made, an amount equal to the difference between the actual new incremental state sales taxes generated by sales at the facility during the contract and the total amount of distributions made under s. 212.20(6)(d)6.f. If any reimbursement is due to the state, such reimbursement must be made within 90 days after the last distribution under the contract has been made. If the applicant is unable or unwilling to reimburse the state for such amount, the department may place a lien on the applicant's facility.

1. If the applicant is a municipality or county, it may reimburse the state from its half-cent sales tax allocation, as provided in s. 218.64(3).

2. Reimbursements must be sent to the Department of Revenue for deposit into the General Revenue Fund.

(f) Includes any provisions deemed prudent by the department.

(8) USE OF FUNDS.—An applicant certified under this section may use state funds only for the following purposes:



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(a) Constructing, reconstructing, renovating, or improving a facility or reimbursing such costs.

(b) Paying or pledging for the payment of debt service on bonds issued for the construction or renovation of such facility.

(c) Funding debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect thereto on bonds issued for the construction or renovation of such facility.

(d) Reimbursing the costs under paragraphs (b) and (c) or the refinancing of bonds issued for the construction or renovation of such facility.

(9) REPORTS.—

(a) On or before November 1 of each year, an applicant certified under this section and approved to receive state funds must submit to the department any information required by the department. The department shall summarize this information for inclusion in its annual report to the Legislature under paragraph (4) (d).

(b) Every 5 years after an applicant receives its first monthly distribution, the department must verify that the applicant is meeting the program requirements. If the applicant fails to meet these requirements, the department shall notify the Governor and the Legislature in its next annual report under paragraph (4) (d) that the requirements are not being met and recommend future action. The department shall take into consideration extenuating circumstances that may have prevented the applicant from meeting the program requirements, such as force majeure events or a significant economic downturn.



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(10) AUDITS.—The Auditor General may conduct audits pursuant to s. 11.45 to verify the independent analysis required under paragraphs (6)(b) and (7)(c) and to verify that the distributions are expended as required. The Auditor General shall report the findings to the department. If the Auditor General determines that the distribution payments are not expended as required, the Auditor General must notify the Department of Revenue, which may pursue recovery of distributions under the laws and rules that govern the assessment of taxes.

(11) APPLICATION RELATED TO NEW FACILITIES OR PROJECTS COMMENCED BEFORE JULY 1, 2014.—After May 1, 2014, an applicant may apply for state funds for a new facility or a project commenced between March 1, 2013, and July 1, 2014. The department must review the application and recommend approval to the Legislature. The Legislative Budget Commission may approve such applications on or after January 1, 2015. The department must certify the applicant within 45 days of approval by the Legislative Budget Commission. State funds may not be distributed until the department notifies the Department of Revenue that the applicant was approved by the Legislative Budget Commission and certified by the department. An applicant certified under this subsection is subject to the provisions and requirements of this section. An applicant that fails to meet the conditions of this subsection may reapply during future application periods.

(12) REPAYMENT OF DISTRIBUTIONS.—An applicant that is certified under this section may be subject to repayment of distributions upon the occurrence of any of the following:



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(a) An applicant's beneficiary has broken the terms of its agreement with the applicant and relocated from the facility. The beneficiary must reimburse the state for state funds that will be distributed if the beneficiary relocates before the agreement expires.

(b) A determination by the department that an applicant has submitted information or made a representation that is determined to be false, misleading, deceptive, or otherwise untrue. The applicant must reimburse the state for state funds that will be distributed if such determination is made.

(c) Repayment of distributions must be sent to the Department of Revenue for deposit into the General Revenue Fund.

(13) HALTING OF PAYMENTS.—The applicant may request in writing at least 20 days before the next monthly distribution that the department halt future payments. The department shall immediately notify the Department of Revenue to halt future payments.

(14) RULEMAKING.—The department may adopt rules to implement this section.

Section 5. Paragraphs (a) and (c) of subsection (2) of section 288.11631, Florida Statutes, are amended, and paragraph (d) is added to that subsection, to read:

288.11631 Retention of Major League Baseball spring training baseball franchises.—

(2) CERTIFICATION PROCESS.—

(a) Before certifying an applicant to receive state funding for a facility for a spring training franchise, the department must verify that:

1. The applicant is responsible for the construction or



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renovation of the facility for a spring training franchise or holds title to the property on which the facility for a spring training franchise is located.

2. The applicant has a certified copy of a signed agreement with a spring training franchise. The signed agreement with a spring training franchise for the use of a facility must, at a minimum, be equal to the length of the term of the bonds issued for the public purpose of constructing or renovating a facility for a spring training franchise. If no such bonds are issued for the public purpose of constructing or renovating a facility for a spring training franchise, the signed agreement with a spring training franchise for the use of a facility must be for at least 20 years. Any such agreement with a spring training franchise for the use of a facility cannot be signed more than 4 years before the expiration of any existing agreement with a spring training franchise for the use of a facility. However, any such agreement may be signed at any time before the expiration of any existing agreement with a spring training franchise for use of a facility if the applicant has never received state funding for the facility as a spring training facility under this section or s. 288.11621 and the facility was constructed before January 1, 2000. The agreement must also require the franchise to reimburse the state for state funds expended by an applicant under this section if the franchise relocates before the agreement expires; however, if bonds were issued to construct or renovate a facility for a spring training franchise, the required reimbursement must be equal to the total amount of state distributions expected to be paid from the date the franchise breaks its agreement with the applicant through



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the final maturity of the bonds. The agreement may be contingent on an award of funds under this section and other conditions precedent.

3. The applicant has made a financial commitment to provide 50 percent or more of the funds required by an agreement for the construction or renovation of the facility for a spring training franchise. The commitment may be contingent upon an award of funds under this section and other conditions precedent.

4. The applicant demonstrates that the facility for a spring training franchise will attract a paid attendance of at least 50,000 persons annually to the spring training games.

5. The facility for a spring training franchise is located in a county that levies a tourist development tax under s. 125.0104.

(c) Each applicant certified on or after July 1, 2013, shall enter into an agreement with the department which:

1. Specifies the amount of the state incentive funding to be distributed. The amount of state incentive funding per certified applicant may not exceed \$20 million. However, if a certified applicant's facility is used by more than one spring training franchise, the maximum amount may not exceed \$50 million, and the Department of Revenue shall make distributions to the applicant pursuant to s. 212.20(6)(d)6.e. ~~for not more than 37 years and 6 months.~~

2. States the criteria that the certified applicant must meet in order to remain certified. These criteria must include a provision stating that the spring training franchise must reimburse the state for any funds received if the franchise does not comply with the terms of the contract. If bonds were issued



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to construct or renovate a facility for a spring training franchise, the required reimbursement must be equal to the total amount of state distributions expected to be paid from the date the franchise violates the agreement with the applicant through the final maturity of the bonds.

3. States that the certified applicant is subject to decertification if the certified applicant fails to comply with this section or the agreement.

4. States that the department may recover state incentive funds if the certified applicant is decertified.

5. Specifies the information that the certified applicant must report to the department.

6. Includes any provision deemed prudent by the department.

(d) If a certified applicant has been certified under this program for use of its facility by one spring training franchise, the certified applicant may apply to amend its certification for use of its facility by more than one spring training franchise. The certified applicant must submit an application to amend its original certification that meets the requirements of this section. The maximum amount of state incentive funding to be distributed may not exceed \$50 million as provided in subparagraph (c)1. for a certified applicant with a facility used by more than one spring training franchise, including any distributions previously received by the certified applicant under its original certification under this section. Upon approval of an amended certification, the department shall notify the Department of Revenue as provided in this section.

Section 6. Section 288.1166, Florida Statutes, is amended to read:



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288.1166 Professional sports facility; designation as shelter site for the homeless; establishment of local programs.—

(1) A ~~Any~~ professional sports facility constructed with financial assistance from the state ~~of Florida~~ shall be designated as a shelter site for the homeless during the period of a declared federal, state, or local emergency in accordance with the criteria of locally existing homeless shelter programs unless:—except when

(a) The facility is otherwise contractually obligated for a specific event or activity;

(b) The facility is designated or used by the county owning the facility as a staging area; or

(c) The county owning the facility also owns or operates homeless assistance centers and the county determines there exists sufficient capacity to meet the sheltering needs of homeless persons within the county.

(2) If ~~Should~~ a local program does not exist ~~be in existence~~ in the facility's area, such program shall be established in accordance with normally accepted criteria as defined by the county or its designee.

Section 7. (1) The executive director of the Department of Economic Opportunity is authorized, and all conditions are deemed met, to adopt emergency rules pursuant to ss. 120.536(1) and 120.54(4), Florida Statutes, for the purpose of implementing this act.

(2) Notwithstanding any provision of law, such emergency rules shall remain in effect for 6 months after the date adopted and may be renewed during the pendency of procedures to adopt permanent rules addressing the subject of the emergency rules.



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(3) This section expires July 1, 2015.

Section 8. This act shall take effect upon becoming a law.

===== 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 professional sports facilities;
amending s. 212.20, F.S.; revising the distribution of
moneys to certified applicants for a facility used by
a spring training franchise under s. 288.11631, F.S.;
authorizing a distribution for an applicant that has
been approved by the Legislature and certified by the
Department of Economic Opportunity under s. 288.11625,
F.S.; providing a limitation; amending s. 218.64,
F.S.; providing for municipalities and counties to
expend an increased portion of local government half-
cent sales tax revenues to reimburse the state as
required by a contract; amending s. 288.0001, F.S.;
providing for an evaluation; creating s. 288.11625,
F.S.; requiring the Department of Economic Opportunity
to screen applicants for state funding for sports
development; defining terms; providing a purpose to
provide funding for applicants for constructing,
reconstructing, renovating, or improving a facility;
providing an application and approval process;
providing for an annual application period; providing
for the department to submit recommendations to the



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Legislature by a certain date; requiring legislative approval for state funding; providing evaluation criteria for an applicant to receive state funding; providing for evaluation and ranking of applicants under certain criteria; requiring the department to determine the annual distribution amount an applicant may receive; requiring the applicant to provide an analysis by a certified public accountant to the department; requiring the Department of Revenue to distribute funds within a certain timeframe after notification by the department; requiring the department to develop a calculation to estimate certain taxes; limiting annual distributions to a specified amount; providing for a contract between the department and the applicant; limiting use of funds; requiring an applicant to submit information to the department annually; requiring a 5-year review; authorizing the Auditor General to conduct audits; authorizing the Legislative Budget Commission to approve an application; providing for reimbursement of the state funding under certain circumstances; providing for discontinuation of distributions upon an applicant's request; authorizing the department to adopt rules; amending s. 288.11631, F.S.; revising the requirements for an applicant to be certified to receive state funding for a facility for a spring training franchise; authorizing a certified applicant to submit an amendment to its original certification for use of the facility by more than one spring



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736 training franchise; amending s. 288.1166, F.S.;

737 providing that certain professional sports facilities

738 are designated as shelter sites for the homeless

739 during declared federal, state, or local emergencies;

740 providing exceptions; authorizing the department to

741 adopt emergency rules; providing an effective date.



413820

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/11/2014	.	
	.	
	.	
	.	

The Committee on Appropriations (Latvala) recommended the following:

Senate Amendment to Amendment (407778)

Delete lines 131 - 132

and insert:

Department of Economic Opportunity for the applicant. The department may not distribute more than \$6 million in fiscal year 2014-2015 and more than \$13 million annually thereafter

Delete line 431

and insert:

certify new distributions for additional applicants. In fiscal



413820

11 year 2014-2015, the department may not certify total
12 distributions of more than \$6 million for all certified
13 applicants.



334530

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/11/2014	.	
	.	
	.	
	.	

The Committee on Appropriations (Galvano) recommended the following:

Senate Amendment to Amendment (407778)

Delete line 210
and insert:
Association, the promoter or host of a signature event
administered by Breeders' Cup Limited, or the promoter of a
signature event sanctioned by



463492

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/10/2014	.	
	.	
	.	
	.	

The Committee on Appropriations (Galvano) recommended the following:

Senate Amendment

Delete line 259
and insert:
League of Major League Baseball, Major League Soccer, the
promoter or host of a signature event administered by Breeders'
Cup Limited, or the

By the Committee on Commerce and Tourism; and Senator Latvala

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20141216c1

1 A bill to be entitled
 2 An act relating to professional sports facilities;
 3 amending s. 212.20, F.S.; revising the distribution of
 4 moneys to certified applicants for a
 5 facility used by a spring training franchise under s.
 6 288.11631, F.S.; authorizing a distribution for an
 7 applicant that has been approved by the Legislature
 8 and certified by the Department of Economic
 9 Opportunity under s. 288.11625, F.S.; providing a
 10 limitation; amending s. 218.64, F.S.; providing for
 11 municipalities and counties to expend an increased
 12 portion of local government half-cent sales tax
 13 revenues to reimburse the state as required by a
 14 contract; amending s. 288.0001, F.S.; providing for an
 15 evaluation; creating s. 288.11625, F.S.; requiring the
 16 Department of Economic Opportunity to screen
 17 applicants for state funding for sports development;
 18 defining terms; providing a purpose to provide funding
 19 for applicants for constructing, reconstructing,
 20 renovating, or improving a facility; providing an
 21 application and approval process; providing for an
 22 annual application period; providing for the
 23 department to submit recommendations to the
 24 Legislature by a certain date; requiring legislative
 25 approval for state funding; providing evaluation
 26 criteria for an applicant to receive state funding;
 27 providing for evaluation and ranking of applicants
 28 under certain criteria; requiring the department to
 29 determine the annual distribution amount an applicant

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

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20141216c1

30 may receive; requiring the applicant to provide an
 31 analysis by a certified public accountant to the
 32 department; requiring the Department of Revenue to
 33 distribute funds within a certain timeframe after
 34 notification by the department; requiring the
 35 department to develop a calculation to estimate
 36 certain taxes; limiting annual distributions to a
 37 specified amount; providing for a contract between the
 38 department and the applicant; limiting use of funds;
 39 requiring an applicant to submit information to the
 40 department annually; requiring a 5-year review;
 41 authorizing the Auditor General to conduct audits;
 42 providing for reimbursement of the state funding under
 43 certain circumstances; providing for discontinuation
 44 of distributions upon an applicant's request;
 45 authorizing the department to adopt rules; amending s.
 46 288.11631, F.S.; revising the requirements for an
 47 applicant to be certified to receive state funding for
 48 a facility for a spring training franchise;
 49 authorizing a certified applicant to submit an
 50 amendment to its original certification for use of the
 51 facility by more than one spring training franchise;
 52 authorizing the department to adopt emergency rules;
 53 providing an effective date.

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

56
 57 Section 1. Paragraph (d) of subsection (6) of section
 58 212.20, Florida Statutes, is amended to read:

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

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212.20 Funds collected, disposition; additional powers of department; operational expense; refund of taxes adjudicated unconstitutionally collected.—

(6) Distribution of all proceeds under this chapter and s. 202.18(1)(b) and (2)(b) shall be as follows:

(d) The proceeds of all other taxes and fees imposed pursuant to this chapter or remitted pursuant to s. 202.18(1)(b) and (2)(b) shall be distributed as follows:

1. In any fiscal year, the greater of \$500 million, minus an amount equal to 4.6 percent of the proceeds of the taxes collected pursuant to chapter 201, or 5.2 percent of all other taxes and fees imposed pursuant to this chapter or remitted pursuant to s. 202.18(1)(b) and (2)(b) shall be deposited in monthly installments into the General Revenue Fund.

2. After the distribution under subparagraph 1., 8.814 percent of the amount remitted by a sales tax dealer located within a participating county pursuant to s. 218.61 shall be transferred into the Local Government Half-cent Sales Tax Clearing Trust Fund. Beginning July 1, 2003, the amount to be transferred shall be reduced by 0.1 percent, and the department shall distribute this amount to the Public Employees Relations Commission Trust Fund less \$5,000 each month, which shall be added to the amount calculated in subparagraph 3. and distributed accordingly.

3. After the distribution under subparagraphs 1. and 2., 0.095 percent shall be transferred to the Local Government Half-cent Sales Tax Clearing Trust Fund and distributed pursuant to s. 218.65.

4. After the distributions under subparagraphs 1., 2., and

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3., 2.0440 percent of the available proceeds shall be transferred monthly to the Revenue Sharing Trust Fund for Counties pursuant to s. 218.215.

5. After the distributions under subparagraphs 1., 2., and 3., 1.3409 percent of the available proceeds shall be transferred monthly to the Revenue Sharing Trust Fund for Municipalities pursuant to s. 218.215. If the total revenue to be distributed pursuant to this subparagraph is at least as great as the amount due from the Revenue Sharing Trust Fund for Municipalities and the former Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000, no municipality shall receive less than the amount due from the Revenue Sharing Trust Fund for Municipalities and the former Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000. If the total proceeds to be distributed are less than the amount received in combination from the Revenue Sharing Trust Fund for Municipalities and the former Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000, each municipality shall receive an amount proportionate to the amount it was due in state fiscal year 1999-2000.

6. Of the remaining proceeds:

a. In each fiscal year, the sum of \$29,915,500 shall be divided into as many equal parts as there are counties in the state, and one part shall be distributed to each county. The distribution among the several counties must begin each fiscal year on or before January 5th and continue monthly for a total of 4 months. If a local or special law required that any moneys accruing to a county in fiscal year 1999-2000 under the then-existing provisions of s. 550.135 be paid directly to the

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district school board, special district, or a municipal government, such payment must continue until the local or special law is amended or repealed. The state covenants with holders of bonds or other instruments of indebtedness issued by local governments, special districts, or district school boards before July 1, 2000, that it is not the intent of this subparagraph to adversely affect the rights of those holders or relieve local governments, special districts, or district school boards of the duty to meet their obligations as a result of previous pledges or assignments or trusts entered into which obligated funds received from the distribution to county governments under then-existing s. 550.135. This distribution specifically is in lieu of funds distributed under s. 550.135 before July 1, 2000.

b. The department shall distribute \$166,667 monthly pursuant to s. 288.1162 to each applicant certified as a facility for a new or retained professional sports franchise pursuant to s. 288.1162. Up to \$41,667 shall be distributed monthly by the department to each certified applicant as defined in s. 288.11621 for a facility for a spring training franchise. However, not more than \$416,670 may be distributed monthly in the aggregate to all certified applicants for facilities for spring training franchises. Distributions begin 60 days after such certification and continue for not more than 30 years, except as otherwise provided in s. 288.11621. A certified applicant identified in this sub-subparagraph may not receive more in distributions than expended by the applicant for the public purposes provided for in s. 288.1162(5) or s. 288.11621(3).

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c. Beginning 30 days after notice by the Department of Economic Opportunity to the Department of Revenue that an applicant has been certified as the professional golf hall of fame pursuant to s. 288.1168 and is open to the public, \$166,667 shall be distributed monthly, for up to 300 months, to the applicant.

d. Beginning 30 days after notice by the Department of Economic Opportunity to the Department of Revenue that the applicant has been certified as the International Game Fish Association World Center facility pursuant to s. 288.1169, and the facility is open to the public, \$83,333 shall be distributed monthly, for up to 168 months, to the applicant. This distribution is subject to reduction pursuant to s. 288.1169. A lump sum payment of \$999,996 shall be made, after certification and before July 1, 2000.

e. The department shall distribute up to \$83,333 ~~\$55,555~~ monthly to each certified applicant as defined in s. 288.11631 for a facility used by a single spring training franchise, or up to \$166,667 ~~\$111,110~~ monthly to each certified applicant as defined in s. 288.11631 for a facility used by more than one spring training franchise. Monthly distributions begin 60 days after such certification or July 1, 2016, whichever is later, and continue for not more than 20 ~~30~~ years to each certified applicant as defined in s. 288.11631 for a facility used by a single spring training franchise or not more than 25 years to each certified applicant as defined in s. 288.11631 for a facility used by more than one spring training franchise, ~~except as otherwise provided in s. 288.11631~~. A certified applicant identified in this sub-subparagraph may not receive more in

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distributions than expended by the applicant for the public purposes provided in s. 288.11631(3).

f. Beginning 45 days after notice by the Department of Economic Opportunity to the Department of Revenue that an applicant has been approved by the Legislature and certified by the Department of Economic Opportunity under s. 288.11625, the department shall distribute each month an amount equal to one-twelfth of the annual distribution amount certified by the Department of Economic Opportunity for the applicant. The department may not distribute more than \$13 million annually under this sub-subparagraph.

7. All other proceeds must remain in the General Revenue Fund.

Section 2. Subsections (2) and (3) of section 218.64, Florida Statutes, are amended to read:

218.64 Local government half-cent sales tax; uses; limitations.—

(2) Municipalities shall expend their portions of the local government half-cent sales tax only for municipality-wide programs, for reimbursing the state as required by a contract pursuant to s. 288.11625(7), or for municipality-wide property tax or municipal utility tax relief. All utility tax rate reductions afforded by participation in the local government half-cent sales tax shall be applied uniformly across all types of taxed utility services.

(3) Subject to ordinances enacted by the majority of the members of the county governing authority and by the majority of the members of the governing authorities of municipalities representing at least 50 percent of the municipal population of

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such county, counties may use up to \$3 ~~\$2~~ million annually of the local government half-cent sales tax allocated to that county for ~~funding for~~ any of the following purposes ~~applicants~~:

(a) Funding a certified applicant as a facility for a new or retained professional sports franchise under s. 288.1162 or a certified applicant as defined in s. 288.11621 for a facility for a spring training franchise. It is the Legislature's intent that the provisions of s. 288.1162, including, but not limited to, the evaluation process by the Department of Economic Opportunity except for the limitation on the number of certified applicants or facilities as provided in that section and the restrictions set forth in s. 288.1162(8), shall apply to an applicant's facility to be funded by local government as provided in this subsection.

(b) Funding a certified applicant as a "motorsport entertainment complex," as provided for in s. 288.1171. Funding for each franchise or motorsport complex shall begin 60 days after certification and shall continue for not more than 30 years.

(c) Reimbursing the state as required by a contract entered into under s. 288.11625(7).

Section 3. Paragraph (d) is added to subsection (2) of section 288.0001, Florida Statutes, to read:

288.0001 Economic Development Programs Evaluation.—The Office of Economic and Demographic Research and the Office of Program Policy Analysis and Government Accountability (OPPAGA) shall develop and present to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairs of the legislative appropriations committees the Economic

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Development Programs Evaluation.

(2) The Office of Economic and Demographic Research and OPPAGA shall provide a detailed analysis of economic development programs as provided in the following schedule:

(d) Beginning January 1, 2018, and every 3 years thereafter, an analysis of the Sports Development Program established under s. 288.11625.

Section 4. Section 288.11625, Florida Statutes, is created to read:

288.11625 Sports development.-

(1) ADMINISTRATION.-The department shall serve as the state agency responsible for screening applicants for state funding under s. 212.20(6)(d)6.f.

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

(a) "Agreement" means a signed agreement between a unit of local government and a beneficiary.

(b) "Applicant" means a unit of local government, as defined in s. 218.369, which is responsible for the construction, management, or operation of a facility; or an entity that is responsible for the construction, management, or operation of a facility if a unit of local government holds title to the underlying property on which the facility is located.

(c) "Beneficiary" means a professional sports franchise of the National Football League, the National Hockey League, the National Basketball Association, the National League or American League of Major League Baseball, Major League Soccer, or the promoter of a signature event sanctioned by the National Association for Stock Car Auto Racing. A beneficiary may also be

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an applicant under this section.

(d) "Facility" means a structure primarily used to host games or events held by a beneficiary and does not include any portion used to provide transient lodging.

(e) "Project" means a proposed construction, reconstruction, renovation, or improvement of a facility or the proposed acquisition of land to construct a new facility and construction of improvements to state-owned land necessary for the efficient use of the facility.

(f) "Signature event" means a professional sports event with significant export factor potential. For purposes of this paragraph, the term "export factor" means the attraction of economic activity or growth into the state which otherwise would not have occurred. Examples of signature events may include, but are not limited to:

1. National Football League Super Bowls.

2. Professional sports All-Star games.

3. International sporting events and tournaments.

4. Professional motorsports events.

5. The establishment of a new professional sports franchise in this state.

(g) "State sales taxes generated by sales at the facility" means state sales taxes imposed under chapter 212 generated by admissions to the facility or by sales made by vendors at the facility who are accessible only to persons attending events occurring at the facility.

(3) PURPOSE.-The purpose of this section is to provide applicants state funding under s. 212.20(6)(d)6.f. for the public purpose of constructing, reconstructing, renovating, or

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improving a facility.

(4) APPLICATION AND APPROVAL PROCESS.—

(a) The department shall establish the procedures and application forms deemed necessary pursuant to the requirements of this section. The department may notify an applicant of any additional required or incomplete information necessary to evaluate an application.

(b) The annual application period is from June 1 through November 1.

(c) Within 60 days after receipt of a completed application, the department shall complete its evaluation of the application as provided under subsection (5) and notify the applicant in writing of the department's decision to recommend approval of the applicant by the Legislature or to deny the application.

(d) By each February 1, the department shall rank the applicants and provide to the Legislature the list of the recommended applicants in ranked order of projects most likely to positively impact the state based on criteria established under this section. The list must include the department's evaluation of the applicant.

(e) A recommended applicant's request for funding must be approved by the Legislature by general law.

1. An application by a unit of local government which is approved by the Legislature and subsequently certified by the department remains certified for the duration of the beneficiary's agreement with the applicant or for 30 years, whichever is less, provided the certified applicant has an agreement with a beneficiary at the time of initial

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certification by the department.

2. An application by a beneficiary or other applicant which is approved by the Legislature and subsequently certified by the department remains certified for the duration of the beneficiary's agreement with the unit of local government that owns the underlying property or for 30 years, whichever is less, provided the certified applicant has an agreement with the unit of local government at the time of initial certification by the department.

3. An applicant that is previously certified pursuant to this section does not need legislative approval each year to receive state funding.

(f) An applicant that is recommended by the department but not approved by the Legislature may reapply and shall update any information in the original application as required by the department.

(g) The department may recommend no more than one distribution under this section for any applicant, facility, or beneficiary at a time.

(5) EVALUATION PROCESS.—

(a) Before recommending an applicant to receive a state distribution under s. 212.20(6)(d)6.f., the department must verify that:

1. The applicant or beneficiary is responsible for the construction, reconstruction, renovation, or improvement of a facility and obtained at least three bids for the project.

2. If the applicant is not a unit of local government, a unit of local government holds title to the property on which the facility and project are located.

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3. If the applicant is a unit of local government in whose jurisdiction the facility will be located, the unit of local government has an exclusive intent agreement to negotiate in this state with the beneficiary.

4. A unit of local government in whose jurisdiction the facility will be located supports the application for state funds. Such support must be verified by the adoption of a resolution, after a public hearing, that the project serves a public purpose.

5. The applicant or beneficiary has not previously defaulted or failed to meet any statutory requirements of a previous state-administered sports-related program under s. 288.1162, s. 288.11621, or s. 288.1168. Additionally, the applicant or beneficiary is not currently receiving state distributions under s. 212.20 or the facility that is the subject of the application is not the subject of a distribution under s. 212.20.

6. The applicant or beneficiary has sufficiently demonstrated a commitment to employ residents of this state, contract with Florida-based firms, and purchase locally available building materials to the greatest extent possible.

7. If the applicant is a unit of local government, the applicant has a certified copy of a signed agreement with a beneficiary for the use of the facility. If the applicant is a beneficiary, the beneficiary must enter into an agreement with the department. The applicant's or beneficiary's agreement must also require the following:

a. The beneficiary must reimburse the state for state funds that have been distributed and will be distributed if the

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beneficiary relocates before the agreement expires.

b. The beneficiary must pay for signage or advertising within the facility. The signage or advertising must be placed in a prominent location as close to the field of play or competition as is practicable, must be displayed consistent with signage or advertising in the same location and of like value, and must feature Florida advertising approved by the Florida Tourism Industry Marketing Corporation.

8. The project will commence within 12 months after receiving state funds or did not commence more than 16 months before July 1, 2014.

(b) The department shall competitively evaluate and rank applicants that timely submit applications for state funding based on their ability to positively impact the state using the following criteria:

1. The proposed use of state funds.

2. The length of time that a beneficiary has agreed to use the facility.

3. The percentage of total project funds provided by the applicant and the percentage of total project funds provided by the beneficiary, with priority in the evaluation and ranking given to applications with 50 percent or more of total project funds provided by the applicant and beneficiary.

4. The number and type of signature events the facility is likely to attract during the duration of the agreement with the beneficiary.

5. The anticipated increase in average annual ticket sales and attendance at the facility due to the project.

6. The potential to attract out-of-state visitors to the

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407 facility.

408 7. The length of time a beneficiary has been in this state
 409 or partnered with the unit of local government. In order to
 410 encourage new franchises to locate in this state, an application
 411 for a new franchise shall be considered to have a significant
 412 positive impact on the state and shall be given priority in the
 413 evaluation and ranking by the department.

414 8. The multiuse capabilities of the facility.

415 9. The facility's projected employment of residents of this
 416 state, contracts with Florida-based firms, and purchases of
 417 locally available building materials.

418 10. The amount of private and local financial or in-kind
 419 contributions to the project.

420 11. The amount of positive advertising or media coverage
 421 the facility generates.

422 (6) DISTRIBUTION.—

423 (a) The department shall determine the annual distribution
 424 amount an applicant may receive based on 80 percent of the
 425 average annual new incremental state sales taxes generated by
 426 sales at the facility as provided under subparagraph (b)2., up
 427 to \$3 million.

428 (b) At the time of initial evaluation and review by the
 429 department pursuant to subsection (5), the applicant must
 430 provide an analysis by an independent certified public
 431 accountant which demonstrates:

432 1. The amount of state sales taxes generated by sales at
 433 the facility during the 12-month period immediately before the
 434 beginning of the application period. This amount is the
 435 baseline.

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436 2. The expected amount of average annual new incremental
 437 state sales taxes generated by sales at the facility above the
 438 baseline which will be generated as a result of the project.

439 3. The expected amount of average annual new incremental
 440 state sales taxes generated by sales at the facility must be at
 441 least \$500,000 above the baseline for the applicant to be
 442 eligible to receive a distribution under this section.

443 (c) The independent analysis provided in paragraph (b)
 444 shall be verified by the department.

445 (d) The Department of Revenue shall begin distributions
 446 within 45 days after notification of initial certification from
 447 the department.

448 (e) The department shall consult with the Department of
 449 Revenue and the Office of Economic and Demographic Research to
 450 develop a standard calculation for estimating the average annual
 451 new incremental state sales taxes generated by sales at the
 452 facility.

453 (f) In any 12-month period when total distributions for all
 454 certified applicants reach \$13 million, the department may not
 455 certify new distributions for additional applicants.

456 (7) CONTRACT.—An applicant approved by the Legislature and
 457 certified by the department must enter into a contract with the
 458 department which:

459 (a) Specifies the terms of the state's investment.

460 (b) States the criteria that the certified applicant must
 461 meet in order to remain certified.

462 (c) Requires the applicant to submit the independent
 463 analysis required under subsection (6) and an annual independent
 464 analysis.

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1. The applicant must agree to submit to the department, beginning 12 months after completion of a project or 12 months after the first four annual distributions, whichever is earlier, an annual analysis by an independent certified public accountant demonstrating the actual amount of new incremental state sales taxes generated by sales at the facility during the previous 12-month period. The applicant shall certify to the department a comparison of the actual amount of state sales taxes generated by sales at the facility during the previous 12-month period to the baseline under subparagraph (6)(b)1.

2. The applicant must submit the certification within 60 days after the end of the previous 12-month period. The department shall verify the analysis.

(d) Specifies information that the certified applicant must report to the department.

(e) Requires the applicant to reimburse the state, after all distributions have been made, an amount equal to the difference between the actual new incremental state sales taxes generated by sales at the facility during the contract and the total amount of distributions made under s. 212.20(6)(d)6.f. If any reimbursement is due to the state, such reimbursement must be made within 90 days after the last distribution under the contract has been made. If the applicant is unable or unwilling to reimburse the state for such amount, the department may place a lien on the applicant's facility.

1. If the applicant is a municipality or county, it may reimburse the state from its half-cent sales tax allocation, as provided in s. 218.64(3).

2. Reimbursements must be sent to the Department of Revenue

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for deposit into the General Revenue Fund.

(f) Includes any provisions deemed prudent by the department.

(8) USE OF FUNDS.—An applicant certified under this section may use state funds only for the following purposes:

(a) Constructing, reconstructing, renovating, or improving a facility or reimbursing such costs.

(b) Paying or pledging for the payment of debt service on bonds issued for the construction or renovation of such facility.

(c) Funding debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect thereto on bonds issued for the construction or renovation of such facility.

(d) Reimbursing the costs under paragraphs (b) and (c) or the refinancing of bonds issued for the construction or renovation of such facility.

(9) REPORTS.—

(a) On or before November 1 of each year, an applicant certified under this section and approved to receive state funds must submit to the department any information required by the department. The department shall summarize this information for inclusion in its annual report to the Legislature under paragraph (4)(d).

(b) Every 5 years after an applicant receives its first monthly distribution, the department must verify that the applicant is meeting the program requirements. If the applicant fails to meet these requirements, the department shall notify the Governor and the Legislature in its next annual report under

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paragraph (4) (d) that the requirements are not being met and recommend future action. The department shall take into consideration extenuating circumstances that may have prevented the applicant from meeting the program requirements, such as force majeure events or a significant economic downturn.

(10) AUDITS.—The Auditor General may conduct audits pursuant to s. 11.45 to verify the independent analysis required under paragraphs (6) (b) and (7) (c) and to verify that the distributions are expended as required. The Auditor General shall report the findings to the department. If the Auditor General determines that the distribution payments are not expended as required, the Auditor General must notify the Department of Revenue, which may pursue recovery of distributions under the laws and rules that govern the assessment of taxes.

(11) REPAYMENT OF DISTRIBUTIONS.—An applicant that is certified under this section may be subject to repayment of distributions upon the occurrence of any of the following:

(a) An applicant's beneficiary has broken the terms of its agreement with the applicant and relocated from the facility. The beneficiary must reimburse the state for state funds that will be distributed if the beneficiary relocates before the agreement expires.

(b) A determination by the department that an applicant has submitted information or made a representation that is determined to be false, misleading, deceptive, or otherwise untrue. The applicant must reimburse the state for state funds that will be distributed if such determination is made.

(c) Repayment of distributions must be sent to the

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Department of Revenue for deposit into the General Revenue Fund.

(12) HALTING OF PAYMENTS.—The applicant may request in writing at least 20 days before the next monthly distribution that the department halt future payments. The department shall immediately notify the Department of Revenue to halt future payments.

(13) RULEMAKING.—The department may adopt rules to implement this section.

Section 5. Paragraphs (a) and (c) of subsection (2) of section 288.11631, Florida Statutes, are amended, and paragraph (d) is added to that subsection, to read:

288.11631 Retention of Major League Baseball spring training baseball franchises.—

(2) CERTIFICATION PROCESS.—

(a) Before certifying an applicant to receive state funding for a facility for a spring training franchise, the department must verify that:

1. The applicant is responsible for the construction or renovation of the facility for a spring training franchise or holds title to the property on which the facility for a spring training franchise is located.

2. The applicant has a certified copy of a signed agreement with a spring training franchise. The signed agreement with a spring training franchise for the use of a facility must, at a minimum, be equal to the length of the term of the bonds issued for the public purpose of constructing or renovating a facility for a spring training franchise. If no such bonds are issued for the public purpose of constructing or renovating a facility for a spring training franchise, the signed agreement with a spring

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training franchise for the use of a facility must be for at least 20 years. Any such agreement with a spring training franchise for the use of a facility cannot be signed more than 4 years before the expiration of any existing agreement with a spring training franchise for the use of a facility. However, any such agreement may be signed at any time before the expiration of any existing agreement with a spring training franchise for use of a facility if the applicant has never received state funding for the facility as a spring training facility under this section or s. 288.11621 and the facility was constructed before January 1, 2000. The agreement must also require the franchise to reimburse the state for state funds expended by an applicant under this section if the franchise relocates before the agreement expires; however, if bonds were issued to construct or renovate a facility for a spring training franchise, the required reimbursement must be equal to the total amount of state distributions expected to be paid from the date the franchise breaks its agreement with the applicant through the final maturity of the bonds. The agreement may be contingent on an award of funds under this section and other conditions precedent.

3. The applicant has made a financial commitment to provide 50 percent or more of the funds required by an agreement for the construction or renovation of the facility for a spring training franchise. The commitment may be contingent upon an award of funds under this section and other conditions precedent.

4. The applicant demonstrates that the facility for a spring training franchise will attract a paid attendance of at least 50,000 persons annually to the spring training games.

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5. The facility for a spring training franchise is located in a county that levies a tourist development tax under s. 125.0104.

(c) Each applicant certified on or after July 1, 2013, shall enter into an agreement with the department which:

1. Specifies the amount of the state incentive funding to be distributed. The amount of state incentive funding per certified applicant may not exceed \$20 million. However, if a certified applicant's facility is used by more than one spring training franchise, the maximum amount may not exceed \$50 million, and the Department of Revenue shall make distributions to the applicant pursuant to s. 212.20(6)(d)6.e. ~~for not more than 37 years and 6 months.~~

2. States the criteria that the certified applicant must meet in order to remain certified. These criteria must include a provision stating that the spring training franchise must reimburse the state for any funds received if the franchise does not comply with the terms of the contract. If bonds were issued to construct or renovate a facility for a spring training franchise, the required reimbursement must be equal to the total amount of state distributions expected to be paid from the date the franchise violates the agreement with the applicant through the final maturity of the bonds.

3. States that the certified applicant is subject to decertification if the certified applicant fails to comply with this section or the agreement.

4. States that the department may recover state incentive funds if the certified applicant is decertified.

5. Specifies the information that the certified applicant

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639 must report to the department.

640 6. Includes any provision deemed prudent by the department.

641 (d) If a certified applicant has been certified under this
642 program for use of its facility by one spring training
643 franchise, the certified applicant may apply to amend its
644 certification for use of its facility by more than one spring
645 training franchise. The certified applicant must submit an
646 application to amend its original certification that meets the
647 requirements of this section. The maximum amount of state
648 incentive funding to be distributed may not exceed \$50 million
649 as provided in subparagraph (c)1. for a certified applicant with
650 a facility used by more than one spring training franchise,
651 including any distributions previously received by the certified
652 applicant under its original certification under this section.
653 Upon approval of an amended certification, the department shall
654 notify the Department of Revenue as provided in this section.

655 Section 6. (1) The executive director of the Department of
656 Economic Opportunity is authorized, and all conditions are
657 deemed met, to adopt emergency rules pursuant to ss. 120.536(1)
658 and 120.54(4), Florida Statutes, for the purpose of implementing
659 this act.

660 (2) Notwithstanding any provision of law, such emergency
661 rules shall remain in effect for 6 months after the date adopted
662 and may be renewed during the pendency of procedures to adopt
663 permanent rules addressing the subject of the emergency rules.

664 (3) This section expires July 1, 2015.

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

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

SENATOR JACK LATVALA

20th District

March 26, 2014

The Honorable Senator Joe Negron, Chair
Senate Appropriations Committee
201 The Capitol
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Negron:

I respectfully request that Senate Bill 1216/Professional Sports Facilities be placed on the agenda of the Senate Appropriations Committee at your earliest convenience. This bill was favorably referred from the Senate Committee on Commerce and Tourism on March 25, 2014.

This bill would create the *Professional Sports Facility Incentive Program* process to provide state funding for the public purpose of constructing, reconstructing, renovating, or improving a professional sports facility. Cities in Florida depend on the economic benefits provided by having professional and minor league baseball teams in their communities.

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

Sincerely,

Jack Latvala
State Senator
District 20

Cc: Cindy Kynoch, staff director; Alicia Weiss, administrative assistant

REPLY TO:

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

Senate's Website: www.flsenate.gov

Don Gaetz
President of the Senate

Garrett Richter
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/10/2014

Meeting Date

Topic _____

Bill Number 1216
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH
Street

Phone 727-897-9291

SAINT PETERSBURG FLORIDA 33705
City State Zip

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☐ For ☐ Against ☒ Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/10/14

Meeting Date

Topic Professional Sports Facilities

Bill Number SB 1216

(if applicable)

Name Brewster Bevis

Amendment Barcode

(if applicable)

Job Title Senior Vice President

Address 516 N. Adams St

Street

Tallahassee

FL

32301

City

State

Zip

Phone 224-7173

E-mail bbevis@aif.com

Speaking: ☒ For ☐ Against ☐ Information

Representing Associated Industries of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

April 10, 2014
Meeting Date

Topic Professional Sports Facilities

Bill Number CS/B 1216
(if applicable)

Name Jim BRAINERD

Amendment Barcode _____
(if applicable)

Job Title _____

Address 2814 Rabbit Hill Road
Street

Phone (850) 508-6716

Tallahassee FL 32308
City State Zip

E-mail BRAINERDlaw@comcast.net

Speaking: ☒ For ☐ Against ☐ Information

Representing Polk 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 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-10-14

Meeting Date

Topic SB 1216 Sports Bill Number SB 1216
(if applicable)
Name Joie Chitwood Amendment Barcode _____
(if applicable)
Job Title President, Daytona International Speedway
Address One Daytona Blvd Phone 386-254-2700
Street
Daytona Beach, FL 32114 E-mail jchitwood@daytona
City State Zip international speedway.com
Speaking: ☒ For ☐ Against ☒ Information
Representing International Speedway Corporation
Appearing at request of Chair: ☐ Yes ☐ No Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/10/14

Meeting Date

Topic Professional Sports Facilities

Bill Number SB 1216

(if applicable)

Name Kathy Russell

Amendment Barcode _____

(if applicable)

Job Title Dir. of Gov Relations

Address 400 S. Orange Ave

Street

Phone (407) 383-2075

Orlando, FL 32801

City

State

Zip

E-mail _____

Speaking: ☒ For ☐ Against ☐ Information

Representing City of Orlando

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/16/14
Meeting Date

Topic SPORTS FACILITIES

Bill Number 1216
(if applicable)

Name ROBERT STUART

Amendment Barcode _____
(if applicable)

Job Title GOVT. CONSULTANT

Address 361 E PINE ST
Street
ORLANDO FL 32804
City State Zip

Phone 407-843-8866

E-mail _____

Speaking: ☒ For ☐ Against ☐ Information

Representing ORLANDO CITY SOLLER

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/10/14

Meeting Date

Topic Professional Sports Facilities

Bill Number SB 1216
(if applicable)

Name David Shepp

Amendment Barcode _____
(if applicable)

Job Title Consultant

Address P.O. Box 3739

Phone 863 581-4250

Street

Lakeland FL 33802

City

State

Zip

E-mail dave@fsg-llc.net

Speaking: ☒ For ☐ Against ☐ Information

Representing City of Lakeland

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/10/14

Meeting Date

Topic _____

Bill Number SB1216
(if applicable)

Name Ron Book

Amendment Barcode _____
(if applicable)

Job Title _____

Address 104 W. Jefferson St
TuH 32301
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Speaking: ☒ For ☐ Against ☐ Information

Representing SunLife Stadium

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard 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 1276

INTRODUCER: Appropriations Committee; Health Policy Committee; and Senator Grimsley

SUBJECT: Trauma Service Centers

DATE: April 14, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Looke</u>	<u>Stovall</u>	<u>HP</u>	Fav/CS
2.	<u>Brown/Loe</u>	<u>Kynoch</u>	<u>AP</u>	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1276 caps trauma activation fees at \$15,000 and places a moratorium on new verified, designated, or provisional trauma centers until July 1, 2015. A hospital designated as a provisional or verified Level I, Level II, or pediatric trauma center after the enactment of chapter 2004-259, Laws of Florida, whose approval has not been revoked may continue to operate until the approval period in s. 395.4025(6), Florida Statutes, expires, as long as the hospital meets statutory requirements regarding quality of care and patient outcomes.

The bill requires the Department of Health (DOH) to convene the Trauma System Plan Advisory Council in order to review the Trauma System Consultation Report issued by the American College of Surgeons and make recommendations to the Legislature, including recommendations for statutory change, by February 1, 2015. The bill provides requirements for the advisory council's membership composition.

The bill also strikes language allowing hospitals to protest DOH decisions based on the DOH's preliminary or in-depth reviews of applications.¹

The bill has an indeterminate, but likely insignificant, negative fiscal impact on the DOH.

¹ This would not affect a hospital's ability to protest final DOH action under the provisions of ch. 120, F.S.

II. Present Situation:

The regulation of trauma centers in Florida is established under part II of ch. 395, F.S. Trauma centers treat individuals who have incurred single or multiple injuries because of blunt or penetrating means or burns, and who require immediate medical intervention or treatment. Currently, there are 27 verified and provisional trauma centers in the state.²

Trauma centers in Florida are divided into several categories including Level I, Level II, and Pediatric trauma centers.

- A Level I trauma center is defined as a trauma center that:
 - Has formal research and education programs for the enhancement of trauma care; is verified by the Department of Health (DOH) to be in substantial compliance with Level I trauma center and pediatric trauma center standards; and has been approved by the DOH to operate as a Level I trauma center;
 - Serves as a resource facility to Level II trauma centers, pediatric trauma centers, and general hospitals through shared outreach, education, and quality improvement activities; and
 - Participates in an inclusive system of trauma care, including providing leadership, system evaluation, and quality improvement activities.³
- A Level II trauma center is defined as a trauma center that:
 - Is verified by the DOH to be in substantial compliance with Level II trauma center standards and has been approved by the DOH to operate as a Level II trauma center or is designated pursuant to s. 395.4025(14) F.S.;
 - Serves as a resource facility to general hospitals through shared outreach, education, and quality improvement activities; and
 - Participates in an inclusive system of trauma care.⁴
- A Pediatric trauma center is defined as a hospital that is verified by the DOH to be in substantial compliance with pediatric trauma center standards and has been approved by the DOH to operate as a pediatric trauma center.^{5,6}

The Florida Trauma System Plan Advisory Council

The Florida Trauma System Plan Advisory Council (council), is an interagency group that operates under the leadership of the DOH. The committee is made up of members from the DOH, the Agency for Health Care Administration, the Board of Medicine, and the Board of Nursing and has the responsibility of developing guidelines, standards, and rules for those

² See <http://www.floridahealth.gov/licensing-and-regulation/trauma-system/documents/%20traumacenterlisting2014.pdf>, (last visited on Mar. 18, 2014).

³ Section 395.4001(6), F.S.

⁴ Section 395.4001(7), F.S.

⁵ Section 395.4001(8), F.S.

⁶ For Level I, Level II, and pediatric trauma center standards see <http://www.floridahealth.gov/licensing-and-regulation/trauma-system/documents/%20traumacntrstandpamphlet150-9-2009rev1-14-10.pdf> (last visited on Mar. 21, 2014).

portions of the inclusive state trauma system within the authority of each agency.⁷ The council last met in 2010 to review and revise Florida's statewide trauma system plan for 2011-2015.⁸

Trauma Center Apportionment

Pursuant to s. 395.402, F.S., Florida is divided into 19 trauma service areas. A trauma service area is determined based on population density and an ability to respond to a specified number of patients in a trauma center environment. For purposes of medical response time, the trauma service area should have at least one Level I or Level II trauma center, and the DOH is required to allocate, by rule, the number of trauma centers for each trauma service area. There cannot be more than 44 trauma centers in the state.

On November 30, 2012, the Florida First District Court of Appeal upheld a ruling by an administrative law judge at the Division of Administrative Hearings that invalidated DOH Rule 64J-2.010, F.A.C.⁹ The rule mirrored exactly the allocation of trauma service areas in s. 395.402(4), F.S., even though the statute required the DOH to review the assignment of counties to trauma service areas annually. In its opinion, the court stated that the trauma statutes were substantially amended in 2004 but the rule remained unchanged since 1992. As such, the rule continued to implement the outdated provisions of these statutes.¹⁰

In response to this ruling, the DOH began a series of 12 workshops to gather input from the public in order to rewrite Rule 64J-2.010, F.A.C. When these workshops concluded, the DOH published a new proposed rule¹¹ using the input from these workshops and the final report of the American College of Surgeons Committee on Trauma Systems consultation team.¹² The DOH then initiated negotiated rulemaking which took place on January 23, 2014, in order to allow "an opportunity for interested parties to come together and discuss the draft rule text directly with each other."¹³ After the public comment period, the DOH was in a position to certify the proposed rule but received rule challenge petitions in early March 2014.¹⁴ The rule challenges are scheduled to be heard by the Department of Administrative Hearings between March 31 and April 11, 2014.¹⁵

American College of Surgeons Trauma System Consultation Report

Due to the continuing and contentious legal battle between the DOH and trauma system stakeholders beginning in 2012 with *DOH v. Bayfront Medical Center*,¹⁶ ongoing trauma system

⁷ Section 395.40(4), F.S.

⁸ See http://www.associationdatabase.com/aws/ACS/asset_manager/get_file/26063/third_quarter_report_january_-_september_2010.pdf (last visited on Mar. 25, 2014).

⁹ *Department of Health v. Bayfront Medical Center, Inc.*, (Fla. App. 1 Dist., 2012), (on file with Health Policy Committee) ¹⁰ Id., p. 5

¹¹ Available at <https://www.flrules.org/gateway/RuleNo.asp?title=Trauma&ID=64J-2.010> (last visited on Mar. 18, 2014).

¹² Available at <http://www.floridahealth.gov/licensing-and-regulation/trauma-system/documents/fl-report-final-5-6-13.pdf>. (last visited on Mar. 18, 2014).

¹³ Press Release, The DOH, (Dec. 20, 2013) available at <http://newsroom.doh.state.fl.us/wp-content/uploads/newsroom/2013/05/122013-Trauma-Rulemaking-Negotiation.pdf> (last visited on Mar. 18, 2014).

¹⁴ Email from Gary Landry, Legislative Planning Office Manager, DOH (on file with Senate Health Policy Committee)

¹⁵ Id.

¹⁶ Id. n. 9

development in Florida has been at a standstill.¹⁷ Due to this longstanding impasse, the DOH requested the American College of Surgeons Committee on Trauma (ACS) to evaluate Florida's trauma system.¹⁸ The 117-page ACS report was released on May 6, 2013,¹⁹ and made numerous recommendations including convening a small work group to analyze existing statutes and regulations pertaining to the trauma system, appointing a new Florida Trauma System Advisory Council, establishing a moratorium on new trauma centers,²⁰ revising the Florida trauma system plan, and reviving the Performance Improvement Committee within the Trauma system Advisory Council to develop a statewide performance improvement plan.²¹

Trauma Center Approval

Section 395.4025, F.S., provides a scheduled application process and specific trauma center selection criteria. Standards for verification and approval are based on national guidelines established by the American College of Surgeons.²² Standards for verification and approval as a pediatric center are developed in conjunction with Children's Medical Services.²³

Acute care hospitals that submit a Letter of Intent to the DOH by October 1 are eligible to submit a trauma center application by April 1.²⁴ Once an applicant hospital receives the DOH's notification letter of provisional status designation, the hospital may begin operation as a provisional trauma center. During the provisional phase, the DOH conducts an in-depth review of the hospital's application. An on-site visit is conducted by an out-of-state survey team to verify compliance with the *Trauma Center Standards, DH Pamphlet 150-9*.²⁵ Based on the recommendations from the out-of-state survey team, the DOH makes the decision to approve or deny the hospital to operate as a verified trauma center.²⁶

Hospitals verified by the DOH receive a seven-year certificate. A verified trauma center that intends to renew its verification must submit a renewal application form to the DOH at least 14 months prior to the expiration of the certificate. All renewing verified trauma centers receive

¹⁷ Trauma System Consultation Report, American College of Surgeons Committee on Trauma, Feb. 2 - 5, 2013, available at <http://newsroom.doh.state.fl.us/wp-content/uploads/newsroom/2013/05/Report-Final.pdf>, p. 6 (last visited on Mar. 25, 2014).

¹⁸ See <http://www.fha.org/news/latest/show-details/ACS-Evaluates-Floridas-Trauma-System/28>, last visited on Mar. 25, 2014.

¹⁹ See <http://newsroom.doh.state.fl.us/wp-content/uploads/newsroom/2011/08/050613TraumaStudyReleased.pdf> (last visited Mar. 25, 2013).

²⁰ See supra n. 17 at p. 7.

²¹ See Supra n. 17 at pp. 12-14 for priority recommendations.

²² The ACS requirements for Level I, Level II, and pediatric trauma centers are available at: <http://www.facs.org/trauma/verifivisitoutcomes.html> (last visited on Mar. 21, 2013).

²³ The Children's Medical Services program is established within the Department of Health pursuant to ch. 391, F.S. The program is designed to provide children who have chronic health care needs with a family-centered, comprehensive, coordinated, and statewide managed system of care that links community-based health care with multidisciplinary, regional, and tertiary pediatric specialty care.

²⁴ The required criteria included in the application package is outlined in the department's *Trauma Center Standards, DH Pamphlet 150-9*, in accordance with s. 395.401(2), F.S., and is incorporated by reference in Rule 64J-2.011, F.A.C. The criteria is based on the American College of Surgeons (ACS) national guidelines entitled -- *Hospital and Prehospital Resources for Optimal Care of the Injured Patient*. See DOH Analysis, SB 1276 (Feb. 28, 2014) (on file with Senate Health Policy Committee).

²⁵ Available at <http://www.floridahealth.gov/licensing-and-regulation/trauma-system/documents/%20traumacntrstandpamphlet150-9-2009rev1-14-10.pdf> (last visited on Mar. 18, 2014).

²⁶ Id.

an on-site visit by an out-of-state survey team after the DOH's receipt of the completed renewal form. Hospitals that have been verified by the DOH to be in compliance with the requirements of s. 395.4025, F.S., are approved to operate as a verified trauma center.²⁷

In 2013, the Legislature passed ch. 2013-153, L.O.F., which created an exception to the standard process of verifying new trauma centers for certain Level II trauma centers. As amended, s. 395.4025(14), F.S., requires that a hospital must be designated by the DOH as a Level II trauma center if the hospital:

- Is located in a trauma service area with a population greater than 600,000 persons and a population density of less than 225 persons per square mile;
- Is located in a county with no verified trauma centers;
- Is located at least 15 miles or 20 minutes away from the nearest verified trauma center; and
- Has a valid certificate of trauma center verification from the American College of Surgeons.

Trauma Activation Fees

Trauma activation fees are fees charged by a hospital “any time ambulance crews bring in patients believed to have traumatic injuries.”²⁸ Although these fees are common among hospitals and they help hospitals cover their overhead costs, the amounts charged vary widely. For example, in 2012, Shands Jacksonville charged a trauma activation fee of \$7,000, while Lawnwood Regional Medical Center in Ft. Pierce, Florida, charged \$29,000, and Orange Park Medical Center in Orange Park, Florida, charged \$20,000.²⁹

III. Effect of Proposed Changes:

Section 1 amends s. 395.401, F.S., to cap trauma activation fees at \$15,000 until July 1, 2015.

Section 2 amends s. 395.402, F.S., to require the DOH to convene the Florida Trauma System Advisory Council no later than October 1, 2014, in order to review the ACS Trauma System Consultation Report and submit recommendations to the Legislature, including recommendations for statutory changes, by February 1, 2015. The advisory council will consist of nine representatives appointed by the State Surgeon General as follows:

- One member that is a trauma patient, or a family member of a trauma patient, who has sustained and recovered from severe injuries;
- One member from the Florida Committee on Trauma;
- One member from the Association of Florida Trauma Coordinators;
- One member who is the Chief Executive Officer of a nontrauma, acute care hospital who is a member of the Florida Hospital Association;
- One member from the Florida Emergency Medical Services Advisory Council;
- One member from the Florida Injury Prevention Advisory Council;
- One member from the Brain and Spinal Cord Injury Program Advisory Council;

²⁷ Id.

²⁸ Phil Galewitz, *Boom in Trauma Centers Can Help Save Lives, But at What Price?*, KAISER HEALTH NEWS, Sep. 24, 2012, available at <http://www.kaiserhealthnews.org/stories/2012/september/25/trauma-centers.aspx> (last visited on Mar. 25, 2014).

²⁹ Id.

- One member from the Florida Chamber of Commerce; and
- One member from the Florida Health Insurance Advisory Board.

Section 3 amends s. 395.4025, F.S., to:

- Strike language that allows a hospital to protest a decision made by the DOH based on the DOH's preliminary or in-depth review of applications or on the recommendations of the site visit review team and which requires the DOH to hold a hearing as provided in ch. 120, F.S.³⁰
- Notwithstanding any other law, authorize a hospital designated as a provisional or verified Level I, Level II, or pediatric trauma center to continue to operate at the same trauma center level if the trauma center:
 - Has been designated as a provisional or verified as a trauma center after the enactment of chapter 2004-259, Laws of Florida;
 - Has not had its provisional or verified status revoked by the DOH; and
 - Meets statutory requirements regarding quality of care and patient outcomes designated in s. 395.4025(5) and (6), F.S.;³¹ and
- Place a moratorium on verifying, designating, or provisionally approving new trauma centers until July 1, 2015.

Section 4 establishes an effective date of July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

³⁰ This would not affect a hospital's ability to protest final DOH action under the provisions of ch. 120, F.S.

³¹ Subsection (5) requires an out-of-state review team to visit all provisional trauma centers between Oct. 1 and June 1 of each year, requires the DOH to develop a survey instrument for the reviewers to use, and requires that hospitals being considered meet all the requirements of a trauma center and be located in a TSA that has need for a trauma center. Subsection (6) requires the DOH to select trauma centers by July 1 based on the recommendations of the review team unless the hospital requests an extension of their provisional status and submits a corrective plan of action to the DOH.

B. Private Sector Impact:

CS/CS/SB 1276 will have an indeterminate impact on trauma centers that currently charge an activation fee greater than \$15,000.

C. Government Sector Impact:

The Department of Health may incur indeterminate costs associated with convening the Trauma System Plan Advisory Council and developing recommendations for statutory changes.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 395.401, 395.402 and 395.4025.

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

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

CS/CS by Appropriations on April 10, 2014:

The CS:

- Requires that the Florida Trauma System Plan Advisory Council must be composed of nine members and provides parameters for the council's membership as appointed by the state surgeon general; and
- Provides that, notwithstanding any other law, a hospital designated as a provisional or verified as a Level I, Level II, or pediatric trauma center after the enactment of ch. 2004-259, L.O.F., whose approval has not been revoked, may continue to operate at the same trauma center level under certain conditions.

CS by Health Policy on March 25, 2014:

The CS amends SB 1276 to:

- Remove all provisions related to the apportionment of trauma centers;
- Remove provisions requiring the DOH to complete an annual assessment of the trauma system;
- Cap trauma activation fees at \$15,000 until July 1, 2015;
- Require the DOH to reactivate the Trauma System Plan Advisory Council in order to study the American College of Surgeons Trauma System Consultation Report and

make recommendations, including recommendations for statutory changes, to the Legislature by February 1, 2015; and

- Place a moratorium on new trauma centers until July 1, 2015.

B. Amendments:

None.

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



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/11/2014	.	
	.	
	.	
	.	

The Committee on Appropriations (Grimsley) recommended the following:

Senate Amendment (with title amendment)

Delete lines 43 - 119
and insert:
Representatives by February 1, 2015. The advisory council may make recommendations to the State Surgeon General regarding the continuing development of the Florida trauma system. The advisory council will consist of nine representatives of an inclusive trauma system appointed by the State Surgeon General. These nine representatives must be as follows:



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(a) A trauma patient, or a family member of a trauma patient, who has sustained and recovered from severe injuries;

(b) A member of the Florida Committee on Trauma;

(c) A member of the Association of Florida Trauma Coordinators;

(d) A CEO of a nontrauma, acute care hospital who is a member of the Florida Hospital Association;

(e) A member of the Florida Emergency Medical Services Advisory Council;

(f) A member of the Florida Injury Prevention Advisory Council;

(g) A member of the Brain and Spinal Cord Injury Program Advisory Council;

(h) A member of the Florida Chamber of Commerce; and

(i) A member of the Florida Health Insurance Advisory Board.

Section 3. Present subsections (8) through (12) of section 395.4025, Florida Statutes, are redesignated as subsections (7) through (11), respectively, paragraph (d) of subsection (2) and present subsection (7) of that section are amended, present subsections (13) and (14) of that section are redesignated as subsections (12) and (13), respectively, and amended, and a new subsection (14) and subsection (15) are added to that section, to read:

395.4025 Trauma centers; selection; quality assurance; records.—

(2)

(d)1. Notwithstanding other provisions in this section, the department may grant up to an additional 18 months to a hospital



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applicant that is unable to meet all requirements as provided in paragraph (c) at the time of application if the number of applicants in the service area in which the applicant is located is equal to or less than the service area allocation, as provided by rule of the department. An applicant that is granted additional time under ~~pursuant to~~ this paragraph shall submit a plan for departmental approval which includes timelines and activities that the applicant proposes to complete in order to meet application requirements. An ~~Any~~ applicant that demonstrates an ongoing effort to complete the activities within the timelines outlined in the plan shall be included in the number of trauma centers at such time that the department has conducted a provisional review of the application and has determined that the application is complete and that the hospital has the critical elements required for a trauma center.

2. Timeframes provided in subsections (1)-(7) ~~(1)-(8)~~ shall be stayed until the department determines that the application is complete and that the hospital has the critical elements required for a trauma center.

~~(7) Any hospital that wishes to protest a decision made by the department based on the department's preliminary or in-depth review of applications or on the recommendations of the site visit review team pursuant to this section shall proceed as provided in chapter 120. Hearings held under this subsection shall be conducted in the same manner as provided in ss. 120.569 and 120.57. Cases filed under chapter 120 may combine all disputes between parties.~~

(12) ~~(13)~~ The department may adopt, by rule, the procedures and process by which it will select trauma centers. Such



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procedures and process must be used in annually selecting trauma centers and must be consistent with subsections (1)-(7) ~~(1)-(8)~~ except in those situations in which it is in the best interest of, and mutually agreed to by, all applicants within a service area and the department to reduce the timeframes.

(13) ~~(14)~~ Notwithstanding the procedures established pursuant to subsections (1)-(12) ~~through (13)~~, hospitals located in areas with limited access to trauma center services shall be designated by the department as Level II trauma centers based on documentation of a valid certificate of trauma center verification from the American College of Surgeons. Areas with limited access to trauma center services are defined by the following criteria:

(a) The hospital is located in a trauma service area with a population greater than 600,000 persons but a population density of less than 225 persons per square mile;

(b) The hospital is located in a county with no verified trauma center; and

(c) The hospital is located at least 15 miles or 20 minutes travel time by ground transport from the nearest verified trauma center.

(14) Notwithstanding any other law, a hospital designated as a provisional or verified as a Level I, Level II, or pediatric trauma center after the enactment of chapter 2004-259, Laws of Florida, whose approval has not been revoked may continue to operate at the same trauma center level as a Level I, Level II, or pediatric trauma center until the approval period in s. 395.4025(6) expires, as long as the hospital continues to meet the other requirements of part II of this



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chapter, related to trauma center standards and patient outcomes. Any hospital that meets the requirements of this section is eligible for renewal of its 7-year approval period pursuant to s. 395.4025(6).

(15) The department may not verify, designate, or provisionally approve any hospital to operate as a trauma center through the procedures established in subsections (1)-(13). This subsection expires July 1, 2015.

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

And the title is amended as follows:

Delete lines 10 - 15

and insert:

Legislature by February 1, 2015; authorizing the Florida Trauma System Plan Advisory Council to make recommendations to the State Surgeon General; designating the membership of the advisory council; amending s. 395.4025, F.S.; deleting a provision relating to the procedure for protesting an application decision by the department; conforming cross-references; authorizing certain provisional and verified trauma centers to continue operating and to apply for renewal; restricting the department from

By the Committee on Health Policy; and Senator Grimsley

588-03229-14

20141276c1

A bill to be entitled

An act relating to trauma service centers; amending s. 395.401, F.S.; restricting trauma service fees to \$15,000 until July 1, 2015; amending s. 395.402, F.S.; requiring the Department of Health to convene the Florida Trauma System Plan Advisory Council by October 1, 2014; requiring the Florida Trauma System Plan Advisory Council to review the Trauma System Consultation Report and make recommendations to the Legislature by February 1, 2015; amending s. 395.4025, F.S.; deleting a provision relating to the procedure for protesting an application decision by the department; conforming cross-references; requiring the department to redesignate certain hospitals as Level II trauma centers; restricting the department from verifying, designating, or provisionally approving hospitals as trauma centers until July 1, 2015; providing an effective date.

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

Section 1. Present paragraphs (k) through (o) of subsection (1) of section 395.401, Florida Statutes, are redesignated as paragraphs (l) through (p), respectively, and a new paragraph (k) is added to that subsection, to read:

395.401 Trauma services system plans; approval of trauma centers and pediatric trauma centers; procedures; renewal.—

(1)

(k) No hospital operating a trauma center may charge a

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

588-03229-14

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trauma activation fee greater than \$15,000. This paragraph expires on July 1, 2015.

Section 2. Subsection (5) is added to section 395.402, Florida Statutes, to read:

395.402 Trauma service areas; number and location of trauma centers.—

(5) No later than October 1, 2014, the department must convene the Florida Trauma System Plan Advisory Council in order to review the Trauma System Consultation Report issued by the American College of Surgeons Committee on Trauma dated February 2-5, 2013. Based on this review, the advisory council must submit recommendations, including recommended statutory changes, to the President of the Senate and the Speaker of the House of Representatives by February 1, 2015.

Section 3. Present subsections (8) through (12) of section 395.4025, Florida Statutes, are redesignated as subsections (7) through (11), respectively, paragraph (d) of subsection (2) and present subsection (7) of that section are amended, present subsections (13) and (14) of that section are redesignated as subsections (12) and (13), respectively, and amended, and a new subsection (14) and subsection (15) are added to that section, to read:

395.4025 Trauma centers; selection; quality assurance; records.—

(2)

(d)1. Notwithstanding other provisions in this section, the department may grant up to an additional 18 months to a hospital applicant that is unable to meet all requirements as provided in paragraph (c) at the time of application if the number of

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

588-03229-14

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59 applicants in the service area in which the applicant is located
 60 is equal to or less than the service area allocation, as
 61 provided by rule of the department. An applicant that is granted
 62 additional time ~~under~~ pursuant to this paragraph shall submit a
 63 plan for departmental approval which includes timelines and
 64 activities that the applicant proposes to complete in order to
 65 meet application requirements. ~~An~~ Any applicant that
 66 demonstrates an ongoing effort to complete the activities within
 67 the timelines outlined in the plan shall be included in the
 68 number of trauma centers at such time that the department has
 69 conducted a provisional review of the application and has
 70 determined that the application is complete and that the
 71 hospital has the critical elements required for a trauma center.

72 2. Timeframes provided in subsections (1)-(7) ~~(1)-(8)~~ shall
 73 be stayed until the department determines that the application
 74 is complete and that the hospital has the critical elements
 75 required for a trauma center.

76 ~~(7) Any hospital that wishes to protest a decision made by~~
 77 ~~the department based on the department's preliminary or in-depth~~
 78 ~~review of applications or on the recommendations of the site~~
 79 ~~visit review team pursuant to this section shall proceed as~~
 80 ~~provided in chapter 120. Hearings held under this subsection~~
 81 ~~shall be conducted in the same manner as provided in ss. 120.569~~
 82 ~~and 120.57. Cases filed under chapter 120 may combine all~~
 83 ~~disputes between parties.~~

84 (12)-(13) The department may adopt, by rule, the procedures
 85 and process by which it will select trauma centers. Such
 86 procedures and process must be used in annually selecting trauma
 87 centers and must be consistent with subsections (1)-(7) ~~(1)-(8)~~

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88 except in those situations in which it is in the best interest
 89 of, and mutually agreed to by, all applicants within a service
 90 area and the department to reduce the timeframes.

91 ~~(13)-(14)~~ Notwithstanding the procedures established
 92 pursuant to subsections (1)-(12) ~~through (13)~~, hospitals located
 93 in areas with limited access to trauma center services shall be
 94 designated by the department as Level II trauma centers based on
 95 documentation of a valid certificate of trauma center
 96 verification from the American College of Surgeons. Areas with
 97 limited access to trauma center services are defined by the
 98 following criteria:

99 (a) The hospital is located in a trauma service area with a
 100 population greater than 600,000 persons but a population density
 101 of less than 225 persons per square mile;

102 (b) The hospital is located in a county with no verified
 103 trauma center; and

104 (c) The hospital is located at least 15 miles or 20 minutes
 105 travel time by ground transport from the nearest verified trauma
 106 center.

107 (14) If a hospital has operated continuously as a Level II
 108 trauma center for a consecutive 12-month period and is in
 109 operation on July 1, 2014, the department shall within 30 days
 110 after a request by the hospital, verify or designate such a
 111 hospital as a Level II trauma center if such hospital has met
 112 the requirements of subsections (5) and (6) with regard to
 113 quality of care and patient outcomes. A hospital that meets the
 114 requirements of this section shall be eligible for renewal of
 115 the 7-year approval period as provided in subsection (6).

116 (15) The department may not verify, designate, or

588-03229-14

20141276c1

117 provisionally approve any hospital to operate as a trauma center
118 through the procedures established in subsections (1)-(13). This
119 subsection expires July 1, 2015.

120 Section 4. This act shall take effect July 1, 2014.

Florida Senate

VOTING — DISCLOSURE OF CONFLICT

Pursuant to Senate Rule 1.39, a Senator, even though he or she may vote, must disclose the nature of any interest in a matter if the interest would inure to the special private gain or loss of certain, specified persons or entities listed in Rule 1.39.

DISCLOSURE OF CONFLICT

April 10, 2014

Date

Pursuant to Senate Rule 1.39, I am disclosing that certain provisions in

CS/SB 1276

(Bill Number; Appointment; Suspension)

184462

(Amendment Barcode)

provide a special private gain or loss to (circle one):

1. A principal by whom I or my spouse, parent, or child is retained or employed;
2. A parent organization or subsidiary of a corporate principal by which I am retained or employed; or
3. An immediate family member or business associate of mine.

The nature of the interest and the persons or entities involved are specified below.

My wife is employed by HCA/Blake Medical Center. CS/SB 1276 and amendment
barcode, 184462, may constitute a special private gain or loss to my wife's employer.

As permitted by Senate Rule, I may vote on this matter.

Bill Galvano

Senator

26

District

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-10-14

Meeting Date

Topic _____ Bill Number 1276
(if applicable)

Name Mark McKenney Amendment Barcode _____
(if applicable)

Job Title Chief of Trauma, Kendall Hosp

Address 6575 Aspen Dr Phone _____
Street
Miami Beach, FL 33141 E-mail _____
City State Zip
mark.mckenney@HCAHealthcare.com

Speaking: ☒ For ☐ Against ☐ Information

Representing Kendall Hosp

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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4/10/2014

Meeting Date

Topic Trauma Centers

Bill Number CS/SB 1276

Name Mark Delegal

Amendment Barcode 184462
(if applicable)

Job Title attorney

Address 315 S. Calhoun Street

Phone 224-7000

City TLH State FL Zip 32301

E-mail mark.delegal@HKLaw.com

Speaking: ☐ For ☒ Against ☐ Information

Representing Safety Net Hospital Alliance of Florida

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

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4/10/2014

Meeting Date

Chess-12

Topic Trauma Centraes

Bill Number CS/SB 1276
(if applicable)

Name David Ciesla, MD

Amendment Barcode Amendment
(if applicable)

Job Title Professor of Surgery, USF, Trauma Director

Targa General 184462

Address 2 T6th Circle

Phone 813-844-7968

Street

Targa
City

FL
State

33606
Zip

E-mail david@daciesla.org

Speaking: ☐ For ☒ Against ☐ Information

Representing Teaching Hospital Council

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)

Meeting Date _____

Topic _____

Bill Number 1276
(if applicable)

Name TIM REARDON

Amendment Barcode _____
(if applicable)

Job Title RESCUE CHIEF

Address 4111 LAND O LAKES BLVD

Phone 813-929-2756

Street

LAND O LAKES

FL

34639

City

State

Zip

E-mail _____

Speaking: ☒ For ☐ Against ☐ Information

Representing PASCO COUNTY FIRE RESCUE

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

Meeting Date

Topic _____

Bill Number 12760 (if applicable)

Name Anna Burrus

Amendment Barcode _____
(if applicable)

Job Title _____

Address 949 Corsica Ln
Street
Jacksonville FL 32218
City State Zip

Phone 904-553-0474

E-mail _____

Speaking: ☒ For ☐ Against ☐ Information

Representing _____

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)

Meeting Date _____

Topic _____

Bill Number 1276
(if applicable)

Name Derek Walcott

Amendment Barcode _____
(if applicable)

Job Title _____

Address 3645 SW 150th

Phone 352-307-1585

Street

Ocala

City

FL

State

34473

Zip

E-mail _____

Speaking: ☒ For ☐ Against ☐ Information

Representing _____

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

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4/10/14

Meeting Date

Topic SB 1276 - Trauma Center

Bill Number SB 1276 CL
(if applicable)

Name Kathy Bryant

Amendment Barcode _____
(if applicable)

Job Title Marion County Commissioner

Address 601 SE 25th Ave

Phone (352) 438-2323

Street

Ocala FL 34471

City

State

Zip

E-mail Kathy.bryant@marioncountyfl.org

Speaking: ☒ For ☐ Against ☐ Information

Representing Marion County

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

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4/10/2014

Meeting Date

Topic SB1276 - Trauma Center

Bill Number SB1276
(if applicable)

Name David Tillman

Amendment Barcode _____
(if applicable)

Job Title Engineer

Address 1720 SE 16th Ave
Street
Ocala FL 34471
City State Zip

Phone 352-387-4540

E-mail dtillman@tillmaneng.com

Speaking: ☒ For ☐ Against ☐ Information

Representing Marion 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 (10/20/11)

THE FLORIDA SENATE

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4/10/14
Meeting Date

Topic SB 1276 - TRAUMA

Bill Number SB 1276
(if applicable)

Name STAN McCLARKE

Amendment Barcode _____
(if applicable)

Job Title MARION COUNTY COMMISSIONER

Address 601 SE. 25th AVE.
Street
OCALA FL 34471
City State Zip

Phone 352. 438-2321
STAN. McCLARKE
E-mail MARIONCOUNTYFL.ORG

Speaking: ☒ For ☐ Against ☐ Information

Representing MARION COUNTY

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

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4/10/14

Meeting Date

Topic TRAUMA

Bill Number SB 1276 C1
(if applicable)

Name STUART MCELHANEY

Amendment Barcode _____
(if applicable)

Job Title FIRE CHIEF

Address 601 SE 25TH AVENUE
Street

Phone 352-572-5190

OCALA FLORIDA 34471
City State Zip

E-mail stuart.mcelhaney@marioncountypfla.org

Speaking: ☒ For ☐ Against ☐ Information

Representing MARION COUNTY FIRE RESCUE / BCC

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/10

Meeting Date

Topic Trauma Service Area

Bill Number 1276
(if applicable)

Name Samantha Maywell

Amendment Barcode _____
(if applicable)

Job Title _____

Address _____

Phone _____

Street

Brooksville

City

State

Zip

E-mail _____

Speaking: ☒ For ☐ Against ☐ Information

Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/10

Meeting Date

Topic _____

Bill Number 1274
(if applicable)

Name GARY Johnson

Amendment Barcode _____
(if applicable)

Job Title _____

Address 26795 GILL Rd
Street
MYAKKA City FL 34251
City State Zip

Phone 941-232-2291

E-mail GJCS2003@JUNO.COM

Speaking: ☒ For ☐ Against ☐ Information

Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/10/14

Meeting Date

Topic trauma legislation

Bill Number 1274
(if applicable)

Name Patrick Lindo

Amendment Barcode _____
(if applicable)

Job Title _____

Address _____

Phone _____

Street

Panish

FL

City

State

Zip

E-mail _____

Speaking: ☒ For ☐ Against ☐ Information

Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/10/14
Meeting Date

Topic Trauma Bill Number 1276
(if applicable)
Name Dr. Darwin Ang Amendment Barcode _____
(if applicable)
Job Title Trauma Medical Director Ocala Health
Address 1234 SE Magnolia Ext. Unit 1 Phone 352 401 1022
Street
Ocala, FL 34471
City State Zip
Speaking: ☒ For ☐ Against ☐ Information
Representing Ocala Health
Appearing at request of Chair: ☐ Yes ☐ No Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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S-001 (10/20/11)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/CS/SB 1480

INTRODUCER: Appropriations Committee; Commerce and Tourism Committee; and Senator Benacquisto

SUBJECT: Microfinance

DATE: April 14, 2014

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Malcolm	Hrdlicka	CM	Fav/CS
2. Pingree	Martin	ATD	Favorable
3. Pingree	Kynoch	AP	Fav/CS
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1480 creates the Florida Microfinance Act to provide entrepreneurs and small businesses in Florida access to credit. The act consists of two programs: a loan program and a guarantee program.

Under the loan program, the Department of Economic Opportunity (DEO) will competitively award funds to no more than three eligible loan administrators who will in-turn provide a 1:1 match to make short-term, microloans of up to \$50,000 to entrepreneurs and small businesses. The borrower must participate in business training and technical assistance provided by the Florida Small Business Development Network.

Under the guarantee program, Enterprise Florida, Inc., (EFI) will utilize state funds to guarantee loans made by private lenders to entrepreneurs and small businesses in Florida. Loan guarantees may only be provided on loans between \$50,000 and \$250,000, and a guarantee cannot exceed 50 percent of the total loan amount.

Under both programs, eligibility is limited to borrowers who are entrepreneurs or small businesses with 25 or fewer employees and gross annual revenues of up to \$1.5 million.

The DEO and EFI must report annually on the programs.

The Office of Program Policy Analysis and Government Accountability (OPPAGA) must prepare a report that analyzes, evaluates, and determines the economic benefits of the first 3 years of the programs. The OPPAGA is also required to evaluate the federal State Small Business Credit Initiative in Florida.

The bill appropriates \$10 million in nonrecurring funds from the General Revenue Fund to the DEO to implement the act, of which up to \$100,000 may be spent by the DEO and EFI to market and promote the act. The bill also authorizes 1 full-time equivalent position and provides recurring funds from state economic development trust funds to support the position for the DEO to implement the act.

II. Present Situation:

Small Business Access to Credit

Growing businesses of all sizes need access to resources, particularly capital and credit. While access to credit is important to all businesses, it is significantly important to entrepreneurs and small businesses due to the unique circumstances inherent in their operations.¹ Not only is access to credit important for business growth, studies indicate there is a correlation between a small business owner's ability to get financing and his or her ability to hire.²

Despite the recognized necessity, importance, and employment benefits of access to credit, entrepreneurs and small businesses frequently cite the lack of access to capital and credit as impediments to growth.³ Although nation-wide surveys appear to indicate credit is becoming more available to small businesses,⁴ Florida-specific studies indicate lack of access to credit remains problematic for Florida small businesses. For example, a recent report issued by the Office of Program Policy Analysis and Government Accountability (OPPAGA) indicates that economic development organizations and business associations report that access to capital was more of a barrier to small business growth than for larger businesses.⁵ Similarly, surveys conducted by the Florida Chamber of Commerce indicate that access to capital is the top issue facing the state's small businesses.⁶ As the survey indicated, the demand for credit by entrepreneurs and small businesses is outpacing its availability.⁷

¹ For example, a small business owner may need a small, short-term loan of \$10,000 to cover a month's payroll while it waits for its first payment from a new, long-term client. Michelle A. Samaad, *Microloans Can Boost Loan Production Without Threatening Cap: Filene*, Credit Union Times (Sept. 24, 2013) available at <http://www.cutimes.com/2013/09/24/microloans-can-boost-loan-production-without-threa?ref=hp&t=lending> (last visited Mar. 8, 2014).

² National Small Business Association, *Small Business Access to Capital Survey*, 2 (July 2012) available at <http://www.nsba.biz/wp-content/uploads/2012/07/Access-to-Capital-Survey.pdf> (last visited Mar. 8, 2014).

³ See Dave Grace, *Microloan Feasibility Study: Can Small Business Lending Become Big Business For Credit Unions*, Filene Research Institute, 15 (Sept. 6, 2013) (copy on file with the Committee on Commerce and Tourism).

⁴ See National Small Business Association, *2013 Year-End Economic Report*, 10 (Feb. 28, 2014) available at <http://www.nsba.biz/wp-content/uploads/2014/02/2013-Year-End-Economic-Report.pdf> (last visited Mar. 15, 2014).

⁵ OPPAGA, *Status of Florida's Efforts to Address Challenges to Business Establishment and Expansion*, Report No. 14-04, 3 (Jan. 2014) available at <http://www.oppaga.state.fl.us/Summary.aspx?reportNum=14-04> (last visited Mar. 7, 2014).

⁶ Florida Chamber of Commerce, *Florida Small Business Index: 2012-2013 Quarter 4 Survey Results*, 4, http://www.flchamber.com/wp-content/uploads/SBC-Index-Report_October-2013.pdf (last visited Mar. 7, 2014).

⁷ Grace, *Microloan Feasibility Study* at 7.

This gap between the demand for credit by entrepreneurs and small businesses and the limited availability of such credit is due to the unique characteristics and challenges of entrepreneurship and small business operations, and the smaller the business the more pronounced the problems of accessing credit.⁸ Many entrepreneurs and small businesses lack the assets necessary for a traditional bank loan, making them a riskier lending option for banks.⁹ Additionally, entrepreneurs and small businesses generally have minimal, or in some instances no, credit history.¹⁰ Lenders may also be reluctant to lend to entrepreneurs and small businesses with innovative products because it might be difficult to collect enough reliable information to correctly estimate the risk for such products.¹¹

Two common solutions used to address the lack of access to capital and credit to entrepreneurs and small businesses are microloans and loan guarantees.

Microloans

Unlike well-established medium and large businesses, early-stage entrepreneur and small business credit needs are generally met through low principal, short-term loans. These loans, frequently called “microloans” have lower principal amounts and shorter repayment terms than traditional business loans.¹² Such small, short-term loans are generally not profitable for lenders because of the originating, processing, and servicing costs associated with such loans. The small size of microloans means that lender fees do not provide sufficient profit to justify making these loans. Many microloan applicants also need considerable training and technical assistance to effectively manage and build the business. These ancillary costs further reduce the attractiveness of such loans to traditional lenders. Lastly, as noted above, borrowers of such loans generally have a limited amount of collateral available, which makes them riskier to lenders.¹³

One common solution to make credit available to entrepreneurs and small businesses is to make microloans more profitable for lenders by providing lenders with access to low-cost capital. In this situation, a lender is provided with low-cost capital and the lender in-turn mixes the low-cost capital with other sources of capital to provide the microloans. Providing low-cost capital to a lender reduces the lender’s cost to make loans and reduces its overall risk exposure which increases the likelihood that it will provide loans to entrepreneurs and small businesses that the lender would otherwise deny.

A frequent recommendation of small business development and finance experts is that successful microloan programs be tied to business development training and technical assistance.¹⁴ Tying

⁸ *Id.*

⁹ *Small Business Access to Capital Survey* at 2.

¹⁰ Congressional Research Service, *Small Business Access to Capital and Job Creation*, 1 (Feb. 18, 2014) available at <https://www.fas.org/sgp/crs/misc/R40985.pdf> (last visited Mar. 8, 2014).

¹¹ *Id.*

¹² U.S. Dep’t. of Treasury, *Micro Enterprise Lending: Community Equity Investments, Inc.*, 2 (on file with the Committee on Commerce and Tourism); Grace, *Microloan Feasibility Study* at 5.

¹³ *Id.*

¹⁴ Grace, *Microloan Feasibility Study* at 22-23; Office of Program Policy Analysis and Government Accountability, *Legislature Should Consider Lessons Learned If It Wishes to Create a Microenterprise Development Program*, Report No. 06-77, 3, (Dec. 2006) available at <http://www.oppaga.state.fl.us/Summary.aspx?reportNum=06-77> (last visited Mar. 7, 2014).

business development training and technical assistance to microloans ensures that borrowers develop the skills necessary to successfully manage and grow their businesses. Additional suggested practices for microloan programs include requiring personal guarantees in addition to traditional collateral requirements,¹⁵ developing special underwriting criteria,¹⁶ and implementing proactive loan referral efforts.¹⁷

Loan Guarantees

An additional solution designed to make credit available to entrepreneurs and small businesses is to provide a guarantee on all or a portion of a loan made by a third-party lender to an entrepreneur or small business. Under a guarantee, the guarantor (the entity providing the guarantee) agrees to protect the lender against all or part of the loss if a borrower defaults on the loan. Similar to microloan funding, a loan guarantee reduces the lender's overall risk exposure which increases the likelihood it will provide loans to entrepreneurs and small businesses that the lender would otherwise deny.

Funds allocated to provide guarantees may be leveraged to allow more loans to be guaranteed, which encourages greater loan-making. For example, a three to one leverage means that \$1 million of allocated funds may guarantee \$3 million in loans, which may be in one loan or multiple loans. The risk of leveraging is that an increase in the leverage ratio increases the exposure of the guarantee funds to cover defaulted loans due to the increased loan-making by lenders. However, steps can be taken to mitigate against this exposure, such as providing a leverage ceiling or requiring a set-aside of a percentage of all loan guarantees to protect against extraordinary losses.¹⁸

Small Business Finance Programs in Florida

Currently, the Department of Economic Opportunity (DEO) and Enterprise Florida, Inc. (EFI) administer a number of business financing programs including the Black Business Loan Program,¹⁹ Economic Gardening Business Loan Pilot Program,²⁰ Rural Community Development Revolving Loan Fund,²¹ and Florida Export Finance Corporation.²² The DEO and EFI also administer the federal State Small Business Credit Initiative (SSBCI), which provides a number of business finance tools, including a loan guarantee program, to states to stimulate small business development.²³ These existing state small business finance programs and the SSBCI are generally intended to provide access to credit to small businesses with established credit records

¹⁵ Grace, *Microloan Feasibility Study* at 19-20.

¹⁶ Grace, *Microloan Feasibility Study* at 23-24.

¹⁷ Grace, *Microloan Feasibility Study* at 25.

¹⁸ U.S. Dep't. of Treasury, SSBCI Program Profile: Loan Guarantee Program, 3 (May 17, 2011) available at http://www.treasury.gov/resource-center/sb-programs/Documents/SSBCI_Program_Profile_Loan_Guarantee_FINAL_May_17.pdf (last visited Mar. 15, 2014).

¹⁹ Section 288.7102, F.S.

²⁰ Section 288.1081, F.S.

²¹ Section 288.065, F.S.

²² Section 288.773, F.S.

²³ U.S. Dep't of Treasury, State Small Business Credit Initiative (SSBCI) (Jan. 22, 2014) available at <http://www.treasury.gov/resource-center/sb-programs/Pages/ssbci.aspx> (last visited Mar. 17, 2014).

and sufficient collateral, rather than the smallest businesses and entrepreneurs for whom access to credit is an acute problem.

From 2002 to 2006, the former Department of Community Affairs administered the Florida Front Porch Microloan program, which provided microloans of up to approximately \$35,000.²⁴ This program ended in 2006 due to underutilization.²⁵

In addition to small business finance programs, the Florida Small Business Development Center Network provides consulting and training to early-stage and small and medium-sized businesses in Florida.²⁶

III. Effect of Proposed Changes:

Sections 1 and 2 create part XIV of ch. 288, F.S., entitled “Microfinance Programs” and cited as the “Florida Microfinance Act,” consisting of ss. 288.993-288.9937, F.S., created in the bill.

Section 3 creates s. 288.9931, F.S., providing legislative findings regarding the lack of available credit to entrepreneurs and small businesses in this state. The bill states it is the Legislature’s intent to address this difficulty through the creation of a program that provides access to credit in conjunction with training and technical assistance to entrepreneurs and small businesses.

Microfinance Loan Program

Section 6 creates s. 288.9934, F.S., the Microfinance Loan Program, which is established in the Department of Economic Opportunity (DEO) to make short-term, fixed-rate microloans in conjunction with business training and technical assistance to entrepreneurs and small businesses.²⁷ Participation in the loan program is intended to enable entrepreneurs and small businesses to gain access to private financing upon completing the loan program. Funds appropriated to the loan program must be reinvested and maintained as a long-term and stable source of funding for the loan program.

Loan Administrator Eligibility

The DEO must competitively procure and contract with up to three loan administrators to administer the loan program for 3 years. A qualified loan administrator must:

- Be a corporation registered in this state;
- Not offer checking or savings accounts;

²⁴ OPPAGA Report 06-77 at 2. The program was not codified in statute but was instead created and funded through the budget process. See Comm. on Community Affairs, the Florida Senate, *Department of Community Affairs - Review of the Front Porch Florida Initiative*, 1, 3 (Interim Report 2008-110) (Oct. 2007).

²⁵ *Id.*

²⁶ Section 288.001, F.S.

²⁷ “Entrepreneur” is defined in s. 288.9932, F.S., which is created in section 4 of the bill, as “an individual residing in this state who desires to assume the risk of organizing, managing, and operating a small business in this state.” “Small business” is likewise defined in s. 288.9932, F.S., as “a business, regardless of corporate structure, domiciled in this state which employs 25 or fewer people and generated average annual gross revenues of \$1.5 million or less per year for the preceding 2 years.”

- Demonstrate that its board of directors and managers are experienced in microlending and small business finance and development;
- Demonstrate it has the resources and expertise to analyze and evaluate entrepreneurs and small businesses applying for microloans; underwrite and service microloans; and coordinate business training and technical assistance.
- Demonstrate that it has established partnerships with public and private funding sources, economic development agencies, and workforce development and job referral networks; and
- Demonstrates that it has a plan that includes proposed microlending activities under the loan program.

To ensure that prospective loan administrators meet these qualifications, a loan administrator must submit the following information with its proposal:

- The types of entrepreneurs and small businesses it has made loans to in the past, including the average size and terms of loans;
- The microlending and small business finance and development experience of its directors and managers;
- Its underwriting and credit policies and procedures, monitoring policies and procedures, collection practices, and samples of loan documentation;
- The nonstate funding that will be used in conjunction with state funds;
- Its three most recent financial audits or, if no prior audits have been completed, its three most recent unaudited financial statements; and
- A conflict of interest statement certifying that no board member, employee, or other person affiliated with the loan administrator, or any immediate family member²⁸ thereof, will receive any compensation from an entrepreneur or small businesses that will receive state funds under the loan program.²⁹

Loan Administrator Funding Conditions

A contracted loan administrator will receive state funds from the DEO that must be repaid at the end of the 3-year contract. The DEO may charge annual interest on the state funds of up to 80 percent of the Federal Funds Rate, and the loan administrator must provide an assignment of all notes receivable of its microloans made under the loan program as collateral to the DEO. The DEO must establish performance measures and objectives for the loan program and loan administrators to maximize state funds. The contract with the loan administrator must specify any sanctions for the loan administrator's failure to comply with the contract or the act. However, the DEO is prohibited from reviewing microloans made by a loan administrator before they are approved by the loan administrator.

State funds may only be used by a loan administrator to provide direct microloans to entrepreneurs and small businesses according to limitations and conditions described below (see *Borrower Eligibility and Conditions* below). State funds may not exceed 50 percent of any microloan made by the loan administrator, and with the exception of a one-time administrative servicing fee of 1 percent of the total award amount, funds may not be used to pay any costs

²⁸ "Immediate family" is defined in the bill as "a parent, child, or spouse, or any other relative by blood, marriage, or adoption, of a board member, employee, or agent of the loan administrator."

²⁹ The department may waive this requirement for good cause shown.

associated with providing microloans, business training, or technical assistance. The loan administrator may not recoup this fee, or charge any other fees or costs to borrowers except those expressly provided in the act. The loan administrator must also reserve 10 percent of the state funds to provide microloans to certain ultra-small entrepreneurs and businesses that employ less than six people and generate annual gross revenues of less than \$250,000.

Additionally, within 30 days of executing its contract with the DEO, the loan administrator must enter into a memorandum of understanding with the Florida Small Business Development Network (SBDN) that requires the SBDN to provide business management and development training and technical assistance to entrepreneurs and small businesses receiving microloans under the loan program, and to promote the loan program to underserved entrepreneurs and small businesses. By September 1, 2014, the DEO must review industry best practices and determine the minimum business training and technical assistance that must be provided by the SBDN.

Borrower Eligibility and Conditions

To be eligible for a microloan, an entrepreneur or small business must be located in this state and submit an application along with an application fee of up to \$50 to a contracted loan administrator. Microloans may be up to \$50,000 and up to 1 year in duration with interest rates up to the prime rate published in the Wall Street Journal, plus 1000 basis points.³⁰ A borrower may receive a maximum of \$75,000 in total microloans per year and may receive a maximum of two microloans per year and five microloans in a 3-year period.

Proceeds from a microloan can only be used for startup costs, working capital, and to purchase materials, supplies, furniture, fixtures, and equipment. Microloans may not be made if the microloan proceeds will be used to:

- Pay off creditors;
- Provide funds, directly or indirectly, for payment, distribution, or as a microloan to owners, partners, or shareholders of the business, except as ordinary compensation for services rendered;
- Finance the purchase, construction, or improvement of real property held for sale or investment;
- Pay for lobbying activities; or
- Replenish funds used for any of the above purposes.

As a condition of receiving a microloan, the borrower must personally guarantee the microloan, participate in business training and technical assistance, and provide information regarding job creation and financial data to the loan administrator. The loan administrator may collect late payment fees that are consistent with standard business lending practices and may recover costs and fees incurred for any collection efforts due to the borrower's default.

³⁰ 1 basis point equals 0.01 percent. As of March 10, 2014, the Wall Street Journal prime rate was 3.25. The Wall Street Journal, *Market Media Center* (Mar. 7, 2014) available at http://online.wsj.com/mdc/public/page/2_3020-moneyrate.html?mod=topnav_2_3010 (last visited Mar. 10, 2014).

Funding and Implementation by the DEO

A loan administrator must meet the requirements of the act, the terms of its contract with the DEO, and any other applicable laws to be eligible to receive funds. If the loan program is appropriated funding, the DEO must distribute funds to the loan administrators within 30 days of the execution of the contracts with the loan administrators. The total amount of funding awarded to loan administrators in a fiscal year may not exceed the amount appropriated for that fiscal year. If the funds appropriated to the loan program exceed the amount of funds awarded to the loan administrators, the excess funds will revert back to the General Revenue Fund.

With the exception of funds appropriated to the loan program, the credit of the state may not be pledged. The state is not liable or obligated for claims on the loan program or against a loan administrator or the DEO.

In implementing the loan program, the DEO must be guided by the 5-year statewide strategic plan adopted pursuant to s. 20.60(5), F.S. The DEO must also promote and advertise the loan program by cooperating with public and private organizations to organize, host, or participate in events for entrepreneur and small business development.

The DEO must implement a study by December 31, 2014, to identify best practices to increase access to credit to entrepreneurs and small businesses in this state. The study must explore the ability and limitations of Florida nonprofit organizations and private financial institutions to expand access to credit to entrepreneurs and small businesses in this state.

Loan Administrator Repayment of Award Funds

After collecting interest and permitted fees or costs in satisfaction of all microloans, a loan administrator must remit to the DEO the microloan principal collected from all microloans made by the loan administrator with state funds. Repayment of microloan principal may be deferred up to 6 months; however, the loan administrator may not provide a microloan after its contract with the DEO expires.

If a loan administrator is unable to make repayments to the DEO in accordance with its contract, the DEO may accelerate maturity of the state funds and demand repayment in full. In this event, or if a loan administrator violates the act or the terms of its contract, the loan administrator must surrender possession of all collateral to the DEO. Any loss or deficiency greater than the value of the collateral may be recovered by the DEO from the loan administrator. In the event of a loan administrator's default, termination of the contract, or violation of the act, the state may, in addition to any other remedy provided by law, bring suit to enforce its interest. Additionally, a microloan borrower's default does not relieve a loan administrator of its obligation to repay any state funds to the DEO.

Contract Termination

A loan administrator's contract with the DEO may be terminated upon a finding by the DEO that the loan administrator:

- Has, within the previous five years, participated in a state-funded economic development program in any state and failed to comply with the requirements of that program;

- Is currently in material noncompliance with any statute, rule, or program administered by the DEO;
- Has members of its board, officers, partners, managers, or shareholders that have pled no contest or been found guilty of any crime involving fraud, misrepresentation, or dishonesty;
- Failed to meet or agree to the terms of its contract with the DEO or failed to comply with the act; or
- Provided fraudulent or misleading information to the DEO.

If the contract is terminated for any of the above reasons, the loan administrator must immediately return all state funds, including any interest, costs, and fees it would otherwise be entitled to retain.

The loan administrator's contract may be terminated at any time for any reason upon 30 days' notice by the DEO. In such case, the loan administrator must return all state funds to the DEO within 60 days of the termination. However, the loan administrator may retain any interest, costs, and fees it has collected. The loan administrator's contract may also be terminated by the loan administrator at any time for any reason upon 30 days' notice by the loan administrator. In such case, the loan administrator must return all state funds to the DEO, including any interest, costs, and fees it has retained or would otherwise be entitled to retain, within 30 days of the termination.

Loan Administrator Auditing

A loan administrator must submit quarterly reports to the DEO (see *Loan Administrator Quarterly Reports* below) and must also make its books and records related to the loan program available to the DEO or its designee for inspection upon reasonable notice. Additionally, a loan administrator must submit an annual financial audit performed by an independent certified public accountant and an operational performance audit for the most recently completed fiscal year to the DEO. Both audits must indicate whether any material weakness or instances of material noncompliance are found.

Loan Administrator Quarterly Reports

Loan administrators must submit reports on at least a quarterly basis that include the number of microloan applications received, the number of microloans made, the amount and interest rate of each microloan made, the amount of technical assistance or business training provided, the number of full-time equivalent jobs created as a result of the microloans, the amount of wages paid to employees in the newly created jobs, industry data regarding the borrower's business, and the borrower's locations (Section 8, creating s. 288.9936, F.S.).

Annual Report of the Microfinance Loan Program

Section 8 creates s. 288.9936, F.S., requiring the DEO to provide a detailed report of the Microfinance Loan Program in the department's annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The report must include:

- A description of the loan program, including an evaluation of application and funding activities, recommendations for change, and identification of any overlapping state programs;
- The financial institutions, organizations, and individuals participating in the loan program;

- An assessment of the availability of and access to credit for entrepreneurs and small businesses in this state;
- A summary of the financial and employment results of the entities receiving microloans;
- The number of full-time equivalent jobs created as a result of the microloans and the amount of wages paid to employees in the newly created jobs;
- The number and location of prospective loan administrators that responded to the DEO's request for proposals;
- The amount of state funds awarded to loan administrators;
- The number of microloan applications received by loan administrators;
- The number, duration, and location of microloans made by loan administrators, including the aggregate number of microloans made to minority business enterprises if available;
- The number and amount of microloans outstanding, with payments overdue, or in default, if any;
- The repayment history of the microloans made;
- The repayment history and performance of funding awards;
- An evaluation of the loan program's ability to meet the financial performance measures and objectives established by the DEO; and
- A description and evaluation of the technical assistance and business training provided by the SBDN.

Microfinance Guarantee Program

Section 7 creates s. 288.9935, F.S., the Microfinance Guarantee Program, which is established in the DEO to provide targeted guarantees for loans made to entrepreneurs and small businesses. Funds appropriated to the guarantee program must be reinvested and maintained as a long-term and stable source of funding for the guarantee program.

Loan Guarantee Administration

The DEO must enter into a contract with Enterprise Florida, Inc., (EFI) to administer the guarantee program. In administering the guarantee program, EFI must:

- Establish lender³¹ and borrower eligibility requirements in addition to those provided in the bill;
- Determine a reasonable leverage ratio of loan amounts guaranteed to state funds; the leverage ratio may not exceed three to one;
- Establish reasonable fees and interest;
- Promote the guarantee program to financial institutions that provide loans to entrepreneurs and small businesses;
- Enter into a memorandum of understanding with the SBDN to promote the guarantee program;
- Establish limits on the total amount of loan guarantees a single lender can receive;
- Establish an average loan guarantee amount;
- Establish a risk-sharing strategy to be used in the event of a loan failure; and
- Establish financial performance measures and objectives for the guarantee program.

³¹ A "lender" for purposes of the guarantee program is defined in section 7 of the bill as "a financial institution defined in s. 655.005."

EFI may not use state funds to cover the costs of administering the guarantee program.

Loan Guarantee Eligibility and Limitations

To be eligible to receive a loan guarantee, a borrower must be an entrepreneur or small business located in this state, employ 25 or fewer people, generate average annual gross revenues up to \$1.5 million per year for the last 2 years, and meet any other requirements established by EFI.

Loan guarantees may only be provided on loans between \$50,000 and \$250,000 and may not exceed 50 percent of the total loan amount. EFI may not guarantee a loan if the loan proceeds will be used to:

- Pay off the borrower's creditors;
- Provide funds, directly or indirectly, for payment, distribution, or as a loan to owners, partners, or shareholders of the borrower, except as ordinary compensation for services rendered;
- Finance the purchase, construction, or improvement, of real property held for sale or investment;
- Pay for lobbying activities; or
- Replenish funds used for any of the above purposes.

The credit of the state or EFI, may not be pledged except for funds appropriated to the guarantee program. The state is not liable or obligated for claims on the guarantee program or against EFI or the DEO.

EFI Annual Loan Guarantee Report

By October 1 of each year, EFI must submit an annual report to the DEO for inclusion in the department's annual report. EFI's report must include:

- A description of the guarantee program, including an evaluation of its application and guarantee activities, recommendations for change, and identification of any overlapping state programs;
- An assessment of the current availability of and access to credit for entrepreneurs and small businesses in this state;
- A summary of the financial and employment results of the entrepreneurs and small businesses receiving loan guarantees;
- Industry data about the borrowers;
- The name and location of lenders receiving loan guarantees;
- The amount of state funds received by EFI;
- The number of loan guarantee applications received;
- The number, duration, location, and amount of guarantees made;
- The number and amount of guaranteed loans outstanding, with payments overdue, and in default, if any;
- The repayment history of the guaranteed loans made; and
- An evaluation of the guarantee program's ability to meet the financial performance measures and objectives established by EFI.

OPPAGA Evaluation of the Microfinance Loan and Microfinance Guarantee Programs

Section 9 creates s. 288.9937, F.S., requiring the Office of Program Policy Analysis and Government Accountability (OPPAGA) prepare a report that analyzes, evaluates, and determines the economic benefits³² of the first 3 years of the Microfinance Loan Program and the Microfinance Guarantee Program. The analysis must also evaluate the number of jobs created, the effect on personal income, and the impact on state gross domestic product from the state's investment in the programs. The analysis must also identify any inefficiencies in the programs and provide recommendations for changes. The report must be provided to the President of the Senate and the Speaker of the House of Representatives by January 1, 2018. This section expires January 31, 2018.

Additionally, the OPPAGA is directed to evaluate the effectiveness and return on investment of the State Small Business Credit Initiative³³ operated in this state (Section 8, creating s. 288.9936, F.S.). The report must be provided to the President of the Senate and the Speaker of the House of Representatives by January 1, 2015.

Section 4 creates s. 288.9932, F.S., to define terms used in the act.

Section 5 authorizes the DEO to adopt rules to implement the act.

Section 10 permits the DEO to adopt emergency rules in order to implement the act until October 1, 2015. Emergency rules will remain in effect for 6 months and may be renewed until permanent rules addressing the subject of the emergency rules are adopted.

Section 11 provides a nonrecurring appropriation of \$10 million for Fiscal Year 2014-2015 from the General Revenue Fund to the DEO to implement the act, of which up to \$100,000 may be spent by the DEO and EFI to market and promote the act. The bill also authorizes 1 full-time equivalent position, provides salary rate of 55,000, and a total of \$84,696 from state economic development trust funds to the DEO to implement the act (*See Section V. for additional information*).

Section 12 provides an effective date of July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

³² "Economic benefits" are defined in s. 288.005, F.S., as "the direct, indirect, and induced gains in state revenues as a percentage of the state's investment."

³³ 12 U.S.C. ss. 5701 et seq.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Approximately 300,000 businesses in Florida employ 25 or fewer employees and generate less than \$1.5 million in gross annual revenues. The microloan and loan guarantee programs created in CS/CS/SB 1480 may benefit these businesses.

C. Government Sector Impact:

According to the Department of Economic Opportunity (DEO), it will need at least one additional full-time equivalent (FTE) position to administer the programs.³⁴ The bill includes the following funding to implement the act in Fiscal Year 2014-2015:

- \$10,000,000 of nonrecurring funds from the General Revenue Fund for the Microfinance Loan Program and Microfinance Guarantee Program created in the bill. Of this amount, the DEO and EFI may spend up to \$100,000 to market and promote the programs.
- One FTE position and 55,000 of salary rate and a total of \$84,696 to support the position, as follows:
 - \$67,777 from the State Economic Enhancement and Development Trust Fund, of which \$3,018 is nonrecurring revenue;
 - \$13,535 from the Tourism Promotional Trust Fund, of which \$604 is nonrecurring revenue; and
 - \$3,384 from the Florida International Trade and Promotion Trust Fund, of which \$151 is nonrecurring revenue.

The bill specifically provides that Enterprise Florida, Inc. may not use funds appropriated from the state for costs associated with administering the guarantee program.

The bill requires that microloan borrowers participate in business management training, business development training, and technical assistance as determined by the loan administrator in the microloan agreement. The bill specifically provides that state funds may not be used to pay administrative costs, underwriting costs, servicing costs, or any other costs associated with providing microloans, business management training, business development training, or technical assistance.

³⁴ DEO, *Agency Analysis: SB 1480*, 6 (on file with the Committee on Commerce and Tourism).

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill authorizes the Department of Economic Opportunity (DEO) to adopt rules to implement the act. The bill also grants the DEO emergency rulemaking authority.

VIII. Statutes Affected:

This bill creates the following sections of the Florida Statutes: 288.993, 288.9931, 288.9932, 288.9933, 288.9934, 288.9935, 288.9936, and 288.9937.

IX. Additional Information:

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

CS/CS by Appropriations on April 10, 2014:

The committee substitute requires the Department of Economic Opportunity to include in the annual report of the Microfinance Loan Program the aggregate number of microloans made to minority business enterprises, if available, when reporting the number, duration, and location of microloans made by the loan administrator.

CS by Commerce and Tourism on March 24, 2014:

Related to the loan program, the committee substitute:

- Clarifies that the interest rate charged by the DEO to a loan administrator is an annual interest rate.
- Clarifies that loan administrators may retain the interest they charge on microloans.
- Clarifies under what conditions a loan administrator is required to return interest, fees, and costs to the DEO.
- Updates the conflict of interest policy required by a loan administrator to include the immediate family of a board member, employee, or agent.
- Requires the loan program to be evergreen.
- Clarifies what information a loan administrator must provide in its quarterly report to the DEO.

Related to the guarantee program, the committee substitute prohibits EFI from using appropriated funds to pay for administrative costs.

The committee substitute also provides an appropriation of \$10 million to fund the programs, of which \$100,000 is for marketing, and provides 1 FTE and \$84,696 from state economic development trust funds for the DEO to implement the bill.

B. Amendments:

None.

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



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LEGISLATIVE ACTION

Senate	.	House
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04/11/2014	.	
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The Committee on Appropriations (Benacquisto) recommended the following:

Senate Amendment

Delete lines 559 - 560

and insert:

(i) The number, duration, and location of microloans made by the loan administrator, including the aggregate number of microloans made to minority business enterprises if available;

By the Committee on Commerce and Tourism; and Senator Benacquisto

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1 A bill to be entitled
 2 An act relating to microfinance; creating Part XIV of
 3 ch. 288, F.S., consisting of ss. 288.993-288.9937,
 4 F.S., relating to microfinance programs; creating s.
 5 288.993, F.S.; providing a short title; creating s.
 6 288.9931, F.S.; providing legislative findings and
 7 intent; creating s. 288.9932, F.S.; defining terms;
 8 creating s. 288.9933, F.S.; authorizing the Department
 9 of Economic Opportunity to adopt rules to implement
 10 this part; creating s. 288.9934, F.S.; establishing
 11 the Microfinance Loan Program; providing a purpose;
 12 defining the term "loan administrator"; requiring the
 13 Department of Economic Opportunity to contract with at
 14 least one entity to administer the program; requiring
 15 the loan administrator to contract with the department
 16 to receive an award of funds; providing other terms
 17 and conditions to receiving funds; specifying fees
 18 authorized to be charged by the department and the
 19 loan administrator; requiring the loan administrator
 20 to remit the microloan principal collected from all
 21 microloans made with state funds received by the loan
 22 administrator; providing for contract termination;
 23 providing for auditing and reporting; requiring
 24 applicants for funds from the Microfinance Loan
 25 Program to meet certain qualifications; requiring the
 26 department to be guided by the 5-year statewide
 27 strategic plan and to advertise and promote the loan
 28 program; requiring the department to perform a study
 29 on methods and best practices to increase the

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30 availability of and access to credit in this state;
 31 prohibiting the pledging of the credit of the state;
 32 authorizing the department to adopt rules; creating s.
 33 288.9935, F.S.; establishing the Microfinance
 34 Guarantee Program; defining the term "lender";
 35 requiring the department to contract with Enterprise
 36 Florida, Inc., to administer the program; prohibiting
 37 Enterprise Florida, Inc., from guaranteeing certain
 38 loans; requiring borrowers to meet certain conditions
 39 before receiving a loan guarantee; requiring
 40 Enterprise Florida, Inc., to submit an annual report
 41 to the department; prohibiting the pledging of the
 42 credit of the state or Enterprise Florida, Inc.;
 43 creating s. 288.9936, F.S.; requiring the department
 44 to report annually on the Microfinance Loan Program;
 45 requiring the Office of Program Policy Analysis and
 46 Government Accountability to report on the
 47 effectiveness of the State Small Business Credit
 48 Initiative; creating s. 288.9937, F.S.; requiring the
 49 Office of Program Policy Analysis and Government
 50 Accountability to evaluate and report on the
 51 Microfinance Loan Program and the Microfinance
 52 Guarantee Program by a specified date; authorizing the
 53 executive director of the Department of Economic
 54 Opportunity to adopt emergency rules; providing an
 55 appropriation to the Department of Economic
 56 Opportunity; authorizing the Department of Economic
 57 Opportunity and Enterprise Florida, Inc., to spend a
 58 specified amount for marketing and promotional

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purposes; authorizing and providing an appropriation for one full-time equivalent position; providing an effective date.

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

Section 1. Part XIV of chapter 288, Florida Statutes, consisting of ss. 288.993-288.9937, is created and entitled "Microfinance Programs."

Section 2. Section 288.993, Florida Statutes, is created to read:

288.993 Short title.—This part may be cited as the "Florida Microfinance Act."

Section 3. Section 288.9931, Florida Statutes, is created to read:

288.9931 Legislative findings and intent.—The Legislature finds that the ability of entrepreneurs and small businesses to access capital is vital to the overall health and growth of this state's economy; however, access to capital is limited by the lack of available credit for entrepreneurs and small businesses in this state. The Legislature further finds that entrepreneurs and small businesses could be assisted through the creation of a program that will provide an avenue for entrepreneurs and small businesses in this state to access credit. Additionally, the Legislature finds that business management training, business development training, and technical assistance are necessary to ensure that entrepreneurs and small businesses that receive credit develop the skills necessary to grow and achieve long-term financial stability. The Legislature intends to expand job

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opportunities for this state's workforce by expanding access to credit to entrepreneurs and small businesses. Furthermore, the Legislature intends to avoid duplicating existing programs and to coordinate, assist, augment, and improve access to those programs for entrepreneurs and small businesses in this state.

Section 4. Section 288.9932, Florida Statutes, is created to read:

288.9932 Definitions.—As used in this part, the term:

(1) "Applicant" means an entrepreneur or small business that applies to a loan administrator for a microloan.

(2) "Domiciled in this state" means authorized to do business in this state and located in this state.

(3) "Entrepreneur" means an individual residing in this state who desires to assume the risk of organizing, managing, and operating a small business in this state.

(4) "Network" means the Florida Small Business Development Center Network.

(5) "Small business" means a business, regardless of corporate structure, domiciled in this state which employs 25 or fewer people and generated average annual gross revenues of \$1.5 million or less per year for the preceding 2 years. For the purposes of this part, the identity of a small business is not affected by name changes or changes in personnel.

Section 5. Section 288.9933, Florida Statutes, is created to read:

288.9933 Rulemaking authority.—The department may adopt rules to implement this part.

Section 6. Section 288.9934, Florida Statutes, is created to read:

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288.9934 Microfinance Loan Program.—

(1) PURPOSE.—The Microfinance Loan Program is established in the department to make short-term, fixed-rate microloans in conjunction with business management training, business development training, and technical assistance to entrepreneurs and newly established or growing small businesses for start-up costs, working capital, and the acquisition of materials, supplies, furniture, fixtures, and equipment. Participation in the loan program is intended to enable entrepreneurs and small businesses to access private financing upon completing the loan program.

(2) DEFINITION.—As used in this section, the term “loan administrator” means an entity that enters into a contract with the department pursuant to this section to administer the loan program.

(3) REQUEST FOR PROPOSAL.—

(a) By December 1, 2014, the department shall contract with at least one but not more than three entities to administer the loan program for a term of 3 years. The department shall award the contract in accordance with the request for proposal requirements in s. 287.057 to an entity that:

1. Is a corporation registered in this state;

2. Does not offer checking accounts or savings accounts;

3. Demonstrates that its board of directors and managers are experienced in microlending and small business finance and development;

4. Demonstrates that it has the technical skills and sufficient resources and expertise to:

a. Analyze and evaluate applications by entrepreneurs and

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small businesses applying for microloans;

b. Underwrite and service microloans provided pursuant to this part; and

c. Coordinate the provision of such business management training, business development training, and technical assistance as required by this part.

5. Demonstrates that it has established viable, existing partnerships with public and private nonstate funding sources, economic development agencies, and workforce development and job referral networks; and

6. Demonstrates that it has a plan that includes proposed microlending activities under the loan program, including, but not limited to, the types of entrepreneurs and businesses to be assisted and the size and range of loans the loan administrator intends to make.

(b) To ensure that prospective loan administrators meet the requirements of subparagraphs (a)2.-6., the request for proposal must require submission of the following information:

1. A description of the types of entrepreneurs and small businesses the loan administrator has assisted in the past, and the average size and terms of loans made in the past to such entities;

2. A description of the experience of members of the board of directors and managers in the areas of microlending and small business finance and development;

3. A description of the loan administrator’s underwriting and credit policies and procedures, credit decisionmaking process, monitoring policies and procedures, and collection practices, and samples of any currently used loan documentation;

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175 4. A description of the nonstate funding sources that will
 176 be used by the loan administrator in conjunction with the state
 177 funds to make microloans pursuant to this section;

178 5. The loan administrator's three most recent financial
 179 audits or, if no prior audits have been completed, the loan
 180 administrator's three most recent unaudited financial
 181 statements; and

182 6. A conflict of interest statement from the loan
 183 administrator's board of directors certifying that a board
 184 member, employee, or agent, or an immediate family member
 185 thereof, or any other person connected to or affiliated with the
 186 loan administrator, is not receiving or will not receive any
 187 type of compensation or remuneration from an entrepreneur or
 188 small business that has received or will receive funds from the
 189 loan program. The department may waive this requirement for good
 190 cause shown. As used in this subparagraph, the term "immediate
 191 family" means a parent, child, or spouse, or any other relative
 192 by blood, marriage, or adoption, of a board member, employee, or
 193 agent of the loan administrator.

194 (4) CONTRACT AND AWARD OF FUNDS.—

195 (a) The selected loan administrator must enter into a
 196 contract with the department for a term of 3 years to receive
 197 state funds for the loan program. Funds appropriated to the
 198 program must be reinvested and maintained as a long-term and
 199 stable source of funding for the program. The amount of state
 200 funds used in any microloan made pursuant to this part may not
 201 exceed 50 percent of the total microloan amount. The department
 202 shall establish financial performance measures and objectives
 203 for the loan program and for the loan administrator in order to

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204 maximize the state funds awarded.

205 (b) State funds may be used only to provide direct
 206 microloans to entrepreneurs and small businesses according to
 207 the limitations, terms, and conditions provided in this part.
 208 Except as provided in subsection (5), state funds may not be
 209 used to pay administrative costs, underwriting costs, servicing
 210 costs, or any other costs associated with providing microloans,
 211 business management training, business development training, or
 212 technical assistance.

213 (c) The loan administrator shall reserve 10 percent of the
 214 total award amount from the department to provide microloans
 215 pursuant to this part to entrepreneurs and small businesses that
 216 employ no more than five people and generate annual gross
 217 revenues averaging no more than \$250,000 per year for the last 2
 218 years.

219 (d) 1. If the loan program is appropriated funding in a
 220 fiscal year, the department shall distribute such funds to the
 221 loan administrator within 30 days of the execution of the
 222 contract by the department and the loan administrator.

223 2. The total amount of funding allocated to the loan
 224 administrator in a fiscal year may not exceed the amount
 225 appropriated for the loan program in the same fiscal year. If
 226 the funds appropriated to the loan program in a fiscal year
 227 exceed the amount of state funds received by the loan
 228 administrator, such excess funds shall revert to the General
 229 Revenue Fund.

230 (e) Within 30 days of executing its contract with the
 231 department, the loan administrator must enter into a memorandum
 232 of understanding with the network:

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233 1. For the provision of business management training,
 234 business development training, and technical assistance to
 235 entrepreneurs and small businesses that receive microloans under
 236 this part; and

237 2. To promote the program to underserved entrepreneurs and
 238 small businesses.

239 (f) By September 1, 2014, the department shall review
 240 industry best practices and determine the minimum business
 241 management training, business development training, and
 242 technical assistance that must be provided by the network to
 243 achieve the goals of this part.

244 (g) The loan administrator must meet the requirements of
 245 this section, the terms of its contract with the department, and
 246 any other applicable state or federal laws to be eligible to
 247 receive funds in any fiscal year. The contract with the loan
 248 administrator must specify any sanctions for the loan
 249 administrator's failure to comply with the contract or this
 250 part.

251 (5) FEES.—

252 (a) Except as provided in this section, the department may
 253 not charge fees or interest or require collateral from the loan
 254 administrator. The department may charge an annual fee or
 255 interest of up to 80 percent of the Federal Funds Rate as of the
 256 date specified in the contract for state funds received under
 257 the loan program. The department shall require as collateral an
 258 assignment of the notes receivable of the microloans made by the
 259 loan administrator under the loan program.

260 (b) The loan administrator is entitled to retain a one-time
 261 administrative servicing fee of 1 percent of the total award

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262 amount to offset the administrative costs of underwriting and
 263 servicing microloans made pursuant to this part. This fee may
 264 not be charged to or paid by microloan borrowers participating
 265 in the loan program. Except as provided in subsection (7) (c),
 266 the loan administrator may not be required to return this fee to
 267 the department.

268 (c) The loan administrator may not charge interest, fees,
 269 or costs except as authorized in subsection (9).

270 (d) Except as provided in subsection (7), the loan
 271 administrator is not required to return the interest, fees, or
 272 costs authorized under subsection (9).

273 (6) REPAYMENT OF AWARD FUNDS.—

274 (a) After collecting interest and any fees or costs
 275 permitted under this section in satisfaction of all microloans
 276 made pursuant to this part, the loan administrator shall remit
 277 to the department the microloan principal collected from all
 278 microloans made with state funds received under this part.
 279 Repayment of microloan principal to the department may be
 280 deferred by the department for a period not to exceed 6 months;
 281 however, the loan administrator may not provide a microloan
 282 under this part after the contract with the department expires.

283 (b) If for any reason the loan administrator is unable to
 284 make repayments to the department in accordance with the
 285 contract, the department may accelerate maturity of the state
 286 funds awarded and demand repayment in full. In this event, or if
 287 a loan administrator violates this part or the terms of its
 288 contract, the loan administrator shall surrender to the
 289 department possession of all collateral required pursuant to
 290 subsection (5). Any loss or deficiency greater than the value of

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the collateral may be recovered by the department from the loan administrator.

(c) In the event of a default as specified in the contract, termination of the contract, or violation of this section, the state may, in addition to any other remedy provided by law, bring suit to enforce its interest.

(d) A microloan borrower's default does not relieve the loan administrator of its obligation to repay an award to the department.

(7) CONTRACT TERMINATION.—

(a) The loan administrator's contract with the department may be terminated by the department, and the loan administrator required to immediately return all state funds awarded, including any interest, fees, and costs it would otherwise be entitled to retain pursuant to subsection (5) for that fiscal year, upon a finding by the department that:

1. The loan administrator has, within the previous 5 years, participated in a state-funded economic development program in this or any other state and was found to have failed to comply with the requirements of that program;

2. The loan administrator is currently in material noncompliance with any statute, rule, or program administered by the department;

3. The loan administrator or any member of its board of directors, officers, partners, managers, or shareholders has pled no contest or been found guilty, regardless of whether adjudication was withheld, of any felony or any misdemeanor involving fraud, misrepresentation, or dishonesty;

4. The loan administrator failed to meet or agree to the

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terms of the contract with the department or failed to meet this part; or

5. The department finds that the loan administrator provided fraudulent or misleading information to the department.

(b) The loan administrator's contract with the department may be terminated by the department at any time for any reason upon 30 days' notice by the department. In such a circumstance, the loan administrator shall return all awarded state funds to the department within 60 days of the termination. However, the loan administrator may retain any interest, fees, or costs it has collected pursuant to subsection (5).

(c) The loan administrator's contract with the department may be terminated by the loan administrator at any time for any reason upon 30 days' notice by the loan administrator. In such a circumstance, the loan administrator shall return all awarded state funds to the department, including any interest, fees, and costs it has retained or would otherwise be entitled to retain pursuant to subsection (5), within 30 days of the termination.

(8) AUDITS AND REPORTING.—

(a) The loan administrator shall annually submit to the department a financial audit performed by an independent certified public accountant and an operational performance audit for the most recently completed fiscal year. Both audits must indicate whether any material weakness or instances of material noncompliance are indicated in the audit.

(b) The loan administrator shall submit quarterly reports to the department as required by s. 288.9936(3).

(c) The loan administrator shall make its books and records related to the loan program available to the department or its

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designee for inspection upon reasonable notice.

(9) ELIGIBILITY AND APPLICATION.—

(a) To be eligible for a microloan, an applicant must, at a minimum, be an entrepreneur or small business located in this state.

(b) Microloans may not be made if the direct or indirect purpose or result of granting the microloan would be to:

1. Pay off any creditors of the applicant, including the refund of a debt owed to a small business investment company organized pursuant to 15 U.S.C. s. 681;

2. Provide funds, directly or indirectly, for payment, distribution, or as a microloan to owners, partners, or shareholders of the applicant's business, except as ordinary compensation for services rendered;

3. Finance the acquisition, construction, improvement, or operation of real property which is, or will be, held primarily for sale or investment;

4. Pay for lobbying activities; or

5. Replenish funds used for any of the purposes specified in subparagraphs 1.-4.

(c) A microloan applicant shall submit a written application in the format prescribed by the loan administrator and shall pay an application fee not to exceed \$50 to the loan administrator.

(d) The following minimum terms apply to a microloan made by the loan administrator:

1. The amount of a microloan may not exceed \$50,000;

2. A borrower may not receive more than \$75,000 per year in total microloans;

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3. A borrower may not receive more than two microloans per year and may not receive more than five microloans in any 3-year period;

4. The proceeds of the microloan may be used only for startup costs, working capital, and the acquisition of materials, supplies, furniture, fixtures, and equipment;

5. The period of any microloan may not exceed 1 year;

6. The interest rate may not exceed the prime rate published in the Wall Street Journal as of the date specified in the microloan, plus 1000 basis points;

7. All microloans must be personally guaranteed;

8. The borrower must participate in business management training, business development training, and technical assistance as determined by the loan administrator in the microloan agreement;

9. The borrower shall provide such information as required by the loan administrator, including monthly job creation and financial data, in the manner prescribed by the loan administrator; and

10. The loan administrator may collect fees for late payments which are consistent with standard business lending practices and may recover costs and fees incurred for any collection efforts necessitated by a borrower's default.

(e) The department may not review microloans made by the loan administrator pursuant to this part before approval of the loan by the loan administrator.

(10) STATEWIDE STRATEGIC PLAN.—In implementing this section, the department shall be guided by the 5-year statewide strategic plan adopted pursuant to s. 20.60(5). The department

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shall promote and advertise the loan program by, among other things, cooperating with government, nonprofit, and private industry to organize, host, or participate in seminars and other forums for entrepreneurs and small businesses.

(11) STUDY.—By December 31, 2014, the department shall commence or commission a study to identify methods and best practices that will increase access to credit to entrepreneurs and small businesses in this state. The study must also explore the ability of, and limitations on, Florida nonprofit organizations and private financial institutions to expand access to credit to entrepreneurs and small businesses in this state.

(12) CREDIT OF THE STATE.—With the exception of funds appropriated to the loan program by the Legislature, the credit of the state may not be pledged. The state is not liable or obligated in any way for claims on the loan program or against the loan administrator or the department.

Section 7. Section 288.9935, Florida Statutes, is created to read:

288.9935 Microfinance Guarantee Program.—

(1) The Microfinance Guarantee Program is established in the department. The purpose of the program is to stimulate access to credit for entrepreneurs and small businesses in this state by providing targeted guarantees to loans made to such entrepreneurs and small businesses. Funds appropriated to the program must be reinvested and maintained as a long-term and stable source of funding for the program.

(2) As used in this section, the term "lender" means a financial institution as defined in s. 655.005.

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(3) The department must enter into a contract with Enterprise Florida, Inc., to administer the Microfinance Guarantee Program. In administering the program, Enterprise Florida, Inc., must, at a minimum:

(a) Establish lender and borrower eligibility requirements in addition to those provided in this section;

(b) Determine a reasonable leverage ratio of loan amounts guaranteed to state funds; however, the leverage ratio may not exceed 3 to 1;

(c) Establish reasonable fees and interest;

(d) Promote the program to financial institutions that provide loans to entrepreneurs and small businesses in order to maximize the number of lenders throughout the state which participate in the program;

(e) Enter into a memorandum of understanding with the network to promote the program to underserved entrepreneurs and small businesses;

(f) Establish limits on the total amount of loan guarantees a single lender can receive;

(g) Establish an average loan guarantee amount for loans guaranteed under this section;

(h) Establish a risk-sharing strategy to be employed in the event of a loan failure; and

(i) Establish financial performance measures and objectives for the program in order to maximize the state funds.

(4) Enterprise Florida, Inc., is limited to providing loan guarantees for loans with total loan amounts of at least \$50,000 and not more than \$250,000. A loan guarantee may not exceed 50 percent of the total loan amount.

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465 (5) Enterprise Florida, Inc., may not guarantee a loan if
 466 the direct or indirect purpose or result of the loan would be
 467 to:

468 (a) Pay off any creditors of the applicant, including the
 469 refund of a debt owed to a small business investment company
 470 organized pursuant to 15 U.S.C. s. 681;

471 (b) Provide funds, directly or indirectly, for payment,
 472 distribution, or as a loan to owners, partners, or shareholders
 473 of the applicant's business, except as ordinary compensation for
 474 services rendered;

475 (c) Finance the acquisition, construction, improvement, or
 476 operation of real property which is, or will be, held primarily
 477 for sale or investment;

478 (d) Pay for lobbying activities; or

479 (e) Replenish funds used for any of the purposes specified
 480 in paragraphs (a) through (d).

481 (6) Enterprise Florida, Inc., may not use funds
 482 appropriated from the state for costs associated with
 483 administering the guarantee program.

484 (7) To be eligible to receive a loan guarantee under the
 485 Microfinance Guarantee Program, a borrower must, at a minimum:

486 (a) Be an entrepreneur or small business located in this
 487 state;

488 (b) Employ 25 or fewer people;

489 (c) Generate average annual gross revenues of \$1.5 million
 490 or less per year for the last 2 years; and

491 (d) Meet any additional requirements established by
 492 Enterprise Florida, Inc.

493 (8) By October 1 of each year, Enterprise Florida, Inc.,

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494 shall submit a complete and detailed annual report to the
 495 department for inclusion in the department's report required
 496 under s. 20.60(10). The report must, at a minimum, provide:

497 (a) A comprehensive description of the program, including
 498 an evaluation of its application and guarantee activities,
 499 recommendations for change, and identification of any other
 500 state programs that overlap with the program;

501 (b) An assessment of the current availability of and access
 502 to credit for entrepreneurs and small businesses in this state;

503 (c) A summary of the financial and employment results of
 504 the entrepreneurs and small businesses receiving loan
 505 guarantees, including the number of full-time equivalent jobs
 506 created as a result of the guaranteed loans and the amount of
 507 wages paid to employees in the newly created jobs;

508 (d) Industry data about the borrowers, including the six-
 509 digit North American Industry Classification System (NAICS)
 510 code;

511 (e) The name and location of lenders that receive loan
 512 guarantees;

513 (f) The amount of state funds received by Enterprise
 514 Florida, Inc.;

515 (g) The number of loan guarantee applications received;

516 (h) The number, duration, location, and amount of
 517 guarantees made;

518 (i) The number and amount of guaranteed loans outstanding,
 519 if any;

520 (j) The number and amount of guaranteed loans with payments
 521 overdue, if any;

522 (k) The number and amount of guaranteed loans in default,

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523 if any;

524 (l) The repayment history of the guaranteed loans made; and

525 (m) An evaluation of the program's ability to meet the
526 financial performance measures and objectives specified in
527 subsection (3).

528 (9) The credit of the state or Enterprise Florida, Inc.,
529 may not be pledged except for funds appropriated by law to the
530 Microfinance Guarantee Program. The state is not liable or
531 obligated in any way for claims on the program or against
532 Enterprise Florida, Inc., or the department.

533 Section 8. Section 288.9936, Florida Statutes, is created
534 to read:

535 288.9936 Annual report of the Microfinance Loan Program.—

536 (1) The department shall include in the report required by
537 s. 20.60(10) a complete and detailed annual report on the
538 Microfinance Loan Program. The report must include:

539 (a) A comprehensive description of the program, including
540 an evaluation of its application and funding activities,
541 recommendations for change, and identification of any other
542 state programs that overlap with the program;

543 (b) The financial institutions and the public and private
544 organizations and individuals participating in the program;

545 (c) An assessment of the current availability of and access
546 to credit for entrepreneurs and small businesses in this state;

547 (d) A summary of the financial and employment results of
548 the entities receiving microloans;

549 (e) The number of full-time equivalent jobs created as a
550 result of the microloans and the amount of wages paid to
551 employees in the newly created jobs;

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552 (f) The number and location of prospective loan
553 administrators that responded to the department request for
554 proposals;

555 (g) The amount of state funds received by the loan
556 administrator;

557 (h) The number of microloan applications received by the
558 loan administrator;

559 (i) The number, duration, and location of microloans made
560 by the loan administrator;

561 (j) The number and amount of microloans outstanding, if
562 any;

563 (k) The number and amount of microloans with payments
564 overdue, if any;

565 (l) The number and amount of microloans in default, if any;

566 (m) The repayment history of the microloans made;

567 (n) The repayment history and performance of funding
568 awards;

569 (o) An evaluation of the program's ability to meet the
570 financial performance measures and objectives specified in s.
571 288.9934; and

572 (p) A description and evaluation of the technical
573 assistance and business management and development training
574 provided by the network pursuant to its memorandum of
575 understanding with the loan administrator.

576 (2) The department shall submit the report provided to the
577 department from Enterprise Florida, Inc., pursuant to
578 288.9935(7) for inclusion in the department's annual report
579 required under s. 20.60(10).

580 (3) The department shall require at least quarterly reports

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581 from the loan administrator. The loan administrator's report
 582 must include, at a minimum, the number of microloan applications
 583 received, the number of microloans made, the amount and interest
 584 rate of each microloan made, the amount of technical assistance
 585 or business development and management training provided, the
 586 number of full-time equivalent jobs created as a result of the
 587 microloans, the amount of wages paid to employees in the newly
 588 created jobs, the six-digit North American Industry
 589 Classification System (NAICS) code associated with the
 590 borrower's business, and the borrower's locations.

591 (4) The Office of Program Policy Analysis and Government
 592 Accountability shall conduct a study to evaluate the
 593 effectiveness and return on investment of the State Small
 594 Business Credit Initiative operated in this state pursuant to 12
 595 U.S.C. ss. 5701 et seq. The office shall submit a report to the
 596 President of the Senate and the Speaker of the House of
 597 Representatives by January 1, 2015.

598 Section 9. Section 288.9937, Florida Statutes, is created
 599 to read:

600 288.9937 Evaluation of programs.—The Office of Program
 601 Policy Analysis and Government Accountability shall analyze,
 602 evaluate, and determine the economic benefits, as defined in s.
 603 288.005, of the first 3 years of the Microfinance Loan Program
 604 and the Microfinance Guarantee Program. The analysis must also
 605 evaluate the number of jobs created, the increase or decrease in
 606 personal income, and the impact on state gross domestic product
 607 from the direct, indirect, and induced effects of the state's
 608 investment. The analysis must also identify any inefficiencies
 609 in the programs and provide recommendations for changes to the

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610 programs. The office shall submit a report to the President of
 611 the Senate and the Speaker of the House of Representatives by
 612 January 1, 2018. This section expires January 31, 2018.

613 Section 10. (1) The executive director of the Department of
 614 Economic Opportunity is authorized, and all conditions are
 615 deemed to be met, to adopt emergency rules pursuant to ss.
 616 120.536(1) and 120.54(4), Florida Statutes, for the purpose of
 617 implementing this act.

618 (2) Notwithstanding any other provision of law, the
 619 emergency rules adopted pursuant to subsection (1) remain in
 620 effect for 6 months after adoption and may be renewed during the
 621 pendency of procedures to adopt permanent rules addressing the
 622 subject of the emergency rules.

623 (3) This section shall expire October 1, 2015.

624 Section 11. For the 2014-2015 fiscal year, the sum of \$10
 625 million in nonrecurring funds from the General Revenue Fund is
 626 appropriated to the Department of Economic Opportunity to
 627 implement this act. From these nonrecurring funds, the
 628 Department of Economic Opportunity and Enterprise Florida, Inc.,
 629 may spend up to \$100,000 to market and promote the programs
 630 created in this act. For the 2014-2015 fiscal year, one full-
 631 time equivalent position is authorized with 55,000 of salary
 632 rate, and \$64,759 of recurring funds and \$3,018 of nonrecurring
 633 funds from the State Economic Enhancement and Development Trust
 634 Fund, \$12,931 of recurring funds and \$604 of nonrecurring funds
 635 from the Tourism Promotional Trust Fund, and \$3,233 of recurring
 636 funds and \$151 of nonrecurring funds from the Florida
 637 International Trade and Promotion Trust Fund are appropriated to
 638 the Department of Economic Opportunity to implement this act.

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Section 12. This act shall take effect July 1, 2014.

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/10/2014

Meeting Date

Topic _____

Bill Number 1980
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG FLORIDA 33705
City State Zip

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☐ For ☐ Against ☒ Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/10/14

Meeting Date

Topic _____

Bill Number 1480
(if applicable)

Name David Cruz

Amendment Barcode _____
(if applicable)

Job Title Assistant General Counsel

Address P.O. Box 1757

Phone _____

Street

Tallahassee

FL

32302

City

State

Zip

E-mail _____

Speaking: ☒ For ☐ Against ☐ Information

Representing FL League of Cities

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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

S-001 (10/20/11)

The Florida Senate
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 1666 (616958)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Health and Human Services); Children, Families, and Elder Affairs Committee; and Senator Sobel

SUBJECT: Child Abuse and Child Welfare Services

DATE: April 9, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Sanford	Hendon		CF SPB 7072 as introduced
1.	Brown	Pigott	AHS	Fav/CS
2.	Brown	Kynoch	AP	Pre-meeting

I. Summary:

PCS/SB 1666 makes numerous changes to statutes designed to protect children from abuse and neglect. The bill seeks to improve the quality of child abuse investigations conducted by the Department of Children and Families (DCF) and certain sheriff's offices. The bill increases child welfare expertise in the DCF, improves child abuse investigator qualifications, and creates a consortium of schools of social work to advise the state on child welfare policy.

The bill directs the DCF to conduct immediate investigations of deaths and other significant incidents involving children who have been known to the child protection and child welfare system. The purpose of the investigations is to identify root causes and to rapidly determine the need to change policies and practices related to child protection and child welfare.

The bill provides a definition of "medical neglect" and requires improvements in the care of medically complex children and the investigation of child abuse cases involving such children.

The bill creates a new part V of ch. 409, F.S., to be entitled "Community-Based Child Welfare." In this new part, current law relating to community-based care is reorganized, obsolete provisions are removed, and some provisions are clarified.

The bill has fiscal impacts that are anticipated to be addressed in the General Appropriations Act.

II. Present Situation:

Child Abuse, Neglect, and Death

Child abuse and child neglect, known collectively as child maltreatment, have been identified as serious social issues in the United States. Most recent studies show that the most common child maltreatment is neglect, which accounts for about 78 percent of the cases. Other common maltreatments are physical abuse (approximately 17 percent of cases) and sexual abuse (approximately 9 percent of cases). Victims less than one year old have the highest rate of victimization.

Many factors are associated with child maltreatment, including poverty, substance abuse, domestic violence, and mental illness.¹ The presence of an adult male unrelated to the child in the household has also been identified as a major risk factor for child maltreatment.

Child maltreatment is one of the nation's most serious problems.² In federal fiscal year 2011, the most recent year for which national data is available,³ an estimated 3.4 million reports of abuse were received by child protection agencies.⁴ After investigation, the number of unduplicated child victims nationally was estimated to be 681,000. Florida reported 208,437 calls to the national child abuse hotline, of which 55,770 resulted in substantiated allegations of abuse.⁵

In addition to the human cost of child abuse and neglect, there is a significant fiscal impact to state government. The DCF has made a conservative estimate of \$72,709 annually per child to provide child welfare, hospitalization, special education, and juvenile justice services to care for an abused or neglected child.⁶ Just the cost of child and adult protective investigations in Florida (of which the great majority are child investigations) was reported to be \$312,493,471 in Fiscal Year 2012-2013.

The most serious result of child maltreatment is the death of the child. Nationally, 1,545 child fatalities resulting from child abuse or neglect were identified for federal fiscal year 2011.⁷ Florida reported 133 child fatalities for that year resulting from child abuse or neglect.⁸ In some instances the family was not previously known to the DCF, and in others the child was previously known. For cases in which the family was previously or currently known to the DCF, understanding the reasons that the previous or current intervention was not effective in avoiding the death is of critical importance.

¹ Myers, John E.B., *Child Protection in America: Past, Present, and Future*, Oxford University Press, 2006, pp. 134-156.

² U.S. Department of Health and Human Services, *Child Maltreatment 2011*, p. 1, available at <http://www.acf.hhs.gov/sites/default/files/cb/cm11.pdf> (last visited March 25, 2014).

³ All data in this paragraph are for FFY 2011 so that all are comparable.

⁴ *Id.* at vii. The report adds that the rate of referrals have remained fairly constant for at least five years.

⁵ *Id.* at 11, 29.

⁶ Department of Children and Families, *2013 Annual Report*, p. 27, available at <http://www.dcf.state.fl.us/admin/publications/docs/CFSAP-2013June.pdf> (last visited March 25, 2014).

⁷ U.S. Department of Health and Human Services, *ibid.* at 63.

⁸ *Id.* at 63.

Child Protection and Child Welfare Services in Florida

Florida's system for providing services to children alleged to have been abused, neglected, or abandoned is complex, involving the DCF, six sheriff's offices, the Office of the Attorney General, one state attorney's office, the Department of Health, 17 eligible lead community-based providers (lead agencies),⁹ and innumerable lead agency subcontractors.

A child protective investigation begins with a report by any person to the Florida Abuse Hotline. The state is required to maintain a non-stop ability and capacity for receiving reports of maltreatments. The reports are sent out to child protective investigators (CPIs) across the state to investigate.

CPIs are most commonly DCF employees, but in six counties, the local sheriff performs the investigative function.¹⁰ The DCF child protective services are delivered through six regional offices, using 1,300 investigators and 300 supervisors. The sheriff's offices employ 387 CPIs and 70 supervisors.

Court hearings are required whenever a child is removed from his or her home. The attorneys in these cases are either DCF employees or employees of the Attorney General's Office under contract to DCF or, in one case, a state attorney's office.

The lead agencies and their subcontractors are the primary providers of services to children and families in the child welfare system. There are currently 17 lead agencies with contracts covering all 20 judicial circuits. The lead agencies and their subcontractors employ case managers and supervisors to oversee the provision of services to children in the child welfare system. Many of the services are not directly provided by the lead agencies or the case management subcontractors, but by providers of substance abuse services or mental health services, or other specialized community-based providers.

There is variation across the state in deciding the point at which the lead agency assumes responsibility for the case management of a child welfare case, with varying degrees of cooperation and overlap between CPIs and lead agencies. In addition, special problems arise when multiple areas of the state are involved in either the investigation or the placement of children.

Child Welfare Workforce

History

The college degrees most tailored to and associated with child welfare are the bachelor's and master's degrees in social work. During the first half of the 20th century, the federal government, in cooperation with universities and local agencies, established a child welfare system staffed by

⁹ The term "eligible lead community-based provider" is defined as a single agency with which the DCF is required to contract for the provision of child protective services in a community that is no smaller than a county. See s. 409.1671(1)(e), F.S. These entities are commonly known as community-based care lead agencies or "lead agencies."

¹⁰ As authorized under s. 39.3065, F.S., and the General Appropriations Act, sheriffs in Broward, Hillsborough, Manatee, Pasco, Pinellas and Seminole counties investigate child abuse and neglect reported to the abuse hotline rather than the DCF.

individuals with professional social work educations. Child welfare came to be viewed as a prestigious specialty within the social work profession.¹¹

In the 1990's, an increased recognition of child abuse led to enactment of state child abuse and neglect reporting laws and toll-free numbers to report abuse. This resulted in a large increase of child abuse reports, and resources for the preparation and support of additional staff needed to respond to the reports became inadequate. States moved quickly to hire additional employees to investigate abuse. One way to expand the workforce was to reduce staff qualifications. In response to having a varied workforce without similar expertise and training, agencies began to structure child welfare work to reduce its complexity and make it possible for people with fewer qualifications to adequately perform required tasks.¹²

Current Qualifications

The current qualifications for child protective investigators are not specified in statute or rule, but the DCF's internal hiring practices require that new protective investigators have a bachelor's degree in any field and at least one year of child welfare related experience, or a master's degree in any field. Preference is given to candidates with a human services related degree. The DCF is not involved in the hiring practices or standards established by the sheriff's offices.¹³

The current qualifications for child welfare case managers operating in the community-based care system are established by rule and are a bachelor's degree in social work or related field.¹⁴ Since employment decisions for child welfare case managers are made by individual lead agencies, and since the DCF does not collect data on their practices, the extent to which this rule is actually observed by the lead agencies is not clear. The DCF has authority to exempt employees from the rule and often does so.

In addition to these qualifications, the 2012 Legislature required that both child protective investigators and child welfare case managers obtain child welfare certification from a third-party credentialing entity.¹⁵ This certification requires the individual to demonstrate core competency in any child welfare practice area. A "core competency" is defined in statute to be the minimum knowledge, skills, and abilities necessary to carry out child welfare work responsibilities.¹⁶

¹¹ Child Welfare Workforce, Research Roundup, Child Welfare League of America, (Sept. 2002) *available at* <http://www.cwla.org/programs/r2p/rnews0209.pdf>. (last visited March 3, 2014).

¹² Jones, L.P. and Okamura, A. Reprofessionalizing Child Welfare Services: An Evaluation of a Title IV-E Training Program, *Research on Social Work Practice*, Vol. 10 No. 5, September 2000 and Zlotnik, J.L., *Preparing Social Workers for Child Welfare Practice: Lessons from an Historical Review of the Literature*, *Journal of Health & Social Policy*, Vol. 15, No. 3/4, 2002.

¹³ Communication from the Department of Children and Family Services, Family Safety Office, (Sept. 16, 2010) (on file with the Committee on Children, Families, and Elder Affairs).

¹⁴ Section 409.1671(5)(a), F.S., requires that each community-based lead agency must be licensed as a child-caring or child-placing agency. Section 65C-15.017(2) and (3), F.A.C., sets the education and experience requirements for such agencies.

¹⁵ Currently, the Florida Certification Board.

¹⁶ Section 402.40, F.S.

Social Workers in Child Welfare

The DCF has records on the post-secondary degrees for 1,214 of the state's CPIs.¹⁷ These data do not include information on the degrees of the investigators in the six county sheriff's offices. Approximately 10 percent of the DCF's CPIs have a social work degree, either bachelor's or master's. See Table 1 below:

Table 1. Degrees of DCF Child Protective Investigators

Degree Major	Number	Percent of Workforce
Other	388	32.0%
Criminal Justice	361	29.7%
Other Health and Human Service	350	28.8%
Social Work	115	9.5%
Total	1,214	100%

There were 4,728 students enrolled statewide in programs leading to a bachelor's or master's degree in social work in the fall of 2012.¹⁸ (See Table 2.) There were 1,684 graduates from the state's 14 schools of social work in 2011-2012.¹⁹ The bachelor's level program in social work requires a structured internship with approximately 512 hours of supervision by a master's level social worker and 50 hours of coursework. In contrast, a psychology or a criminology major requires no internship and 36 hours of coursework, and a sociology major requires no internship and 30 hours of coursework.²⁰

¹⁷ Data provided by the Department of Children and Families, (Jan. 27, 2014) (on file with the Senate Committee on Children, Families, and Elder Affairs).

¹⁸ Informal communication, Florida State University School of Social Work, (Mar. 3, 2014) (on file with the Senate Committee on Children, Families, and Elder Affairs).

¹⁹ Data provided by the Florida Board of Governors and the Independent Colleges and Universities for 2011-2012, (Nov. 18, 2013) (on file with the Senate Committee on Children, Families, and Elder Affairs).

²⁰ *Id.*

Table 2. 2011-12 BSW and MSW Enrollment and Degrees

	Public Universities	Enrollment	Degrees
1	Florida Agricultural and Mechanical University	356	81
2	Florida Atlantic University	687	171
3	Florida Gulf Coast University	176	65
4	Florida International University	515	171
5	Florida State University	885	333
6	University of Central Florida	709	255
7	University of North Florida ²¹	0	0
8	University of South Florida	327	184
9	University of West Florida	285	113
	Private Universities	Enrollment	Degrees
10	Barry University	420	209
11	Florida Memorial University	50	15
12	Saint Leo University	218	50
13	Southeastern University	70	31
14	Warner University	30	6
	Total	4,728	1,684

In 2014, the Office of Program Policy Analysis and Government Accountability (OPPAGA) reviewed child welfare systems in Florida and 16 other states with large child populations.²² Among the issues studied by OPPAGA were the qualifications required by states in hiring child protection workers. The results are as follows:

²¹ According to the Board of Governors, the University of North Florida's BSW program was approved for fall of 2013.

²² OPPAGA, *Research Memorandum, State Child Welfare Systems: Key Components and Performance Indicators*, March 10, 2014.

Table 3: Qualifications for Child Protective Workers in 17 States

State	Any Bachelor's Degree	Bachelor's Degree in Human Services Field	BSW
Arizona		X	
California			X
Florida	X		
Georgia	X		
Illinois			X
Indiana	X		
Michigan		X	
Missouri		X	
New Jersey	X		
New York	X		
N. Carolina			X
Ohio		X	
Pennsylvania	X		
Tennessee	X		
Texas	X		
Virginia			
Washington			X

In addition, Kansas requires a social work degree.²³

The impact of child welfare workers with a social work degree has been examined by researchers. Education is the variable that child welfare workforce researchers have explored most often in relation to performance.²⁴ Much of the research on the effect of education has focused on agency/university partnership programs that have been established over the past decade using federal funding provided under Title IV-E of the Social Security Act. While there is variation among these programs, they generally aim to increase educational opportunities for agency staff to add to the pool of potential child welfare employees and enhance the relevance of curricula in schools of social work. Research to examine their effects found that students score significantly higher on measures of job-related competencies than non-students. Graduates of the specialized child welfare program in New York State, for example, had higher levels of skills, confidence, and sensitivity to clients.²⁵

²³ Informal communication, Florida State University School of Social Work (March 3, 2014) (on file with the Senate Committee on Children, Families, and Elder Affairs).

²⁴ *Id.* Several studies have found evidence that social work education, at either the bachelors of social work (BSW) or masters of social work (MSW) level, positively correlates with performance. A study conducted in Maryland public child welfare agencies found an MSW to be the best predictor of overall performance as measured by supervisory ratings and employee reports of work related competencies. A national study that measured competencies related to 32 job-related duties found that both MSW and BSW staff were better prepared for child welfare work than their colleagues without social work education. Research conducted with staff in Kentucky's public child welfare agency also revealed that staff with social work degrees scored significantly better on state merit examinations, received somewhat higher ratings from their supervisors, and had higher levels of work commitment than other staff. A Nevada study showed that caseworkers who had a social work degree were significantly more likely to create a permanent plan for children in their caseloads within three years than their colleagues without social work education.

²⁵ *Id.* Also see Lewandowski, K. (1998). *Retention outcomes of a public child welfare long-term training program*. Professional Development: International Journal of Continuing Social Work Education, 1 and Zlotnik, J.L. *Enhancing Child*

Issues Identified in Child Abuse Deaths

Agency Structure and Stability

Since 1998 the DCF has had eight secretaries. In July 2013, the agency secretary resigned²⁶ and an interim secretary was named who has agreed to remain through the 2014 Legislative Session.²⁷ With each new secretary typically comes a somewhat new vision and a new strategic plan that includes substantial changes to both the structure of the DCF and staff assignments, all of which may result in some degree of disruption to the functioning of the department. Frequent changes to federal and state laws and to rules and operating procedures, combined with these leadership changes, have made long-term stability at the DCF difficult to achieve.

Currently, the structure of the DCF is provided in law, which requires the appointment of a secretary, a deputy secretary, and an assistant secretary for substance abuse and mental health. The law also provides that DCF offices may be consolidated, restructured, or rearranged by the secretary, in consultation with the Executive Office of the Governor, and that the secretary may appoint additional managers and administrators as he or she determines are necessary for the effective management of the department.²⁸

Child Welfare Workforce Issues

A number of commissions and task forces have been established over the past 25 years, often after deaths of children from child abuse or neglect. The commissions and task forces have often found that child protective and child welfare staff did not follow procedures or lacked the training and ability to perform their duties. The commissions and task forces have recommended ways to improve the qualifications of child welfare staff. Some of the findings are as follows:

- The Study Commission on Child Welfare was established by the Florida Legislature in November 1989 after several children died while in state care.²⁹ At that time, CPIs reported that prior to employment, they worked most frequently in social service/welfare, law enforcement, and in education positions (54 percent). The rest previously held positions as sales personnel, law clerks, real estate agents, and members of the U.S. military.³⁰ The

Welfare Service Delivery: Promoting Agency-Social Work Education Partnerships, Policy and Practice, 2001. Although the evidence related to educational qualifications is not unequivocal, it provides support for social work education as the best preparation for practice in child welfare. These findings tend to be most consistent with regard to graduates of specialized education programs offering enhanced child welfare content and internships in child welfare settings.

²⁶ Marbin Miller, C. and Klas, M.E., *DCF Secretary David Wilkins Resigns Amid Escalating Controversy over Child Deaths*, TAMPA BAY TIMES, July 18, 2013 available at <http://www.tampabay.com/news/politics/gubernatorial/dcf-secretary-david-wilkins-resigns-amid-escalating-scandal-over-child/2132083> (last visited Mar. 3, 2014).

²⁷ Koff, R., *Interim DCF Boss to Stay on Through Spring*. TAMPA BAY TIMES, Dec. 11, 2013 available at <http://www.tampabay.com/news/politics/stateroundup/interim-dcf-boss-to-stay-on-through-spring/2156688> (last visited Mar. 3, 2014).

²⁸ Section 20.19, F.S.

²⁹ *Id.* Also see Lewandowski, K. (1998). *Retention outcomes of a public child welfare long-term training program*. Professional Development: International Journal of Continuing Social Work Education, 1 and Zlotnik, J.L. *Enhancing Child Welfare Service Delivery: Promoting Agency-Social Work Education Partnerships*, Policy and Practice, 2001. Although the evidence related to educational qualifications is not unequivocal, it provides support for social work education as the best preparation for practice in child welfare. These findings tend to be most consistent with regard to graduates of specialized education programs offering enhanced child welfare content and internships in child welfare settings.

³⁰ *Id.*

commission recommended that the state should recruit CPIs with bachelor's degrees in social work, child development, or guidance and counseling.³¹

- On April 25, 2002, the DCF revealed that a child in its care, five-year-old Rilya Wilson, had disappeared 15 months earlier from her custodial home and had not been seen since. In response, Gov. Jeb Bush appointed a four-member Governor's Blue-Ribbon Panel on Child Protection.³² The panel recommended that DCF compare the performance and longevity of child welfare staff who had degrees in social work or other behavioral sciences to staff who had other degrees.³³
- In a 2013 Florida case involving a two-year-old child who died from physical abuse, the Child Welfare League of America (CWLA) was commissioned to study the death and make recommendations. The family included two adult women, five adult men, and 10 children, including the victim. These people had varying connections and living arrangements throughout the child's life, and the family had been reported to the child abuse hotline 16 times between 2005 and 2013. The CWLA report stated the family had experienced substance abuse, domestic violence, a "chronic lack of even marginal parental nurturing," developmental delays in several of the children in the home, referrals for services that were not followed through, lack of managerial review, and "many years of systemic failure." In the words of the report, "(c)hanging a checklist or hiring additional staff cannot solve these pervasive problems."³⁴

One of the problems highlighted by the various commissions and panels is the turnover of child protective investigator workforce. Experience among child abuse investigators suffers with significant employee turnover. The annual turnover rate of department CPIs has been 32 percent, 19 percent, and 22 percent over the last three years. The negative impact of turnover is well known – increased training costs (\$6.2 million each year) and inexperienced workers.

Child welfare workers with degrees in social work are not immune from turnover. During the period from 2004-2013, Florida State University (FSU) placed and supervised a total of 293 interns in child welfare settings in the northwest region of Florida. While many of the interns were hired for positions with the DCF, retention was difficult, with few staying more than a few years. As a result, FSU began surveying students leaving employment within the field to determine the reasons for leaving. The top five reasons were:

- Poor overall management/administration by upper-level management;
- Lack of professional support from supervisors;
- Lack of respect and lack of feeling valued by supervisors and upper-level management;
- Lack of focus on teamwork, with employees often feeling like they were pitted against each other by upper-level management and supervisors; and
- No support for professional development or advancement.³⁵

³¹ Report of the Study Commission on Child Welfare, *Part One Recommendations* (Mar. 1991) (on file with the Senate Committee on Children, Families, and Elder Affairs).

³² Governor's Blue Ribbon Panel on Child Protection, (May 2002) (on file with the Senate Committee on Children, Families, and Elder Affairs).

³³ *Id.* In spite of continuing dialog with the Schools of Social Work statewide, the department does not appear to have made progress towards increasing the number of staff with degrees in social work.

³⁴ Child Welfare League of America, *Special Review Report re JVM*, submitted December 19, 2013, p. 15.

³⁵ *Id.*

While respondents indicated that caseloads were indeed high at some points and that salaries could be better, neither of these issues were cited as primary reasons for leaving.³⁶

As part of its review of child welfare systems, OPPAGA conducted a series of focus groups with both child protective service investigators and child welfare case managers. They found a variety of problems in the working conditions of CPIs and case managers.³⁷ These problems included:

- A lack of mentoring and management support across the state:
Some case managers noted that high turnover rates among workers resulted in supervisors carrying caseloads themselves, leaving little time for supervision or mentoring. In addition, most case managers reported that supervisors' primarily focused on meeting DCF performance measures rather than encouraging quality work or mentoring new case managers.
- Administrative tasks that detract from time spent with families and children:
Investigators estimated that they spend 60 percent to 80 percent of their time on the administrative requirements associated with each case rather than with families. Investigators stated they could not complete required case-related tasks in the standard 40-hour work week and that they routinely work nights and weekends.
- Concern about the sometimes volatile work environment:
Both investigators and case managers reported that they are required to go into unsafe neighborhoods and dangerous, violent homes, but they do not feel that the DCF is concerned for their safety. While investigators can request law enforcement agencies to have officers accompany them, they reported that law enforcement agencies are sometimes not responsive to their requests or that it takes hours for officers to arrive.
- Outdated technology:
CPIs and case managers reported that their electronic equipment has not kept up with prevailing technology. For example, they reported they are issued laptop computers that are not enabled for wireless Internet connection and that DCF-issued mobile phones often have poor or no reception, depending on the investigator's location. As a result, staff must use personal phones at their own expense.

According to the U.S. Administration on Children and Families, a supportive organizational culture is a key ingredient in building a stable and effective child welfare workforce. Core elements of organizational culture include agency leadership, workforce management, supervision, and support. Organizational culture and employee relations significantly influence an agency's ability to recruit and retain staff as well as make long-lasting workforce changes.

Efforts to Improve Child Protection

Florida has taken many actions to improve the quality of child abuse investigators over the years. Most recently, the Legislature has made significant investments in child protection and child welfare:

³⁶ *Id.*

³⁷ OPPAGA, *ibid.* (Mar. 6, 2014)

- In the 2010 Session, the Legislature required child abuse investigators and child welfare case workers to be certified.³⁸ The certification is outsourced and includes testing in child welfare and agreement to a set of ethics.
- In the 2011 Session, the Legislature provided \$11 million to the DCF to redesign the central abuse hotline.
- In the 2012 Session, the Legislature made several improvements to the child protection system by:
 - Appropriating \$10.8 million to provide additional permanent and temporary child abuse investigators.
 - Appropriating \$7.9 million to improve the state's child welfare information system (Florida Safe Families Network, or FSN).
 - Providing funding to raise CPI salaries by \$4,300 per CPI per year.
- In the 2013 Session, the Legislature provided \$4 million for CPI redesign (including sheriff's offices) and \$1.8 million for FSN.

University Partnerships with Child Welfare

Section 1004.61, F.S., currently directs the DCF to form partnerships with the schools of social work of state universities in order to encourage the development of graduates trained to work in child protection. The University of South Florida for example, coordinates child welfare training in the state.

The federal government provides both policy and financial resources to states for child welfare services under Title IV of the Social Security Act. One use of such funds is the education and training of child welfare workers. Some states use these funds to create partnerships between their child welfare agencies and colleges of social work at state universities. The universities provide the expertise in child welfare research, policy, and practices. They also develop and conduct on-the-job training to child welfare workers. The child welfare agency, in turn, advises the universities on the content of the training and education in the university so graduates are better prepared for child welfare work.

Care of Medically Complex Children

Current law requires that children in this state be provided with the following:

- Protections from abuse, abandonment, neglect, and exploitation;
- A permanent and stable home;
- A safe and nurturing environment, which will preserve a sense of personal dignity and integrity;
- Adequate nutrition, shelter, and clothing;
- Effective treatment to address physical, social, and emotional needs, regardless of geographical location;
- Equal opportunity and access to quality and effective education, which will meet the individual needs of each child, and to recreation and other community resources to develop individual abilities;
- Access to preventive services; and

³⁸ Chapter 2011-163, Laws of Florida

- An independent, trained advocate, when intervention is necessary, and a skilled guardian or caregiver in a safe environment when alternative placement is necessary.³⁹

Special provisions for medically complex children are not currently provided in statute.

Section 39.01(43), F.S., provides a definition of “necessary medical treatment” as care that is necessary within a reasonable degree of medical certainty to prevent the deterioration of a child’s condition or to alleviate immediate pain of a child. Additionally, s. 39.01(44), F.S., sets out the circumstances for neglect of a child. The statute specifically provides that certain circumstances may not be considered neglect if caused primarily by financial inability unless actual services for relief have been offered and rejected by a parent. Also, a parent or legal custodian legitimately practicing religious beliefs in accordance with a recognized church or specific religious organization who does not provide specific medical treatment for a child, may not, for that reason alone, be considered a negligent parent or legal guardian. However, ch. 39, F.S., does not include a definition of “medical neglect” or special provisions related to the investigation of allegations of abuse, neglect, or abandonment when children with serious medical conditions are the reported victims.

Suspected child abuse, neglect, or abandonment may be reported to the DCF child abuse hotline regarding children with significant medical issues, as with any other children. Child Protection Teams, operated by the Department of Health (DOH), provide medical expertise to the DCF if there are medical issues associated with child abuse or neglect. However, the current law does not require the teams to coordinate their findings with physicians who have special knowledge of the medical condition of the child who is alleged to be the victim of abuse or neglect. Without the information possessed by those familiar with a particular disease or disability processes, parents can be found to be neglectful or abusive even when observed problems are related to insufficient services or a natural change in medical conditions.

In order to maintain these children in a safe environment that is the least restrictive, families with children who have medical issues need access to various medical and social services. These services are sometimes most readily available to the child in placements outside of the home. It is the current policy of the state, supported by federal and state law, that the parent or legal guardian decides what is best for the child. The state respects the parent or legal guardian’s decision made in consultation with medical professionals. Many children with complex medical needs live safely in their homes with supportive services through the Florida Medicaid program.

Florida Medicaid has a comprehensive medical service package to accommodate families that choose to care for their medically complex child at home. Medical services are made available in the home, including private duty nursing, personal care assistance, home health aide services, and occupational, physical, and speech therapy when medically necessary, in unlimited amounts or durations for children in the Medicaid program.

The DCF requires foster care caseworkers to obtain high-level approval before placing any dependent child in a nursing home. Foster children already placed in nursing homes are reviewed

³⁹ See s. 39.001, F.S.

monthly by the AHCA in an effort to return the children to their birth parents or place them in foster homes run by parents with specialized medical training.

The state is currently a party to a lawsuit related to the placement of medically complex children in settings such as nursing homes. The U.S. Department of Justice joined the lawsuit that alleges that the state violated the Americans with Disabilities Act (ADA).⁴⁰ The AHCA has worked with the families of over 200 children in nursing homes under the Medicaid program to ensure they are aware of in-home health services and have been offered those services. In addition, the DCF and the Agency for Persons with Disabilities (APD) have worked with the families of medically complex children served by APD to ensure the least restrictive placement.

Statewide Medicaid Managed Care

Part IV of ch. 409, F.S., was created in 2011 by ch. 2011-134, L.O.F., and governs the Statewide Medicaid Managed Care program (SMMC). The program, authorized by two federal Medicaid waivers, is designed for the Agency for Health Care Administration (AHCA) to issue invitations to negotiate⁴¹ and competitively procure contracts with managed care plans in 11 regions of the state to provide comprehensive Medicaid coverage for most of the state's enrollees in the Medicaid program. SMMC has two components: managed medical assistance (MMA) and long-term care managed care (LTCMC).

The LTCMC component began enrolling Medicaid recipients in August 2013 and is scheduled to complete its statewide roll-out in March 2014.⁴² The MMA component is scheduled to begin enrolling Medicaid recipients in May 2014 and finish its roll-out in August 2014.⁴³

Provider Service Networks in SMMC

Types of managed care plans that are eligible for SMMC include health insurers, exclusive provider organizations, health maintenance organizations, provider service networks (PSNs), and federally-authorized accountable care organizations, among other entities.⁴⁴

A PSN is defined as a type of managed care plan of which a controlling interest is owned by a health care provider, or group of affiliated providers, or a public agency or entity that delivers health services. For the purpose of this definition, "health care provider" includes Florida-licensed health care professionals or licensed health care facilities, federally qualified health care centers, and home health care agencies.⁴⁵

The AHCA is required to procure a specified number of managed care plans per region or a number of plans that range between a minimum and maximum specified for each region. At least

⁴⁰ *A.R. et al. v. Dudek et al, United States V. Florida*, Consolidated Case No. 0:12-cv-60460-RSR, U.S. District Court for the Southern District of Florida.

⁴¹ An "invitation to negotiate" is a written or electronically posted solicitation for vendors to submit competitive, sealed replies for the purpose of selecting one or more vendors with which to commence negotiations for the procurement of commodities or contractual services. See s. 287.012(17), F.S.

⁴² See < http://ahca.myflorida.com/Medicaid/statewide_mc/index.shtml#LTCMC >, last visited March 20, 2014.

⁴³ See < http://ahca.myflorida.com/Medicaid/statewide_mc/index.shtml#MMA >, last visited March 20, 2014.

⁴⁴ See s. 409.962(6), F.S.

⁴⁵ See s. 409.962(13), F.S.

two plans per region must be procured, and at least one plan per region must be a PSN, if a PSN submits a responsive bid during the procurement. If no PSN submits a responsive bid for a region, the AHCA is required to procure no more than one less than the maximum number of plans for that region during the initial procurement and, within 12 months after the initial invitation to negotiate, attempt once again to procure a PSN for that region.⁴⁶

Siblings

Current law includes legislative intent that when siblings are placed in out-of-home care, the DCF must make every possible effort to place them together. If they are permanently placed, the DCF must attempt to place them in the same adoptive home, and if placement together is not possible, the DCF must attempt to keep them in contact with each other.⁴⁷ The term “sibling” is not defined and there is no provision at specific points in the child welfare system, such as at removal or at judicial review, to ensure that the DCF is attending to issues relating to siblings.

Relative Caregiver Program

The Florida Legislature established the Relative Caregiver Program in 1998.⁴⁸ This program offers monthly cash assistance and Medicaid for a child under the age of 18 who is placed by a dependency court with a relative after the child is removed from his or her home as a result of abuse, neglect, or abandonment. The monthly payment provides financial help for a relative who would not be able to afford to care for the child without assistance. The amount of the payment varies depending on the child’s age and circumstances. Medicaid pays for the child’s health care. The child may also be eligible for subsidized child care.

Only persons who are within the fifth degree of relationship by blood or marriage to the parent or stepparent of a dependent child or a half-brother or half-sister of a dependent child and who are caring full-time for the child, are eligible for the Program.

Under the Relative Caregiver Program, the child may be in temporary custody of the relative under the protective supervision of the DCF, may be placed under guardianship,⁴⁹ or may be placed permanently with the relative.⁵⁰ Either of the last two options is considered a permanency placement for the child. Continued supervision of the placement by the DCF is required under the permanent placement option, but not under the guardianship option.

Funding for the Relative Caregiver Program is through Florida’s share of the block grant for Temporary Assistance for Needy Families (TANF), in accordance with Title IV-A of the Social Security Act (SSA). The SSA lists the purposes of the TANF program in Title IV-A, section 401. This section specifically states that one of the purposes is to “provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives.”

⁴⁶ See s. 409.974(1), F.S.

⁴⁷ Section 39.001(1)(k), F.S.

⁴⁸ Chapter 98-403, s. 70, Laws of Florida.

⁴⁹ Section 39.6221, F.S.

⁵⁰ Section 39.6231, F.S.

The DCF currently places children with nonrelatives under court-ordered supervision, but has not been able to pay the nonrelatives due to restrictions on the TANF funding source. These children are placed in the nonrelative homes after studies by the DCF. The only current difference between relative and nonrelative placements is that relatives receive payments to offset the cost of caring for the children and nonrelatives do not. As of December 31, 2012, there were 1,552 children in the care of nonrelatives under DCF supervision. The estimated monthly Relative Caregiver cost per child is \$257.09 for an average annual total of \$3,087 per child.⁵¹

Public Disclosure of Child Deaths

There is currently no mechanism by which child deaths that have been reported to the DCF's child abuse hotline are made public. Arkansas has a database by which such deaths are reported, along with basic facts related to the case. This information is made available through the Arkansas social services website.⁵²

Child Abuse Death Review Committee

The State Child Abuse Death Review Committee (CADR) was established in Florida in 1999 by statute.⁵³ Case reviews began in 2000 and were expanded in 2004 to include all verified child abuse deaths. Current law establishes the CADR and local child abuse death review committees within the Department of Health (DOH).⁵⁴ The CADR is composed of 18 members, including experts from the medical, law enforcement, social services, and advocacy professions.⁵⁵

Members convene every other month to review facts and circumstances of the deaths of children whose deaths have been investigated by the DCF and closed with a "verified" finding of child abuse or neglect. The purpose of the child death review is to help prevent child deaths as a result of abuse or neglect by:⁵⁶

- Developing a community-based approach to address child abuse deaths and contributing factors;
- Achieving a greater understanding of the causes and contributing factors of deaths resulting from child abuse or neglect;
- Identifying gaps, deficiencies, or problems in service delivery to children and families by public and private agencies that may be related to child abuse deaths; and
- Developing and implementing data-driven recommendations for reducing child abuse and neglect deaths.

The CADR is required to submit an annual statistical report to the governor and the Legislature by December 31 containing recommendations to reduce preventable child deaths.⁵⁷

⁵¹ Department of Children and Families, *SB 770 Fiscal Analysis* (Feb. 4, 2014) (on file with the Senate Committee on Children, Families, and Elder Affairs).

⁵² Arkansas Department of Human Services, Child Fatality Notification, *available at* <https://ardhs.sharepoint.com/CFN/default.aspx> (last visited March 4, 2014)

⁵³ Section 383.402, F.S.

⁵⁴ Section 383.402(1), F.S.

⁵⁵ Section 383.402(2)(a) and (b), F.S.

⁵⁶ Section 383.402(1), F.S.

⁵⁷ Section 383.402(3)(c), F.S.

Local child abuse death review committees also conduct reviews of the verified deaths of children in their respective communities to develop prevention campaigns and prepare recommendations for improving local practices in child protection and support services to families. There are 23 local committees that provide coverage for Florida's 67 counties.⁵⁸

During 2011, 2,241 children under the age of 18 died in Florida. Of those deaths, 474 were reported to the Florida Abuse Hotline and 130 deaths were verified by the DCF as being related to child abuse or neglect. The CADR received 126 cases for review during the period of January through November 2012. The CADR is statutorily limited to the review of "verified" child death reports.⁵⁹

Statutory Provisions Relating to Community-Based Care Lead Agencies

The transition from government-delivered to outsourced child welfare sources began in earnest in Florida in 1996, when the Legislature directed the DCF to contract with established community-based organizations to establish pilot projects for the provision of foster care and related services.⁶⁰ In 1998, the Legislature required the DCF to privatize the provision of all foster care and related services statewide. The transition was completed in Fiscal Year 2004-2005. Currently, there are 19 community-based care lead agencies (lead agencies) providing child welfare services statewide.

From the beginning of the outsourcing of child welfare services, s. 409.1671, F.S., has been the primary statute providing legislative direction for the process. Consequently, the statute contains many provisions that are obsolete, some which are current, and some which need clarification. For example, there is no provision in statute currently describing the duties of the DCF in an outsourced child welfare system.

In addition, currently there is not a statutory requirement that the lead agencies be incorporated under Florida law. Also, the duty to provide community input for lead agencies is buried in the other duties ascribed to DCF Community Alliances, which are at present located in the DCF organizational statute, ch. 20.19, F.S.

Unlawful Desertion of a Child

Adoption is a legal process, but the process is not always properly carried-out, which can put children in danger. Beginning on September 9, 2013, Reuters New Service published a five-part series, entitled "The Child Exchange," which exposed how American parents were using Internet message boards to find new families for children they regretted adopting – a practice that has been called "private re-homing." Reuters spent 18 months investigating eight message boards

⁵⁸ Child Abuse Death Review Committee, *Annual Report* (Dec. 2012), available at <http://www.floridahealth.gov/alternatesites/flcadr/reports.html> (last visited Dec. 9, 2013).

⁵⁹ *Id.*

⁶⁰ Chapter 96-402, Laws of Florida.

where participants advertised unwanted children and examined two dozen cases in which adopted children were re-homed.⁶¹ The investigative series found:

- An advertisement for re-homing appeared, on average, at least once per week;
- The average range for children being advertised for re-homing is 6 to 14 years of age;
- Re-homing is accomplished through basic power of attorney documents which allow the new guardians of the child to enroll the child in school or secure government benefits;
- At least 70 percent of the children offered for re-homing on one Yahoo message board had been adopted from foreign countries;
- Only 29 states have laws that govern how children can be advertised for adoption;⁶² and
- The Interstate Compact for the Placement of Children, which is meant to be a safeguard against the improper placement of children across state lines, is often not enforced by law enforcement.⁶³

Florida law currently contains no criminal provisions specifically relating to re-homing.

III. Effect of Proposed Changes:

Section 1 amends s. 20.19, F.S., to direct the secretary of the Department of Children and Families (DCF) to appoint an assistant secretary for child welfare to spearhead the DCF's efforts to carry out its duties and responsibilities for child protection and child welfare, and specifies the qualifications for a person appointed to that position. This section also provides new membership criteria for the DCF community alliances and adds the new duty of providing independent and community-focused assessment of child protection and child welfare services and the local system of community-based care.

Section 2 amends s. 39.001, F.S., to:

- Provide that the safety of children is the paramount concern of the chapter;
- Require that partnerships for child protection should include the courts, law enforcement agencies and service providers, as well as the DCF, other agencies, and local communities;
- Emphasize the importance of siblings remaining in contact with one another;
- Preserve and strengthen families caring for medically complex children; and
- Make specific provisions relating to medically complex children.

Section 3 amends s. 39.01, F.S., to provide definitions for "impending danger," "medical neglect," "present danger," "safety plan," and "sibling" and to remove obsolete provisions.

Section 4 amends s. 39.013, F.S., to require that the DCF be represented by legal counsel in every dependency proceeding and to give direction to DCF lawyers.

Section 5 amends s. 39.201, F.S., to require that all incidents of juvenile sexual abuse involving a child who is in the custody of or under the supervision of the DCF to be reported to the child

⁶¹ Megan Twohey, *The Child Exchange*, REUTERS, (Sept. 9, 2013), available at <http://www.reuters.com/investigates/adoption/#article/part1> (last visited Mar. 3, 2014).

⁶² Florida is one of the 29 states that have addressed this issue. See s. 63.212(1)(g), F.S.

⁶³ *Id.*

abuse hotline and to require the DCF to inform the court at the next hearing or in its next report to the court about the facts and results of such investigations of child sexual abuse.

Section 6 creates s. 39.2015, F.S., to establish a critical incident rapid response team within the DCF, to outline its duties and composition, and to require cooperative agreements with other entities and organizations to facilitate the work of the team. This section also requires that the reports of the team be published on the DCF website. The DCF secretary is required to develop guidelines and training for the teams, directing them to conduct a root-cause analysis for each incident. In addition, the secretary is directed to appoint an advisory committee to conduct an independent review of the reports of the critical incident rapid response teams and submit a report to the secretary, who is required to provide the report to the governor, the president of the Senate, and the speaker of the House of Representatives.

Section 7 creates s. 39.2022, F.S., to require the DCF to report on its website basic facts about all deaths of children reported to the DCF child abuse hotline and describes the information to be posted on the website.

Section 8 amends s. 39.301, F.S., to provide direction to investigators about the use of safety plans during the investigation of allegations of child abuse, neglect, or abandonment.

Section 9 amends s. 39.303, F.S., to require that child protection teams evaluating a report of medical neglect and assessing the health care needs of a medically complex child consult with a physician who has experience in treating children with the same condition.

Section 10 creates s. 39.3068, F.S., to describe special procedures to be followed when investigating a report of medical neglect.

Section 11 amends s. 39.307, F.S., to describe procedures for the DCF to follow after receiving a report to the child abuse hotline alleging that a child is involved in child sexual abuse or inappropriate sexual behavior.

Section 12 amends s. 39.402, F.S., to provide that the DCF must, as part of the information presented to the dependency court at a shelter hearing, describe its reasonable efforts to keep siblings together after removal, unless the court finds that placement together is not in the best interest of the children. Reasonable efforts to keep sibling together must include short-term placement in a group home with the ability to accommodate sibling groups if such a placement is available. This section also requires that, if siblings cannot be placed together, the DCF must provide a recommendation for frequent visitation or other ongoing interaction among the siblings unless this interaction would be contrary to a sibling's safety or well-being. If visitation among siblings is ordered but will not commence within 72 hours after the shelter hearing, the DCF must provide justification to the court for the delay.

Section 13 amends s. 39.501, F.S., to add noncompliance with a safety plan as information to be included in a petition for dependency.

Section 14 amends s. 39.504, F.S., to add compliance with a safety plan to the actions which may be ordered by the court in issuing an injunction to protect a child.

Section 15 amends s. 39.5085, F.S., to add nonrelative caregivers to those who qualify for the DCF relative caregiver program. These placements are already used by the DCF, but with this change, nonrelatives may be reimbursed for the cost of caring for the child.

Section 16 amends s. 39.604, F.S., (the Rilya Wilson Act) to change the beginning age when a child under court-ordered supervision or in the custody of the DCF must be enrolled in child care from age three to birth. Enrollment in such a program is made a part of the child's safety plan. The requirement extends until the child is enrolled in school.

Section 17 amends s. 39.701, F.S., to require the DCF to report to the court at the time of judicial review hearings the frequency, kind, and duration of contacts among siblings during placement, as well as any efforts undertaken to reunite separated siblings if doing so is in the best interest of the children.

Section 18 amends s. 39.802, F.S., to remove a requirement that petitions for termination of parental rights be signed by an employee of the DCF.

Section 19 amends s. 63.212, F.S., to clarify provisions relating to the advertisement of minors available for adoption.

Section 20 amends s. 383.402, F.S., to direct the child abuse death review committees of the Department of Health to review all deaths of children reported to the DCF child abuse hotline, not just deaths verified as caused by abuse or neglect. This section also changes the due date of the annual report of the statewide committee from December 31 to October 1 of each year.

Section 21 amends s. 402.40, F.S., to require that third-party credentialing entities maintain an advisory committee and specifies the membership of such committees. The bill also provides that the DCF may approve certifications involving specializations in serving specific populations or in skills relevant to child protection.

Section 22 creates s. 402.402, F.S., to require that on an annual and statewide basis, 80 percent of all child protective investigators and child protective investigation supervisors hired on or after July 1, 2014, by the DCF, must have a bachelor's degree or master's degree in social work from an accredited school of social work. The bill exempts all personnel employed before July 1, 2014, from this requirement. The bill allows the DCF to hire persons with bachelor's degrees or master's degrees in other human services-related fields if no viable candidates are available with social work degrees. However, such employees are required to complete certification requirements and at least six credit hours of college level coursework related to the child protection field within three years of employment. Child protective investigators and child protective investigation supervisors hired by a sheriff's office must have a bachelor's degree and, within three years of hire, complete at least six credit hours of college level casework with direct application to the child protection field. This section requires specialized training for child protective investigators and supervisors and specifies the content and deadline for such training. This section also describes training required for attorneys hired after July 1, 2014, to represent the DCF in child welfare cases.

Section 23 creates s. 402.403, F.S., to establish a child protection and child welfare personnel tuition exemption program and sets out the qualifications for obtaining the exemption. The program is for high-performing child protection and child welfare personnel who do not have a master's degree in social work or a certificate in an area related to child welfare.

Section 24 creates s. 402.404, F.S., to establish a student loan forgiveness program for child protection and child welfare staff and sets out the qualifications for obtaining the loan forgiveness. Approximately half of all graduates from the state university system have a student loan debt.⁶⁴ The bill allows the DCF or a lead agency to pay up to \$3,000 per year towards the student loan debt as an incentive for degreed social workers to become child protection or child welfare personnel. The DCF is directed to prioritize the use of funds appropriated for this purpose to regions with high average caseloads and low workforce retention rates.

Section 25 amends s. 409.165, F.S., to direct the DCF to work with relevant state and local agencies to develop medical foster homes for medically complex children and to provide such services as may be necessary to maintain such children in the least restrictive and most nurturing environment consistent with their needs. The bill also provides that funds for the care of such children can be spent for care in their own homes or the homes of relatives if the children can be safely served and the cost is equal to or less than the cost of out-of-home placement.

Section 26 amends s. 409.967, F.S., to specify the components of managed care plans serving children in the care and custody of DCF and to require that providers of such plans make information available to DCF for inclusion in the state's child welfare data system. It directs the DCF and the Agency for Health Care Administration (AHCA) to use the information provided to determine the plan's compliance with standards for access to medical, dental, and behavioral health services, the use of psychotropic medications, and follow-up on all medically necessary services recommended as a result of early and periodic screening diagnosis and treatment.

Section 27 amends s. 409.972, F.S., to exempt Medicaid recipients residing in a group home facility licensed under chapter 393 from mandatory managed care enrollment.

Section 28 directs the Division of Law Revision and Information to create part V of ch. 409, F.S., to be entitled "Community-Based Child Welfare."

Section 29 moves and revises provisions from s. 409.1671, F.S., to create s. 409.986, F.S. The new section provides legislative findings, intent, goals, and definitions related to community-based care.

Section 30 moves and revises provisions from s. 409.1671, F.S., to create s. 409.987, F.S. The new section clarifies the requirements for the DCF to procure community-based care lead agencies. The procurement must be conducted through a competitive process required by ch. 287, F.S. The bill sets the requirements for an entity to compete for the award of a contract as a lead agency. The bill requires that the procurement be done in consultation with local community alliances. The bill also requires that upon award and execution of a contract between the DCF

⁶⁴ Data provided by the Florida Board of Governors, (Feb. 11, 2014) (on file with the Senate Committee on Children, Families, and Elder Affairs).

and a lead agency, the parties must enter into a letter of engagement that the DCF will provide legal representation of the lead agency or its subcontractors for the preparation and presentation of dependency court proceedings without charge to the lead agency or subcontractor.

Section 31 moves and revises provisions from s. 409.1671, F.S., and 409.1675, F.S., to create s. 409.988, F.S. The new section outlines the duties of the lead agencies and to authorize subcontracting for the provision of child welfare services.

Section 32 moves and revises provisions from s. 409.1671, F.S., and 409.16745, F.S., to create s. 409.990, F.S. The new section describes funding for lead agencies.

Section 33 moves provisions from 409.16713, F.S., to create s. 409.991, F.S. The new section remains unchanged and describes the allocation of funds for lead agencies.

Section 34 moves and revises provisions from s. 409.1671, F.S., to create s. 409.992, F.S. The new section provides for lead agency expenditures, requiring that these expenditures be governed by financial guidelines developed by the DCF and must comply with applicable state and federal law as well as good business practices. The auditor general is authorized to provide technical assistance in the development of the guidelines.

Section 35 moves and revises provisions from s. 409.1671, F.S., to create s. 409.993, F.S., to describe lead agency and subcontractor liability. The contents of this section are currently found in s. 409.1671(1)(h)-(l), F.S.

Section 36 transfers and renumbers the current s. 409.1675, F.S., to create s. 409.994, F.S., describing lead agencies and receivership.

Section 37 creates s. 409.996, F.S., to describe the duties of the DCF in contracting for community-based child welfare services.

Section 38 creates s. 409.997, F.S., to establish a child welfare results-oriented accountability system. The section requires that the DCF maintain a comprehensive accountability system that monitors the use of resources, the quality and amount of services provided, and the child and family outcomes through data analysis, research review, evaluation, and quality improvement. The DCF is given direction for establishing such a system and is required to report the result of the accountability system at least quarterly on its website as well as annually to the governor, the president of the Senate, and the speaker of the House of Representatives.

Section 39 creates s. 409.998, F.S., to add duties relating to community-based care to community alliances established in s. 20.19, F.S.

Section 40 creates s. 827.10, F.S., to establish the criminal offense of unlawful desertion of a child and provides definitions and penalties. This will provide a tool for prosecutors to stop the unlawful adoptions practice referred to as “re-homing.”

Section 41 amends s. 985.04, F.S., to correct a reference.

Section 42 creates s. 1004.615, F.S., to establish the Florida Institute for Child Welfare (FICW) and to set forth the purpose, duties, and responsibilities of the institute. The FICW is defined as a consortium of the state's public and private university schools of social work. The FICW is charged to advise the state on child welfare policy, improve the curriculum for social work degree programs, and develop on-the-job training for child protective investigators and child welfare case managers. The bill requires the FICW to provide a report annually by October 1 to the governor, the president of the Senate, and the speaker of the House of Representatives to describe its activities in the preceding fiscal year, present significant research findings and results of other programs, and make specific recommendations for improving child protection and child welfare services.

Section 43 amends s. 1009.25, F.S., to add child protection and child welfare personnel who meet specified criteria to the list of persons exempted from payment of tuition and fees at a state college or state university under certain circumstances.

Section 44 repeals s. 402.401, F.S., which contains provisions relating to student loan forgiveness. The bill makes this statute obsolete.

Section 45 repeals s. 409.1671, F.S., which this bill makes obsolete.

Section 46 repeals s. 409.16715, F.S., whose provisions are modified and included in this bill.

Section 47 repeals s. 409.16745, F.S., whose provisions are modified and included in this bill.

Section 48 repeals s. 1004.61, F.S., which contains the current-law provisions relating to partnerships between the DCF and state schools of social work. The bill makes this statute obsolete.

Section 49 corrects a cross-reference in s. 39.201, F.S.

Section 50 corrects a cross-reference to s. 39.302, F.S.

Section 51 corrects a cross-reference to s. 39.524, F.S.

Section 52 corrects a cross-reference to s. 316.613, F.S.

Section 53 corrects a cross-reference to s. 409.1676, F.S.

Section 54 corrects a cross-reference to s. 409.1677, F.S.

Section 55 corrects a cross-reference to s. 409.1678, F.S.

Section 56 corrects a cross-reference to s. 409.906, F.S.

Section 57 corrects a cross-reference to s. 409.912, F.S.

Section 58 corrects a cross-reference to s. 409.91211, F.S.

Section 59 corrects a cross-reference to s. 420.628, F.S.

Section 60 corrects a cross-reference to s. 960.065, F.S.

Section 61 provides an effective date of July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Private schools of social work may see an increased enrollment of students as a result of CS/SB 1666.

C. Government Sector Impact:

The bill has fiscal impacts that are anticipated to be addressed in the General Appropriations Act, which could include the following:

The annual cost of an additional assistant secretary and an executive assistant in the DCF will be approximately \$260,000.

The bill calls for the creation of critical incident rapid response teams to review certain child abuse deaths. The team members may be reimbursed for expenses and salaries. It is unknown how many cases each year would be investigated by the teams so the cost of these new investigations is unknown.

The bill requires the posting on the DCF website of information relating to child deaths reported to the DCF hotline. The information is currently collected and maintained in the Florida Safe Families Network (FSFN). The costs to post this information on the DCF website would be insignificant.

The bill allows for the payment to nonrelatives willing to assume custody and care of a dependent child. Based on the number of children currently in this placement, the DCF estimates that the cost could be up to \$4.8 million each year.

The bill expands the cases reviewed by the State Child Abuse Death Review Committee. The reviews cost \$714 each and the costs are paid from the expense budget of the Department of Health. Based on these current costs and an estimated additional 346 cases to be reviewed under the bill, the increased costs could be \$247,143 each year.

The requirement in the bill that 80 percent of new Child Protective Investigators (CPIs) and supervisors hold a social work degree should have little or no fiscal impact. The cost of the tuition exemption program to the state university system cannot be determined until the number of persons taking advantage of the program is known.

There will be costs associated with the loan forgiveness program. The costs will be limited by the amount of funding appropriated by the Legislature. Using the current number of department CPIs (1,522) and an average turnover rate of 24 percent, then an additional 365 CPIs would be hired each year. If all of these new hires are social workers and receive the loan repayment amount of \$3,000, then the annual cost estimate could range as high as \$1,095,000.

The establishment of the Institute for Child Welfare would have associated costs depending on the structure or the institute. Similar consortiums of Florida universities can cost between \$500,000 and \$2 million, according to the Florida Board of Governors.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.19, 39.001, 39.01, 39.013, 39.201, 39.301, 39.302, 39.303, 39.524, 39.307, 39.402, 39.501, 39.504, 39.5085, 39.604, 39.701, 39.802, 63.212, 316.613, 383.402, 402.40, 409.165, 409.16713, 409.1675, 409.1676, 409.1677, 409.1678, 409.906, 409.912, 409.91211, 409.967, 409.972, 420.628, 960.065, 985.04, and 1009.25.

This bill creates the following sections of the Florida Statutes: 39.2015, 39.2022, 39.3068, 402.402, 402.403, 402.404, 409.986, 409.987, 409.988, 409.990, 409.992, 409.993, 409.996, 409.997, 409.998, 827.10, and 1004.615.

This bill repeals the following sections of the Florida Statutes: 402.401, 409.1671, 409.16715, 409.16745, and 1004.61.

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 Health and Human Services on April 2, 2014:

The Committee Substitute:

- Retains the current responsibilities for DCF community alliances but adds new duties related to child protective services and child welfare services;
- Amends the purposes of ch. 39, F.S., to emphasize that the safety of children is the paramount concern;
- Directs the DCF to investigate all calls of child-on-child sexual abuse for children in its custody or under its supervision;
- Strengthens provisions relating to safety plans for children who have been abused, neglected, or abandoned by their caregivers;
- Responds to judicial concerns by clarifying the role and training of DCF lawyers, as well as the relationship between the lawyers and caseworkers or investigators;
- Strengthens the requirement for the DCF to keep siblings together when they are removed from their homes and requires that temporary placement in appropriate group homes be considered for this purpose, if available;
- Extends the requirement of the Rilya Wilson Act that children supervised by or in the custody of the DCF attend a child care program five days a week so that children are covered from birth, rather than from age three, to school entry;
- Establishes a new criminal offense of unlawful desertion of a child and provides for penalties;
- Establishes qualifications for hiring child welfare workers as well as protective investigators and supervisors and expands tuition exemption similarly;
- Excludes protective investigative staff in sheriffs' offices from the requirement for social work degrees but requires sheriffs' staff to acquire training as a part of certification process; and
- Reorganizes and updates statutes relating to community-based child welfare, placing these provisions in a new part V of ch. 409.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Hays) recommended the following:

Senate Amendment (with title amendment)

Between lines 2037 and 2038
insert:

Section 19. Paragraphs (f) and (h) of subsection (1) of
section 39.806, Florida Statutes, are amended to read:

39.806 Grounds for termination of parental rights.—

(1) Grounds for the termination of parental rights may be
established under any of the following circumstances:

(f) The parent or parents engaged in egregious conduct or



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had the opportunity and capability to prevent and knowingly failed to prevent egregious conduct that threatens the life, safety, or physical, mental, or emotional health of the child or the child's sibling. Proof of a nexus between egregious conduct to a child and the potential harm to the child's sibling is not required.

1. As used in this subsection, the term "sibling" means another child who resides with or is cared for by the parent or parents regardless of whether the child is related legally or by consanguinity.

2. As used in this subsection, the term "egregious conduct" means abuse, abandonment, neglect, or any other conduct that is deplorable, flagrant, or outrageous by a normal standard of conduct. Egregious conduct may include an act or omission that occurred only once but was of such intensity, magnitude, or severity as to endanger the life of the child.

(h) The parent or parents have committed the murder, manslaughter, aiding or abetting the murder, or conspiracy or solicitation to murder the other parent or another child, or a felony battery that resulted in serious bodily injury to the child or to another child. Proof of a nexus between the murder, manslaughter, aiding or abetting the murder, or conspiracy or solicitation to murder the other parent or another child, or a felony battery to a child and the potential harm to a child or another child is not required.

===== 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



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40 insert:
41 amending s. 39.806, F.S.; revising grounds for
42 termination of parental rights;



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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 child welfare; amending s. 20.19, F.S.; requiring the Secretary of Children and Families to appoint an Assistant Secretary for Child Welfare; providing qualifications and responsibilities; revising duties, appointment, and membership of community alliances; requiring the Department of Children and Families to appoint a statewide advisory committee to provide specified assistance to community alliances; amending s. 39.001, F.S.; revising the purposes of ch. 39, F.S.; requiring the department to provide for certain services for medically complex children; amending s. 39.01, F.S.; providing, revising, and deleting definitions; amending s. 39.013, F.S.; clarifying responsibilities of the department in dependency proceedings; amending s. 39.201, F.S.; requiring alleged incidents of juvenile sexual abuse involving specified children to be reported to the department's central abuse hotline; requiring the department to provide specified information on an investigation of child sexual abuse to the court; creating s. 39.2015, F.S.; requiring the department to conduct specified investigations using critical incident rapid response teams; providing requirements for such investigations and for team membership; authorizing team access to specified information; requiring the cooperation of specified



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agencies and organizations; providing for reimbursement of team members; requiring the team to provide an investigation report; requiring the secretary to develop guidelines for investigations and provide team member training; requiring the secretary to appoint an advisory committee; requiring the committee to submit a report to the secretary; requiring the secretary to submit such report to the Governor and the Legislature by a specified date; creating s. 39.2022, F.S.; providing legislative intent; requiring the department to publish specified information on its website regarding the death of a child reported to the central abuse hotline; amending s. 39.301, F.S.; authorizing the use of safety plans in child protection investigations in cases of present or impending danger; providing requirements for implementation of a safety plan; providing conditions for filing a petition for dependency; amending s. 39.303, F.S.; requiring physician involvement when a child protection team evaluates a report of medical neglect of a medically complex child; creating s. 39.3068, F.S.; providing requirements for investigating medical neglect; providing duties of the department; amending s. 39.307, F.S.; requiring the department to assist the family, child, and caregiver in receiving services upon a report alleging juvenile sexual abuse or inappropriate sexual behavior; requiring the department to maintain specified records; requiring child sexual abuse to be taken into



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57 account in placement consideration; requiring the
58 department to monitor the occurrence of child sexual
59 abuse and related services; amending s. 39.402, F.S.;
60 requiring the department to make a reasonable effort
61 to keep siblings together when they are placed in out-
62 of-home care under certain circumstances; providing
63 for sibling visitation under certain conditions;
64 amending s. 39.501, F.S.; requiring compliance with a
65 safety plan to be considered when deciding a petition
66 for dependency; amending s. 39.504, F.S.; authorizing
67 the court to order a person to comply with a safety
68 plan that is implemented in an injunction; amending s.
69 39.5085, F.S.; revising legislative intent;
70 authorizing placement of a child with a nonrelative
71 caregiver and financial assistance for such
72 nonrelative caregiver through the Relative Caregiver
73 Program under certain circumstances; amending s.
74 39.604, F.S.; requiring certain children to attend a
75 licensed early education or child care program;
76 requiring the inclusion of attendance at a licensed
77 early education or child care program in a child's
78 safety plan; amending s. 39.701, F.S.; requiring the
79 court to consider contact among siblings in judicial
80 reviews; authorizing the court to remove specified
81 disabilities of nonage at judicial reviews; amending
82 s. 39.802, F.S.; removing department authorization to
83 sign a petition for termination of parental rights;
84 amending s. 63.212, F.S.; requiring a person who
85 places an advertisement for adoption services to



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86 provide specified information; amending s. 383.402,
87 F.S.; requiring review of all child deaths reported to
88 the department's central abuse hotline; revising the
89 due date for a report; amending s. 402.40, F.S.;
90 requiring a third-party credentialing entity to
91 establish an advisory committee; authorizing the
92 department to approve certification of
93 specializations; creating s. 402.402, F.S.; defining
94 terms; providing education and specialized training
95 requirements for child protection and child welfare
96 personnel; providing training requirements for
97 department attorneys; creating s. 402.403, F.S.;
98 establishing a tuition exemption program for child
99 protective and child welfare personnel; providing
100 eligibility requirements; creating s. 402.404, F.S.;
101 establishing a student loan forgiveness program for
102 child protective investigators and supervisors;
103 providing eligibility requirements; authorizing
104 community-based care lead agencies to provide student
105 loan forgiveness to case managers employed by a
106 community-based care lead agency or its subcontractor;
107 amending s. 409.165, F.S.; enhancing provision of care
108 to medically complex children; amending s. 409.967,
109 F.S.; revising standards for Medicaid managed care
110 plan accountability with respect to services for
111 dependent children; amending s. 409.972, F.S.;
112 exempting certain Medicaid recipients from mandatory
113 enrollment in managed care plans; providing a
114 directive to the Division of Law Revision and



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115 Information; creating part V of ch. 409, F.S.;
116 creating s. 409.986, F.S.; providing legislative
117 findings and intent; providing child protection and
118 child welfare outcome goals; defining terms; creating
119 s. 409.987, F.S.; providing for department procurement
120 of community-based care lead agencies; providing
121 requirements for contracting as a lead agency;
122 creating s. 409.988, F.S.; providing duties of a
123 community-based care lead agency; providing licensure
124 requirements for a lead agency; specifying services
125 provided by a lead agency; providing conditions for an
126 agency or provider to act as a child's guardian;
127 creating s. 409.990, F.S.; providing general funding
128 provisions for lead agencies; providing for a matching
129 grant program and the maximum amount of funds that may
130 be awarded; requiring the department to develop and
131 implement a community-based care risk pool initiative;
132 providing requirements for the risk pool;
133 transferring, renumbering, and amending s. 409.16713,
134 F.S.; transferring provisions relating to the
135 allocation of funds for community-based lead care
136 agencies; conforming a cross-reference; creating s.
137 409.992, F.S.; providing requirements for community-
138 based care lead agency expenditures; creating s.
139 409.993, F.S.; providing legislative findings;
140 providing for lead agency and subcontractor liability;
141 providing limitations on damages; transferring,
142 renumbering, and amending s. 409.1675, F.S.;
143 transferring provisions relating to receivership from



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144 community-based providers to lead agencies; conforming
145 cross-references and terminology; creating s. 409.996,
146 F.S.; providing duties of the department relating to
147 community-based care and lead agencies; creating s.
148 409.997, F.S.; providing outcome goals for the
149 department and specified entities with respect to the
150 delivery of child welfare services; requiring the
151 department to maintain an accountability system;
152 requiring the department to establish a technical
153 advisory panel; requiring the department to make the
154 results of the accountability system public; requiring
155 a report to the Governor and the Legislature by a
156 specified date; creating s. 409.998, F.S.; providing
157 for assessment of community-based care by community
158 alliances; creating s. 827.10, F.S.; providing
159 definitions; establishing the criminal offense of
160 unlawful desertion of a child; providing criminal
161 penalties; providing exceptions; amending s. 985.04,
162 F.S.; conforming terminology; creating s. 1004.615,
163 F.S.; establishing the Florida Institute for Child
164 Welfare; providing purpose, duties, and
165 responsibilities of the institute; requiring the
166 institute to contract and work with specified
167 entities; providing for the administration of the
168 institute; requiring reports to the Governor and the
169 Legislature by specified dates; amending s. 1009.25,
170 F.S.; exempting specified child protective
171 investigators and child protective investigation
172 supervisors from certain tuition and fee requirements;



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173 repealing s. 402.401, F.S., relating to child welfare
174 worker student loan forgiveness; repealing s.
175 409.1671, F.S., relating to outsourcing of foster care
176 and related services; repealing s. 409.16715, F.S.,
177 relating to certain therapy for foster children;
178 repealing s. 409.16745, F.S., relating to the
179 community partnership matching grant program;
180 repealing s. 1004.61, F.S., relating to a partnership
181 between the Department of Children and Families and
182 state universities; amending ss. 39.201, 39.302,
183 39.524, 316.613, 409.1676, 409.1677, 409.1678,
184 409.906, 409.912, 409.91211, 420.628, and 960.065,
185 F.S.; conforming cross-references; providing an
186 effective date.

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

189
190 Section 1. Present subsections (3) through (5) of section
191 20.19, Florida Statutes, are renumbered as subsections (4)
192 through (6), respectively, subsection (2) and present subsection
193 (4) are amended, and a new subsection (3) is added to that
194 section, to read:

195 20.19 Department of Children and Families.—There is created
196 a Department of Children and Families.

197 (2) SECRETARY OF CHILDREN AND FAMILIES; DEPUTY SECRETARY.—

198 (a) The head of the department is the Secretary of Children
199 and Families. The secretary is appointed by the Governor,
200 subject to confirmation by the Senate. The secretary serves at
201 the pleasure of the Governor.



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202 (b) The secretary shall appoint a deputy secretary who
203 shall act in the absence of the secretary. The deputy secretary
204 is directly responsible to the secretary, performs such duties
205 as are assigned by the secretary, and serves at the pleasure of
206 the secretary.

207 (3) ASSISTANT SECRETARIES.—

208 (a) Child welfare.—

209 1. The secretary shall appoint an Assistant Secretary for
210 Child Welfare to lead the department in carrying out its duties
211 and responsibilities for child protection and child welfare. The
212 assistant secretary shall serve at the pleasure of the
213 secretary.

214 2. The assistant secretary must have at least 7 years of
215 experience working in organizations that deliver child
216 protective or child welfare services.

217 (b) Substance abuse and mental health.—

218 ~~(e)~~1. The secretary shall appoint an Assistant Secretary
219 for Substance Abuse and Mental Health. The assistant secretary
220 shall serve at the pleasure of the secretary and must have
221 expertise in both areas of responsibility.

222 2. The secretary shall appoint a Director for Substance
223 Abuse and Mental Health who has the requisite expertise and
224 experience to head the state's Substance Abuse and Mental Health
225 Program Office.

226 (5) ~~(4)~~ COMMUNITY ALLIANCES.—

227 (a) The department shall, in consultation with local
228 communities, establish a community alliance ~~or similar group of~~
229 ~~the stakeholders, community leaders, client representatives and~~
230 ~~funders of human services~~ in each county to provide a focal



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231 point for community participation and ~~feedback into governance~~
232 ~~of~~ community-based services. An alliance may cover more than one
233 county when such arrangement is determined to provide for more
234 effective representation. The community alliance shall represent
235 the diversity of the community.

236 (b) The duties of the community alliance include, but are
237 not limited to:

238 1. Providing independent and community-focused assessment
239 of child protection and child welfare services and the local
240 system of community-based care as described in s. 409.998.

241 2.1- Joint planning for resource utilization in the
242 community, including resources appropriated to the department
243 and any funds that local funding sources choose to provide.

244 3.2- Needs assessment and establishment of community
245 priorities for service delivery.

246 4.3- Determining community outcome goals to supplement
247 state-required outcomes.

248 5.4- Serving as a catalyst for community resource
249 development.

250 6.5- Providing for community education and advocacy on
251 issues related to delivery of services.

252 7.6- Promoting prevention and early intervention services.

253 (c) The department shall ensure, to the greatest extent
254 possible, that the formation of each community alliance builds
255 on the strengths of the existing community human services
256 infrastructure.

257 (d) The initial membership of the community alliance in a
258 county shall be composed of the following:

259 1. A representative from the department.



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- 260 2. A representative from county government.
261 3. A representative from the school district.
262 4. A representative from the county United Way.
263 5. A representative from the county sheriff's office.
264 6. A representative from the circuit court corresponding to
265 the county.
266 7. A representative from the county children's board, if
267 one exists.

268 This paragraph is repealed on July 1, 2015.

270 (e) No later than July 1, 2015, the alliance shall ensure
271 its membership and member selection process meets the following
272 requirements:

273 1. The total number of voting members shall be at least
274 nine and no more than 25 individuals. The alliance may establish
275 committees, task forces, and other advisory groups to create
276 opportunities for participation for community representatives
277 who are not voting members of the alliance.

278 2. The voting members of the alliance shall include
279 individuals with a variety of backgrounds and experience. At
280 least one member must be from a family who has received
281 community services. At least one person shall have experience in
282 each of the following areas:

- 283 a. Community service organizations;
284 b. Education;
285 c. Law enforcement;
286 d. Local government;
287 e. Legal services;
288 f. The judiciary;



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289 g. Philanthropic organizations; and
290 h. Children's service organizations.
291 3. The alliance shall include two ex officio, nonvoting
292 members, one of whom is designated by the secretary to represent
293 the department and one of whom is designated by the community-
294 based care lead agency.
295 4. The recruitment and selection of alliance members shall
296 be an open and transparent process that allows for individuals
297 and organizations to nominate potential candidates.
298 (f) The community alliance shall adopt or amend bylaws to
299 comply with paragraph (e).
300 (g) The department shall appoint a statewide advisory
301 committee to assist alliances to comply with this subsection.
302 The advisory committee shall consist of a representative of the
303 department designated by the secretary, the chief child
304 advocate, a representative designated by the Florida Coalition
305 of Children, and two persons currently serving on an alliance.
306 ~~(e) At any time after the initial meeting of the community~~
307 ~~alliance, the community alliance shall adopt bylaws and may~~
308 ~~increase the membership of the alliance to include the state~~
309 ~~attorney for the judicial circuit in which the community~~
310 ~~alliance is located, or his or her designee, the public defender~~
311 ~~for the judicial circuit in which the community alliance is~~
312 ~~located, or his or her designee, and other individuals and~~
313 ~~organizations who represent funding organizations, are community~~
314 ~~leaders, have knowledge of community based service issues, or~~
315 ~~otherwise represent perspectives that will enable them to~~
316 ~~accomplish the duties listed in paragraph (b), if, in the~~
317 ~~judgment of the alliance, such change is necessary to adequately~~



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318 ~~represent the diversity of the population within the community~~
319 ~~alliance service circuits.~~
320 (h) (f) A member of the community alliance, other than a
321 member specified in paragraph (d), may not receive payment for
322 contractual services from the department or a community-based
323 care lead agency.
324 (i) (g) Members of the community alliances shall serve
325 without compensation, but are entitled to receive reimbursement
326 for per diem and travel expenses, as provided in s. 112.061.
327 Payment may also be authorized for preapproved child care
328 expenses or lost wages for members who are consumers of the
329 department's services and for preapproved child care expenses
330 for other members who demonstrate hardship.
331 (j) (h) Members of a community alliance are subject to the
332 provisions of part III of chapter 112, the Code of Ethics for
333 Public Officers and Employees.
334 (k) (i) Actions taken by a community alliance must be
335 consistent with department policy and state and federal laws,
336 rules, and regulations.
337 (l) (j) Alliance members shall annually submit a disclosure
338 statement of services interests to the department's inspector
339 general. Any member who has an interest in a matter under
340 consideration by the alliance must abstain from voting on that
341 matter.
342 (m) (k) All alliance meetings are open to the public
343 pursuant to s. 286.011 and the public records provision of s.
344 119.07(1).
345 Section 2. Paragraphs (b), (c), (g), and (k) of subsection
346 (1) of section 39.001, Florida Statutes, are amended, paragraphs



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347 (o) and (p) are added to that subsection, present paragraphs (f)
348 through (h) of subsection (3) are redesignated as paragraphs (g)
349 through (i), respectively, and a new paragraph (f) is added to
350 that subsection, present subsections (4) through (11) are
351 renumbered as subsections (5) through (12), respectively, and a
352 new subsection (4) is added to that section, and paragraph (c)
353 of present subsection (8) and paragraph (b) of present
354 subsection (10) of that section are amended, to read:

355 39.001 Purposes and intent; personnel standards and
356 screening.—

357 (1) PURPOSES OF CHAPTER.—The purposes of this chapter are:

358 (b) To recognize that most families desire to be competent
359 caregivers and providers for their children and that children
360 achieve their greatest potential when families are able to
361 support and nurture the growth and development of their
362 children. Therefore, the Legislature finds that policies and
363 procedures that provide for prevention and intervention through
364 the department's child protection system should be based on the
365 following principles:

366 1. The health and safety of the children served shall be of
367 paramount concern.

368 2. The prevention and intervention should engage families
369 in constructive, supportive, and nonadversarial relationships.

370 3. The prevention and intervention should intrude as little
371 as possible into the life of the family, be focused on clearly
372 defined objectives, and take the most parsimonious path to
373 remedy a family's problems, keeping the safety of the child or
374 children as the paramount concern.

375 4. The prevention and intervention should be based upon



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376 outcome evaluation results that demonstrate success in
377 protecting children and supporting families.

378 (c) To provide a child protection system that reflects a
379 partnership between the department, other agencies, the courts,
380 law enforcement agencies, service providers, and local
381 communities.

382 (g) To ensure that the parent or legal custodian from whose
383 custody the child has been taken assists the department to the
384 fullest extent possible in locating relatives suitable to serve
385 as caregivers for the child and provides all medical and
386 educational information, or consent for access thereto, needed
387 to help the child.

388 (k) To make every possible effort, if when two or more
389 children who are in the care or under the supervision of the
390 department are siblings, to place the siblings in the same home;
391 and in the event of permanent placement of the siblings, to
392 place them in the same adoptive home or, if the siblings are
393 separated while under the care or supervision of the department
394 or in a permanent placement, to keep them in contact with each
395 other.

396 (o) To preserve and strengthen families who are caring for
397 medically complex children.

398 (p) To provide protective investigations that are conducted
399 by trained persons in a complete and fair manner, that are
400 promptly concluded, and that consider the purposes of this
401 subsection and the general protections provided by law relating
402 to child welfare.

403 (3) GENERAL PROTECTIONS FOR CHILDREN.—It is a purpose of
404 the Legislature that the children of this state be provided with



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the following protections:

(f) Access to sufficient supports and services for medically complex children to allow them to remain in the least restrictive and most nurturing environment, which includes sufficient services in an amount and scope comparable to those services the child would receive in out-of-home care placement.

(4) SERVICES FOR MEDICALLY COMPLEX CHILDREN.—The department shall maintain a program of family-centered services and supports for medically complex children. The purpose of the program is to prevent abuse and neglect of medically complex children while enhancing the capacity of families to provide for their children's needs. Program services must include outreach, early intervention, and the provision of other supports and services to meet the child's needs. The department shall collaborate with all relevant state and local agencies to provide needed services.

(9) ~~(8)~~ OFFICE OF ADOPTION AND CHILD PROTECTION.—

(c) The office is authorized and directed to:

1. Oversee the preparation and implementation of the state plan established under subsection (10) ~~(9)~~ and revise and update the state plan as necessary.

2. Provide for or make available continuing professional education and training in the prevention of child abuse and neglect.

3. Work to secure funding in the form of appropriations, gifts, and grants from the state, the Federal Government, and other public and private sources in order to ensure that sufficient funds are available for the promotion of adoption, support of adoptive families, and child abuse prevention



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efforts.

4. Make recommendations pertaining to agreements or contracts for the establishment and development of:

a. Programs and services for the promotion of adoption, support of adoptive families, and prevention of child abuse and neglect.

b. Training programs for the prevention of child abuse and neglect.

c. Multidisciplinary and discipline-specific training programs for professionals with responsibilities affecting children, young adults, and families.

d. Efforts to promote adoption.

e. Postadoptive services to support adoptive families.

5. Monitor, evaluate, and review the development and quality of local and statewide services and programs for the promotion of adoption, support of adoptive families, and prevention of child abuse and neglect and shall publish and distribute an annual report of its findings on or before January 1 of each year to the Governor, the Speaker of the House of Representatives, the President of the Senate, the head of each state agency affected by the report, and the appropriate substantive committees of the Legislature. The report shall include:

a. A summary of the activities of the office.

b. A summary of the adoption data collected and reported to the federal Adoption and Foster Care Analysis and Reporting System (AFCARS) and the federal Administration for Children and Families.

c. A summary of the child abuse prevention data collected



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463 and reported to the National Child Abuse and Neglect Data System
464 (NCANDS) and the federal Administration for Children and
465 Families.

466 d. A summary detailing the timeliness of the adoption
467 process for children adopted from within the child welfare
468 system.

469 e. Recommendations, by state agency, for the further
470 development and improvement of services and programs for the
471 promotion of adoption, support of adoptive families, and
472 prevention of child abuse and neglect.

473 f. Budget requests, adoption promotion and support needs,
474 and child abuse prevention program needs by state agency.

475 6. Work with the direct-support organization established
476 under s. 39.0011 to receive financial assistance.

477 (11)~~(10)~~ FUNDING AND SUBSEQUENT PLANS.—

478 (b) The office and the other agencies and organizations
479 listed in paragraph (10)(a) ~~(9)(a)~~ shall readdress the state
480 plan and make necessary revisions every 5 years, at a minimum.
481 Such revisions shall be submitted to the Speaker of the House of
482 Representatives and the President of the Senate no later than
483 June 30 of each year divisible by 5. At least biennially, the
484 office shall review the state plan and make any necessary
485 revisions based on changing needs and program evaluation
486 results. An annual progress report shall be submitted to update
487 the state plan in the years between the 5-year intervals. In
488 order to avoid duplication of effort, these required plans may
489 be made a part of or merged with other plans required by either
490 the state or Federal Government, so long as the portions of the
491 other state or Federal Government plan that constitute the state



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492 plan for the promotion of adoption, support of adoptive
493 families, and prevention of child abuse, abandonment, and
494 neglect are clearly identified as such and are provided to the
495 Speaker of the House of Representatives and the President of the
496 Senate as required under this section ~~above~~.

497 Section 3. Present subsections (59) through (65) of section
498 39.01, Florida Statutes, are redesignated as subsections (60)
499 through (66), respectively, present subsections (67) through
500 (69) are redesignated as subsections (68) through (70),
501 respectively, present subsections (70) through (76) are
502 redesignated as subsections (72) through (78), respectively, new
503 subsections (31), (41), (59), (67), and (71) are added to that
504 section, and subsections (7), (14), (18), (22), (26), and (27)
505 and present subsections (28) through (41), (59), and (65) of
506 that section are amended, to read:

507 39.01 Definitions.—When used in this chapter, unless the
508 context otherwise requires:

509 (7) ~~“Alleged juvenile sexual offender” means:~~

510 ~~(a) A child 12 years of age or younger who is alleged to~~
511 ~~have committed a violation of chapter 794, chapter 796, chapter~~
512 ~~800, s. 827.071, or s. 847.0133; or~~

513 ~~(b) A child who is alleged to have committed any violation~~
514 ~~of law or delinquent act involving juvenile sexual abuse.~~

515 “Juvenile sexual abuse” means any sexual behavior which occurs
516 without consent, without equality, or as a result of coercion.

517 For purposes of this subsection ~~paragraph~~, the following
518 definitions apply:

519 (a)1- “Coercion” means the exploitation of authority or the
520 use of bribes, threats of force, or intimidation to gain



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521 cooperation or compliance.

522 (b)2- "Equality" means two participants operating with the
523 same level of power in a relationship, neither being controlled
524 nor coerced by the other.

525 (c)3- "Consent" means an agreement, including all of the
526 following:

527 1.a- Understanding what is proposed based on age, maturity,
528 developmental level, functioning, and experience.

529 2.b- Knowledge of societal standards for what is being
530 proposed.

531 3.c- Awareness of potential consequences and alternatives.

532 4.d- Assumption that agreement or disagreement will be
533 accepted equally.

534 5.e- Voluntary decision.

535 6.f- Mental competence.

536

537 Juvenile sexual ~~offender~~ behavior ranges from noncontact sexual
538 behavior such as making obscene phone calls, exhibitionism,
539 voyeurism, and the showing or taking of lewd photographs to
540 varying degrees of direct sexual contact, such as frottage,
541 fondling, digital penetration, rape, fellatio, sodomy, and
542 various other sexually aggressive acts.

543 (14) "Child who has exhibited inappropriate sexual
544 behavior" means a child ~~who is 12 years of age or younger and~~
545 who has been found by the department or the court to have
546 committed an inappropriate sexual act.

547 (18) "Comprehensive assessment" or "assessment" means the
548 gathering of information for the evaluation of a child's and
549 caregiver's physical, psychiatric, psychological, or mental



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550 health; developmental delays or challenges; and, educational,
551 vocational, and social condition and family environment as they
552 relate to the child's and caregiver's need for rehabilitative
553 and treatment services, including substance abuse treatment
554 services, mental health services, developmental services,
555 literacy services, medical services, family services, and other
556 specialized services, as appropriate.

557 (22) "Diligent efforts by a parent" means a course of
558 conduct which results in a meaningful change in the behavior of
559 a parent that reduces ~~reduction in~~ risk to the child in the
560 child's home to the extent that ~~would allow~~ the child may ~~to~~ be
561 safely placed permanently back in the home as set forth in the
562 case plan.

563 ~~(26) "District" means any one of the 15 service districts~~
564 ~~of the department established pursuant to s. 20.19.~~

565 ~~(27) "District administrator" means the chief operating~~
566 ~~officer of each service district of the department as defined in~~
567 ~~s. 20.19(5) and, where appropriate, includes any district~~
568 ~~administrator whose service district falls within the boundaries~~
569 ~~of a judicial circuit.~~

570 ~~(26)-(28)~~ (26) "Expedited termination of parental rights" means
571 proceedings wherein a case plan with the goal of reunification
572 is not being offered.

573 ~~(27)-(29)~~ (27) "False report" means a report of abuse, neglect,
574 or abandonment of a child to the central abuse hotline, which
575 report is maliciously made for the purpose of:

- 576 (a) Harassing, embarrassing, or harming another person;
577 (b) Personal financial gain for the reporting person;
578 (c) Acquiring custody of a child; or



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579 (d) Personal benefit for the reporting person in any other
580 private dispute involving a child.

581
582 The term "false report" does not include a report of abuse,
583 neglect, or abandonment of a child made in good faith to the
584 central abuse hotline.

585 ~~(28)(30)~~ "Family" means a collective body of persons,
586 consisting of a child and a parent, legal custodian, or adult
587 relative, in which:

588 (a) The persons reside in the same house or living unit; or

589 (b) The parent, legal custodian, or adult relative has a
590 legal responsibility by blood, marriage, or court order to
591 support or care for the child.

592 ~~(29)(31)~~ "Foster care" means care provided a child in a
593 foster family or boarding home, group home, agency boarding
594 home, child care institution, or any combination thereof.

595 ~~(30)(32)~~ "Harm" to a child's health or welfare can occur
596 when any person:

597 (a) Inflicts or allows to be inflicted upon the child
598 physical, mental, or emotional injury. In determining whether
599 harm has occurred, the following factors must be considered in
600 evaluating any physical, mental, or emotional injury to a child:
601 the age of the child; any prior history of injuries to the
602 child; the location of the injury on the body of the child; the
603 multiplicity of the injury; and the type of trauma inflicted.

604 Such injury includes, but is not limited to:

605 1. Willful acts that produce the following specific
606 injuries:

607 a. Sprains, dislocations, or cartilage damage.



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608 b. Bone or skull fractures.

609 c. Brain or spinal cord damage.

610 d. Intracranial hemorrhage or injury to other internal
611 organs.

612 e. Asphyxiation, suffocation, or drowning.

613 f. Injury resulting from the use of a deadly weapon.

614 g. Burns or scalding.

615 h. Cuts, lacerations, punctures, or bites.

616 i. Permanent or temporary disfigurement.

617 j. Permanent or temporary loss or impairment of a body part
618 or function.

619
620 As used in this subparagraph, the term "willful" refers to the
621 intent to perform an action, not to the intent to achieve a
622 result or to cause an injury.

623 2. Purposely giving a child poison, alcohol, drugs, or
624 other substances that substantially affect the child's behavior,
625 motor coordination, or judgment or that result in sickness or
626 internal injury. For the purposes of this subparagraph, the term
627 "drugs" means prescription drugs not prescribed for the child or
628 not administered as prescribed, and controlled substances as
629 outlined in Schedule I or Schedule II of s. 893.03.

630 3. Leaving a child without adult supervision or arrangement
631 appropriate for the child's age or mental or physical condition,
632 so that the child is unable to care for the child's own needs or
633 another's basic needs or is unable to exercise good judgment in
634 responding to any kind of physical or emotional crisis.

635 4. Inappropriate or excessively harsh disciplinary action
636 that is likely to result in physical injury, mental injury as



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defined in this section, or emotional injury. The significance of any injury must be evaluated in light of the following factors: the age of the child; any prior history of injuries to the child; the location of the injury on the body of the child; the multiplicity of the injury; and the type of trauma inflicted. Corporal discipline may be considered excessive or abusive when it results in any of the following or other similar injuries:

- a. Sprains, dislocations, or cartilage damage.
- b. Bone or skull fractures.
- c. Brain or spinal cord damage.
- d. Intracranial hemorrhage or injury to other internal organs.
- e. Asphyxiation, suffocation, or drowning.
- f. Injury resulting from the use of a deadly weapon.
- g. Burns or scalding.
- h. Cuts, lacerations, punctures, or bites.
- i. Permanent or temporary disfigurement.
- j. Permanent or temporary loss or impairment of a body part or function.
- k. Significant bruises or welts.

(b) Commits, or allows to be committed, sexual battery, as defined in chapter 794, or lewd or lascivious acts, as defined in chapter 800, against the child.

(c) Allows, encourages, or forces the sexual exploitation of a child, which includes allowing, encouraging, or forcing a child to:

1. Solicit for or engage in prostitution; or
2. Engage in a sexual performance, as defined by chapter



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827.

(d) Exploits a child, or allows a child to be exploited, as provided in s. 450.151.

(e) Abandons the child. Within the context of the definition of "harm," the term "abandoned the child" or "abandonment of the child" means a situation in which the parent or legal custodian of a child or, in the absence of a parent or legal custodian, the caregiver, while being able, has made no significant contribution to the child's care and maintenance or has failed to establish or maintain a substantial and positive relationship with the child, or both. For purposes of this paragraph, "establish or maintain a substantial and positive relationship" includes, but is not limited to, frequent and regular contact with the child through frequent and regular visitation or frequent and regular communication to or with the child, and the exercise of parental rights and responsibilities. Marginal efforts and incidental or token visits or communications are not sufficient to establish or maintain a substantial and positive relationship with a child. The term "abandoned" does not include a surrendered newborn infant as described in s. 383.50, a child in need of services as defined in chapter 984, or a family in need of services as defined in chapter 984. The incarceration, repeated incarceration, or extended incarceration of a parent, legal custodian, or caregiver responsible for a child's welfare may support a finding of abandonment.

(f) Neglects the child. Within the context of the definition of "harm," the term "neglects the child" means that the parent or other person responsible for the child's welfare



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695 fails to supply the child with adequate food, clothing, shelter,
696 or health care, although financially able to do so or although
697 offered financial or other means to do so. However, a parent or
698 legal custodian who, by reason of the legitimate practice of
699 religious beliefs, does not provide specified medical treatment
700 for a child may not be considered abusive or neglectful for that
701 reason alone, but such an exception does not:

702 1. Eliminate the requirement that such a case be reported
703 to the department;

704 2. Prevent the department from investigating such a case;
705 or

706 3. Preclude a court from ordering, when the health of the
707 child requires it, the provision of medical services by a
708 physician, as defined in this section, or treatment by a duly
709 accredited practitioner who relies solely on spiritual means for
710 healing in accordance with the tenets and practices of a well-
711 recognized church or religious organization.

712 (g) Exposes a child to a controlled substance or alcohol.
713 Exposure to a controlled substance or alcohol is established by:

714 1. A test, administered at birth, which indicated that the
715 child's blood, urine, or meconium contained any amount of
716 alcohol or a controlled substance or metabolites of such
717 substances, the presence of which was not the result of medical
718 treatment administered to the mother or the newborn infant; or

719 2. Evidence of extensive, abusive, and chronic use of a
720 controlled substance or alcohol by a parent when the child is
721 demonstrably adversely affected by such usage.

722
723 As used in this paragraph, the term "controlled substance" means



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724 prescription drugs not prescribed for the parent or not
725 administered as prescribed and controlled substances as outlined
726 in Schedule I or Schedule II of s. 893.03.

727 (h) Uses mechanical devices, unreasonable restraints, or
728 extended periods of isolation to control a child.

729 (i) Engages in violent behavior that demonstrates a wanton
730 disregard for the presence of a child and could reasonably
731 result in serious injury to the child.

732 (j) Negligently fails to protect a child in his or her care
733 from inflicted physical, mental, or sexual injury caused by the
734 acts of another.

735 (k) Has allowed a child's sibling to die as a result of
736 abuse, abandonment, or neglect.

737 (l) Makes the child unavailable for the purpose of impeding
738 or avoiding a protective investigation unless the court
739 determines that the parent, legal custodian, or caregiver was
740 fleeing from a situation involving domestic violence.

741 (31) "Impending danger" means a situation in which family
742 behaviors, attitudes, motives, emotions, or situations pose a
743 threat that may not be currently active but that can be
744 anticipated to become active and to have severe effects on a
745 child at any time.

746 (32)-(33) "Institutional child abuse or neglect" means
747 situations of known or suspected child abuse or neglect in which
748 the person allegedly perpetrating the child abuse or neglect is
749 an employee of a private school, public or private day care
750 center, residential home, institution, facility, or agency or
751 any other person at such institution responsible for the child's
752 care as defined in subsection (47).



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753 ~~(33)(34)~~ "Judge" means the circuit judge exercising
754 jurisdiction pursuant to this chapter.
755 ~~(34)(35)~~ "Legal custody" means a legal status created by a
756 court which vests in a custodian of the person or guardian,
757 whether an agency or an individual, the right to have physical
758 custody of the child and the right and duty to protect, nurture,
759 guide, and discipline the child and to provide him or her with
760 food, shelter, education, and ordinary medical, dental,
761 psychiatric, and psychological care.
762 ~~(35)(36)~~ "Licensed child-caring agency" means a person,
763 society, association, or agency licensed by the department to
764 care for, receive, and board children.
765 ~~(36)(37)~~ "Licensed child-placing agency" means a person,
766 society, association, or institution licensed by the department
767 to care for, receive, or board children and to place children in
768 a licensed child-caring institution or a foster or adoptive
769 home.
770 ~~(37)(38)~~ "Licensed health care professional" means a
771 physician licensed under chapter 458, an osteopathic physician
772 licensed under chapter 459, a nurse licensed under part I of
773 chapter 464, a physician assistant licensed under chapter 458 or
774 chapter 459, or a dentist licensed under chapter 466.
775 ~~(38)(39)~~ "Likely to injure oneself" means that, as
776 evidenced by violent or other actively self-destructive
777 behavior, it is more likely than not that within a 24-hour
778 period the child will attempt to commit suicide or inflict
779 serious bodily harm on himself or herself.
780 ~~(39)(40)~~ "Likely to injure others" means that it is more
781 likely than not that within a 24-hour period the child will



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782 inflict serious and unjustified bodily harm on another person.
783 ~~(40)(41)~~ "Mediation" means a process whereby a neutral
784 third person called a mediator acts to encourage and facilitate
785 the resolution of a dispute between two or more parties. It is
786 an informal and nonadversarial process with the objective of
787 helping the disputing parties reach a mutually acceptable and
788 voluntary agreement. The role of the mediator includes, but is
789 not limited to, assisting the parties in identifying issues,
790 fostering joint problem solving, and exploring settlement
791 alternatives.
792 (41) "Medical neglect" means the failure to provide or the
793 failure to allow needed care as recommended by a health care
794 practitioner for a physical injury, illness, medical condition,
795 or impairment, or the failure to seek timely and appropriate
796 medical care for a serious health problem that a reasonable
797 person would have recognized as requiring professional medical
798 attention. Medical neglect does not occur if the parent or legal
799 guardian of the child has made reasonable attempts to obtain
800 necessary health care services or the immediate health condition
801 giving rise to the allegation of neglect is a known and expected
802 complication of the child's diagnosis or treatment and:
803 (a) The recommended care offers limited net benefit to the
804 child and the morbidity or other side effects of the treatment
805 may be considered to be greater than the anticipated benefit; or
806 (b) The parent or legal guardian received conflicting
807 medical recommendations for treatment from multiple
808 practitioners and did not follow all recommendations.
809 (59) "Present danger" means a significant and clearly
810 observable family condition that is occurring at the current



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811 moment and is already endangering or threatening to endanger the
812 child. Present danger threats are conspicuous and require that
813 an immediate protective action be taken to ensure the child's
814 safety.

815 (60)-(59) "Preventive services" means social services and
816 other supportive and rehabilitative services provided to the
817 parent or legal custodian of the child and to the child for the
818 purpose of averting the removal of the child from the home or
819 disruption of a family which will or could result in the
820 placement of a child in foster care. Social services and other
821 supportive and rehabilitative services shall promote the child's
822 developmental needs and need for physical, mental, and emotional
823 health and a safe, stable, living environment;~~7~~ shall promote
824 family autonomy;~~7~~ and shall strengthen family life, whenever
825 possible.

826 (66)-(65) "Reunification services" means social services and
827 other supportive and rehabilitative services provided to the
828 parent of the child, to the child, and, where appropriate, to
829 the relative placement, nonrelative placement, or foster parents
830 of the child, for the purpose of enabling a child who has been
831 placed in out-of-home care to safely return to his or her parent
832 at the earliest possible time. The health and safety of the
833 child shall be the paramount goal of social services and other
834 supportive and rehabilitative services. The services shall
835 promote the child's need for physical, developmental, mental,
836 and emotional health and a safe, stable, living environment;~~7~~
837 shall promote family autonomy;~~7~~ and shall strengthen family
838 life, whenever possible.

839 (67) "Safety plan" means a plan created to control present



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840 or impending danger using the least intrusive means appropriate
841 to protect a child when a parent, caregiver, or legal custodian
842 is unavailable, unwilling, or unable to do so.

843 (71) "Sibling" means:

844 (a) A child who shares a birth parent or legal parent with
845 one or more other children; or

846 (b) A child who has lived together in a family with one or
847 more other children whom he or she identifies as siblings.

848 Section 4. Subsection (12) is added to section 39.013,
849 Florida Statutes, to read:

850 39.013 Procedures and jurisdiction; right to counsel.-

851 (12) The department shall be represented by counsel in each
852 dependency proceeding. Through its attorneys, the department
853 shall make recommendations to the court on issues before the
854 court and may support its recommendations through testimony and
855 other evidence by its own employees, employees of sheriff's
856 offices providing child protection services, employees of its
857 contractors, employees of its contractor's subcontractors, or
858 from any other relevant source.

859 Section 5. Paragraph (c) of subsection (2) of section
860 39.201, Florida Statutes, is amended to read:

861 39.201 Mandatory reports of child abuse, abandonment, or
862 neglect; mandatory reports of death; central abuse hotline.-

863 (2)

864 (c) Reports involving a ~~known or suspected~~ juvenile sexual
865 abuse offender or a child who has exhibited inappropriate sexual
866 behavior shall be made and received by the department. An
867 alleged incident of juvenile sexual abuse involving a child who
868 is in the custody of or protective supervision of the department



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869 shall be reported to the department's central abuse hotline.
870 1. ~~The department shall determine the age of the alleged~~
871 ~~offender, if known.~~

872 2. ~~If the alleged offender is 12 years of age or younger,~~
873 The central abuse hotline shall immediately electronically
874 transfer the report or call to the county sheriff's office. The
875 department shall conduct an assessment and assist the family in
876 receiving appropriate services pursuant to s. 39.307, and send a
877 written report of the allegation to the appropriate county
878 sheriff's office within 48 hours after the initial report is
879 made to the central abuse hotline.

880 2. The department shall ensure that the facts and results
881 of any investigation of child sexual abuse involving a child in
882 the custody of or under the protective supervision of the
883 department are made known to the court at the next hearing or
884 included in the next report to the court concerning the child.

885 3. ~~If the alleged offender is 13 years of age or older, the~~
886 ~~central abuse hotline shall immediately electronically transfer~~
887 ~~the report or call to the appropriate county sheriff's office~~
888 ~~and send a written report to the appropriate county sheriff's~~
889 ~~office within 48 hours after the initial report to the central~~
890 ~~abuse hotline.~~

891 Section 6. Section 39.2015, Florida Statutes, is created to
892 read:

893 39.2015 Critical incident rapid response team.—

894 (1) The department shall conduct an immediate investigation
895 of certain incidents involving children using critical incident
896 rapid response teams as provided in subsection (2). The purpose
897 of such investigation is to identify root causes and rapidly



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898 determine the need to change policies and practices related to
899 child protection and child welfare.

900 (2) An immediate onsite investigation conducted by a
901 critical incident rapid response team is required for all child
902 deaths reported to the department if the child or another child
903 in his or her family was the subject of a verified report of
904 suspected abuse or neglect during the previous 12 months. The
905 secretary may direct an immediate investigation for other cases
906 involving serious injury to a child.

907 (3) Each investigation shall be conducted by a team of at
908 least five professionals with expertise in child protection,
909 child welfare, and organizational management. The team may
910 consist of employees of the department, community-based care
911 lead agencies, and other provider organizations; faculty from
912 the institute consisting of public and private universities
913 offering degrees in social work established pursuant to s.
914 1004.615; or any other person with the required expertise. The
915 majority of the team must reside in judicial circuits outside
916 the location of the incident. The secretary shall appoint a team
917 leader for each group assigned to an investigation.

918 (4) An investigation shall be initiated as soon as
919 possible, but not later than 2 business days after the case is
920 reported to the department. A preliminary report on each case
921 shall be provided to the secretary no later than 30 days after
922 the investigation begins.

923 (5) Each member of the team is authorized to access all
924 information in the case file.

925 (6) All employees of the department or other state agencies
926 and all personnel from contracted provider organizations must



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927 cooperate with the investigation by participating in interviews
928 and timely responding to any requests for information. However,
929 records or information of contracted provider organizations made
930 confidential or privileged by state or federal law may be shared
931 among team members but not outside the team.

932 (7) The secretary shall develop cooperative agreements with
933 other entities and organizations as necessary to facilitate the
934 work of the team.

935 (8) The members of the team may be reimbursed by the
936 department for per diem, mileage, and other reasonable expenses
937 as provided in s. 112.061. The department may also reimburse the
938 team member's employer for the associated salary and benefits
939 during the time the team member is fulfilling the duties
940 required under this section.

941 (9) Upon completion of the investigation, the department
942 shall make the team's final report available on its website.

943 (10) The secretary, in conjunction with the institute
944 established pursuant to s. 1004.615, shall develop guidelines
945 for investigations conducted by critical incident rapid response
946 teams and provide training to team members. Such guidelines must
947 direct the teams in the conduct of a root-cause analysis that
948 identifies, classifies, and attributes responsibility for both
949 direct and latent causes for the death or other incident,
950 including organizational factors, preconditions, and specific
951 acts or omissions resulting from either error or a violation of
952 procedures.

953 (11) The secretary shall appoint an advisory committee made
954 up of experts in child protection and child welfare to conduct
955 an independent review of investigative reports from the critical



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956 incident rapid response teams and make recommendations to
957 improve policies and practices related to child protection and
958 child welfare services. By October 1 of each year, the advisory
959 committee shall submit a report to the secretary that includes
960 findings and recommendations. The secretary shall submit the
961 report to the Governor, the President of the Senate, and the
962 Speaker of the House of Representatives.

963 Section 7. Section 39.2022, Florida Statutes, is created to
964 read:

965 39.2022 Public disclosure of reported child deaths.-

966 (1) It is the intent of the Legislature to provide prompt
967 disclosure of the basic facts of all deaths of children from
968 birth through 18 years of age which occur in this state and
969 which are reported to the department's central abuse hotline.
970 Disclosure shall be posted on the department's public website.
971 This section does not limit the public access to records under
972 any other provision of law.

973 (2) Notwithstanding s. 39.202, if a child death is reported
974 to the central abuse hotline, the department shall post on its
975 website all of the following:

976 (a) The initials, age, race, and gender of the child.

977 (b) The date of the child's death.

978 (c) Any allegations of the cause of death or the
979 preliminary cause of death, and the verified cause of death, if
980 known.

981 (d) The county and placement of the child at the time of
982 the incident leading to the child's death, if applicable.

983 (e) The name of the community-based care lead agency, case
984 management agency, or out-of-home licensing agency involved with



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the child, family, or licensed caregiver, if applicable.

(f) The relationship of the person adjudicated guilty of any criminal offense related to the child's death.

(g) Whether the child has been the subject of any prior verified reports to the department's central abuse hotline.

Section 8. Subsections (9) and (14) of section 39.301, Florida Statutes, are amended to read:

39.301 Initiation of protective investigations.—

(9) (a) For each report received from the central abuse hotline and accepted for investigation, the department or the sheriff providing child protective investigative services under s. 39.3065, shall perform the following child protective investigation activities to determine child safety:

1. Conduct a review of all relevant, available information specific to the child and family and alleged maltreatment; family child welfare history; local, state, and federal criminal records checks; and requests for law enforcement assistance provided by the abuse hotline. Based on a review of available information, including the allegations in the current report, a determination shall be made as to whether immediate consultation should occur with law enforcement, the child protection team, a domestic violence shelter or advocate, or a substance abuse or mental health professional. Such consultations should include discussion as to whether a joint response is necessary and feasible. A determination shall be made as to whether the person making the report should be contacted before the face-to-face interviews with the child and family members.

2. Conduct face-to-face interviews with the child; other siblings, if any; and the parents, legal custodians, or



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caregivers.

3. Assess the child's residence, including a determination of the composition of the family and household, including the name, address, date of birth, social security number, sex, and race of each child named in the report; any siblings or other children in the same household or in the care of the same adults; the parents, legal custodians, or caregivers; and any other adults in the same household.

4. Determine whether there is any indication that any child in the family or household has been abused, abandoned, or neglected; the nature and extent of present or prior injuries, abuse, or neglect, and any evidence thereof; and a determination as to the person or persons apparently responsible for the abuse, abandonment, or neglect, including the name, address, date of birth, social security number, sex, and race of each such person.

5. Complete assessment of immediate child safety for each child based on available records, interviews, and observations with all persons named in subparagraph 2. and appropriate collateral contacts, which may include other professionals. The department's child protection investigators are hereby designated a criminal justice agency for the purpose of accessing criminal justice information to be used for enforcing this state's laws concerning the crimes of child abuse, abandonment, and neglect. This information shall be used solely for purposes supporting the detection, apprehension, prosecution, pretrial release, posttrial release, or rehabilitation of criminal offenders or persons accused of the crimes of child abuse, abandonment, or neglect and may not be



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further disseminated or used for any other purpose.

6. Document the present and impending dangers to each child based on the identification of inadequate protective capacity through utilization of a standardized safety assessment instrument. If present or impending danger is identified, the child protective investigator must implement a safety plan or take the child into custody. If present danger is identified and the child is not removed, the child protective investigator shall create and implement a safety plan before leaving the home or the location where there is present danger. If impending danger is identified, the child protective investigator shall create and implement a safety plan as soon as necessary to protect the safety of the child. The child protective investigator may modify the safety plan if he or she identifies additional impending danger.

a. If the child protective investigator implements a safety plan, the plan must be specific, sufficient, feasible, and sustainable in response to the realities of the present or impending danger. A safety plan may be an in-home plan or an out-of-home plan, or a combination of both. A safety plan may not rely solely on promissory commitments by the parent, caregiver, or legal custodian who is currently not able to protect the child or on services that are not available or will not result in the safety of the child. A safety plan may not be implemented if for any reason the parents, guardian, or legal custodian lacks the capacity or ability to comply with the plan. If the department is not able to develop a plan that is specific, sufficient, feasible, and sustainable, the department shall file a shelter petition. A child protective investigator



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shall implement separate safety plans for the perpetrator of domestic violence and the parent who is a victim of domestic violence as defined in s. 741.28. If the perpetrator of domestic violence is not the parent, guardian, or legal custodian of the child, the child protective investigator shall seek issuance of an injunction authorized by s. 39.504 to implement a safety plan for the perpetrator and impose any other conditions to protect the child. The safety plan for the parent who is a victim of domestic violence may not be shared with the perpetrator. If any party to a safety plan fails to comply with the safety plan resulting in the child being unsafe, the department shall file a shelter petition.

b. The child protective investigator shall collaborate with the community-based care lead agency in the development of the safety plan as necessary to ensure that the safety plan is specific, sufficient, feasible, and sustainable. The child protective investigator shall identify services necessary for the successful implementation of the safety plan. The child protective investigator and the community-based care lead agency shall mobilize service resources to assist all parties in complying with the safety plan. The community-based care lead agency shall prioritize safety plan services to families who have multiple risk factors, including, but not limited to, two or more of the following:

(I) The parent or legal custodian is of young age;

(II) The parent or legal custodian, or an adult currently living in or frequently visiting the home, has a history of substance abuse, mental illness, or domestic violence;

(III) The parent or legal custodian, or an adult currently



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1101 living in or frequently visiting the home, has been previously
1102 found to have physically or sexually abused a child;

1103 (IV) The parent or legal custodian or an adult currently
1104 living in or frequently visiting the home has been the subject
1105 of multiple allegations by reputable reports of abuse or
1106 neglect;

1107 (V) The child is physically or developmentally disabled; or

1108 (VI) The child is 3 years of age or younger.

1109 c. The child protective investigator shall monitor the
1110 implementation of the plan to ensure the child's safety until
1111 the case is transferred to the lead agency at which time the
1112 lead agency shall monitor the implementation.

1113 ~~(b) Upon completion of the immediate safety assessment, the~~
1114 ~~department shall determine the additional activities necessary~~
1115 ~~to assess impending dangers, if any, and close the~~
1116 ~~investigation.~~

1117 (b)(e) For each report received from the central abuse
1118 hotline, the department or the sheriff providing child
1119 protective investigative services under s. 39.3065, shall
1120 determine the protective, treatment, and ameliorative services
1121 necessary to safeguard and ensure the child's safety and well-
1122 being and development, and cause the delivery of those services
1123 through the early intervention of the department or its agent.
1124 As applicable, child protective investigators must inform
1125 parents and caregivers how and when to use the injunction
1126 process under s. 741.30 to remove a perpetrator of domestic
1127 violence from the home as an intervention to protect the child.

1128 1. If the department or the sheriff providing child
1129 protective investigative services determines that the interests



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1130 of the child and the public will be best served by providing the
1131 child care or other treatment voluntarily accepted by the child
1132 and the parents or legal custodians, the parent or legal
1133 custodian and child may be referred for such care, case
1134 management, or other community resources.

1135 2. If the department or the sheriff providing child
1136 protective investigative services determines that the child is
1137 in need of protection and supervision, the department may file a
1138 petition for dependency.

1139 3. If a petition for dependency is not being filed by the
1140 department, the person or agency originating the report shall be
1141 advised of the right to file a petition pursuant to this part.

1142 4. At the close of an investigation, the department or the
1143 sheriff providing child protective services shall provide to the
1144 person who is alleged to have caused the abuse, neglect, or
1145 abandonment and the parent or legal custodian a summary of
1146 findings from the investigation and provide information about
1147 their right to access confidential reports in accordance with s.
1148 39.202.

1149 (14)(a) If the department or its agent determines that a
1150 child requires immediate or long-term protection through-

1151 ~~1- medical or other health care~~ or

1152 ~~2- homemaker care, day care, protective supervision, or~~
1153 ~~other services to stabilize the home environment, including~~
1154 ~~intensive family preservation services through the Intensive~~
1155 ~~Crisis Counseling Program, such services shall first be offered~~
1156 ~~for voluntary acceptance unless:~~

1157 1. There are high-risk factors that may impact the ability
1158 of the parents or legal custodians to exercise judgment. Such



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1159 factors may include the parents' or legal custodians' young age
1160 or history of substance abuse, mental illness, or domestic
1161 violence; or

1162 2. There is a high likelihood of lack of compliance with
1163 voluntary services, and such noncompliance would result in the
1164 child being unsafe.

1165 (b) The parents or legal custodians shall be informed of
1166 the right to refuse services, as well as the responsibility of
1167 the department to protect the child regardless of the acceptance
1168 or refusal of services. If the services are refused, a
1169 collateral contact shall include a relative, if the protective
1170 investigator has knowledge of and the ability to contact a
1171 relative. If the services are refused and the department deems
1172 that the child's need for protection ~~se~~ requires services, the
1173 department shall take the child into protective custody or
1174 petition the court as provided in this chapter. At any time
1175 after the commencement of a protective investigation, a relative
1176 may submit in writing to the protective investigator or case
1177 manager a request to receive notification of all proceedings and
1178 hearings in accordance with s. 39.502. The request shall include
1179 the relative's name, address, and phone number and the
1180 relative's relationship to the child. The protective
1181 investigator or case manager shall forward such request to the
1182 attorney for the department. The failure to provide notice to
1183 either a relative who requests it pursuant to this subsection or
1184 to a relative who is providing out-of-home care for a child may
1185 not result in any previous action of the court at any stage or
1186 proceeding in dependency or termination of parental rights under
1187 any part of this chapter being set aside, reversed, modified, or



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1188 in any way changed absent a finding by the court that a change
1189 is required in the child's best interests.

1190 (c) The department, in consultation with the judiciary,
1191 shall adopt by rule:

1192 1. Criteria that are factors requiring that the department
1193 take the child into custody, petition the court as provided in
1194 this chapter, or, if the child is not taken into custody or a
1195 petition is not filed with the court, conduct an administrative
1196 review. Such factors must include, but are not limited to,
1197 noncompliance with a safety plan or the case plan developed by
1198 the department, and the family under this chapter, and prior
1199 abuse reports with findings that involve the child, the child's
1200 sibling, or the child's caregiver.

1201 2. Requirements that if after an administrative review the
1202 department determines not to take the child into custody or
1203 petition the court, the department shall document the reason for
1204 its decision in writing and include it in the investigative
1205 file. For all cases that were accepted by the local law
1206 enforcement agency for criminal investigation pursuant to
1207 subsection (2), the department must include in the file written
1208 documentation that the administrative review included input from
1209 law enforcement. In addition, for all cases that must be
1210 referred to child protection teams pursuant to s. 39.303(2) and
1211 (3), the file must include written documentation that the
1212 administrative review included the results of the team's
1213 evaluation. Factors that must be included in the development of
1214 the rule include noncompliance with the case plan developed by
1215 the department, or its agent, and the family under this chapter
1216 and prior abuse reports with findings that involve the child or



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~~caregiver.~~

Section 9. Section 39.303, Florida Statutes, is amended to read:

39.303 Child protection teams; services; eligible cases.—
The Children's Medical Services Program in the Department of Health shall develop, maintain, and coordinate the services of one or more multidisciplinary child protection teams in each of the service districts of the Department of Children and Families ~~Family Services~~. Such teams may be composed of appropriate representatives of school districts and appropriate health, mental health, social service, legal service, and law enforcement agencies. ~~The Legislature finds that optimal coordination of child protection teams and sexual abuse treatment programs requires collaboration between~~ The Department of Health and the Department of Children and Families ~~Family Services~~. The two departments shall maintain an interagency agreement that establishes protocols for oversight and operations of child protection teams and sexual abuse treatment programs. The State Surgeon General and the Deputy Secretary for Children's Medical Services, in consultation with the Secretary of Children and Families ~~Family Services~~, shall maintain the responsibility for the screening, employment, and, if necessary, the termination of child protection team medical directors, at headquarters and in the 15 districts. Child protection team medical directors shall be responsible for oversight of the teams in the districts.

(1) The Department of Health shall use ~~utilize~~ and convene the teams to supplement the assessment and protective supervision activities of the family safety and preservation



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program of the Department of Children and Families ~~Family Services~~. ~~Nothing in This section does not shall be construed to~~ remove or reduce the duty and responsibility of any person to report pursuant to this chapter all suspected or actual cases of child abuse, abandonment, or neglect or sexual abuse of a child. The role of the teams shall be to support activities of the program and to provide services deemed by the teams to be necessary and appropriate to abused, abandoned, and neglected children upon referral. The specialized diagnostic assessment, evaluation, coordination, consultation, and other supportive services that a child protection team shall be capable of providing include, but are not limited to, the following:

(a) Medical diagnosis and evaluation services, including provision or interpretation of X rays and laboratory tests, and related services, as needed, and documentation of related findings ~~relative thereto~~.

(b) Telephone consultation services in emergencies and in other situations.

(c) Medical evaluation related to abuse, abandonment, or neglect, as defined by policy or rule of the Department of Health.

(d) Such psychological and psychiatric diagnosis and evaluation services for the child or the child's parent or parents, legal custodian or custodians, or other caregivers, or any other individual involved in a child abuse, abandonment, or neglect case, as the team may determine to be needed.

(e) Expert medical, psychological, and related professional testimony in court cases.

(f) Case staffings to develop treatment plans for children



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1275 whose cases have been referred to the team. A child protection
1276 team may provide consultation with respect to a child who is
1277 alleged or is shown to be abused, abandoned, or neglected, which
1278 consultation shall be provided at the request of a
1279 representative of the family safety and preservation program or
1280 at the request of any other professional involved with a child
1281 or the child's parent or parents, legal custodian or custodians,
1282 or other caregivers. In every such child protection team case
1283 staffing, consultation, or staff activity involving a child, a
1284 family safety and preservation program representative shall
1285 attend and participate.

1286 (g) Case service coordination and assistance, including the
1287 location of services available from other public and private
1288 agencies in the community.

1289 (h) Such training services for program and other employees
1290 of the Department of Children and Families ~~Family Services~~,
1291 employees of the Department of Health, and other medical
1292 professionals as is deemed appropriate to enable them to develop
1293 and maintain their professional skills and abilities in handling
1294 child abuse, abandonment, and neglect cases.

1295 (i) Educational and community awareness campaigns on child
1296 abuse, abandonment, and neglect in an effort to enable citizens
1297 more successfully to prevent, identify, and treat child abuse,
1298 abandonment, and neglect in the community.

1299 (j) Child protection team assessments that include, as
1300 appropriate, medical evaluations, medical consultations, family
1301 psychosocial interviews, specialized clinical interviews, or
1302 forensic interviews.

1303



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1304 All medical personnel participating on a child protection team
1305 must successfully complete the required child protection team
1306 training curriculum as set forth in protocols determined by the
1307 Deputy Secretary for Children's Medical Services and the
1308 Statewide Medical Director for Child Protection. A child
1309 protection team that is evaluating a report of medical neglect
1310 and assessing the health care needs of a medically complex child
1311 shall consult with a physician who has experience in treating
1312 children with the same condition.

1313 (2) The child abuse, abandonment, and neglect reports that
1314 must be referred by the department to child protection teams of
1315 the Department of Health for an assessment and other appropriate
1316 available support services as set forth in subsection (1) must
1317 include cases involving:

1318 (a) Injuries to the head, bruises to the neck or head,
1319 burns, or fractures in a child of any age.

1320 (b) Bruises anywhere on a child 5 years of age or under.

1321 (c) Any report alleging sexual abuse of a child.

1322 (d) Any sexually transmitted disease in a prepubescent
1323 child.

1324 (e) Reported malnutrition of a child and failure of a child
1325 to thrive.

1326 (f) Reported medical neglect of a child.

1327 (g) Any family in which one or more children have been
1328 pronounced dead on arrival at a hospital or other health care
1329 facility, or have been injured and later died, as a result of
1330 suspected abuse, abandonment, or neglect, when any sibling or
1331 other child remains in the home.

1332 (h) Symptoms of serious emotional problems in a child when



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emotional or other abuse, abandonment, or neglect is suspected.

(3) All abuse and neglect cases transmitted for investigation to a district by the hotline must be simultaneously transmitted to the Department of Health child protection team for review. For the purpose of determining whether face-to-face medical evaluation by a child protection team is necessary, all cases transmitted to the child protection team which meet the criteria in subsection (2) must be timely reviewed by:

(a) A physician licensed under chapter 458 or chapter 459 who holds board certification in pediatrics and is a member of a child protection team;

(b) A physician licensed under chapter 458 or chapter 459 who holds board certification in a specialty other than pediatrics, who may complete the review only when working under the direction of a physician licensed under chapter 458 or chapter 459 who holds board certification in pediatrics and is a member of a child protection team;

(c) An advanced registered nurse practitioner licensed under chapter 464 who has a specialty ~~speciality~~ in pediatrics or family medicine and is a member of a child protection team;

(d) A physician assistant licensed under chapter 458 or chapter 459, who may complete the review only when working under the supervision of a physician licensed under chapter 458 or chapter 459 who holds board certification in pediatrics and is a member of a child protection team; or

(e) A registered nurse licensed under chapter 464, who may complete the review only when working under the direct supervision of a physician licensed under chapter 458 or chapter



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459 who holds certification in pediatrics and is a member of a child protection team.

(4) A face-to-face medical evaluation by a child protection team is not necessary when:

(a) The child was examined for the alleged abuse or neglect by a physician who is not a member of the child protection team, and a consultation between the child protection team board-certified pediatrician, advanced registered nurse practitioner, physician assistant working under the supervision of a child protection team board-certified pediatrician, or registered nurse working under the direct supervision of a child protection team board-certified pediatrician, and the examining physician concludes that a further medical evaluation is unnecessary;

(b) The child protective investigator, with supervisory approval, has determined, after conducting a child safety assessment, that there are no indications of injuries as described in paragraphs (2)(a)-(h) as reported; or

(c) The child protection team board-certified pediatrician, as authorized in subsection (3), determines that a medical evaluation is not required.

Notwithstanding paragraphs (a), (b), and (c), a child protection team pediatrician, as authorized in subsection (3), may determine that a face-to-face medical evaluation is necessary.

(5) In all instances in which a child protection team is providing certain services to abused, abandoned, or neglected children, other offices and units of the Department of Health, and offices and units of the Department of Children and Families ~~Family Services~~, shall avoid duplicating the provision of those



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services.

(6) The Department of Health child protection team quality assurance program and the Family Safety Program Office of the Department of Children and Families Family Services' Family Safety Program Office quality assurance program shall collaborate to ensure referrals and responses to child abuse, abandonment, and neglect reports are appropriate. Each quality assurance program shall include a review of records in which there are no findings of abuse, abandonment, or neglect, and the findings of these reviews shall be included in each department's quality assurance reports.

Section 10. Section 39.3068, Florida Statutes, is created to read:

39.3068 Reports of medical neglect.—

(1) Upon receiving a report alleging medical neglect, the department or sheriff's office shall assign the case to a child protective investigator who has specialized training in addressing medical neglect or working with medically complex children, if such investigator is available. If a child protective investigator with specialized training is not available, the child protective investigator shall consult with department staff with such expertise.

(2) The child protective investigator who has interacted with the child and the child's family shall promptly contact and provide information to the child protection team. The child protection team shall assist the child protective investigator in identifying immediate responses to address the medical needs of the child with the priority of maintaining the child in the home if the parents will be able to meet the needs of the child



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with additional services. The child protective investigator and the child protection team must use a family-centered approach to assess the capacity of the family to meet those needs. A family-centered approach is intended to increase independence on the part of the family, accessibility to programs and services within the community, and collaboration between families and their service providers. The ethnic, cultural, economic, racial, social, and religious diversity of families must be respected and considered in the development and provision of services.

(3) The child shall be evaluated by the child protection team as soon as practicable. After receipt of the report from the child protection team, the department shall convene a case staffing which shall be attended, at a minimum, by the child protective investigator; department legal staff; and representatives from the child protection team that evaluated the child, Children's Medical Services, the Agency for Health Care Administration, the community-based care lead agency, and any providers of services to the child. However, the Agency for Health Care Administration is not required to attend the staffing if the child is not Medicaid-eligible. The staffing shall consider, at a minimum, available services, given the family's eligibility for services; services that are effective in addressing conditions leading to medical neglect allegations; and services that would enable the child to safely remain at home. Any services that are available and effective, shall be provided.

Section 11. Section 39.307, Florida Statutes, is amended to read:

39.307 Reports of child-on-child sexual abuse.—



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1449 (1) Upon receiving a report alleging juvenile sexual abuse
1450 or inappropriate sexual behavior as defined in s. 39.01(7), the
1451 department shall assist the family, child, and caregiver in
1452 receiving appropriate services to address the allegations of the
1453 report.

1454 (a) The department shall ensure that information describing
1455 the child's history of child sexual abuse is included in the
1456 child's electronic record. This record must also include
1457 information describing the services the child has received as a
1458 result of his or her involvement with child sexual abuse.

1459 (b) Placement decisions for a child who has been involved
1460 with child sexual abuse must include consideration of the needs
1461 of the child and any other children in the placement.

1462 (c) The department shall monitor the occurrence of child
1463 sexual abuse and the provision of services to children involved
1464 in child sexual abuse, juvenile sexual abuse, or who have
1465 displayed inappropriate sexual behavior.

1466 (2) The department, contracted sheriff's office providing
1467 protective investigation services, or contracted case management
1468 personnel responsible for providing services, at a minimum,
1469 shall adhere to the following procedures:

1470 (a) The purpose of the response to a report alleging
1471 juvenile sexual abuse behavior or inappropriate sexual behavior
1472 shall be explained to the caregiver.

1473 1. The purpose of the response shall be explained in a
1474 manner consistent with legislative purpose and intent provided
1475 in this chapter.

1476 2. The name and office telephone number of the person
1477 responding shall be provided to the caregiver of the alleged



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1478 ~~abuser juvenile sexual offender~~ or child who has exhibited
1479 inappropriate sexual behavior and the victim's caregiver.

1480 3. The possible consequences of the department's response,
1481 including outcomes and services, shall be explained to the
1482 caregiver of the alleged ~~abuser juvenile sexual offender~~ or
1483 child who has exhibited inappropriate sexual behavior and the
1484 victim's caregiver.

1485 (b) The caregiver of the alleged ~~abuser juvenile sexual~~
1486 ~~offender~~ or child who has exhibited inappropriate sexual
1487 behavior and the victim's caregiver shall be involved to the
1488 fullest extent possible in determining the nature of the sexual
1489 behavior concerns and the nature of any problem or risk to other
1490 children.

1491 (c) The assessment of risk and the perceived treatment
1492 needs of the alleged ~~abuser juvenile sexual offender~~ or child
1493 who has exhibited inappropriate sexual behavior, the victim, and
1494 respective caregivers shall be conducted by the district staff,
1495 the child protection team of the Department of Health, and other
1496 providers under contract with the department to provide services
1497 to the caregiver of the alleged offender, the victim, and the
1498 victim's caregiver.

1499 (d) The assessment shall be conducted in a manner that is
1500 sensitive to the social, economic, and cultural environment of
1501 the family.

1502 (e) If necessary, the child protection team of the
1503 Department of Health shall conduct a physical examination of the
1504 victim, which is sufficient to meet forensic requirements.

1505 (f) Based on the information obtained from the alleged
1506 ~~abuser juvenile sexual offender~~ or child who has exhibited



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inappropriate sexual behavior, his or her caregiver, the victim, and the victim's caregiver, an assessment of service and treatment needs must be completed and, if needed, a case plan developed within 30 days.

(g) The department shall classify the outcome of the report as follows:

1. Report closed. Services were not offered because the department determined that there was no basis for intervention.

2. Services accepted by alleged abuser ~~juvenile sexual offender~~. Services were offered to the alleged abuser ~~juvenile sexual offender~~ or child who has exhibited inappropriate sexual behavior and accepted by the caregiver.

3. Report closed. Services were offered to the alleged abuser ~~juvenile sexual offender~~ or child who has exhibited inappropriate sexual behavior, but were rejected by the caregiver.

4. Notification to law enforcement. The risk to the victim's safety and well-being cannot be reduced by the provision of services or the caregiver rejected services, and notification of the alleged delinquent act or violation of law to the appropriate law enforcement agency was initiated.

5. Services accepted by victim. Services were offered to the victim and accepted by the caregiver.

6. Report closed. Services were offered to the victim but were rejected by the caregiver.

(3) If services have been accepted by the alleged abuser ~~juvenile sexual offender~~ or child who has exhibited inappropriate sexual behavior, the victim, and respective caregivers, the department shall designate a case manager and



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develop a specific case plan.

(a) Upon receipt of the plan, the caregiver shall indicate its acceptance of the plan in writing.

(b) The case manager shall periodically review the progress toward achieving the objectives of the plan in order to:

1. Make adjustments to the plan or take additional action as provided in this part; or

2. Terminate the case if indicated by successful or substantial achievement of the objectives of the plan.

(4) Services provided to the alleged abuser ~~juvenile sexual offender~~ or child who has exhibited inappropriate sexual behavior, the victim, and respective caregivers or family must be voluntary and of necessary duration.

(5) If the family or caregiver of the alleged abuser ~~juvenile sexual offender~~ or child who has exhibited inappropriate sexual behavior fails to adequately participate or allow for the adequate participation of the child in the services or treatment delineated in the case plan, the case manager may recommend that the department:

(a) Close the case;

(b) Refer the case to mediation or arbitration, if available; or

(c) Notify the appropriate law enforcement agency of failure to comply.

(6) At any time, as a result of additional information, findings of facts, or changing conditions, the department may pursue a child protective investigation as provided in this chapter.

(7) The department may adopt ~~is authorized to develop~~ rules



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1565 ~~and other policy directives necessary to administer implement~~
1566 ~~the provisions of this section.~~

1567 Section 12. Paragraph (h) of subsection (8) and subsection
1568 (9) of section 39.402, Florida Statutes, are amended to read:

1569 39.402 Placement in a shelter.-

1570 (8)

1571 (h) The order for placement of a child in shelter care must
1572 identify the parties present at the hearing and must contain
1573 written findings:

1574 1. That placement in shelter care is necessary based on the
1575 criteria in subsections (1) and (2).

1576 2. That placement in shelter care is in the best interest
1577 of the child.

1578 3. That continuation of the child in the home is contrary
1579 to the welfare of the child because the home situation presents
1580 a substantial and immediate danger to the child's physical,
1581 mental, or emotional health or safety which cannot be mitigated
1582 by the provision of preventive services.

1583 4. That based upon the allegations of the petition for
1584 placement in shelter care, there is probable cause to believe
1585 that the child is dependent or that the court needs additional
1586 time, which may not exceed 72 hours, in which to obtain and
1587 review documents pertaining to the family in order to
1588 appropriately determine the risk to the child.

1589 5. That the department has made reasonable efforts to
1590 prevent or eliminate the need for removal of the child from the
1591 home. A finding of reasonable effort by the department to
1592 prevent or eliminate the need for removal may be made and the
1593 department is deemed to have made reasonable efforts to prevent



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1594 or eliminate the need for removal if:

1595 a. The first contact of the department with the family
1596 occurs during an emergency;

1597 b. The appraisal of the home situation by the department
1598 indicates that the home situation presents a substantial and
1599 immediate danger to the child's physical, mental, or emotional
1600 health or safety which cannot be mitigated by the provision of
1601 preventive services;

1602 c. The child cannot safely remain at home, either because
1603 there are no preventive services that can ensure the health and
1604 safety of the child or because, even with appropriate and
1605 available services being provided, the health and safety of the
1606 child cannot be ensured; or

1607 d. The parent or legal custodian is alleged to have
1608 committed any of the acts listed as grounds for expedited
1609 termination of parental rights in s. 39.806(1)(f)-(i).

1610 6. That the department has made reasonable efforts to keep
1611 siblings together if they are removed and placed in out-of-home
1612 care unless such placement is not in the best interest of each
1613 child. Reasonable efforts shall include short-term placement in
1614 a group home with the ability to accommodate sibling groups if
1615 such a placement is available. The department shall report to
1616 the court its efforts to place siblings together unless the
1617 court finds that such placement is not in the best interest of a
1618 child or his or her sibling.

1619 ~~7.6-~~ That the court notified the parents, relatives that
1620 are providing out-of-home care for the child, or legal
1621 custodians of the time, date, and location of the next
1622 dependency hearing and of the importance of the active



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participation of the parents, relatives that are providing out-of-home care for the child, or legal custodians in all proceedings and hearings.

~~8.7-~~ 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.

~~9.8-~~ 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.

(9) (a) At any shelter hearing, the department shall provide to the court a recommendation for scheduled contact between the child and parents, if appropriate. The court shall determine visitation rights absent a clear and convincing showing that visitation is not in the best interest of the child. Any order for visitation or other contact must conform to ~~the provisions of~~ s. 39.0139. If visitation is ordered but will not commence within 72 hours of the shelter hearing, the department shall provide justification to the court.

(b) If siblings who are removed from the home cannot be placed together, the department shall provide to the court a recommendation for frequent visitation or other ongoing interaction between the siblings unless this interaction would be contrary to a sibling's safety or well-being. If visitation among siblings is ordered but will not commence within 72 hours after the shelter hearing, the department shall provide



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justification to the court for the delay.

Section 13. Paragraph (d) of subsection (3) of section 39.501, Florida Statutes, is amended to read:

39.501 Petition for dependency.—

(3)

(d) The petitioner must state in the petition, if known, whether:

1. A parent or legal custodian named in the petition has previously unsuccessfully participated in voluntary services offered by the department;

2. A parent or legal custodian named in the petition has participated in mediation and whether a mediation agreement exists;

3. A parent or legal custodian has rejected the voluntary services offered by the department;

4. A parent or legal custodian named in the petition has not fully complied with a safety plan; or

~~5.4-~~ The department has determined that voluntary services are not appropriate for the parent or legal custodian and the reasons for such determination.

If the department is the petitioner, it shall provide all safety assessments and safety plans involving the parent or legal custodian to the court.

Section 14. Paragraph (a) of subsection (4) of section 39.504, Florida Statutes, is amended to read:

39.504 Injunction pending disposition of petition; penalty.—

(4) If an injunction is issued under this section, the



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primary purpose of the injunction must be to protect and promote the best interests of the child, taking the preservation of the child's immediate family into consideration.

(a) The injunction applies to the alleged or actual offender in a case of child abuse or acts of domestic violence. The conditions of the injunction shall be determined by the court, which may include ordering the alleged or actual offender to:

1. Refrain from further abuse or acts of domestic violence.
2. Participate in a specialized treatment program.
3. Limit contact or communication with the child victim, other children in the home, or any other child.
4. Refrain from contacting the child at home, school, work, or wherever the child may be found.
5. Have limited or supervised visitation with the child.
6. Vacate the home in which the child resides.
7. Comply with the terms of a safety plan implemented in the injunction pursuant to s. 39.301.

Section 15. Section 39.5085, Florida Statutes, is amended to read:

39.5085 Relative Caregiver Program.—

(1) It is the intent of the Legislature in enacting this section to:

(a) Provide for the establishment of procedures and protocols that serve to advance the continued safety of children by acknowledging the valued resource uniquely available through grandparents, ~~and~~ relatives of children, and specified nonrelatives of children pursuant to subparagraph (2)(a)3.

(b) Recognize family relationships in which a grandparent



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or other relative is the head of a household that includes a child otherwise at risk of foster care placement.

(c) Enhance family preservation and stability by recognizing that most children in such placements with grandparents and other relatives do not need intensive supervision of the placement by the courts or by the department.

(d) Recognize that permanency in the best interests of the child can be achieved through a variety of permanency options, including permanent guardianship under s. 39.6221 if the guardian is a relative, by permanent placement with a fit and willing relative under s. 39.6231, by a relative, guardianship under chapter 744, or adoption, by providing additional placement options and incentives that will achieve permanency and stability for many children who are otherwise at risk of foster care placement because of abuse, abandonment, or neglect, but who may successfully be able to be placed by the dependency court in the care of such relatives.

(e) Reserve the limited casework and supervisory resources of the courts and the department for those cases in which children do not have the option for safe, stable care within the family.

(f) Recognize that a child may have a close relationship with a person who is not a blood relative or a relative by marriage and that such person should be eligible for financial assistance under this section if he or she is able and willing to care for the child and provide a safe, stable home environment.

(2)(a) The Department of Children and ~~Families~~ Family Services shall establish and operate the Relative Caregiver



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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.

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 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 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)(b)3., or court-ordered



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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 are relatives and~~ who would be unable to serve in that capacity without the ~~relative~~ caregiver payment because of financial burden, thus exposing the child to the trauma of placement in a shelter or in foster care.

(b) Caregivers ~~who are relatives and~~ who receive assistance under this section must be capable, as determined by a home study, of providing a physically safe environment and a stable, supportive home for the children under their care, and must assure that the children's well-being is met, including, but not limited to, the provision of immunizations, education, and mental health services as needed.

(c) Relatives or nonrelatives who qualify for and participate in the Relative Caregiver Program are not required to meet foster care licensing requirements under s. 409.175.

(d) Relatives or nonrelatives who are caring for children placed with them by the court pursuant to this chapter shall receive a special monthly ~~relative~~ caregiver benefit established by rule of the department. The amount of the special benefit payment shall be based on the child's age within a payment schedule established by rule of the department and subject to availability of funding. The statewide average monthly rate for children judicially placed with relatives or nonrelatives who are not licensed as foster homes may not exceed 82 percent of the statewide average foster care rate, and ~~nor may~~ the cost of providing the assistance described in this section to any



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1797 ~~relative~~ caregiver may not exceed the cost of providing out-of-
1798 home care in emergency shelter or foster care.

1799 (e) Children receiving cash benefits under this section are
1800 not eligible to simultaneously receive WAGES cash benefits under
1801 chapter 414.

1802 (f) Within available funding, the Relative Caregiver
1803 Program shall provide ~~relative~~ caregivers with family support
1804 and preservation services, flexible funds in accordance with s.
1805 409.165, school readiness, and other available services in order
1806 to support the child's safety, growth, and healthy development.
1807 Children living with ~~relative~~ caregivers who are receiving
1808 assistance under this section shall be eligible for Medicaid
1809 coverage.

1810 (g) The department may use appropriate available state,
1811 federal, and private funds to operate the Relative Caregiver
1812 Program. The department may develop liaison functions to be
1813 available to relatives or nonrelatives who care for children
1814 pursuant to this chapter to ensure placement stability in
1815 extended family settings.

1816 Section 16. Subsections (3) and (4) of section 39.604,
1817 Florida Statutes, are amended to read:

1818 39.604 Rilya Wilson Act; short title; legislative intent;
1819 requirements; attendance and reporting responsibilities.-

1820 (3) REQUIREMENTS.-A child from birth to the age of ~~who is~~
1821 ~~age 3 years to~~ school entry, under court-ordered ~~court-ordered~~
1822 protective supervision or in the custody of the Family Safety
1823 Program Office of the Department of Children and Families ~~Family~~
1824 ~~Services~~ or a community-based lead agency, and enrolled in a
1825 licensed early education or child care program must attend ~~be~~



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1826 ~~enrolled to participate in~~ the program 5 days a week.
1827 Notwithstanding ~~the requirements of~~ s. 39.202, the Department of
1828 Children and Families ~~Family Services~~ must notify operators of
1829 the licensed early education or child care program, subject to
1830 the reporting requirements of this act, of the enrollment of any
1831 child from birth to the age of ~~age 3 years to~~ school entry,
1832 under court-ordered ~~court-ordered~~ protective supervision or in
1833 the custody of the Family Safety Program Office of the
1834 Department of Children and Families ~~Family Services~~ or a
1835 community-based lead agency. When a child is enrolled in an
1836 early education or child care program regulated by the
1837 department, the child's attendance in the program must be a
1838 required action in the safety plan or the case plan developed
1839 for the a child pursuant to this chapter ~~who is enrolled in a~~
1840 ~~licensed early education or child care program must contain the~~
1841 ~~participation in this program as a required action.~~ An exemption
1842 to participating in the licensed early education or child care
1843 program 5 days a week may be granted by the court.

1844 (4) ATTENDANCE AND REPORTING REQUIREMENTS.-

1845 (a) A child enrolled in a licensed early education or child
1846 care program who meets the requirements of subsection (3) may
1847 not be withdrawn from the program without the prior written
1848 approval of the Family Safety Program Office of the Department
1849 of Children and Families ~~Family Services~~ or the community-based
1850 lead agency.

1851 (b)1. If a child covered by this section is absent from the
1852 program on a day when he or she is supposed to be present, the
1853 person with whom the child resides must report the absence to
1854 the program by the end of the business day. If the person with



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1855 whom the child resides, whether the parent or caregiver, fails
1856 to timely report the absence, the absence is considered to be
1857 unexcused. The program shall report any unexcused absence or
1858 seven consecutive excused absences of a child who is enrolled in
1859 the program and covered by this act to the local designated
1860 staff of the Family Safety Program Office of the Department of
1861 Children and ~~Families~~ Family Services or the community-based
1862 lead agency by the end of the business day following the
1863 unexcused absence or seventh consecutive excused absence.

1864 2. The department or community-based lead agency shall
1865 conduct a site visit to the residence of the child upon
1866 receiving a report of two consecutive unexcused absences or
1867 seven consecutive excused absences.

1868 3. If the site visit results in a determination that the
1869 child is missing, the department or community-based lead agency
1870 shall report the child as missing to a law enforcement agency
1871 and proceed with the necessary actions to locate the child
1872 pursuant to procedures for locating missing children.

1873 4. If the site visit results in a determination that the
1874 child is not missing, the parent or caregiver shall be notified
1875 that failure to ensure that the child attends the licensed early
1876 education or child care program is a violation of the safety
1877 plan or the case plan. If more than two site visits are
1878 conducted pursuant to this subsection, staff shall initiate
1879 action to notify the court of the parent or caregiver's
1880 noncompliance with the case plan.

1881 Section 17. Paragraph (c) of subsection (2) and paragraph
1882 (a) of subsection (3) of section 39.701, Florida Statutes, are
1883 amended to read:



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1884 39.701 Judicial review.—

1885 (2) REVIEW HEARINGS FOR CHILDREN YOUNGER THAN 18 YEARS OF
1886 AGE.—

1887 (c) *Review determinations.*—The court and any citizen review
1888 panel shall take into consideration the information contained in
1889 the social services study and investigation and all medical,
1890 psychological, and educational records that support the terms of
1891 the case plan; testimony by the social services agency, the
1892 parent, the foster parent or legal custodian, the guardian ad
1893 litem or surrogate parent for educational decisionmaking if one
1894 has been appointed for the child, and any other person deemed
1895 appropriate; and any relevant and material evidence submitted to
1896 the court, including written and oral reports to the extent of
1897 their probative value. These reports and evidence may be
1898 received by the court in its effort to determine the action to
1899 be taken with regard to the child and may be relied upon to the
1900 extent of their probative value, even though not competent in an
1901 adjudicatory hearing. In its deliberations, the court and any
1902 citizen review panel shall seek to determine:

1903 1. If the parent was advised of the right to receive
1904 assistance from any person or social service agency in the
1905 preparation of the case plan.

1906 2. If the parent has been advised of the right to have
1907 counsel present at the judicial review or citizen review
1908 hearings. If not so advised, the court or citizen review panel
1909 shall advise the parent of such right.

1910 3. If a guardian ad litem needs to be appointed for the
1911 child in a case in which a guardian ad litem has not previously
1912 been appointed or if there is a need to continue a guardian ad



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litem in a case in which a guardian ad litem has been appointed.

4. Who holds the rights to make educational decisions for the child. If appropriate, the court may refer the child to the district school superintendent for appointment of a surrogate parent or may itself appoint a surrogate parent under the Individuals with Disabilities Education Act and s. 39.0016.

5. The compliance or lack of compliance of all parties with applicable items of the case plan, including the parents' compliance with child support orders.

6. The compliance or lack of compliance with a visitation contract between the parent and the social service agency for contact with the child, including the frequency, duration, and results of the parent-child visitation and the reason for any noncompliance.

7. The frequency, kind, and duration of contacts among siblings who have been separated during placement, as well as any efforts undertaken to reunite separated siblings if doing so is in the best interest of the child.

~~8.7-~~ The compliance or lack of compliance of the parent in meeting specified financial obligations pertaining to the care of the child, including the reason for failure to comply, if applicable such is the case.

~~9.8-~~ Whether the child is receiving safe and proper care according to s. 39.6012, including, but not limited to, the appropriateness of the child's current placement, including whether the child is in a setting that is as family-like and as close to the parent's home as possible, consistent with the child's best interests and special needs, and including maintaining stability in the child's educational placement, as



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documented by assurances from the community-based care provider that:

a. The placement of the child 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.

b. The community-based care agency has 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.

~~10.9-~~ A projected date likely for the child's return home or other permanent placement.

~~11.10-~~ When appropriate, the basis for the unwillingness or inability of the parent to become a party to a case plan. The court and the citizen review panel shall determine if the efforts of the social service agency to secure party participation in a case plan were sufficient.

~~12.11-~~ For a child who has reached 13 years of age but is not yet 18 years of age, the adequacy of the child's preparation for adulthood and independent living.

~~13.12-~~ If amendments to the case plan are required. Amendments to the case plan must be made under s. 39.6013.

(3) REVIEW HEARINGS FOR CHILDREN 17 YEARS OF AGE.—

(a) In addition to the review and report required under paragraphs (1)(a) and (2)(a), respectively, the court shall hold a judicial review hearing within 90 days after a child's 17th birthday. The court shall also issue an order, separate from the order on judicial review, that the disability of nonage of the child has been removed pursuant to ss. 743.044, 743.045, and



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1971 743.046, and for any of these disabilities that the court finds
1972 is in the child's best interest to remove. The court s. 743.045
1973 ~~and~~ shall continue to hold timely judicial review hearings. If
1974 necessary, the court may review the status of the child more
1975 frequently during the year before the child's 18th birthday. At
1976 each review hearing held under this subsection, in addition to
1977 any information or report provided to the court by the foster
1978 parent, legal custodian, or guardian ad litem, the child shall
1979 be given the opportunity to address the court with any
1980 information relevant to the child's best interest, particularly
1981 in relation to independent living transition services. The
1982 department shall include in the social study report for judicial
1983 review written verification that the child has:

1984 1. A current Medicaid card and all necessary information
1985 concerning the Medicaid program sufficient to prepare the child
1986 to apply for coverage upon reaching the age of 18, if such
1987 application is appropriate.

1988 2. A certified copy of the child's birth certificate and,
1989 if the child does not have a valid driver license, a Florida
1990 identification card issued under s. 322.051.

1991 3. A social security card and information relating to
1992 social security insurance benefits if the child is eligible for
1993 those benefits. If the child has received such benefits and they
1994 are being held in trust for the child, a full accounting of
1995 these funds must be provided and the child must be informed as
1996 to how to access those funds.

1997 4. All relevant information related to the Road-to-
1998 Independence Program, including, but not limited to, eligibility
1999 requirements, information on participation, and assistance in



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2000 gaining admission to the program. If the child is eligible for
2001 the Road-to-Independence Program, he or she must be advised that
2002 he or she may continue to reside with the licensed family home
2003 or group care provider with whom the child was residing at the
2004 time the child attained his or her 18th birthday, in another
2005 licensed family home, or with a group care provider arranged by
2006 the department.

2007 5. An open bank account or the identification necessary to
2008 open a bank account and to acquire essential banking and
2009 budgeting skills.

2010 6. Information on public assistance and how to apply for
2011 public assistance.

2012 7. A clear understanding of where he or she will be living
2013 on his or her 18th birthday, how living expenses will be paid,
2014 and the educational program or school in which he or she will be
2015 enrolled.

2016 8. Information related to the ability of the child to
2017 remain in care until he or she reaches 21 years of age under s.
2018 39.013.

2019 9. A letter providing the dates that the child is under the
2020 jurisdiction of the court.

2021 10. A letter stating that the child is in compliance with
2022 financial aid documentation requirements.

2023 11. The child's educational records.

2024 12. The child's entire health and mental health records.

2025 13. The process for accessing his or her case file.

2026 14. A statement encouraging the child to attend all
2027 judicial review hearings occurring after the child's 17th
2028 birthday.



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2029 Section 18. Subsection (2) of section 39.802, Florida
2030 Statutes, is amended to read:
2031 39.802 Petition for termination of parental rights; filing;
2032 elements.—
2033 (2) The form of the petition is governed by the Florida
2034 Rules of Juvenile Procedure. The petition must be in writing and
2035 signed by the petitioner ~~or, if the department is the~~
2036 ~~petitioner, by an employee of the department,~~ under oath stating
2037 the petitioner's good faith in filing the petition.
2038 Section 19. Paragraph (g) of subsection (1) of section
2039 63.212, Florida Statutes, is amended to read:
2040 63.212 Prohibited acts; penalties for violation.—
2041 (1) It is unlawful for any person:
2042 (g) Except an adoption entity, to advertise or offer to the
2043 public, in any way, by any medium whatever that a minor is
2044 available for adoption or that a minor is sought for adoption;
2045 and, further, it is unlawful for any person to publish or
2046 broadcast any such advertisement or assist an unlicensed person
2047 or entity in publishing or broadcasting any such advertisement
2048 without including a Florida license number of the agency or
2049 attorney placing the advertisement.
2050 1. Only a person who is an attorney licensed to practice
2051 law in this state or an adoption entity licensed under the laws
2052 of this state may place a paid advertisement or paid listing of
2053 the person's telephone number, on the person's own behalf, in a
2054 telephone directory that:
2055 a. A child is offered or wanted for adoption; or
2056 b. The person is able to place, locate, or receive a child
2057 for adoption.



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2058 2. A person who publishes a telephone directory that is
2059 distributed in this state:
2060 ~~a.~~ shall include, at the beginning of any classified
2061 heading for adoption and adoption services, a statement that
2062 informs directory users that only attorneys licensed to practice
2063 law in this state and licensed adoption entities may legally
2064 provide adoption services under state law.
2065 ~~3.b. A person who places~~ may publish an advertisement
2066 described in subparagraph 1. in a the telephone directory must
2067 include only if the advertisement contains the following
2068 information:
2069 a. (I) For an attorney licensed to practice law in this
2070 state, the person's Florida Bar number.
2071 b. (II) For a child placing agency licensed under the laws
2072 of this state, the number on the person's adoption entity
2073 license.
2074 Section 20. Subsection (1) and paragraph (c) of subsection
2075 (3) of section 383.402, Florida Statutes, are amended to read:
2076 383.402 Child abuse death review; State Child Abuse Death
2077 Review Committee; local child abuse death review committees.—
2078 (1) It is the intent of the Legislature to establish a
2079 statewide multidisciplinary, multiagency child abuse death
2080 assessment and prevention system that consists of state and
2081 local review committees. The state and local review committees
2082 shall review the facts and circumstances of all deaths of
2083 children from birth through age 18 which occur in this state and
2084 are reported to the central abuse hotline of the Department of
2085 Children and Families as the result of verified child abuse or
2086 neglect. The purpose of the review shall be to:



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2087 (a) Achieve a greater understanding of the causes and
2088 contributing factors of deaths resulting from child abuse.
2089 (b) Whenever possible, develop a communitywide approach to
2090 address such cases and contributing factors.
2091 (c) Identify any gaps, deficiencies, or problems in the
2092 delivery of services to children and their families by public
2093 and private agencies which may be related to deaths that are the
2094 result of child abuse.
2095 (d) Make and implement recommendations for changes in law,
2096 rules, and policies, as well as develop practice standards that
2097 support the safe and healthy development of children and reduce
2098 preventable child abuse deaths.
2099 (3) The State Child Abuse Death Review Committee shall:
2100 (c) Prepare an annual statistical report on the incidence
2101 and causes of death resulting from reported child abuse in the
2102 state during the prior calendar year. The state committee shall
2103 submit a copy of the report by October 1 ~~December 31~~ of each
2104 year to the Governor, the President of the Senate, and the
2105 Speaker of the House of Representatives. The report must include
2106 recommendations for state and local action, including specific
2107 policy, procedural, regulatory, or statutory changes, and any
2108 other recommended preventive action.
2109 Section 21. Subsection (5) of section 402.40, Florida
2110 Statutes, is amended, and paragraph (g) is added to subsection
2111 (3) of that section, to read:
2112 402.40 Child welfare training and certification.—
2113 (3) THIRD-PARTY CREDENTIALING ENTITIES.—The department
2114 shall approve one or more third-party credentialing entities for
2115 the purpose of developing and administering child welfare



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2116 certification programs for persons who provide child welfare
2117 services. A third-party credentialing entity shall request such
2118 approval in writing from the department. In order to obtain
2119 approval, the third-party credentialing entity must:
2120 (g) Maintain an advisory committee, including
2121 representatives from each region of the department, each
2122 sheriff's office providing child protective services, and each
2123 community-based care lead agency, who shall be appointed by the
2124 organization they represent. The third-party credentialing
2125 entity may appoint additional members to the advisory committee.
2126 (5) CORE COMPETENCIES AND SPECIALIZATIONS.—
2127 (a) The Department of Children and ~~Families~~ Family Services
2128 shall approve the core competencies and related preservice
2129 curricula that ensures that each person delivering child welfare
2130 services obtains the knowledge, skills, and abilities to
2131 competently carry out his or her work responsibilities.
2132 (b) The identification of these core competencies and
2133 development of preservice curricula shall be a collaborative
2134 effort that includes professionals who have expertise in child
2135 welfare services, department-approved third-party credentialing
2136 entities, and providers that will be affected by the curriculum,
2137 including, but not limited to, representatives from the
2138 community-based care lead agencies, sheriffs' offices conducting
2139 child protection investigations, and child welfare legal
2140 services providers.
2141 (c) Community-based care agencies, sheriffs' offices, and
2142 the department may contract for the delivery of preservice and
2143 any additional training for persons delivering child welfare
2144 services if the curriculum satisfies the department-approved



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core competencies.

(d) The department may also approve certifications involving specializations in serving specific populations or in skills relevant to child protection to be awarded to persons delivering child welfare services by a third-party credentialing entity approved pursuant to subsection (3).

(e) ~~(d)~~ Department-approved credentialing entities shall, for a period of at least 12 months after implementation of the third-party child welfare certification programs, grant reciprocity and award a child welfare certification to individuals who hold current department-issued child welfare certification in good standing, at no cost to the department or the certificateholder.

Section 22. Section 402.402, Florida Statutes, is created to read:

402.402 Child protection and child welfare personnel; attorneys employed by the department.-

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

(a) "Child protection and child welfare personnel" includes child protective investigators and child protective investigator supervisors employed by the department and case managers and case manager supervisors employed by a community-based care lead agency or a subcontractor of a community-based care lead agency.

(b) "Human services-related field" means psychology, sociology, counseling, special education, human development, child development, family development, marriage and family therapy, and nursing.

(2) CHILD PROTECTION AND CHILD WELFARE PERSONNEL REQUIREMENTS.-



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(a) On an annual and statewide basis, 80 percent of child protective investigators and child protective investigation supervisors hired by the department on or after July 1, 2014, must have a bachelor's degree or master's degree in social work from a college or university social work program accredited by the Council on Social Work Education. If no viable candidates are available, the department may hire a person with a bachelor's degree or master's degree in a human services-related field. However, such employees must complete certification pursuant to s. 402.40(3) and complete at least 6 credit hours of college level coursework that imparts knowledge and leads to the development of skills with direct application to the child protection field within 3 years of the date of hire.

(b) Child protective investigators and child protective investigation supervisors employed by the department or a sheriff's office before July 1, 2014, are exempt from the requirements of paragraph (a).

(c) Child protective investigators and child protective investigation supervisors employed by a sheriff's office must have a bachelor's degree and, within 3 years of hire, complete at least 6 credit hours of college level coursework that impart knowledge and lead to the development of skills with direct application to the child protection field.

(d) All child protective investigators and child protective investigation supervisors employed by the department or a sheriff's office must complete specialized training focused on serving a specific population, including, but not limited to, medically fragile children, sexually exploited children, children under 3 years of age, or families with a history of



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2203 domestic violence, mental illness, or substance abuse, or
2204 focused on performing certain aspects of child protection
2205 practice, including, but not limited to, investigation
2206 techniques and analysis of family dynamics. The specialized
2207 training may be used to fulfill continuing education
2208 requirements under s. 402.40(3)(e). Individuals hired before
2209 July 1, 2014, shall complete the specialized training by June
2210 30, 2016, and individuals hired on or after July 1, 2014, shall
2211 complete the specialized training within 2 years after hire. An
2212 individual may receive specialized training in multiple areas.
2213 (3) ATTORNEYS EMPLOYED BY THE DEPARTMENT TO HANDLE CHILD
2214 WELFARE CASES.—Attorneys hired on or after July 1, 2014, whose
2215 primary responsibility is representing the department in child
2216 welfare cases shall, within the first 6 months of employment,
2217 receive training in:
2218 (a) The dependency court process, including the attorney's
2219 role in preparing and reviewing documents prepared for
2220 dependency court for accuracy and completeness;
2221 (b) Preparing and presenting child welfare cases, including
2222 at least 1 week shadowing an experienced children's legal
2223 services attorney preparing and presenting cases;
2224 (c) Safety assessment, safety decisionmaking tools, and
2225 safety plans;
2226 (d) Developing information presented by investigators and
2227 case managers to support decisionmaking in the best interest of
2228 children; and
2229 (e) The experiences and techniques of case managers and
2230 investigators, including shadowing an experienced child
2231 protective investigator and an experienced case manager for at



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2232 least 8 hours.
2233 Section 23. Section 402.403, Florida Statutes, is created
2234 to read:
2235 402.403 Child Protection and Child Welfare Personnel
2236 Tuition Exemption Program.—
2237 (1) There is established within the department the Child
2238 Protection and Child Welfare Personnel Tuition Exemption Program
2239 for the purpose of recruiting and retaining high-performing
2240 individuals who are employed as child protection and child
2241 welfare personnel as defined in s. 402.402 and who do not
2242 possess a master's degree in social work or a certificate in an
2243 area related to child welfare.
2244 (2) Child protection and child welfare personnel who meet
2245 the requirements specified in subsection (3) are exempt from the
2246 payment of tuition and fees at a state university.
2247 (3) The department may approve child protection and child
2248 welfare personnel for the tuition and fee exemption if such
2249 personnel:
2250 (a) Are employed as child protection and child welfare
2251 personnel and are determined by their employers to perform at a
2252 high level as established by their personnel evaluations; and
2253 (b) Are accepted in a graduate-level social work program or
2254 a certificate program related to child welfare which is
2255 accredited by the Council on Social Work Education.
2256 (4) Child protection and child welfare personnel who meet
2257 the requirements specified in subsection (3) may enroll for up
2258 to 6 credit hours of courses per term.
2259 (5) Child protection and child welfare personnel who are
2260 accepted into a graduate-level social work program or a



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2261 certificate program related to child welfare which is accredited
2262 by the Council on Social Work Education shall take courses
2263 associated with the degree or certificate program online if such
2264 courses are offered online.

2265 Section 24. Section 402.404, Florida Statutes, is created
2266 to read:

2267 402.404 Child Protective Investigator and Supervisor
2268 Student Loan Forgiveness Program.-

2269 (1) There is established within the department the Child
2270 Protective Investigator and Supervisor Student Loan Forgiveness
2271 Program. The purpose of the program is to increase employment
2272 and retention of high-performing individuals who have either a
2273 bachelor's degree or a master's degree in social work and work
2274 in child protection or child welfare for the department, a
2275 community-based care lead agency, or a community-based care
2276 subcontractor by making payments toward loans received by
2277 students from federal or state programs or commercial lending
2278 institutions for the support of prior postsecondary study in
2279 accredited social work programs.

2280 (2) To be eligible for the program, a candidate must:

2281 (a) Be employed by the department as a child protective
2282 investigator or a child protective investigation supervisor or
2283 be employed by a community-based care lead agency or
2284 subcontractor as a case manager or case manager supervisor;

2285 (b) Be determined by the department or his or her employer
2286 to have a high level of performance based on his or her personal
2287 evaluation; and

2288 (c) Have graduated from an accredited social work program
2289 with either a bachelor's degree or a master's degree in social



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2290 work.

2291 (3) Only loans to pay the costs of tuition, books, fees,
2292 and living expenses shall be covered.

2293 (4) The department or lead agency may make loan payments of
2294 up to \$3,000 each year for up to 4 years on behalf of selected
2295 graduates of an accredited social work program from the funds
2296 appropriated for this purpose. All payments are contingent upon
2297 continued proof of employment and shall be made directly to the
2298 holder of the loan.

2299 (5) A student who receives a tuition exemption pursuant to
2300 s. 402.403 is not eligible to participate in the Child
2301 Protective Investigator and Supervisor Student Loan Forgiveness
2302 Program.

2303 (6) The department shall prioritize funds appropriated for
2304 this purpose to regions with high average caseloads and low
2305 workforce retention rates.

2306 Section 25. Section 409.165, Florida Statutes, is amended
2307 to read:

2308 409.165 Alternate care for children.-

2309 (1) Within funds appropriated, the department shall
2310 establish and supervise a program of emergency shelters, runaway
2311 shelters, foster homes, group homes, agency-operated group
2312 treatment homes, nonpsychiatric residential group care
2313 facilities, psychiatric residential treatment facilities, and
2314 other appropriate facilities to provide shelter and care for
2315 dependent children who must be placed away from their families.
2316 The department, in accordance with outcome established goals
2317 established in s. 409.986, shall contract for the provision of
2318 such shelter and care by counties, municipalities, nonprofit



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2319 corporations, and other entities capable of providing needed
2320 services if:

2321 (a) The services ~~so~~ provided comply with all department
2322 standards, policies, and procedures are available;

2323 (b) The services can be ~~so~~ provided at a reasonable cost
2324 are more cost-effective than those provided by the department;
2325 and

2326 (c) Unless otherwise provided by law, such providers of
2327 shelter and care are licensed by the department.

2328
2329 ~~It is the legislative intent that the~~

2330 (2) Funds appropriated for the alternate care of children
2331 as described in this section may be used to meet the needs of
2332 children in their own homes or those of relatives if the
2333 children can be safely served in such settings ~~their own homes,~~
2334 ~~or the homes of relatives,~~ and the expenditure of funds in such
2335 manner is equal to or less than the cost of out-of-home
2336 placement calculated by the department to be an eventual cost
2337 savings over placement of children.

2338 (3)(2) The department shall ~~may~~ cooperate with all child
2339 service institutions or agencies within the state which meet the
2340 department's standards in order to maintain a comprehensive,
2341 coordinated, and inclusive system for promoting and protecting
2342 the well-being of children, consistent with the goals
2343 established in s. 409.986 ~~rules for proper care and supervision~~
2344 ~~prescribed by the department for the well-being of children.~~

2345 (a) The department shall work with the Department of Health
2346 in the development, use, and monitoring of medical foster homes
2347 for medically complex children.



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2348 (b) The department shall collaborate with all relevant
2349 state and local agencies to provide such supports and services
2350 as may be necessary to maintain medically complex children in
2351 the least restrictive and most nurturing environment.

2352 (4)(3) With the written consent of parents, custodians, or
2353 guardians, or in accordance with those provisions in chapter 39
2354 that relate to dependent children, the department, under rules
2355 properly adopted, may place a child:

2356 (a) With a relative;

2357 (b) With an adult nonrelative approved by the court for
2358 long-term custody;

2359 (c) With a person who is considering the adoption of a
2360 child in the manner provided for by law;

2361 (d) When limited, except as provided in paragraph (b), to
2362 temporary emergency situations, with a responsible adult
2363 approved by the court;

2364 (e) With a person or family approved by the department to
2365 serve as a medical foster home;

2366 (f)(e) With a person or agency licensed by the department
2367 in accordance with s. 409.175; or

2368 (g)(f) In a subsidized independent living situation,
2369 subject to the provisions of s. 409.1451(4)(c),

2370
2371 under such conditions as are determined to be for the best
2372 interests or the welfare of the child. Any child placed in an
2373 institution or in a family home by the department or its agency
2374 may be removed by the department or its agency, and such other
2375 disposition may be made as is for the best interest of the
2376 child, including transfer of the child to another institution,



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2377 another home, or the home of the child. Expenditure of funds
2378 appropriated for out-of-home care can be used to meet the needs
2379 of a child in the child's own home or the home of a relative if
2380 the child can be safely served in the child's own home or that
2381 of a relative if placement can be avoided by the expenditure of
2382 such funds, and if the expenditure of such funds in this manner
2383 is equal to or less than the cost of out-of-home placement
2384 ~~calculated by the department to be a potential cost savings.~~

2385 Section 26. Paragraph (c) of subsection (2) of section
2386 409.967, Florida Statutes, is amended to read:

2387 409.967 Managed care plan accountability.—

2388 (2) The agency shall establish such contract requirements
2389 as are necessary for the operation of the statewide managed care
2390 program. In addition to any other provisions the agency may deem
2391 necessary, the contract must require:

2392 (c) Access.—

2393 1. The agency shall establish specific standards for the
2394 number, type, and regional distribution of providers in managed
2395 care plan networks to ensure access to care for both adults and
2396 children. Each plan must maintain a regionwide network of
2397 providers in sufficient numbers to meet the access standards for
2398 specific medical services for all recipients enrolled in the
2399 plan. The exclusive use of mail-order pharmacies may not be
2400 sufficient to meet network access standards. Consistent with the
2401 standards established by the agency, provider networks may
2402 include providers located outside the region. A plan may
2403 contract with a new hospital facility before the date the
2404 hospital becomes operational if the hospital has commenced
2405 construction, will be licensed and operational by January 1,



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2406 2013, and a final order has issued in any civil or
2407 administrative challenge. Each plan shall establish and maintain
2408 an accurate and complete electronic database of contracted
2409 providers, including information about licensure or
2410 registration, locations and hours of operation, specialty
2411 credentials and other certifications, specific performance
2412 indicators, and such other information as the agency deems
2413 necessary. The database must be available online to both the
2414 agency and the public and have the capability to compare the
2415 availability of providers to network adequacy standards and to
2416 accept and display feedback from each provider's patients. Each
2417 plan shall submit quarterly reports to the agency identifying
2418 the number of enrollees assigned to each primary care provider.

2419 2. Each managed care plan must publish any prescribed drug
2420 formulary or preferred drug list on the plan's website in a
2421 manner that is accessible to and searchable by enrollees and
2422 providers. The plan must update the list within 24 hours after
2423 making a change. Each plan must ensure that the prior
2424 authorization process for prescribed drugs is readily accessible
2425 to health care providers, including posting appropriate contact
2426 information on its website and providing timely responses to
2427 providers. For Medicaid recipients diagnosed with hemophilia who
2428 have been prescribed anti-hemophilic-factor replacement
2429 products, the agency shall provide for those products and
2430 hemophilia overlay services through the agency's hemophilia
2431 disease management program.

2432 3. Managed care plans, and their fiscal agents or
2433 intermediaries, must accept prior authorization requests for any
2434 service electronically.



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2435 4. Managed care plans serving children in the care and
2436 custody of the Department of Children and Families must maintain
2437 complete medical, dental, and behavioral health information and
2438 provide such information to the department for inclusion in the
2439 state's child welfare data system. Using such documentation, the
2440 agency and the department shall determine the plan's compliance
2441 with standards for access to medical, dental, and behavioral
2442 health services; the use of psychotropic medications; and
2443 followup on all medically necessary services recommended as a
2444 result of early and periodic screening, diagnosis, and
2445 treatment.

2446 Section 27. Paragraph (f) is added to subsection (2) of
2447 section 409.972, Florida Statutes, to read:

2448 409.972 Mandatory and voluntary enrollment.—

2449 (2) The following Medicaid-eligible persons are exempt from
2450 mandatory managed care enrollment required by s. 409.965, and
2451 may voluntarily choose to participate in the managed medical
2452 assistance program:

2453 (f) Medicaid recipients residing in a group home facility
2454 licensed under chapter 393.

2455 Section 28. The Division of Law Revision and Information is
2456 directed to create part V of chapter 409, Florida Statutes,
2457 consisting of ss. 409.986-409.998, to be entitled "Community-
2458 based child welfare."

2459 Section 29. Section 409.986, Florida Statutes, is created
2460 to read:

2461 409.986 Legislative findings and intent; child protection
2462 and child welfare outcomes; definitions.—

2463 (1) LEGISLATIVE FINDINGS AND INTENT.—



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2464 (a) It is the intent of the Legislature that the Department
2465 of Children and Families provide child protection and child
2466 welfare services to children through contracting with community-
2467 based care lead agencies. It is the further intent of the
2468 Legislature that communities have responsibility for and
2469 participate in ensuring safety, permanence, and well-being for
2470 all children in the state.

2471 (b) The Legislature finds that when private entities assume
2472 responsibility for the care of children in the child protection
2473 and child welfare system, comprehensive oversight of the
2474 programmatic, administrative, and fiscal operation of those
2475 entities is essential. The Legislature further finds that the
2476 appropriate care of children is ultimately the responsibility of
2477 the state and that outsourcing such care does not relieve the
2478 state of its responsibility to ensure that appropriate care is
2479 provided.

2480 (2) CHILD PROTECTION AND CHILD WELFARE OUTCOMES.—It is the
2481 goal of the department to protect the best interest of children
2482 by achieving the following outcomes in conjunction with the
2483 community-based care lead agency, community-based
2484 subcontractors, and the community alliance:

2485 (a) Children are first and foremost protected from abuse
2486 and neglect.

2487 (b) Children are safely maintained in their homes, if
2488 possible and appropriate.

2489 (c) Services are provided to protect children and prevent
2490 their removal from their home.

2491 (d) Children have permanency and stability in their living
2492 arrangements.



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- 2493 (e) Family relationships and connections are preserved for
2494 children.
- 2495 (f) Families have enhanced capacity to provide for their
2496 children's needs.
- 2497 (g) Children receive appropriate services to meet their
2498 educational needs.
- 2499 (h) Children receive adequate services to meet their
2500 physical and mental health needs.
- 2501 (i) Children develop the capacity for independent living
2502 and competence as an adult.
- 2503 (3) DEFINITIONS.—As used in this part, except as otherwise
2504 provided, the term:
- 2505 (a) "Care" means services of any kind which are designed to
2506 facilitate a child remaining safely in his or her own home,
2507 returning safely to his or her own home if he or she is removed
2508 from the home, or obtaining an alternative permanent home if he
2509 or she cannot remain at home or be returned home. The term
2510 includes, but is not be limited to, prevention, diversion, and
2511 related services.
- 2512 (b) "Child" or "children" has the same meaning as provided
2513 in s. 39.01.
- 2514 (c) "Community alliance" or "alliance" means the group of
2515 stakeholders, community leaders, client representatives, and
2516 fundors of human services established pursuant to s. 20.19(5) to
2517 provide a focal point for community participation and oversight
2518 of community-based services.
- 2519 (d) "Community-based care lead agency" or "lead agency"
2520 means a single entity with which the department has a contract
2521 for the provision of care for children in the child protection



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- 2522 and child welfare system in a community that is no smaller than
2523 a county and no larger than two contiguous judicial circuits.
- 2524 The secretary of the department may authorize more than one
2525 eligible lead agency within a single county if doing so will
2526 result in more effective delivery of services to children.
- 2527 (e) "Related services" includes, but is not limited to,
2528 family preservation, independent living, emergency shelter,
2529 residential group care, foster care, therapeutic foster care,
2530 intensive residential treatment, foster care supervision, case
2531 management, coordination of mental health services,
2532 postplacement supervision, permanent foster care, and family
2533 reunification.
- 2534 Section 30. Section 409.987, Florida Statutes, is created
2535 to read:
- 2536 409.987 Lead agency procurement.—
- 2537 (1) Community-based care lead agencies shall be procured by
2538 the department through a competitive process as required under
2539 chapter 287.
- 2540 (2) The department shall produce a schedule for the
2541 procurement of community-based care lead agencies and provide
2542 the schedule to the community alliances established pursuant to
2543 s. 409.998 and post the schedule on the department's website.
- 2544 (3) Notwithstanding s. 287.057, the department shall use 5-
2545 year contracts with lead agencies.
- 2546 (4) In order to serve as a lead agency, an entity must:
- 2547 (a) Be organized as a Florida corporation or a governmental
2548 entity.
- 2549 (b) Be governed by a board of directors or a board
2550 committee composed of board members. The membership of the board



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2551 of directors or board committee must be described in the bylaws
2552 or articles of incorporation of each lead agency, which must
2553 provide that at least 75 percent of the membership of the board
2554 of directors or board committee must consist of persons residing
2555 in this state, and at least 51 percent of the state residents on
2556 the board of directors must reside within the service area of
2557 the lead agency. However, for procurements of lead agency
2558 contracts initiated on or after July 1, 2014:

2559 1. At least 75 percent of the membership of the board of
2560 directors must consist of persons residing in this state, and at
2561 least 51 percent of the membership of the board of directors
2562 must consist of persons residing within the service area of the
2563 lead agency. If a board committee governs the lead agency, 100
2564 percent of its membership must consist of persons residing
2565 within the service area of the lead agency.

2566 2. The powers of the board of directors or board committee
2567 include, are not limited to, approving the lead agency's budget
2568 and setting the lead agency's operational policy and procedures.
2569 A board of directors must additionally have the power to hire
2570 the lead agency's executive director, unless a board committee
2571 governs the lead agency, in which case the board committee must
2572 have the power to confirm the selection of the lead agency's
2573 executive director.

2574 (c) Demonstrate financial responsibility through an
2575 organized plan for regular fiscal audits and the posting of a
2576 performance bond.

2577 (5) The department's procurement team procuring any lead
2578 agencies' contracts must include individuals from the community
2579 alliance in the area to be served under the contract. All



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2580 meetings at which vendors make presentations to or negotiate
2581 with the procurement team shall be held in the area to be served
2582 by the contract.

2583 (6) Upon award and execution of a contract between the
2584 department and a lead agency, the parties shall enter into a
2585 letter of engagement that the department will provide legal
2586 representation to the lead agency or its subcontractors for the
2587 preparation and presentation of dependency court proceedings.
2588 The department may not charge the lead agency for such legal
2589 representation.

2590 Section 31. Section 409.988, Florida Statutes, is created
2591 to read:

2592 409.988 Lead agency duties; general provisions.—

2593 (1) DUTIES.—A lead agency:

2594 (a) Shall serve all children referred as a result of a
2595 report of abuse, neglect, or abandonment to the department's
2596 central abuse hotline, including, but not limited to, children
2597 who are the subject of verified reports and children who are not
2598 the subject of verified reports but who are at moderate to
2599 extremely high risk of abuse, neglect, or abandonment, as
2600 determined using the department's risk assessment instrument,
2601 regardless of the level of funding allocated to the lead agency
2602 by the state if all related funding is transferred. The lead
2603 agency may also serve children who have not been the subject of
2604 reports of abuse, neglect, or abandonment, but who are at risk
2605 of abuse, neglect, or abandonment, to prevent their entry into
2606 the child protection and child welfare system.

2607 (b) Shall provide accurate and timely information necessary
2608 for oversight by the department pursuant to the child welfare



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results-oriented accountability system required by s. 409.997.

(c) Shall follow the financial guidelines developed by the department and provide for a regular independent auditing of its financial activities. Such financial information shall be provided to the community alliance established under s. 409.998.

(d) Shall post on its website the current budget for the lead agency, including the salaries, bonuses, and other compensation paid, by position, for the agency's chief executive officer, chief financial officer, chief operating officer, or their equivalents.

(e) Shall prepare all judicial reviews, case plans, and other reports necessary for court hearings for dependent children, except those related to the investigation of a referral from the department's child abuse hotline, and shall submit these documents timely to the department's attorneys for review, any necessary revision, and filing with the court. The lead agency shall make the necessary staff available to department attorneys for preparation for dependency proceedings, and shall provide testimony and other evidence required for dependency court proceedings in coordination with the department's attorneys. This duty does not include the preparation of legal pleadings or other legal documents, which remain the responsibility of the department.

(f) Shall ensure that all individuals providing care for dependent children receive appropriate training and meet the minimum employment standards established by the department.

(g) Shall maintain eligibility to receive all available federal child welfare funds.

(h) Shall maintain written agreements with Healthy Families



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Florida lead entities in its service area pursuant to s. 409.153 to promote cooperative planning for the provision of prevention and intervention services.

(i) Shall comply with federal and state statutory requirements and agency rules in the provision of contractual services.

(j) May subcontract for the provision of services required by the contract with the lead agency and the department; however, the subcontracts must specify how the provider will contribute to the lead agency meeting the performance standards established pursuant to the child welfare results-oriented accountability system required by s. 409.997. The lead agency shall directly provide no more than 35 percent of all child welfare services provided.

(k) Shall post on its website by the 15th day of each month at a minimum the information contained in subparagraphs 1.-4. for the preceding calendar month regarding its case management services. The following information shall be reported by each individual subcontracted case management provider, by the lead agency, if the lead agency provides case management services, and in total for all case management services subcontracted or directly provided by the lead agency:

1. The average caseload of case managers, including only filled positions;

2. The turnover rate for case managers and case management supervisors for the previous 12 months;

3. The percentage of required home visits completed; and

4. Performance on outcome measures required pursuant to s. 409.997 for the previous 12 months.



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2667 (2) LICENSURE.—

2668 (a) A lead agency must be licensed as a child-caring or
2669 child-placing agency by the department under this chapter.

2670 (b) Each foster home, therapeutic foster home, emergency
2671 shelter, or other placement facility operated by the lead agency
2672 must be licensed by the department under chapter 402 or this
2673 chapter.

2674 (c) Substitute care providers who are licensed under s.
2675 409.175 and who have contracted with a lead agency are also
2676 authorized to provide registered or licensed family day care
2677 under s. 402.313 if such care is consistent with federal law and
2678 if the home has met the requirements of s. 402.313.

2679 (d) In order to eliminate or reduce the number of duplicate
2680 inspections by various program offices, the department shall
2681 coordinate inspections required for licensure of agencies under
2682 this subsection.

2683 (e) The department may adopt rules to administer this
2684 subsection.

2685 (3) SERVICES.—A lead agency must serve dependent children
2686 through services that are supported by research or are best
2687 child welfare practices. The agency may also provide innovative
2688 services, including, but not limited to, family-centered,
2689 cognitive-behavioral, trauma-informed interventions designed to
2690 mitigate out-of-home placements.

2691 (4) LEAD AGENCY ACTING AS GUARDIAN.—

2692 (a) If a lead agency or other provider has accepted case
2693 management responsibilities for a child who is sheltered or
2694 found to be dependent and who is assigned to the care of the
2695 lead agency or other provider, the agency or provider may act as



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2696 the child's guardian for the purpose of registering the child in
2697 school if a parent or guardian of the child is unavailable and
2698 his or her whereabouts cannot reasonably be ascertained.

2699 (b) The lead agency or other provider may also seek
2700 emergency medical attention for the child, but only if a parent
2701 or guardian of the child is unavailable, the parent or
2702 guardian's whereabouts cannot reasonably be ascertained, and a
2703 court order for such emergency medical services cannot be
2704 obtained because of the severity of the emergency or because it
2705 is after normal working hours.

2706 (c) A lead agency or other provider may not consent to
2707 sterilization, abortion, or termination of life support.

2708 (d) If a child's parents' rights have been terminated, the
2709 lead agency shall act as guardian of the child in all
2710 circumstances.

2711 Section 32. Section 409.990, Florida Statutes, is created
2712 to read:

2713 409.990 Funding for lead agencies.—A contract established
2714 between the department and a lead agency must be funded by a
2715 grant of general revenue, other applicable state funds, or
2716 applicable federal funding sources.

2717 (1) The method of payment for a fixed-price contract with a
2718 lead agency must provide for a 2-month advance payment at the
2719 beginning of each fiscal year and equal monthly payments
2720 thereafter.

2721 (2) Notwithstanding s. 215.425, all documented federal
2722 funds earned for the current fiscal year by the department and
2723 lead agencies which exceed the amount appropriated by the
2724 Legislature shall be distributed to all entities that



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2725 contributed to the excess earnings based on a schedule and
2726 methodology developed by the department and approved by the
2727 Executive Office of the Governor.

2728 (a) Distribution shall be pro rata, based on total
2729 earnings, and shall be made only to those entities that
2730 contributed to excess earnings.

2731 (b) Excess earnings of lead agencies shall be used only in
2732 the service district in which they were earned.

2733 (c) Additional state funds appropriated by the Legislature
2734 for lead agencies or made available pursuant to the budgetary
2735 amendment process described in s. 216.177 shall be transferred
2736 to the lead agencies.

2737 (d) The department shall amend a lead agency's contract to
2738 permit expenditure of the funds.

2739 (3) Notwithstanding any other provision of this section,
2740 the amount of the annual contract for a lead agency may be
2741 increased by excess federal funds earned in accordance with s.
2742 216.181(11).

2743 (4) Each contract with a lead agency shall provide for the
2744 payment by the department to the lead agency of a reasonable
2745 administrative cost in addition to funding for the provision of
2746 services.

2747 (5) A lead agency may carry forward documented unexpended
2748 state funds from one fiscal year to the next; however, the
2749 cumulative amount carried forward may not exceed 8 percent of
2750 the total contract. Any unexpended state funds in excess of that
2751 percentage must be returned to the department.

2752 (a) The funds carried forward may not be used in any way
2753 that would create increased recurring future obligations, and



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2754 such funds may not be used for any type of program or service
2755 that is not currently authorized by the existing contract with
2756 the department.

2757 (b) Expenditures of funds carried forward must be
2758 separately reported to the department.

2759 (c) Any unexpended funds that remain at the end of the
2760 contract period shall be returned to the department.

2761 (d) Funds carried forward may be retained through any
2762 contract renewals and any new procurements as long as the same
2763 lead agency is retained by the department.

2764 (6) It is the intent of the Legislature to improve services
2765 and local participation in community-based care initiatives by
2766 fostering community support and providing enhanced prevention
2767 and in-home services, thereby reducing the risk otherwise faced
2768 by lead agencies. A community partnership matching grant program
2769 is established and shall be operated by the department to
2770 encourage local participation in community-based care for
2771 children in the child welfare system. A children's services
2772 council or another local entity that makes a financial
2773 commitment to a community-based care lead agency may be eligible
2774 for a matching grant. The total amount of the local contribution
2775 may be matched on a one-to-one basis up to a maximum annual
2776 amount of \$500,000 per lead agency. Awarded matching grant funds
2777 may be used for any prevention or in-home services that can be
2778 reasonably expected to reduce the number of children entering
2779 the child welfare system. Funding available for the matching
2780 grant program is subject to legislative appropriation of
2781 nonrecurring funds provided for this purpose.

2782 (7) (a) The department, in consultation with the Florida



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2783 Coalition for Children, Inc., shall develop and implement a
2784 community-based care risk pool initiative to mitigate the
2785 financial risk to eligible lead agencies. This initiative must
2786 include:

2787 1. A risk pool application and protocol developed by the
2788 department which outlines submission criteria, including, but
2789 not limited to, financial and program management, descriptive
2790 data requirements, and timeframes for submission of
2791 applications. Requests for funding from risk pool applicants
2792 must be based on relevant and verifiable service trends and
2793 changes that have occurred during the current fiscal year. The
2794 application must confirm that expenditure of approved risk pool
2795 funds by the lead agency will be completed within the current
2796 fiscal year.

2797 2. A risk pool peer review committee, appointed by the
2798 secretary and consisting of department staff and representatives
2799 from at least three nonapplicant lead agencies, which reviews
2800 and assesses all risk pool applications. Upon completion of each
2801 application review, the peer review committee shall report its
2802 findings and recommendations to the secretary, providing, at a
2803 minimum, the following information:

2804 a. Justification for the specific funding amount required
2805 by the risk pool applicant based on the current year's service
2806 trend data, including validation that the applicant's financial
2807 need was caused by circumstances beyond the control of the lead
2808 agency management;

2809 b. Verification that the proposed use of risk pool funds
2810 meets at least one of the purposes specified in paragraph (c);
2811 and



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2812 c. Evidence of technical assistance provided in an effort
2813 to avoid the need to access the risk pool and recommendations
2814 for technical assistance to the lead agency to ensure that risk
2815 pool funds are expended effectively and that the agency's need
2816 for future risk pool funding is diminished.

2817 (b) Upon approval by the secretary of a risk pool
2818 application, the department may request funds from the risk pool
2819 in accordance with s. 216.181(6)(a).

2820 (c) The purposes for which the community-based care risk
2821 pool shall be used include:

2822 1. Significant changes in the number or composition of
2823 clients eligible to receive services.

2824 2. Significant changes in the services that are eligible
2825 for reimbursement.

2826 3. Continuity of care in the event of failure,
2827 discontinuance of service, or financial misconduct by a lead
2828 agency.

2829 4. Significant changes in the mix of available funds.

2830 (d) The department may also request in its annual
2831 legislative budget request, and the Governor may recommend, that
2832 the funding necessary to effect paragraph (c) be appropriated to
2833 the department. In addition, the department may request the
2834 allocation of funds from the community-based care risk pool in
2835 accordance with s. 216.181(6)(a). Funds from the pool may be
2836 used to match available federal dollars.

2837 1. Such funds shall constitute partial security for
2838 contract performance by lead agencies and shall be used to
2839 offset the need for a performance bond.

2840 2. The department may separately require a bond to mitigate



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2841 the financial consequences of potential acts of malfeasance or
2842 misfeasance or criminal violations by the service provider.

2843 Section 33. Section 409.16713, Florida Statutes, is
2844 transferred, renumbered as section 409.991, Florida Statutes,
2845 and paragraph (a) of subsection (1) of that section is amended
2846 to read:

2847 409.991 ~~409.16713~~ Allocation of funds for community-based
2848 care lead agencies.—

2849 (1) As used in this section, the term:

2850 (a) "Core services funding" means all funds allocated to
2851 community-based care lead agencies operating under contract with
2852 the department pursuant to s. 409.987 ~~s. 409.1671~~, with the
2853 following exceptions:

- 2854 1. Funds appropriated for independent living;
- 2855 2. Funds appropriated for maintenance adoption subsidies;
- 2856 3. Funds allocated by the department for protective
2857 investigations training;
- 2858 4. Nonrecurring funds;
- 2859 5. Designated mental health wrap-around services funds; and
- 2860 6. Funds for special projects for a designated community-
2861 based care lead agency.

2862 Section 34. Section 409.992, Florida Statutes, is created
2863 to read:

2864 409.992 Lead agency expenditures.—

2865 (1) The procurement of commodities or contractual services
2866 by lead agencies shall be governed by the financial guidelines
2867 developed by the department and must comply with applicable
2868 state and federal law and follow good business practices.
2869 Pursuant to s. 11.45, the Auditor General may provide technical



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2870 advice in the development of the financial guidelines.

2871 (2) Notwithstanding any other provision of law, a
2872 community-based care lead agency may make expenditures for staff
2873 cellular telephone allowances, contracts requiring deferred
2874 payments and maintenance agreements, security deposits for
2875 office leases, related agency professional membership dues other
2876 than personal professional membership dues, promotional
2877 materials, and grant writing services. Expenditures for food and
2878 refreshments, other than those provided to clients in the care
2879 of the agency or to foster parents, adoptive parents, and
2880 caseworkers during training sessions, are not allowable.

2881 (3) A lead community-based care agency and its
2882 subcontractors are exempt from state travel policies as provided
2883 in s. 112.061(3)(a) for their travel expenses incurred in order
2884 to comply with the requirements of this section.

2885 Section 35. Section 409.993, Florida Statutes, is created
2886 to read:

2887 409.993 Lead agencies and subcontractor liability.—

2888 (1) FINDINGS.—

2889 (a) The Legislature finds that the state has traditionally
2890 provided foster care services to children who are the
2891 responsibility of the state. As such, foster children have not
2892 had the right to recover for injuries beyond the limitations
2893 specified in s. 768.28. The Legislature has determined that
2894 foster care and related services should be outsourced pursuant
2895 to this section and that the provision of such services is of
2896 paramount importance to the state. The purpose of such
2897 outsourcing is to increase the level of safety, security, and
2898 stability of children who are or become the responsibility of



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2899 the state. One of the components necessary to secure a safe and
2900 stable environment for such children is the requirement that
2901 private providers maintain liability insurance. As such,
2902 insurance needs to be available and remain available to
2903 nongovernmental foster care and related services providers
2904 without the resources of such providers being significantly
2905 reduced by the cost of maintaining such insurance.

2906 (b) The Legislature further finds that, by requiring the
2907 following minimum levels of insurance, children in outsourced
2908 foster care and related services will gain increased protection
2909 and rights of recovery in the event of injury than currently
2910 provided in s. 768.28.

2911 (2) LEAD AGENCY LIABILITY.—

2912 (a) Other than an entity to which s. 768.28 applies, an
2913 eligible community-based care lead agency, or its employees or
2914 officers, except as otherwise provided in paragraph (b), shall,
2915 as a part of its contract, obtain general liability insurance
2916 coverage sufficient to pay any successful tort action up to the
2917 liability caps established in this subsection. In a tort action
2918 brought against such an eligible community-based care lead
2919 agency or employee, net economic damages shall be limited to \$2
2920 million per liability claim and \$200,000 per automobile claim,
2921 including, but not limited to, past and future medical expenses,
2922 wage loss, and loss of earning capacity, offset by any
2923 collateral source payment paid or payable. In any tort action
2924 brought against such an eligible community-based care lead
2925 agency, noneconomic damages shall be limited to \$400,000 per
2926 claim. A claims bill may be brought on behalf of a claimant
2927 pursuant to s. 768.28 for any amount exceeding the limits



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2928 specified in this paragraph. Any offset of collateral source
2929 payments made as of the date of the settlement or judgment shall
2930 be in accordance with s. 768.76. The community-based care lead
2931 agency is not liable in tort for the acts or omissions of its
2932 subcontractors or the officers, agents, or employees of its
2933 subcontractors.

2934 (b) The liability of an eligible community-based care lead
2935 agency described in this section shall be exclusive and in place
2936 of all other liability of such lead agency. The same immunities
2937 from liability enjoyed by such lead agencies shall extend to
2938 each employee of the lead agency if he or she is acting in
2939 furtherance of the lead agency's business, including the
2940 transportation of clients served, as described in this
2941 subsection, in privately owned vehicles. Such immunities are not
2942 applicable to a lead agency or an employee who acts in a
2943 culpably negligent manner or with willful and wanton disregard
2944 or unprovoked physical aggression if such acts result in injury
2945 or death or such acts proximately cause such injury or death.
2946 Such immunities are not applicable to employees of the same lead
2947 agency when each is operating in the furtherance of the agency's
2948 business, but they are assigned primarily to unrelated work
2949 within private or public employment. The same immunity
2950 provisions enjoyed by a lead agency also apply to any sole
2951 proprietor, partner, corporate officer or director, supervisor,
2952 or other person who, in the course and scope of his or her
2953 duties, acts in a managerial or policymaking capacity and the
2954 conduct that caused the alleged injury arose within the course
2955 and scope of those managerial or policymaking duties. As used in
2956 this subsection and subsection (3), the term "culpably negligent



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2957 manner” means reckless indifference or grossly careless
2958 disregard of human life.

2959 (3) SUBCONTRACTOR LIABILITY.—

2960 (a) A subcontractor of an eligible community-based care
2961 lead agency that is a direct provider of foster care and related
2962 services to children and families, and its employees or
2963 officers, except as otherwise provided in paragraph (b), must,
2964 as a part of its contract, obtain general liability insurance
2965 coverage sufficient to pay any successful tort action up to the
2966 liability caps established in this subsection. In a tort action
2967 brought against such subcontractor or employee, net economic
2968 damages shall be limited to \$2 million per liability claim and
2969 \$200,000 per automobile claim, including, but not limited to,
2970 past and future medical expenses, wage loss, and loss of earning
2971 capacity, offset by any collateral source payment paid or
2972 payable. In a tort action brought against such subcontractor,
2973 noneconomic damages shall be limited to \$400,000 per claim. A
2974 claims bill may be brought on behalf of a claimant pursuant to
2975 s. 768.28 for any amount exceeding the limits specified in this
2976 paragraph. Any offset of collateral source payments made as of
2977 the date of the settlement or judgment shall be in accordance
2978 with s. 768.76.

2979 (b) The liability of a subcontractor of an eligible
2980 community-based care lead agency that is a direct provider of
2981 foster care and related services as described in this section is
2982 exclusive and in place of all other liability of such provider.
2983 The same immunities from liability enjoyed by such subcontractor
2984 provider extend to each employee of the subcontractor when such
2985 employee is acting in furtherance of the subcontractor’s



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2986 business, including the transportation of clients served, as
2987 described in this subsection, in privately owned vehicles. Such
2988 immunities are not applicable to a subcontractor or an employee
2989 who acts in a culpably negligent manner or with willful and
2990 wanton disregard or unprovoked physical aggression if such acts
2991 result in injury or death or if such acts proximately cause such
2992 injury or death. Such immunities are not applicable to employees
2993 of the same subcontractor who are operating in the furtherance
2994 of the subcontractor’s business but are assigned primarily to
2995 unrelated works within private or public employment. The same
2996 immunity provisions enjoyed by a subcontractor also apply to any
2997 sole proprietor, partner, corporate officer or director,
2998 supervisor, or other person who, in the course and scope of his
2999 or her duties, acts in a managerial or policymaking capacity and
3000 the conduct that caused the alleged injury arose within the
3001 course and scope of those managerial or policymaking duties.

3002 (4) LIMITATIONS ON DAMAGES.—The Legislature is cognizant of
3003 the increasing costs of goods and services each year and
3004 recognizes that fixing a set amount of compensation has the
3005 effect of a reduction in compensation each year. Accordingly,
3006 the conditional limitations on damages in this section shall be
3007 increased at the rate of 5 percent each year, prorated from July
3008 1, 2014, to the date at which damages subject to such
3009 limitations are awarded by final judgment or settlement.

3010 Section 36. Section 409.1675, Florida Statutes, is
3011 transferred, renumbered as section 409.994, Florida Statutes,
3012 and amended to read:

3013 409.994 409.1675 ~~Lead~~ Community-based care lead agencies
3014 ~~providers~~; receivership.—



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3015 (1) The Department of Children and Families ~~Family Services~~
3016 may petition a court of competent jurisdiction for the
3017 appointment of a receiver for a ~~lead~~ community-based care lead
3018 agency provider established pursuant to s. 409.987 if ~~s-~~
3019 ~~409.1671~~ when any of the following conditions exist:

3020 (a) The lead agency ~~community-based provider~~ is operating
3021 without a license as a child-placing agency.

3022 (b) The lead agency ~~community-based provider~~ has given less
3023 than 120 days' notice of its intent to cease operations, and
3024 arrangements have not been made for another lead agency
3025 ~~community-based provider~~ or for the department to continue the
3026 uninterrupted provision of services.

3027 (c) The department determines that conditions exist in the
3028 lead agency ~~community-based provider~~ which present an imminent
3029 danger to the health, safety, or welfare of the dependent
3030 children under that agency's ~~provider's~~ care or supervision.
3031 Whenever possible, the department shall make a reasonable effort
3032 to facilitate the continued operation of the program.

3033 (d) The lead agency ~~community-based provider~~ cannot meet
3034 its current financial obligations to its employees, contractors,
3035 or foster parents. Issuance of bad checks or the existence of
3036 delinquent obligations for payment of salaries, utilities, or
3037 invoices for essential services or commodities shall constitute
3038 prima facie evidence that the lead agency ~~community-based~~
3039 ~~provider~~ lacks the financial ability to meet its financial
3040 obligations.

3041 (2) (a) The petition for receivership shall take precedence
3042 over other court business unless the court determines that some
3043 other pending proceeding, having statutory precedence, has



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3044 priority.

3045 (b) A hearing shall be conducted within 5 days after the
3046 filing of the petition, at which time interested parties shall
3047 have the opportunity to present evidence as to whether a
3048 receiver should be appointed. The department shall give
3049 reasonable notice of the hearing on the petition to the lead
3050 agency ~~community-based provider~~.

3051 (c) The court shall grant the petition upon finding that
3052 one or more of the conditions in subsection (1) exists and the
3053 continued existence of the condition or conditions jeopardizes
3054 the health, safety, or welfare of dependent children. A receiver
3055 may be appointed ex parte when the court determines that one or
3056 more of the conditions in subsection (1) exists. After such
3057 finding, the court may appoint any person, including an employee
3058 of the department who is qualified by education, training, or
3059 experience to carry out the duties of the receiver pursuant to
3060 this section, except that the court may ~~shall~~ not appoint any
3061 member of the governing board or any officer of the lead agency
3062 ~~community-based provider~~. The receiver may be selected from a
3063 list of persons qualified to act as receivers which is developed
3064 by the department and presented to the court with each petition
3065 of receivership.

3066 (d) A receiver may be appointed for up to 90 days, and the
3067 department may petition the court for additional 30-day
3068 extensions. Sixty days after appointment of a receiver and every
3069 30 days thereafter until the receivership is terminated, the
3070 department shall submit to the court an assessment of the lead
3071 agency's ~~community-based provider's~~ ability to ensure the
3072 health, safety, and welfare of the dependent children under its



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supervision.

(3) The receiver shall take such steps as are reasonably necessary to ensure the continued health, safety, and welfare of the dependent children under the supervision of the lead agency ~~community-based provider~~ and shall exercise those powers and perform those duties set out by the court, including, but not limited to:

(a) Taking such action as is reasonably necessary to protect or conserve the assets or property of the lead agency ~~community-based provider~~. The receiver may use the assets and property and any proceeds from any transfer thereof only in the performance of the powers and duties provided ~~set forth~~ in this section and by order of the court.

(b) Using the assets of the lead agency ~~community-based provider~~ in the provision of care and services to dependent children.

(c) Entering into contracts and hiring agents and employees to carry out the powers and duties of the receiver under this section.

(d) Having full power to direct, manage, hire, and discharge employees of the lead agency ~~community-based provider~~. The receiver shall hire and pay new employees at the rate of compensation, including benefits, approved by the court.

(e) Honoring all leases, mortgages, and contractual obligations of the lead agency ~~community-based provider~~, but only to the extent of payments that become due during the period of the receivership.

(4) (a) The receiver shall deposit funds received in a separate account and shall use this account for all



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disbursements.

(b) A payment to the receiver of any sum owing to the lead agency ~~community-based provider~~ shall discharge any obligation to the provider to the extent of the payment.

(5) A receiver may petition the court for temporary relief from obligations entered into by the lead agency ~~community-based provider~~ if the rent, price, or rate of interest required to be paid under the agreement was substantially in excess of a reasonable rent, price, or rate of interest at the time the contract was entered into, or if any material provision of the agreement was unreasonable when compared to contracts negotiated under similar conditions. Any relief in this form provided by the court shall be limited to the life of the receivership, unless otherwise determined by the court.

(6) The court shall set the compensation of the receiver, which shall be considered a necessary expense of a receivership and may grant to the receiver such other authority necessary to ensure the health, safety, and welfare of the children served.

(7) A receiver may be held liable in a personal capacity only for the receiver's own gross negligence, intentional acts, or breaches of fiduciary duty. This section may ~~shall~~ not be interpreted to be a waiver of sovereign immunity should the department be appointed receiver.

(8) If the receiver is not the department, the court may require a receiver to post a bond to ensure the faithful performance of these duties.

(9) The court may terminate a receivership when:

(a) The court determines that the receivership is no longer necessary because the conditions that gave rise to the



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3131 receivership no longer exist; or

3132 (b) The department has entered into a contract with a new
3133 lead ~~agency community-based provider~~ pursuant to s. 409.987 ~~s.~~
3134 ~~409.1671~~, and that contractor is ready and able to assume the
3135 duties of the previous ~~lead agency provider~~.

3136 (10) Within 30 days after the termination, unless this time
3137 period is extended by the court, the receiver shall give the
3138 court a complete accounting of all property of which the
3139 receiver has taken possession, of all funds collected and
3140 disbursed, and of the expenses of the receivership.

3141 (11) ~~Nothing in This section does not shall be construed to~~
3142 ~~relieve any employee of the lead agency community-based provider~~
3143 ~~placed in receivership of any civil or criminal liability~~
3144 ~~incurred, or any duty imposed by law, by reason of acts or~~
3145 ~~omissions of the employee before prior to the appointment of a~~
3146 ~~receiver, and, nor shall anything contained in this section does~~
3147 ~~not be construed to~~ suspend during the receivership any
3148 obligation of the employee for payment of taxes or other
3149 operating or maintenance expenses of the lead ~~agency community-~~
3150 ~~based provider~~ or for the payment of mortgages or liens. The
3151 lead ~~agency community-based provider~~ shall retain the right to
3152 sell or mortgage any facility under receivership, subject to the
3153 prior approval of the court that ordered the receivership.

3154 Section 37. Section 409.996, Florida Statutes, is created
3155 to read:

3156 409.996 Duties of the Department of Children and Families.-
3157 The department shall contract for the delivery, administration,
3158 or management of care for children in the child protection and
3159 child welfare system. In doing so, the department retains



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3160 responsibility for the quality of contracted services and
3161 programs and shall ensure that services are delivered in
3162 accordance with applicable federal and state statutes and
3163 regulations.

3164 (1) The department shall enter into contracts with lead
3165 agencies for the performance of the duties by the lead agencies
3166 pursuant to s. 409.988. At a minimum, the contracts must:

3167 (a) Provide for the services needed to accomplish the
3168 duties established in s. 409.988 and provide information to the
3169 department which is necessary to meet the requirements for a
3170 quality assurance program pursuant to subsection (18) and the
3171 child welfare results-oriented accountability system pursuant to
3172 s. 409.997.

3173 (b) Provide for graduated penalties for failure to comply
3174 with contract terms. Such penalties may include financial
3175 penalties, enhanced monitoring and reporting, corrective action
3176 plans, and early termination of contracts or other appropriate
3177 action to ensure contract compliance.

3178 (c) Ensure that the lead agency shall furnish current and
3179 accurate information on its activities in all cases in client
3180 case records in the state's statewide automated child welfare
3181 information system.

3182 (d) Specify the procedures to be used by the parties to
3183 resolve differences in interpreting the contract or to resolve
3184 disputes as to the adequacy of the parties' compliance with
3185 their respective obligations under the contract.

3186 (2) The department must adopt written policies and
3187 procedures for monitoring the contract for delivery of services
3188 by lead agencies which must be posted on the department's



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3189 website. These policies and procedures must, at a minimum,
3190 address the evaluation of fiscal accountability and program
3191 operations, including provider achievement of performance
3192 standards, provider monitoring of subcontractors, and timely
3193 followup of corrective actions for significant monitoring
3194 findings related to providers and subcontractors. These policies
3195 and procedures must also include provisions for reducing the
3196 duplication of the department's program monitoring activities
3197 both internally and with other agencies, to the extent possible.
3198 The department's written procedures must ensure that the written
3199 findings, conclusions, and recommendations from monitoring the
3200 contract for services of lead agencies are communicated to the
3201 director of the provider agency and the community alliance as
3202 expeditiously as possible.

3203 (3) The department shall receive federal and state funds as
3204 appropriated for the operation of the child welfare system and
3205 shall transmit these funds to the lead agencies as agreed to in
3206 the contract. The department retains responsibility for the
3207 appropriate spending of these funds. The department shall
3208 monitor lead agencies to assess compliance with the financial
3209 guidelines established pursuant to s. 409.992 and other
3210 applicable state and federal laws.

3211 (4) The department shall provide technical assistance and
3212 consultation to lead agencies in the provision of care to
3213 children in the child protection and child welfare system.

3214 (5) The department retains the responsibility for the
3215 review, approval or denial, and issuances of all foster home
3216 licenses.

3217 (6) The department shall process all applications submitted



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3218 by lead agencies for the Interstate Compact on the Placement of
3219 Children and the Interstate Compact on Adoption and Medical
3220 Assistance.

3221 (7) The department shall assist lead agencies with access
3222 to and coordination with other service programs within the
3223 department.

3224 (8) The department shall determine Medicaid eligibility for
3225 all referred children and shall coordinate services with the
3226 Agency for Health Care Administration.

3227 (9) The department shall develop, in cooperation with the
3228 lead agencies and the third-party credentialing entity approved
3229 pursuant to s. 402.40(3), a standardized competency-based
3230 curriculum for certification training for child protection
3231 staff.

3232 (10) The department shall maintain the statewide adoptions
3233 website and provide information and training to the lead
3234 agencies relating to the website.

3235 (11) The department shall provide training and assistance
3236 to lead agencies regarding the responsibility of lead agencies
3237 relating to children receiving supplemental security income,
3238 social security, railroad retirement, or veterans' benefits.

3239 (12) With the assistance of a lead agency, the department
3240 shall develop and implement statewide and local interagency
3241 agreements needed to coordinate services for children and
3242 parents involved in the child welfare system who are also
3243 involved with the Agency for Persons with Disabilities, the
3244 Department of Juvenile Justice, the Department of Education, the
3245 Department of Health, and other governmental organizations that
3246 share responsibilities for children or parents in the child



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3247 welfare system.

3248 (13) With the assistance of a lead agency, the department
3249 shall develop and implement a working agreement between the lead
3250 agency and the substance abuse and mental health managing entity
3251 to integrate services and supports for children and parents
3252 served in the child welfare system.

3253 (14) The department shall work with the Agency for Health
3254 Care Administration to provide each Medicaid-eligible child with
3255 early and periodic screening, diagnosis, and treatment,
3256 including 72-hour screening, periodic child health checkups, and
3257 prescribed followup for ordered services, including, but not
3258 limited to, medical, dental, and vision care.

3259 (15) The department shall assist lead agencies in
3260 developing an array of services in compliance with the Title IV-
3261 E waiver and shall monitor the provision of such services.

3262 (16) The department shall provide a mechanism to allow lead
3263 agencies to request a waiver of department policies and
3264 procedures that create inefficiencies or inhibit the performance
3265 of the lead agency's duties.

3266 (17) The department shall directly or through contract
3267 provide attorneys to prepare and present cases in dependency
3268 court and shall ensure that the court is provided with adequate
3269 information for informed decisionmaking in dependency cases,
3270 including a fact sheet for each case which lists the names and
3271 contact information for any child protective investigator, child
3272 protective investigation supervisor, case manager, and case
3273 manager supervisor, and the regional department official
3274 responsible for the lead agency contract. For the Sixth Judicial
3275 Circuit, the department shall contract with the state attorney



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3276 for the provision of these services.

3277 (18) The department, in consultation with lead agencies,
3278 shall establish a quality assurance program for contracted
3279 services to dependent children. The quality assurance program
3280 shall be based on standards established by federal and state law
3281 and national accrediting organizations.

3282 (a) The department must evaluate each lead agency under
3283 contract at least annually. These evaluations shall cover the
3284 programmatic, operational, and fiscal operations of the lead
3285 agency and must be consistent with the child welfare results-
3286 oriented accountability system required by s. 409.997. The
3287 department must consult with dependency judges in the circuit or
3288 circuits served by the lead agency on the performance of the
3289 lead agency.

3290 (b) The department and each lead agency shall monitor out-
3291 of-home placements, including the extent to which sibling groups
3292 are placed together or provisions to provide visitation and
3293 other contacts if siblings are separated. The data shall
3294 identify reasons for sibling separation. Information related to
3295 sibling placement shall be incorporated into the results-
3296 oriented accountability system required pursuant to s. 409.997
3297 and in the evaluation of the outcome specified in s.
3298 409.986(2)(e). The information related to sibling placement
3299 shall also be made available to the institute established
3300 pursuant s. 1004.615 for use in assessing the performance of
3301 child welfare services in relation to the outcome specified in
3302 s. 409.986(2)(e).

3303 (c) The department shall, to the extent possible, use
3304 independent financial audits provided by the lead agency to



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3305 eliminate or reduce the ongoing contract and administrative
3306 reviews conducted by the department. If the department
3307 determines that such independent financial audits are
3308 inadequate, other audits, as necessary, may be conducted by the
3309 department. This paragraph does not abrogate the requirements of
3310 s. 215.97.

3311 (d) The department may suggest additional items to be
3312 included in such independent financial audits to meet the
3313 department's needs.

3314 (e) The department may outsource programmatic,
3315 administrative, or fiscal monitoring oversight of lead agencies.

3316 (f) A lead agency must assure that all subcontractors are
3317 subject to the same quality assurance activities as the lead
3318 agency.

3319 (19) The department and its attorneys have the
3320 responsibility to ensure that the court is fully informed about
3321 issues before it, to make recommendations to the court, and to
3322 present competent evidence, including testimony by the
3323 department's employees, contractors, and subcontractors, as well
3324 as other individuals, to support all recommendations made to the
3325 court. The department's attorneys shall coordinate lead agency
3326 or subcontractor staff to ensure that dependency cases are
3327 presented appropriately to the court, giving deference to the
3328 information developed by the case manager and direction to the
3329 case manager if more information is needed.

3330 (20) The department, in consultation with lead agencies,
3331 shall develop a dispute resolution process so that disagreements
3332 between legal staff, investigators, and case management staff
3333 can be resolved in the best interest of the child in question



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3334 before court appearances regarding that child.

3335 Section 38. Section 409.997, Florida Statutes, is created
3336 to read:

3337 409.997 Child welfare results-oriented accountability
3338 system.—

3339 (1) The department and its contract providers, including
3340 lead agencies, community-based care providers, and other
3341 community partners participating in the state's child protection
3342 and child welfare system, share the responsibility for achieving
3343 the outcome goals specified in s. 409.986(2).

3344 (2) In order to assess the achievement of the outcome goals
3345 specified in s. 409.986(2), the department shall maintain a
3346 comprehensive, results-oriented accountability system that
3347 monitors the use of resources, the quality and amount of
3348 services provided, and child and family outcomes through data
3349 analysis, research review, evaluation, and quality improvement.
3350 The system shall provide information about individual entities'
3351 performance as well as the performance of groups of entities
3352 working together as an integrated system of care on a local,
3353 regional, and statewide basis. In maintaining the accountability
3354 system, the department shall:

3355 (a) Identify valid and reliable outcome measures for each
3356 of the goals specified in this subsection. The outcome data set
3357 must consist of a limited number of understandable measures
3358 using available data to quantify outcomes as children move
3359 through the system of care. Such measures may aggregate multiple
3360 variables that affect the overall achievement of the outcome
3361 goals. Valid and reliable measures must be based on adequate
3362 sample sizes, be gathered over suitable time periods, and



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3363 reflect authentic rather than spurious results, and may not be
3364 susceptible to manipulation.

3365 (b) Implement a monitoring system to track the identified
3366 outcome measures on a statewide, regional, and provider-specific
3367 basis. The monitoring system must identify trends and chart
3368 progress toward achievement of the goals specified s.
3369 409.986(2). The requirements of the monitoring system may be
3370 incorporated into the quality assurance program required under
3371 s. 409.996(18).

3372 (c) Develop and maintain an analytical system that builds
3373 on the outcomes monitoring system to assess the statistical
3374 validity of observed associations between child welfare
3375 interventions and the measured outcomes. The analysis must use
3376 quantitative methods to adjust for variations in demographic or
3377 other conditions. The analysis must include longitudinal studies
3378 to evaluate longer-term outcomes such as continued safety,
3379 family permanence, and transition to self-sufficiency. The
3380 analysis may also include qualitative research methods to
3381 provide insight into statistical patterns.

3382 (d) Develop and maintain a program of research review to
3383 identify interventions that are supported by evidence as
3384 causally linked to improved outcomes.

3385 (e) Support an ongoing process of evaluation to determine
3386 the efficacy and effectiveness of various interventions.
3387 Efficacy evaluation is intended to determine the validity of a
3388 causal relationship between an intervention and an outcome.
3389 Effectiveness evaluation is intended to determine the extent to
3390 which the results can be generalized.

3391 (f) Develop and maintain an inclusive, interactive, and



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3392 evidence-supported program of quality improvement which promotes
3393 individual skill building as well as organizational learning.

3394 (g) Develop and implement a method for making the results
3395 of the accountability system transparent for all parties
3396 involved in the child welfare system as well as policymakers and
3397 the public. The presentation of the results shall provide a
3398 comprehensible, visual report card for the state and each
3399 community-based care region, indicating the current status
3400 relative to each goal and trends in that status over time. The
3401 presentation shall identify and report outcome measures that
3402 assess the performance of the department, the community-based
3403 care lead agency, and the lead agency's subcontractors working
3404 together as an integrated system of care.

3405 (3) The department shall establish a technical advisory
3406 panel consisting of representatives from the Florida Institute
3407 for Child Welfare established in s. 1004.615, lead agencies,
3408 community-based care providers, other contract providers,
3409 community alliances, and family representatives. The President
3410 of the Senate and the Speaker of the House of Representatives
3411 shall each appoint a member to serve as a legislative liaison to
3412 the panel. The technical advisory panel shall advise the
3413 department on meeting the requirements of this section.

3414 (4) The accountability system may not rank or compare
3415 performance among community-based care regions unless adequate
3416 and specific adjustments are adopted that account for the
3417 diversity in regions' demographics, resources, and other
3418 relevant characteristics.

3419 (5) The results of the accountability system must provide
3420 the basis for performance incentives if funds for such payments



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3421 are made available through the General Appropriations Act.

3422 (6) At least quarterly, the department shall make the
3423 results of the accountability system available to the public
3424 through publication on its website. The website must allow for
3425 custom searches of the performance data.

3426 (7) By October 1 of each year, the department shall submit
3427 a report on the statewide and individual community-based care
3428 lead agency results for child protection and child welfare
3429 systems. The department shall use the accountability system and
3430 consult with the community alliance and the chief judge or
3431 judges in the community-based care service area to prepare the
3432 report. The report shall be submitted to the Governor, the
3433 President of the Senate, and the Speaker of the House of
3434 Representatives.

3435 Section 39. Section 409.998, Florida Statutes, is created
3436 to read:

3437 409.998 Community-based care; assessment by community
3438 alliances.—To provide independent, community-focused assessment
3439 of child protection and child welfare services and the local
3440 system of community-based care, community alliances created in
3441 s. 20.19(5) shall, with the assistance of the department,
3442 perform the following duties:

3443 (1) Conduct a needs assessment and establish community
3444 priorities for child protection and child welfare services.

3445 (2) Review the performance of the department, the sheriff's
3446 office, if the office provides child protective services, and
3447 the lead agency individually and as an integrated system of
3448 care, and advise the department, the sheriff's office, if
3449 applicable, and the lead agency regarding concerns and suggested



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3450 areas of improvement.

3451 (3) Recommend a competitive procurement for the lead agency
3452 if programmatic or financial performance is poor. The community
3453 alliance shall make recommendations on the development of the
3454 procurement document for such competitive procurement and may
3455 suggest specific requirements relating to local needs and
3456 services.

3457 (4) Recommend a contract extension for the lead agency if
3458 programmatic and financial performance is superior.

3459 (5) In partnership with the Florida Institute for Child
3460 Welfare established in s. 1004.615, develop recommendations and
3461 submit such recommendations to the department and the community-
3462 based care lead agency to improve child protection and child
3463 welfare policies and practices.

3464 (6) Promote greater community involvement in community-
3465 based care through participation in community-based care lead
3466 agency services and activities, recruitment and retention of
3467 community volunteers, and public awareness efforts.

3468 Section 40. Section 827.10, Florida Statutes, is created to
3469 read:

3470 827.10 Unlawful desertion of a child.—

3471 (1) As used in this section, the term:

3472 (a) "Care" means support and services necessary to maintain
3473 the child's physical and mental health, including, but not
3474 limited to, food, nutrition, clothing, shelter, supervision,
3475 medicine, and medical services that a prudent person would
3476 consider essential for the well-being of the child.

3477 (b) "Caregiver" has the same meaning as provided in s.
3478 39.01.



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3479 (c) "Child" means a child for whose care the caregiver is
3480 legally responsible.

3481 (d) "Desertion" or "deserts" means to leave a child in a
3482 place or with a person other than a relative with the intent not
3483 to return to the child and with the intent not to provide for
3484 the care of the child.

3485 (e) "Relative" has the same meaning as provided in s.
3486 39.01.

3487 (2) A caregiver who deserts a child under circumstances in
3488 which the caregiver knew or should have known that the desertion
3489 exposes the child to unreasonable risk of harm commits a felony
3490 of the third degree, punishable as provided in s. 775.082, s.
3491 775.083, or s. 775.084.

3492 (3) This section does not apply to a person who surrenders
3493 a newborn infant in compliance with s. 383.50.

3494 (4) This section does not preclude prosecution for a
3495 criminal act under any other law, including, but not limited to,
3496 prosecution of child abuse or neglect of a child under s.
3497 827.03.

3498 Section 41. Paragraph (d) of subsection (4) of section
3499 985.04, Florida Statutes, is amended to read:

3500 985.04 Oaths; records; confidential information.—

3501 (4)

3502 (d) The department shall disclose to the school
3503 superintendent the presence of any child in the care and custody
3504 or under the jurisdiction or supervision of the department who
3505 has a known history of criminal sexual behavior with other
3506 juveniles; is ~~an~~ alleged to have committed juvenile sexual abuse
3507 ~~offender~~, as defined in s. 39.01; or has pled guilty or nolo



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3508 contendere to, or has been found to have committed, a violation
3509 of chapter 794, chapter 796, chapter 800, s. 827.071, or s.
3510 847.0133, regardless of adjudication. Any employee of a district
3511 school board who knowingly and willfully discloses such
3512 information to an unauthorized person commits a misdemeanor of
3513 the second degree, punishable as provided in s. 775.082 or s.
3514 775.083.

3515 Section 42. Section 1004.615, Florida Statutes, is created
3516 to read:

3517 1004.615 Florida Institute for Child Welfare.—

3518 (1) There is established the Florida Institute for Child
3519 Welfare within the Florida State University College of Social
3520 Work. The purpose of the institute is to advance the well-being
3521 of children and families by improving the performance of child
3522 protection and child welfare services through research, policy
3523 analysis, evaluation, and leadership development. The institute
3524 shall consist of a consortium of public and private universities
3525 offering degrees in social work and shall be housed within the
3526 Florida State University College of Social Work.

3527 (2) Using such resources as authorized in the General
3528 Appropriations Act, the Department of Children and Families
3529 shall contract with the institute for performance of the duties
3530 described in subsection (4) using state appropriations, public
3531 and private grants, and other resources obtained by the
3532 institute.

3533 (3) The institute shall work with the department, sheriffs
3534 providing child protective investigative services, community-
3535 based care lead agencies, community-based care provider
3536 organizations, the court system, the Department of Juvenile



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3537 Justice, the federally recognized statewide association for
3538 Florida's certified domestic violence centers, and other
3539 partners who contribute to and participate in providing child
3540 protection and child welfare services.

3541 (4) The institute shall:

3542 (a) Maintain a program of research which contributes to
3543 scientific knowledge and informs both policy and practice
3544 related to child safety, permanency, and child and family well-
3545 being.

3546 (b) Advise the department and other organizations
3547 participating in the child protection and child welfare system
3548 regarding scientific evidence on policy and practice related to
3549 child safety, permanency, and child and family well-being.

3550 (c) Provide advice regarding management practices and
3551 administrative processes used by the department and other
3552 organizations participating in the child protection and child
3553 welfare system and recommend improvements that reduce
3554 burdensome, ineffective requirements for frontline staff and
3555 their supervisors while enhancing their ability to effectively
3556 investigate, analyze, problem solve, and supervise.

3557 (d) Assess the performance of child protection and child
3558 welfare services based on specific outcome measures.

3559 (e) Evaluate the scope and effectiveness of preservice and
3560 inservice training for child protection and child welfare
3561 employees and advise and assist the department in efforts to
3562 improve such training.

3563 (f) Assess the readiness of social work graduates to assume
3564 job responsibilities in the child protection and child welfare
3565 system and identify gaps in education which can be addressed



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3566 through the modification of curricula or the establishment of
3567 industry certifications.

3568 (g) Develop and maintain a program of professional support
3569 including training courses and consulting services that assist
3570 both individuals and organizations in implementing adaptive and
3571 resilient responses to workplace stress.

3572 (h) Participate in the department's critical incident
3573 response team, assist in the preparation of reports about such
3574 incidents, and support the committee review of reports and
3575 development of recommendations.

3576 (i) Identify effective policies and promising practices,
3577 including, but not limited to, innovations in coordination
3578 between entities participating in the child protection and child
3579 welfare system, data analytics, working with the local
3580 community, and management of human service organizations, and
3581 communicate these findings to the department and other
3582 organizations participating in the child protection and child
3583 welfare system.

3584 (j) Develop a definition of a child or family at high risk
3585 of abuse or neglect. Such a definition must consider
3586 characteristics associated with a greater probability of abuse
3587 and neglect.

3588 (5) The President of the Florida State University shall
3589 appoint a director of the institute. The director must be a
3590 child welfare professional with a degree in social work who
3591 holds a faculty appointment in the Florida State University
3592 College of Social Work. The institute shall be administered by
3593 the director, and the director's office shall be located at the
3594 Florida State University. The director is responsible for



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3595 overall management of the institute and for developing and
3596 executing the work of the institute consistent with the
3597 responsibilities in subsection (4). The director shall engage
3598 individuals in other state universities with accredited colleges
3599 of social work to participate in the institute. Individuals from
3600 other university programs relevant to the institute's work,
3601 including, but not limited to, economics, management, law,
3602 medicine, and education, may also be invited by the director to
3603 contribute to the institute. The universities participating in
3604 the institute shall provide facilities, staff, and other
3605 resources to the institute to establish statewide access to
3606 institute programs and services.

3607 (6) By October 1 of each year, the institute shall provide
3608 a written report to the Governor, the President of the Senate,
3609 and the Speaker of the House of Representatives which outlines
3610 its activities in the preceding year, reports significant
3611 research findings, as well as results of other programs, and
3612 provides specific recommendations for improving child protection
3613 and child welfare services.

3614 (a) The institute shall include an evaluation of the
3615 results of the educational and training requirements for child
3616 protection and child welfare personnel established under this
3617 act and recommendations for application of the results to child
3618 protection personnel employed by sheriff's offices providing
3619 child protection services in its report due October 1, 2017.

3620 (b) The institute shall include an evaluation of the
3621 effects of the other provisions of this act and recommendations
3622 for improvements in child protection and child welfare services
3623 in its report due October 1, 2018.



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3624 (7) The institute shall submit a report with
3625 recommendations for improving the state's child welfare system.
3626 The report shall address topics including, but not limited to,
3627 enhancing working relationships between the entities involved in
3628 the child protection and child welfare system, identification of
3629 and replication of best practices, reducing paperwork,
3630 increasing the retention of child protective investigators and
3631 case managers, and caring for medically complex children within
3632 the child welfare system, with the goal of allowing the child to
3633 remain in the least restrictive and most nurturing environment.
3634 The institute shall submit an interim report by February 1,
3635 2015, and final report by November 1, 2015, to the Governor, the
3636 President of the Senate, and the Speaker of the House of
3637 Representatives.

3638 Section 43. Paragraph (h) is added to subsection (1) of
3639 section 1009.25, Florida Statutes, to read:

3640 1009.25 Fee exemptions.—

3641 (1) The following students are exempt from the payment of
3642 tuition and fees, including lab fees, at a school district that
3643 provides workforce education programs, Florida College System
3644 institution, or state university:

3645 (h) Pursuant to s. 402.403, child protection and child
3646 welfare personnel as defined in s. 402.402 who are enrolled in
3647 an accredited bachelor's degree or master's degree in social
3648 work program or completing coursework required pursuant to s.
3649 402.402(2), provided that the student attains at least a grade
3650 of "B" in all courses for which tuition and fees are exempted.

3651 Section 44. Section 402.401, Florida Statutes, is repealed.

3652 Section 45. Section 409.1671, Florida Statutes, is



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3653 repealed.

3654 Section 46. Section 409.16715, Florida Statutes, is

3655 repealed.

3656 Section 47. Section 409.16745, Florida Statutes, is

3657 repealed.

3658 Section 48. Section 1004.61, Florida Statutes, is repealed.

3659 Section 49. Paragraph (g) of subsection (1) of section

3660 39.201, Florida Statutes, is amended to read:

3661 39.201 Mandatory reports of child abuse, abandonment, or
3662 neglect; mandatory reports of death; central abuse hotline.—

3663 (1)

3664 (g) Nothing in this chapter or in the contracting with
3665 community-based care providers for foster care and related
3666 services as specified in s. 409.987 ~~s. 409.1671~~ shall be
3667 construed to remove or reduce the duty and responsibility of any
3668 person, including any employee of the community-based care
3669 provider, to report a suspected or actual case of child abuse,
3670 abandonment, or neglect or the sexual abuse of a child to the
3671 department's central abuse hotline.

3672 Section 50. Subsection (1) of section 39.302, Florida
3673 Statutes, is amended to read:

3674 39.302 Protective investigations of institutional child
3675 abuse, abandonment, or neglect.—

3676 (1) The department shall conduct a child protective
3677 investigation of each report of institutional child abuse,
3678 abandonment, or neglect. Upon receipt of a report that alleges
3679 that an employee or agent of the department, or any other entity
3680 or person covered by s. 39.01(32) ~~s. 39.01(33)~~ or (47), acting
3681 in an official capacity, has committed an act of child abuse,



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3682 abandonment, or neglect, the department shall initiate a child
3683 protective investigation within the timeframe established under
3684 s. 39.201(5) and notify the appropriate state attorney, law
3685 enforcement agency, and licensing agency, which shall
3686 immediately conduct a joint investigation, unless independent
3687 investigations are more feasible. When conducting investigations
3688 or having face-to-face interviews with the child, investigation
3689 visits shall be unannounced unless it is determined by the
3690 department or its agent that unannounced visits threaten the
3691 safety of the child. If a facility is exempt from licensing, the
3692 department shall inform the owner or operator of the facility of
3693 the report. Each agency conducting a joint investigation is
3694 entitled to full access to the information gathered by the
3695 department in the course of the investigation. A protective
3696 investigation must include an interview with the child's parent
3697 or legal guardian. The department shall make a full written
3698 report to the state attorney within 3 working days after making
3699 the oral report. A criminal investigation shall be coordinated,
3700 whenever possible, with the child protective investigation of
3701 the department. Any interested person who has information
3702 regarding the offenses described in this subsection may forward
3703 a statement to the state attorney as to whether prosecution is
3704 warranted and appropriate. Within 15 days after the completion
3705 of the investigation, the state attorney shall report the
3706 findings to the department and shall include in the report a
3707 determination of whether or not prosecution is justified and
3708 appropriate in view of the circumstances of the specific case.

3709 Section 51. Subsection (1) of section 39.524, Florida
3710 Statutes, is amended to read:



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3711 39.524 Safe-harbor placement.-

3712 (1) Except as provided in s. 39.407 or s. 985.801, a
3713 dependent child 6 years of age or older who has been found to be
3714 a victim of sexual exploitation as defined in s. 39.01(68)(g) ~~or~~
3715 ~~39.01(67)(g)~~ must be assessed for placement in a safe house as
3716 provided in s. 409.1678. The assessment shall be conducted by
3717 the department or its agent and shall incorporate and address
3718 current and historical information from any law enforcement
3719 reports; psychological testing or evaluation that has occurred;
3720 current and historical information from the guardian ad litem,
3721 if one has been assigned; current and historical information
3722 from any current therapist, teacher, or other professional who
3723 has knowledge of the child and has worked with the child; and
3724 any other information concerning the availability and
3725 suitability of safe-house placement. If such placement is
3726 determined to be appropriate as a result of this assessment, the
3727 child may be placed in a safe house, if one is available. As
3728 used in this section, the term "available" as it relates to a
3729 placement means a placement that is located within the circuit
3730 or otherwise reasonably accessible.

3731 Section 52. Subsection (6) of section 316.613, Florida
3732 Statutes, is amended to read:

3733 316.613 Child restraint requirements.-

3734 (6) The child restraint requirements imposed by this
3735 section do not apply to a chauffeur-driven taxi, limousine,
3736 sedan, van, bus, motor coach, or other passenger vehicle if the
3737 operator and the motor vehicle are hired and used for the
3738 transportation of persons for compensation. It is the obligation
3739 and responsibility of the parent, guardian, or other person



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3740 responsible for a child's welfare, as defined in s. 39.01(47),
3741 to comply with the requirements of this section.

3742 Section 53. Subsections (1), (3), and (5) of section
3743 409.1676, Florida Statutes, are amended to read:

3744 409.1676 Comprehensive residential group care services to
3745 children who have extraordinary needs.-

3746 (1) It is the intent of the Legislature to provide
3747 comprehensive residential group care services, including
3748 residential care, case management, and other services, to
3749 children in the child protection system who have extraordinary
3750 needs. These services are to be provided in a residential group
3751 care setting by a not-for-profit corporation or a local
3752 government entity under a contract with the Department of
3753 Children and Families ~~Family Services~~ or by a lead agency as
3754 described in s. 409.987 ~~s. 409.1671~~. These contracts should be
3755 designed to provide an identified number of children with access
3756 to a full array of services for a fixed price. Further, it is
3757 the intent of the Legislature that the Department of Children
3758 and Families ~~Family Services~~ and the Department of Juvenile
3759 Justice establish an interagency agreement by December 1, 2002,
3760 which describes respective agency responsibilities for referral,
3761 placement, service provision, and service coordination for
3762 dependent and delinquent youth who are referred to these
3763 residential group care facilities. The agreement must require
3764 interagency collaboration in the development of terms,
3765 conditions, and performance outcomes for residential group care
3766 contracts serving the youth referred who have been adjudicated
3767 both dependent and delinquent.

3768 (3) The department, in accordance with a specific



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3769 appropriation for this program, shall contract with a not-for-
3770 profit corporation, a local government entity, or the lead
3771 agency that has been established in accordance with s. 409.987
3772 ~~s. 409.1671~~ for the performance of residential group care
3773 services described in this section. A lead agency that is
3774 currently providing residential care may provide this service
3775 directly with the approval of the local community alliance. The
3776 department or a lead agency may contract for more than one site
3777 in a county if that is determined to be the most effective way
3778 to achieve the goals set forth in this section.

3779 (5) The department may transfer all casework
3780 responsibilities for children served under this program to the
3781 entity that provides this service, including case management and
3782 development and implementation of a case plan in accordance with
3783 current standards for child protection services. When the
3784 department establishes this program in a community that has a
3785 lead agency as described in s. 409.987 ~~s. 409.1671~~, the casework
3786 responsibilities must be transferred to the lead agency.

3787 Section 54. Subsection (2) of section 409.1677, Florida
3788 Statutes, is amended to read:

3789 409.1677 Model comprehensive residential services
3790 programs.—

3791 (2) The department shall establish a model comprehensive
3792 residential services program in Manatee and Miami-Dade Counties
3793 through a contract with the designated lead agency established
3794 in accordance with s. 409.987 ~~s. 409.1671~~ or with a private
3795 entity capable of providing residential group care and home-
3796 based care and experienced in the delivery of a range of
3797 services to foster children, if no lead agency exists. These



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3798 model programs are to serve that portion of eligible children
3799 within each county which is specified in the contract, based on
3800 funds appropriated, to include a full array of services for a
3801 fixed price. The private entity or lead agency is responsible
3802 for all programmatic functions necessary to carry out the intent
3803 of this section.

3804 Section 55. Paragraph (d) of subsection (1) of section
3805 409.1678, Florida Statutes, is amended to read:

3806 409.1678 Safe harbor for children who are victims of sexual
3807 exploitation.—

3808 (1) As used in this section, the term:

3809 (d) "Sexually exploited child" means a dependent child who
3810 has suffered sexual exploitation as defined in s. 39.01(68)(g)
3811 ~~s. 39.01(67)(g)~~ and is ineligible for relief and benefits under
3812 the federal Trafficking Victims Protection Act, 22 U.S.C. ss.
3813 7101 et seq.

3814 Section 56. Subsection (24) of section 409.906, Florida
3815 Statutes, is amended to read:

3816 409.906 Optional Medicaid services.—Subject to specific
3817 appropriations, the agency may make payments for services which
3818 are optional to the state under Title XIX of the Social Security
3819 Act and are furnished by Medicaid providers to recipients who
3820 are determined to be eligible on the dates on which the services
3821 were provided. Any optional service that is provided shall be
3822 provided only when medically necessary and in accordance with
3823 state and federal law. Optional services rendered by providers
3824 in mobile units to Medicaid recipients may be restricted or
3825 prohibited by the agency. Nothing in this section shall be
3826 construed to prevent or limit the agency from adjusting fees,



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3827 reimbursement rates, lengths of stay, number of visits, or
3828 number of services, or making any other adjustments necessary to
3829 comply with the availability of moneys and any limitations or
3830 directions provided for in the General Appropriations Act or
3831 chapter 216. If necessary to safeguard the state's systems of
3832 providing services to elderly and disabled persons and subject
3833 to the notice and review provisions of s. 216.177, the Governor
3834 may direct the Agency for Health Care Administration to amend
3835 the Medicaid state plan to delete the optional Medicaid service
3836 known as "Intermediate Care Facilities for the Developmentally
3837 Disabled." Optional services may include:

3838 (24) CHILD-WELFARE-TARGETED CASE MANAGEMENT.—The Agency for
3839 Health Care Administration, in consultation with the Department
3840 of Children and Families ~~Family Services~~, may establish a
3841 targeted case-management project in those counties identified by
3842 the Department of Children and Families ~~Family Services~~ and for
3843 all counties with a community-based child welfare project, as
3844 authorized under s. 409.987 ~~s. 409.1671~~, which have been
3845 specifically approved by the department. The covered group of
3846 individuals who are eligible to receive targeted case management
3847 include children who are eligible for Medicaid; who are between
3848 the ages of birth through 21; and who are under protective
3849 supervision or postplacement supervision, under foster-care
3850 supervision, or in shelter care or foster care. The number of
3851 individuals who are eligible to receive targeted case management
3852 is limited to the number for whom the Department of Children and
3853 Families ~~Family Services~~ has matching funds to cover the costs.
3854 The general revenue funds required to match the funds for
3855 services provided by the community-based child welfare projects



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3856 are limited to funds available for services described under s.
3857 ~~409.990 s. 409.1671~~. The Department of Children and Families
3858 ~~Family Services~~ may transfer the general revenue matching funds
3859 as billed by the Agency for Health Care Administration.

3860 Section 57. Paragraph (b) of subsection (4) of section
3861 409.912, Florida Statutes, is amended to read:

3862 409.912 Cost-effective purchasing of health care.—The
3863 agency shall purchase goods and services for Medicaid recipients
3864 in the most cost-effective manner consistent with the delivery
3865 of quality medical care. To ensure that medical services are
3866 effectively utilized, the agency may, in any case, require a
3867 confirmation or second physician's opinion of the correct
3868 diagnosis for purposes of authorizing future services under the
3869 Medicaid program. This section does not restrict access to
3870 emergency services or poststabilization care services as defined
3871 in 42 C.F.R. part 438.114. Such confirmation or second opinion
3872 shall be rendered in a manner approved by the agency. The agency
3873 shall maximize the use of prepaid per capita and prepaid
3874 aggregate fixed-sum basis services when appropriate and other
3875 alternative service delivery and reimbursement methodologies,
3876 including competitive bidding pursuant to s. 287.057, designed
3877 to facilitate the cost-effective purchase of a case-managed
3878 continuum of care. The agency shall also require providers to
3879 minimize the exposure of recipients to the need for acute
3880 inpatient, custodial, and other institutional care and the
3881 inappropriate or unnecessary use of high-cost services. The
3882 agency shall contract with a vendor to monitor and evaluate the
3883 clinical practice patterns of providers in order to identify
3884 trends that are outside the normal practice patterns of a



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3885 provider's professional peers or the national guidelines of a
3886 provider's professional association. The vendor must be able to
3887 provide information and counseling to a provider whose practice
3888 patterns are outside the norms, in consultation with the agency,
3889 to improve patient care and reduce inappropriate utilization.
3890 The agency may mandate prior authorization, drug therapy
3891 management, or disease management participation for certain
3892 populations of Medicaid beneficiaries, certain drug classes, or
3893 particular drugs to prevent fraud, abuse, overuse, and possible
3894 dangerous drug interactions. The Pharmaceutical and Therapeutics
3895 Committee shall make recommendations to the agency on drugs for
3896 which prior authorization is required. The agency shall inform
3897 the Pharmaceutical and Therapeutics Committee of its decisions
3898 regarding drugs subject to prior authorization. The agency is
3899 authorized to limit the entities it contracts with or enrolls as
3900 Medicaid providers by developing a provider network through
3901 provider credentialing. The agency may competitively bid single-
3902 source-provider contracts if procurement of goods or services
3903 results in demonstrated cost savings to the state without
3904 limiting access to care. The agency may limit its network based
3905 on the assessment of beneficiary access to care, provider
3906 availability, provider quality standards, time and distance
3907 standards for access to care, the cultural competence of the
3908 provider network, demographic characteristics of Medicaid
3909 beneficiaries, practice and provider-to-beneficiary standards,
3910 appointment wait times, beneficiary use of services, provider
3911 turnover, provider profiling, provider licensure history,
3912 previous program integrity investigations and findings, peer
3913 review, provider Medicaid policy and billing compliance records,



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3914 clinical and medical record audits, and other factors. Providers
3915 are not entitled to enrollment in the Medicaid provider network.
3916 The agency shall determine instances in which allowing Medicaid
3917 beneficiaries to purchase durable medical equipment and other
3918 goods is less expensive to the Medicaid program than long-term
3919 rental of the equipment or goods. The agency may establish rules
3920 to facilitate purchases in lieu of long-term rentals in order to
3921 protect against fraud and abuse in the Medicaid program as
3922 defined in s. 409.913. The agency may seek federal waivers
3923 necessary to administer these policies.

3924 (4) The agency may contract with:

3925 (b) An entity that is providing comprehensive behavioral
3926 health care services to certain Medicaid recipients through a
3927 capitated, prepaid arrangement pursuant to the federal waiver
3928 provided for by s. 409.905(5). Such entity must be licensed
3929 under chapter 624, chapter 636, or chapter 641, or authorized
3930 under paragraph (c) or paragraph (d), and must possess the
3931 clinical systems and operational competence to manage risk and
3932 provide comprehensive behavioral health care to Medicaid
3933 recipients. As used in this paragraph, the term "comprehensive
3934 behavioral health care services" means covered mental health and
3935 substance abuse treatment services that are available to
3936 Medicaid recipients. The secretary of the Department of Children
3937 and Families ~~Family Services~~ shall approve provisions of
3938 procurements related to children in the department's care or
3939 custody before enrolling such children in a prepaid behavioral
3940 health plan. Any contract awarded under this paragraph must be
3941 competitively procured. In developing the behavioral health care
3942 prepaid plan procurement document, the agency shall ensure that



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3943 the procurement document requires the contractor to develop and
3944 implement a plan to ensure compliance with s. 394.4574 related
3945 to services provided to residents of licensed assisted living
3946 facilities that hold a limited mental health license. Except as
3947 provided in subparagraph 5., and except in counties where the
3948 Medicaid managed care pilot program is authorized pursuant to s.
3949 409.91211, the agency shall seek federal approval to contract
3950 with a single entity meeting these requirements to provide
3951 comprehensive behavioral health care services to all Medicaid
3952 recipients not enrolled in a Medicaid managed care plan
3953 authorized under s. 409.91211, a provider service network
3954 organized under paragraph (d), or a Medicaid health maintenance
3955 organization in an AHCA area. In an AHCA area where the Medicaid
3956 managed care pilot program is authorized pursuant to s.
3957 409.91211 in one or more counties, the agency may procure a
3958 contract with a single entity to serve the remaining counties as
3959 an AHCA area or the remaining counties may be included with an
3960 adjacent AHCA area and are subject to this paragraph. Each
3961 entity must offer a sufficient choice of providers in its
3962 network to ensure recipient access to care and the opportunity
3963 to select a provider with whom they are satisfied. The network
3964 shall include all public mental health hospitals. To ensure
3965 unimpaired access to behavioral health care services by Medicaid
3966 recipients, all contracts issued pursuant to this paragraph must
3967 require 80 percent of the capitation paid to the managed care
3968 plan, including health maintenance organizations and capitated
3969 provider service networks, to be expended for the provision of
3970 behavioral health care services. If the managed care plan
3971 expends less than 80 percent of the capitation paid for the



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3972 provision of behavioral health care services, the difference
3973 shall be returned to the agency. The agency shall provide the
3974 plan with a certification letter indicating the amount of
3975 capitation paid during each calendar year for behavioral health
3976 care services pursuant to this section. The agency may reimburse
3977 for substance abuse treatment services on a fee-for-service
3978 basis until the agency finds that adequate funds are available
3979 for capitated, prepaid arrangements.

3980 1. The agency shall modify the contracts with the entities
3981 providing comprehensive inpatient and outpatient mental health
3982 care services to Medicaid recipients in Hillsborough, Highlands,
3983 Hardee, Manatee, and Polk Counties, to include substance abuse
3984 treatment services.

3985 2. Except as provided in subparagraph 5., the agency and
3986 the Department of Children and Families ~~Family Services~~ shall
3987 contract with managed care entities in each AHCA area except
3988 area 6 or arrange to provide comprehensive inpatient and
3989 outpatient mental health and substance abuse services through
3990 capitated prepaid arrangements to all Medicaid recipients who
3991 are eligible to participate in such plans under federal law and
3992 regulation. In AHCA areas where eligible individuals number less
3993 than 150,000, the agency shall contract with a single managed
3994 care plan to provide comprehensive behavioral health services to
3995 all recipients who are not enrolled in a Medicaid health
3996 maintenance organization, a provider service network authorized
3997 under paragraph (d), or a Medicaid capitated managed care plan
3998 authorized under s. 409.91211. The agency may contract with more
3999 than one comprehensive behavioral health provider to provide
4000 care to recipients who are not enrolled in a Medicaid capitated



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4001 managed care plan authorized under s. 409.91211, a provider
4002 service network authorized under paragraph (d), or a Medicaid
4003 health maintenance organization in AHCA areas where the eligible
4004 population exceeds 150,000. In an AHCA area where the Medicaid
4005 managed care pilot program is authorized pursuant to s.
4006 409.91211 in one or more counties, the agency may procure a
4007 contract with a single entity to serve the remaining counties as
4008 an AHCA area or the remaining counties may be included with an
4009 adjacent AHCA area and shall be subject to this paragraph.
4010 Contracts for comprehensive behavioral health providers awarded
4011 pursuant to this section shall be competitively procured. Both
4012 for-profit and not-for-profit corporations are eligible to
4013 compete. Managed care plans contracting with the agency under
4014 subsection (3) or paragraph (d) shall provide and receive
4015 payment for the same comprehensive behavioral health benefits as
4016 provided in AHCA rules, including handbooks incorporated by
4017 reference. In AHCA area 11, the agency shall contract with at
4018 least two comprehensive behavioral health care providers to
4019 provide behavioral health care to recipients in that area who
4020 are enrolled in, or assigned to, the MediPass program. One of
4021 the behavioral health care contracts must be with the existing
4022 provider service network pilot project, as described in
4023 paragraph (d), for the purpose of demonstrating the cost-
4024 effectiveness of the provision of quality mental health services
4025 through a public hospital-operated managed care model. Payment
4026 shall be at an agreed-upon capitated rate to ensure cost
4027 savings. Of the recipients in area 11 who are assigned to
4028 MediPass under s. 409.9122(2)(k), a minimum of 50,000 of those
4029 MediPass-enrolled recipients shall be assigned to the existing



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4030 provider service network in area 11 for their behavioral care.
4031 3. Children residing in a statewide inpatient psychiatric
4032 program, or in a Department of Juvenile Justice or a Department
4033 of Children and Families ~~Family Services~~ residential program
4034 approved as a Medicaid behavioral health overlay services
4035 provider may not be included in a behavioral health care prepaid
4036 health plan or any other Medicaid managed care plan pursuant to
4037 this paragraph.
4038 4. Traditional community mental health providers under
4039 contract with the Department of Children and Families ~~Family~~
4040 ~~Services~~ pursuant to part IV of chapter 394, child welfare
4041 providers under contract with the Department of Children and
4042 Families ~~Family Services~~ in areas 1 and 6, and inpatient mental
4043 health providers licensed pursuant to chapter 395 must be
4044 offered an opportunity to accept or decline a contract to
4045 participate in any provider network for prepaid behavioral
4046 health services.
4047 5. All Medicaid-eligible children, except children in area
4048 1 and children in Highlands County, Hardee County, Polk County,
4049 or Manatee County of area 6, which ~~that~~ are open for child
4050 welfare services in the statewide automated child welfare
4051 information system, shall receive their behavioral health care
4052 services through a specialty prepaid plan operated by community-
4053 based lead agencies through a single agency or formal agreements
4054 among several agencies. The agency shall work with the specialty
4055 plan to develop clinically effective, evidence-based
4056 alternatives as a downward substitution for the statewide
4057 inpatient psychiatric program and similar residential care and
4058 institutional services. The specialty prepaid plan must result



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in savings to the state comparable to savings achieved in other Medicaid managed care and prepaid programs. Such plan must provide mechanisms to maximize state and local revenues. The specialty prepaid plan shall be developed by the agency and the Department of Children and Families ~~Family Services~~. The agency may seek federal waivers to implement this initiative. Medicaid-eligible children whose cases are open for child welfare services in the statewide automated child welfare information system and who reside in AHCA area 10 shall be enrolled in a capitated provider service network or other capitated managed care plan, which, in coordination with available community-based care providers specified in s. 409.987 ~~s. 409.1671~~, shall provide sufficient medical, developmental, and behavioral health services to meet the needs of these children.

Effective July 1, 2012, in order to ensure continuity of care, the agency is authorized to extend or modify current contracts based on current service areas or on a regional basis, as determined appropriate by the agency, with comprehensive behavioral health care providers as described in this paragraph during the period prior to its expiration. This paragraph expires October 1, 2014.

Section 58. Paragraph (dd) of subsection (3) of section 409.91211, Florida Statutes, is amended to read:

409.91211 Medicaid managed care pilot program.—

(3) The agency shall have the following powers, duties, and responsibilities with respect to the pilot program:

(dd) To implement service delivery mechanisms within a specialty plan in area 10 to provide behavioral health care



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services to Medicaid-eligible children whose cases are open for child welfare services in the HomeSafeNet system. These services must be coordinated with community-based care providers as specified in s. 409.986 ~~s. 409.1671~~, where available, and be sufficient to meet the developmental, behavioral, and emotional needs of these children. Children in area 10 who have an open case in the HomeSafeNet system shall be enrolled into the specialty plan. These service delivery mechanisms must be implemented no later than July 1, 2011, in AHCA area 10 in order for the children in AHCA area 10 to remain exempt from the statewide plan under s. 409.912(4)(b)5. An administrative fee may be paid to the specialty plan for the coordination of services based on the receipt of the state share of that fee being provided through intergovernmental transfers.

Section 59. Paragraph (d) of subsection (1) of section 420.628, Florida Statutes, is amended to read:

420.628 Affordable housing for children and young adults leaving foster care; legislative findings and intent.—

(1)

(d) The Legislature intends that the Florida Housing Finance Corporation, agencies within the State Housing Initiative Partnership Program, local housing finance agencies, public housing authorities, and their agents, and other providers of affordable housing coordinate with the Department of Children and Families ~~Family Services~~, their agents, and community-based care providers who provide services under s. 409.986 ~~s. 409.1671~~ to develop and implement strategies and procedures designed to make affordable housing available whenever and wherever possible to young adults who leave the



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4117 child welfare system.

4118 Section 60. Subsection (5) of section 960.065, Florida

4119 Statutes, is amended to read:

4120 960.065 Eligibility for awards.—

4121 (5) A person is not ineligible for an award pursuant to
4122 paragraph (2) (a), paragraph (2) (b), or paragraph (2) (c) if that
4123 person is a victim of sexual exploitation of a child as defined
4124 in s. 39.01 (68) (g) ~~s. 39.01 (67) (g)~~.

4125 Section 61. This act shall take effect July 1, 2014.

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 1666

INTRODUCER: Children, Families, and Elder Affairs Committee and Senators Sobel and Gibson

SUBJECT: Child Abuse and Child Welfare Services

DATE: April 9, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Sanford	Hendon		CF SPB 7072 as introduced
1.	Brown	Pigott	AHS	Fav/CS
2.	Brown	Kynoch	AP	Pre-meeting

I. Summary:

SB 1666 makes numerous changes to statutes designed to protect children from abuse and neglect. The bill seeks to improve the quality of child abuse investigations conducted by the Department of Children and Families (DCF) and certain sheriff's offices.¹ The bill increases child welfare expertise in the DCF, improves child abuse investigator qualifications, and creates a consortium of schools of social work to advise the state on child welfare policy.

The bill establishes the position of assistant secretary for child welfare within the DCF. The bill improves the qualifications for child protective investigators and their supervisors by requiring that 80 percent of the persons newly employed for these positions hold bachelor's or master's degrees in social work. To allow the current workforce to meet these improved requirements, the bill exempts employees from paying tuition and fees for a state university social work program. The bill also recreates a loan reimbursement program to assist in recruitment and retention of child protective investigators and supervisors.

The bill creates a criminal offense for abandoning a child and provides penalties for that offense.

The bill creates a consortium of the state's public and private university social work degree programs – the Florida Institute for Child Welfare – that will conduct research and policy analysis to advise the state on improving both the education and training of child protection and child welfare workers.

The bill has an estimated fiscal impact of at least \$260,000 in recurring general revenue; potentially higher costs depend on legislative appropriations.

¹ As authorized under s. 39.3065, F.S., and the General Appropriations Act, sheriffs in Broward, Hillsborough, Manatee, Pasco, Pinellas and Seminole counties investigate child abuse and neglect reported to the abuse hotline rather than the department.

II. Present Situation:

Child Abuse, Neglect, and Death

Child abuse and child neglect, known collectively as child maltreatment, have been identified as serious social issues in the United States. Most recent studies show that the most common child maltreatment is neglect, which accounts for about 78 percent of the cases. Other common maltreatments are physical abuse (approximately 17 percent of cases) and sexual abuse (approximately 9 percent of cases). Victims less than one year old have the highest rate of victimization.

Many factors are associated with child maltreatment, including poverty, substance abuse, domestic violence, and mental illness.² The presence of an adult male unrelated to the child in the household has also been identified as a major risk factor for child maltreatment.

Child maltreatment is one of the nation's most serious problems.³ In federal fiscal year 2011, the most recent year for which national data is available,⁴ an estimated 3.4 million reports of abuse were received by child protection agencies.⁵ After investigation, the number of unduplicated child victims nationally was estimated to be 681,000. Florida reported 208,437 calls to the national child abuse hotline, of which 55,770 resulted in substantiated allegations of abuse.⁶

In addition to the human cost of child abuse and neglect, there is a significant fiscal impact to state government. The DCF has made a conservative estimate of \$72,709 annually per child to provide child welfare, hospitalization, special education, and juvenile justice services to care for an abused or neglected child.⁷ Just the cost of child and adult protective investigations in Florida (of which the great majority are child investigations) was reported to be \$312,493,471 in Fiscal Year 2012-2013.

The most serious result of child maltreatment is the death of the child. Nationally, 1,545 child fatalities resulting from child abuse or neglect were identified for federal fiscal year 2011.⁸ Florida reported 133 child fatalities for that year resulting from child abuse or neglect.⁹ In some instances the family was not previously known to the DCF, and in others the child was previously known. For cases in which the family was previously or currently known to the DCF, understanding the reasons that the previous or current intervention was not effective in avoiding the death is of critical importance.

² Myers, John E.B., *Child Protection in America: Past, Present, and Future*, Oxford University Press, 2006, pp. 134-156.

³ U.S. Department of Health and Human Services, *Child Maltreatment 2011*, p. 1, available at <http://www.acf.hhs.gov/sites/default/files/cb/cm11.pdf> (last visited March 25, 2014).

⁴ All data in this paragraph are for FFY 2011 so that all are comparable.

⁵ *Id.* at vii. The report adds that the rate of referrals have remained fairly constant for at least five years.

⁶ *Id.* at 11, 29.

⁷ Department of Children and Families, *2013 Annual Report*, p. 27, available at <http://www.dcf.state.fl.us/admin/publications/docs/CFSAP-2013June.pdf> (last visited March 25, 2014).

⁸ U.S. Department of Health and Human Services, *ibid.* at 63.

⁹ *Id.* at 63.

Child Protection and Child Welfare Services in Florida

Florida's system for providing services to children alleged to have been abused, neglected, or abandoned is complex, involving the DCF, six sheriff's offices, the Office of the Attorney General, one state attorney's office, the Department of Health, 17 eligible lead community-based providers (lead agencies),¹⁰ and innumerable lead agency subcontractors.

A child protective investigation begins with a report by any person to the Florida Abuse Hotline. The state is required to maintain a non-stop ability and capacity for receiving reports of maltreatments. The reports are sent out to child protective investigators (CPIs) across the state to investigate.

CPIs are most commonly DCF employees, but in six counties, the local sheriff performs the investigative function. The DCF child protective services are delivered through six regional offices, using 1,300 investigators and 300 supervisors. The sheriff's offices employ 387 CPIs and 70 supervisors.

Court hearings are required whenever a child is removed from his or her home. The attorneys in these cases are either DCF employees or employees of the Attorney General's Office under contract to DCF or, in one case, a state attorney's office.

The lead agencies and their subcontractors are the primary providers of services to children and families in the child welfare system. There are currently 17 lead agencies with contracts covering all 20 judicial circuits. The lead agencies and their subcontractors employ case managers and supervisors to oversee the provision of services to children in the child welfare system. Many of the services are not directly provided by the lead agencies or the case management subcontractors, but by providers of substance abuse services or mental health services, or other specialized community-based providers.

There is variation across the state in deciding the point at which the lead agency assumes responsibility for the case management of a child welfare case, with varying degrees of cooperation and overlap between CPIs and lead agencies. In addition, special problems arise when multiple areas of the state are involved in either the investigation or the placement of children.

Child Welfare Workforce

History

The college degrees most tailored to and associated with child welfare are the bachelor's and master's degrees in social work. During the first half of the 20th century, the federal government, in cooperation with universities and local agencies, established a child welfare system staffed by

¹⁰ The term "eligible lead community-based provider" is defined as a single agency with which the DCF is required to contract for the provision of child protective services in a community that is no smaller than a county. See s. 409.1671(1)(e), F.S. These entities are commonly known as community-based care lead agencies or "lead agencies."

individuals with professional social work educations. Child welfare came to be viewed as a prestigious specialty within the social work profession.¹¹

In the 1990's, an increased recognition of child abuse led to enactment of state child abuse and neglect reporting laws and toll-free numbers to report abuse. This resulted in a large increase of child abuse reports, and resources for the preparation and support of additional staff needed to respond to the reports became inadequate. States moved quickly to hire additional employees to investigate abuse. One way to expand the workforce was to reduce staff qualifications. In response to having a varied workforce without similar expertise and training, agencies began to structure child welfare work to reduce its complexity and make it possible for people with fewer qualifications to adequately perform required tasks.¹²

Current Qualifications

The current qualifications for child protective investigators are not specified in statute or rule, but the DCF's internal hiring practices require that new protective investigators have a bachelor's degree in any field and at least one year of child welfare related experience, or a master's degree in any field. Preference is given to candidates with a human services related degree. The DCF is not involved in the hiring practices or standards established by the sheriff's offices.¹³

The current qualifications for child welfare case managers operating in the community-based care system are established by rule and are a bachelor's degree in social work or related field.¹⁴ Since employment decisions for child welfare case managers are made by individual lead agencies, and since the DCF does not collect data on their practices, the extent to which this rule is actually observed by the lead agencies is not clear. The DCF has authority to exempt employees from the rule and often does so.

In addition to these qualifications, the 2012 Legislature required that both child protective investigators and child welfare case managers obtain child welfare certification from a third-party credentialing entity.¹⁵ This certification requires the individual to demonstrate core competency in any child welfare practice area. A "core competency" is defined in statute to be the minimum knowledge, skills, and abilities necessary to carry out child welfare work responsibilities.¹⁶

¹¹ Child Welfare Workforce, Research Roundup, Child Welfare League of America, (Sept. 2002) *available at* <http://www.cwla.org/programs/r2p/rnews0209.pdf>. (last visited March 3, 2014).

¹² Jones, L.P. and Okamura, A. Reprofessionalizing Child Welfare Services: An Evaluation of a Title IV-E Training Program, *Research on Social Work Practice*, Vol. 10 No. 5, September 2000 and Zlotnik, J.L., *Preparing Social Workers for Child Welfare Practice: Lessons from an Historical Review of the Literature*, *Journal of Health & Social Policy*, Vol. 15, No. 3/4, 2002.

¹³ Communication from the Department of Children and Family Services, Family Safety Office, (Sept. 16, 2010) (on file with the Committee on Children, Families, and Elder Affairs.)

¹⁴ Section 409.1671(5)(a), F.S., requires that each community-based lead agency must be licensed as a child-caring or child-placing agency. Section 65C-15.017(2) and (3), F.A.C., sets the education and experience requirements for such agencies.

¹⁵ Currently, the Florida Certification Board.

¹⁶ Section 402.40, F.S.

Social Workers in Child Welfare

The DCF has records on the post-secondary degrees for 1,214 of the state's CPIs.¹⁷ These data do not include information on the degrees of the investigators in the six county sheriff's offices. Approximately 10 percent of the DCF's CPIs have a social work degree, either bachelor's or master's. See Table 1 below:

Table 1. Degrees of DCF Child Protective Investigators

Degree Major	Number	Percent of Workforce
Other	388	32.0%
Criminal Justice	361	29.7%
Other Health and Human Service	350	28.8%
Social Work	115	9.5%
Total	1,214	100%

There were 4,728 students enrolled statewide in programs leading to a bachelor's or master's degree in social work in the fall of 2012.¹⁸ (See Table 2.) There were 1,684 graduates from the state's 14 schools of social work in 2011-2012.¹⁹ The bachelor's level program in social work requires a structured internship with approximately 512 hours of supervision by a master's level social worker and 50 hours of coursework. In contrast, a psychology or a criminology major requires no internship and 36 hours of coursework, and a sociology major requires no internship and 30 hours of coursework.²⁰

¹⁷ Data provided by the Department of Children and Families, (Jan. 27, 2014) (on file with the Senate Committee on Children, Families, and Elder Affairs).

¹⁸ Informal communication, Florida State University School of Social Work, (Mar. 3, 2014) (on file with the Senate Committee on Children, Families, and Elder Affairs).

¹⁹ Data provided by the Florida Board of Governors and the Independent Colleges and Universities for 2011-2012, (Nov. 18, 2013) (on file with the Senate Committee on Children, Families, and Elder Affairs).

²⁰ *Id.*

Table 2. 2011-12 BSW and MSW Enrollment and Degrees

	Public Universities	Enrollment	Degrees
1	Florida Agricultural and Mechanical University	356	81
2	Florida Atlantic University	687	171
3	Florida Gulf Coast University	176	65
4	Florida International University	515	171
5	Florida State University	885	333
6	University of Central Florida	709	255
7	University of North Florida ²¹	0	0
8	University of South Florida	327	184
9	University of West Florida	285	113
	Private Universities		
10	Barry University	420	209
11	Florida Memorial University	50	15
12	Saint Leo University	218	50
	Private Universities		
13	Southeastern University	70	31
14	Warner University	30	6
	Total	4,728	1,684

In 2014, the Office of Program Policy Analysis and Government Accountability (OPPAGA) reviewed child welfare systems in Florida and 16 other states with large child populations.²² Among the issues studied by OPPAGA were the qualifications required by states in hiring child protection workers. The results are as follows:

²¹ According to the Board of Governors, the University of North Florida's BSW program was approved for fall of 2013.

²² OPPAGA, *Research Memorandum, State Child Welfare Systems: Key Components and Performance Indicators*, March 10, 2014.

Table 3: Qualifications for Child Protective Workers in 17 States)

State	Any Bachelor's Degree	Bachelor's Degree in Human Services Field	BSW
Arizona		X	
California			X
Florida	x		
Georgia	x		
Illinois			X
Indiana	x		
Michigan		X	
Missouri		X	
New Jersey	x		
New York	x		
N. Carolina			X
Ohio		X	
Pennsylvania	x		
Tennessee	x		
Texas	x		
Virginia			
Washington			X

In addition, Kansas requires a social work degree.²³

The impact of child welfare workers with a social work degree has been examined by researchers. Education is the variable that child welfare workforce researchers have explored most often in relation to performance.²⁴ Much of the research on the effect of education has focused on agency/university partnership programs that have been established over the past decade using federal funding provided under Title IV-E of the Social Security Act. While there is variation among these programs, they generally aim to increase educational opportunities for agency staff to add to the pool of potential child welfare employees and enhance the relevance of curricula in schools of social work. Research to examine their effects found that students score significantly higher on measures of job-related competencies than non-students. Graduates of the specialized child welfare program in New York State, for example, had higher levels of skills, confidence, and sensitivity to clients.²⁵

²³ Informal communication, Florida State University School of Social Work (March 3, 2014) (on file with the Senate Committee on Children, Families, and Elder Affairs).

²⁴ *Id.* Several studies have found evidence that social work education, at either the bachelors of social work (BSW) or masters of social work (MSW) level, positively correlates with performance. A study conducted in Maryland public child welfare agencies found an MSW to be the best predictor of overall performance as measured by supervisory ratings and employee reports of work related competencies. A national study that measured competencies related to 32 job-related duties found that both MSW and BSW staff were better prepared for child welfare work than their colleagues without social work education. Research conducted with staff in Kentucky's public child welfare agency also revealed that staff with social work degrees scored significantly better on state merit examinations, received somewhat higher ratings from their supervisors, and had higher levels of work commitment than other staff. A Nevada study showed that caseworkers who had a social work degree were significantly more likely to create a permanent plan for children in their caseloads within three years than their colleagues without social work education.

²⁵ *Id.* Also see Lewandowski, K. (1998). *Retention outcomes of a public child welfare long-term training program*. Professional Development: International Journal of Continuing Social Work Education, 1 and Zlotnik, J.L. *Enhancing Child*

Issues Identified in Child Abuse Deaths

Agency Structure and Stability

Since 1998 the DCF has had eight secretaries. In July 2013, the agency secretary resigned²⁶ and an interim secretary was named who has agreed to remain through the 2014 Legislative Session.²⁷ With each new secretary typically comes a somewhat new vision and a new strategic plan that includes substantial changes to both the structure of the DCF and staff assignments, all of which may result in some degree of disruption to the functioning of the department. Frequent changes to federal and state laws and to rules and operating procedures, combined with these leadership changes, have made long-term stability at the DCF difficult to achieve.

Currently, the structure of the DCF is provided in law, which requires the appointment of a secretary, a deputy secretary, and an assistant secretary for substance abuse and mental health. The law also provides that DCF offices may be consolidated, restructured, or rearranged by the secretary, in consultation with the Executive Office of the Governor, and that the secretary may appoint additional managers and administrators as he or she determines are necessary for the effective management of the department.²⁸

Child Welfare Workforce Issues

A number of commissions and task forces have been established over the past 25 years, often after deaths of children from child abuse or neglect. The commissions and task forces have often found that child protective and child welfare staff did not follow procedures or lacked the training and ability to perform their duties. The commissions and task forces have recommended ways to improve the qualifications of child welfare staff. Some of the findings are as follows:

- The Study Commission on Child Welfare was established by the Florida Legislature in November 1989 after several children died while in state care.²⁹ At that time, CPIs reported that prior to employment, they worked most frequently in social service/welfare, law enforcement, and in education positions (54 percent). The rest previously held positions as sales personnel, law clerks, real estate agents, and members of the U.S. military.³⁰ The

Welfare Service Delivery: Promoting Agency-Social Work Education Partnerships, Policy and Practice, 2001. Although the evidence related to educational qualifications is not unequivocal, it provides support for social work education as the best preparation for practice in child welfare. These findings tend to be most consistent with regard to graduates of specialized education programs offering enhanced child welfare content and internships in child welfare settings.

²⁶ Marbin Miller, C. and Klas, M.E., *DCF Secretary David Wilkins Resigns Amid Escalating Controversy over Child Deaths*, TAMPA BAY TIMES, July 18, 2013 available at <http://www.tampabay.com/news/politics/gubernatorial/dcf-secretary-david-wilkins-resigns-amid-escalating-scandal-over-child/2132083> (last visited Mar. 3, 2014).

²⁷ Koff, R., *Interim DCF Boss to Stay on Through Spring*. TAMPA BAY TIMES, Dec. 11, 2013 available at <http://www.tampabay.com/news/politics/stateroundup/interim-dcf-boss-to-stay-on-through-spring/2156688> (last visited Mar. 3, 2014).

²⁸ Section 20.19, F.S.

²⁹ *Id.* Also see Lewandowski, K. (1998). *Retention outcomes of a public child welfare long-term training program*. Professional Development: International Journal of Continuing Social Work Education, 1 and Zlotnik, J.L. *Enhancing Child Welfare Service Delivery: Promoting Agency-Social Work Education Partnerships*, Policy and Practice, 2001. Although the evidence related to educational qualifications is not unequivocal, it provides support for social work education as the best preparation for practice in child welfare. These findings tend to be most consistent with regard to graduates of specialized education programs offering enhanced child welfare content and internships in child welfare settings.

³⁰ *Id.*

commission recommended that the state should recruit CPIs with bachelor's degrees in social work, child development, or guidance and counseling.³¹

- On April 25, 2002, the DCF revealed that a child in its care, five-year-old Rilya Wilson, had disappeared 15 months earlier from her custodial home and had not been seen since. In response, Gov. Jeb Bush appointed a four-member Governor's Blue-Ribbon Panel on Child Protection.³² The panel recommended that DCF compare the performance and longevity of child welfare staff who had degrees in social work or other behavioral sciences to staff who had other degrees.³³
- In a 2013 Florida case involving a two-year-old child who died from physical abuse, the Child Welfare League of America (CWLA) was commissioned to study the death and make recommendations. The family included two adult women, five adult men, and 10 children, including the victim. These people had varying connections and living arrangements throughout the child's life, and the family had been reported to the child abuse hotline 16 times between 2005 and 2013. The CWLA report stated the family had experienced substance abuse, domestic violence, a "chronic lack of even marginal parental nurturing," developmental delays in several of the children in the home, referrals for services that were not followed through, lack of managerial review, and "many years of systemic failure." In the words of the report, "(c)hanging a checklist or hiring additional staff cannot solve these pervasive problems."³⁴

One of the problems highlighted by the various commissions and panels is the turnover of child protective investigator workforce. Experience among child abuse investigators suffers with significant employee turnover. The annual turnover rate of department CPIs has been 32 percent, 19 percent, and 22 percent over the last three years. The negative impact of turnover is well known – increased training costs (\$6.2 million each year) and inexperienced workers.

Child welfare workers with degrees in social work are not immune from turnover. During the period from 2004-2013, Florida State University (FSU) placed and supervised a total of 293 interns in child welfare settings in the northwest region of Florida. While many of the interns were hired for positions with the DCF, retention was difficult, with few staying more than a few years. As a result, FSU began surveying students leaving employment within the field to determine the reasons for leaving. The top five reasons were:

- Poor overall management/administration by upper-level management;
- Lack of professional support from supervisors;
- Lack of respect and lack of feeling valued by supervisors and upper-level management;
- Lack of focus on teamwork, with employees often feeling like they were pitted against each other by upper-level management and supervisors; and
- No support for professional development or advancement.³⁵

³¹ Report of the Study Commission on Child Welfare, *Part One Recommendations* (Mar. 1991) (on file with the Senate Committee on Children, Families, and Elder Affairs).

³² Governor's Blue Ribbon Panel on Child Protection, (May 2002) (on file with the Senate Committee on Children, Families, and Elder Affairs).

³³ *Id.* In spite of continuing dialog with the Schools of Social Work statewide, the department does not appear to have made progress towards increasing the number of staff with degrees in social work.

³⁴ Child Welfare League of America, *Special Review Report re JVM*, submitted December 19, 2013, p. 15.

³⁵ *Id.*

While respondents indicated that caseloads were indeed high at some points and that salaries could be better, neither of these issues were cited as primary reasons for leaving.³⁶

As part of its review of child welfare systems, OPPAGA conducted a series of focus groups with both child protective service investigators and child welfare case managers. They found a variety of problems in the working conditions of CPIs and case managers.³⁷ These problems included:

- A lack of mentoring and management support across the state:
Some case managers noted that high turnover rates among workers resulted in supervisors carrying caseloads themselves, leaving little time for supervision or mentoring. In addition, most case managers reported that supervisors' primarily focused on meeting DCF performance measures rather than encouraging quality work or mentoring new case managers.
- Administrative tasks that detract from time spent with families and children:
Investigators estimated that they spend 60 percent to 80 percent of their time on the administrative requirements associated with each case rather than with families. Investigators stated they could not complete required case-related tasks in the standard 40-hour work week and that they routinely work nights and weekends.
- Concern about the sometimes volatile work environment:
Both investigators and case managers reported that they are required to go into unsafe neighborhoods and dangerous, violent homes, but they do not feel that the DCF is concerned for their safety. While investigators can request law enforcement agencies to have officers accompany them, they reported that law enforcement agencies are sometimes not responsive to their requests or that it takes hours for officers to arrive.
- Outdated technology:
CPIs and case managers reported that their electronic equipment has not kept up with prevailing technology. For example, they reported they are issued laptop computers that are not enabled for wireless Internet connection and that DCF-issued mobile phones often have poor or no reception, depending on the investigator's location. As a result, staff must use personal phones at their own expense.

According to the U.S. Administration on Children and Families, a supportive organizational culture is a key ingredient in building a stable and effective child welfare workforce. Core elements of organizational culture include agency leadership, workforce management, supervision, and support. Organizational culture and employee relations significantly influence an agency's ability to recruit and retain staff as well as make long-lasting workforce changes.

Efforts to Improve Child Protection

Florida has taken many actions to improve the quality of child abuse investigators over the years. Most recently, the Legislature has made significant investments in child protection and child welfare:

³⁶ *Id.*

³⁷ OPPAGA, *ibid.* (Mar. 6, 2014)

- In the 2010 Session, the Legislature required child abuse investigators and child welfare case workers to be certified.³⁸ The certification is outsourced and includes testing in child welfare and agreement to a set of ethics.
- In the 2011 Session, the Legislature provided \$11 million to the DCF to redesign the central abuse hotline.
- In the 2012 Session, the Legislature made several improvements to the child protection system by:
 - Appropriating \$10.8 million to provide additional permanent and temporary child abuse investigators.
 - Appropriating \$7.9 million to improve the state's child welfare information system (Florida Safe Families Network, or FSN).
 - Providing funding to raise CPI salaries by \$4,300 per CPI per year.
- In the 2013 Session, the Legislature provided \$4 million for CPI redesign (including sheriff's offices) and \$1.8 million for FSN.

University Partnerships with Child Welfare

Section 1004.61, F.S., currently directs the DCF to form partnerships with the schools of social work of state universities in order to encourage the development of graduates trained to work in child protection. The University of South Florida for example, coordinates child welfare training in the state.

The federal government provides both policy and financial resources to states for child welfare services under Title IV of the Social Security Act. One use of such funds is the education and training of child welfare workers. Some states use these funds to create partnerships between their child welfare agencies and colleges of social work at state universities. The universities provide the expertise in child welfare research, policy, and practices. They also develop and conduct on-the-job training to child welfare workers. The child welfare agency, in turn, advises the universities on the content of the training and education in the university so graduates are better prepared for child welfare work.

Unlawful Abandonment of a Child

Adoption is a legal process, but the process is not always properly carried-out, which can put children in danger. Beginning on September 9, 2013, Reuters New Service published a five-part series, entitled "The Child Exchange," which exposed how American parents were using Internet message boards to find new families for children they regretted adopting – a practice that has been called "private re-homing." Reuters spent 18 months investigating eight message boards where participants advertised unwanted children and examined two dozen cases in which adopted children were re-homed.³⁹ The investigative series found:

- An advertisement for re-homing appeared, on average, at least once per week;
- The average range for children being advertised for re-homing is 6 to 14 years of age;

³⁸ Chapter 2011-163, Laws of Florida.

³⁹ Megan Twohey, *The Child Exchange*, REUTERS, (Sept. 9, 2013), available at <http://www.reuters.com/investigates/adoption/#article/part1> (last visited Mar. 3, 2014).

- Re-homing is accomplished through basic power of attorney documents which allow the new guardians of the child to enroll the child in school or secure government benefits;
- At least 70 percent of the children offered for re-homing on one Yahoo message board had been adopted from foreign countries;
- Only 29 states have laws that govern how children can be advertised for adoption;⁴⁰ and
- The Interstate Compact for the Placement of Children, which is meant to be a safeguard against the improper placement of children across state lines, is often not enforced by law enforcement.⁴¹

Florida law currently contains no criminal provisions specifically relating to re-homing.

III. Effect of Proposed Changes:

Section 1 amends s. 20.19, F.S., to direct the secretary of the DCF to appoint an assistant secretary for child welfare to spearhead the DCF's efforts to carry out its duties and responsibilities for child protection and child welfare, and specifies the qualifications for a person appointed to that position.

Section 2 amends s. 402.40, F.S., to clarify the current requirement that persons providing child protective and child welfare services, whether employed by the DCF, the sheriff's offices, lead agencies, or lead agency subcontractors, must earn and maintain a professional certification for a professional credentialing entity approved by the DCF.

Section 3 creates s. 402.402, F.S., to require that on an annual and statewide basis, 80 percent of all child protective investigators and child protective investigation supervisors hired on or after July 1, 2014, by the DCF or a sheriff's office, must have a bachelor's degree or master's degree in social work from an accredited school of social work. The bill exempts all personnel employed before July 1, 2014, from this requirement. The bill requires an annual report to the governor, the president of the Senate, and the speaker of the House of Representatives as to the compliance with this requirement. This change is intended to ensure that the majority of child protective service investigators and supervisors have the best qualification and education for performing their duties.

Section 4 creates s. 402.403, F.S., to establish a child protective investigator and supervisor tuition exemption program and sets out the qualifications for obtaining the exemption. The program is for high-performing investigators and supervisors who do not have a social work degree.

Section 5 creates s. 402.404, F.S., to establish a child protective investigator and supervisor student loan forgiveness program and sets out the qualifications for obtaining the loan forgiveness. Approximately half of all graduates from the state university system have a student loan debt.⁴² The bill allows the DCF to pay up to \$3,000 per year towards the student loan debt

⁴⁰ Florida is one of the 29 states that have addressed this issue. See s. 63.212(1)(g), F.S.

⁴¹ *Id.*

⁴² Data provided by the Florida Board of Governors, (Feb. 11, 2014) (on file with the Senate Committee on Children, Families, and Elder Affairs).

as an incentive for degreed social workers to become child protective investigators or supervisors.

Section 6 creates s. 827.10, F.S., to establish the criminal offense of abandoning a child and provides definitions and penalties. This will provide a better tool for prosecutors to stop the unlawful adoptions referred to as “re-homing.”

Section 7 creates s. 1004.615, F.S., to establish the Florida Institute for Child Welfare (FICW) and to set forth the purpose, duties, and responsibilities of the institute. The FICW is defined as a consortium of the state’s 14 public and private university schools of social work. The FICW is charged to advise the state on child welfare policy, improve the curriculum for social work degree programs, and develop on-the-job training for child protective investigators and child welfare case managers. The bill requires the FICW to provide a report annually by October 1 to the governor, the president of the Senate, and the speaker of the House of Representatives to describe its activities in the preceding fiscal year, present significant research findings and results of other programs, and make specific recommendations for improving child protection and child welfare services.

Section 8 amends s. 1009.25, F.S., to add child protective investigators and supervisors to the list of persons exempted from payment of tuition and fees at a state college or state university.

Section 9 repeals s. 402.401, F.S., which contains the current-law provisions relating to student loan forgiveness. The bill makes this statute obsolete.

Section 10 repeals s. 1004.61, F.S., which contains the current-law provisions relating to partnerships between the DCF and state schools of social work. The bill makes this statute obsolete.

Section 11 corrects a cross-reference in s. 39.01, F.S.

Section 12 provides an effective date of July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

Private schools of social work may see an increased enrollment of students as a result of SB 1666.

C. Government Sector Impact:

The annual cost of an additional assistant secretary and an executive assistant in the DCF will be approximately \$260,000.

The requirement in the bill that 80 percent of new CPIs and supervisors hold a social work degree should have little or no fiscal impact. The cost of the tuition exemption program to the state university system cannot be determined until the number of persons taking advantage of the program is known.

There will be costs associated with the loan forgiveness program. The costs will be limited by the amount of funding appropriated by the Legislature. Using the current number of department CPIs (1,522) and an average turnover rate of 24 percent, then an additional 365 CPIs would be hired each year. If all of these new hires are social workers and receive the loan repayment amount of \$3,000, then the annual cost estimate could range as high as \$1,095,000.

The establishment of the Institute for Child Welfare would have associated costs depending on the structure or the institute. Similar consortiums of Florida universities can cost between \$500,000 and \$2 million, according to the Florida Board of Governors.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.19, 39.01, 402.40 and 1009.25.

This bill creates the following sections of the Florida Statutes: 402.402, 402.403, 402.404, 827.10, and 1004.615.

This bill repeals the following sections of the Florida Statutes: 402.401 and 1004.61.

IX. Additional Information:

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

None.

- B. Amendments:

None.

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

By the Committee on Children, Families, and Elder Affairs; and
Senator Sobel

586-02450-14

20141666__

1 A bill to be entitled
2 An act relating to child abuse and child welfare
3 services; amending s. 20.19, F.S.; requiring the
4 secretary of the Department of Children and Families
5 to appoint an Assistant Secretary for Child Welfare;
6 providing requirements for such position; amending s.
7 402.40, F.S.; providing requirements for persons
8 providing child welfare services; creating s. 402.402,
9 F.S.; providing education requirements for child
10 protective investigators and child protective
11 investigation supervisors; providing for
12 implementation of such requirements; providing for
13 exemptions; requiring a report to the Governor and the
14 Legislature by a specified date; creating s. 402.403,
15 F.S.; establishing a tuition exemption program for
16 child protective investigators and supervisors;
17 providing eligibility requirements; creating s.
18 402.404, F.S.; establishing a student loan forgiveness
19 program for child protective investigators and
20 supervisors; providing eligibility requirements;
21 providing requirements for the program; creating s.
22 827.10, F.S.; defining terms; establishing the
23 criminal offense of unlawful abandonment of a child;
24 providing criminal penalties; providing exceptions;
25 creating s. 1004.615, F.S.; establishing the Florida
26 Institute for Child Welfare; providing the purpose of
27 the institute; requiring the department to contract
28 with the institute for the performance of specified
29 duties; requiring the institute to contract and work

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30 with specified entities; providing duties and
31 responsibilities of the institute; providing for the
32 administration of the institute; requiring a report to
33 the Governor and the Legislature by a specified date;
34 amending s. 1009.25, F.S.; exempting tuition and fees
35 for specified child protective investigators and child
36 protective investigation supervisors; repealing s.
37 402.401, F.S., relating to the Florida Child Welfare
38 Student Loan Forgiveness Program; repealing s.
39 1004.61, F.S., relating to partnerships to develop
40 child protective investigation workers; amending s.
41 39.01, F.S.; conforming a cross-reference; providing
42 an effective date.
43
44 Be It Enacted by the Legislature of the State of Florida:
45
46 Section 1. Present subsections (3) through (5) of section
47 20.19, Florida Statutes, are redesignated as subsections (4)
48 through (6), respectively, a new subsection (3) is added to that
49 section, and subsection (2) of that section is amended, to read:
50 20.19 Department of Children and Families.—There is created
51 a Department of Children and Families.
52 (2) SECRETARY OF CHILDREN AND FAMILIES; DEPUTY SECRETARY.—
53 (a) The head of the department is the Secretary of Children
54 and Families. The secretary is appointed by the Governor,
55 subject to confirmation by the Senate. The secretary serves at
56 the pleasure of the Governor.
57 (b) The secretary shall appoint a deputy secretary who
58 shall act in the absence of the secretary. The deputy secretary

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

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is directly responsible to the secretary, performs such duties as are assigned by the secretary, and serves at the pleasure of the secretary.

(3) ASSISTANT SECRETARIES.—

(a) Child Welfare.—

1. The secretary shall appoint an Assistant Secretary for Child Welfare to lead the department in carrying out its duties and responsibilities for child protection and child welfare. The individual appointed to this position shall serve at the pleasure of the secretary.

2. The assistant secretary must have a degree in social work or at least 7 years of experience working in organizations delivering child protective or child welfare services.

(b) Substance Abuse and Mental Health.—

~~(e)~~1. The secretary shall appoint an Assistant Secretary for Substance Abuse and Mental Health. The assistant secretary shall serve at the pleasure of the secretary and must have expertise in both areas of responsibility.

2. The secretary shall appoint a Director for Substance Abuse and Mental Health who has the requisite expertise and experience to head the state's Substance Abuse and Mental Health Program Office.

Section 2. Section 402.40, Florida Statutes, is amended to read:

402.40 Child welfare training and certification.—

(1) LEGISLATIVE INTENT.—In order to enable the state to provide a systematic approach to staff development and training for persons providing child welfare services which ~~that~~ will meet the needs of such staff in their discharge of duties, it is

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the intent of the Legislature that the Department of Children and ~~Families~~ Family Services work in collaboration with the child welfare stakeholder community, including department-approved third-party credentialing entities, to ensure that staff have the knowledge, skills, and abilities necessary to competently provide child welfare services. It is the intent of the Legislature that each person providing child welfare services in this state earns and maintains a professional certification from a professional credentialing entity that is approved by the Department of Children and ~~Families~~ Family Services. The Legislature further intends that certification and training programs will aid in the reduction of poor staff morale and of staff turnover, will positively impact on the quality of decisions made regarding children and families who require assistance from programs providing child welfare services, and will afford better quality care of children who must be removed from their families.

(2) REQUIREMENTS FOR PERSONS PROVIDING CHILD WELFARE SERVICES.—Each person providing child welfare services who is employed by the department, a sheriff's office, or a community-based care lead agency or subcontractor is required to earn and maintain a professional certification from a professional credentialing entity that is approved by the department.

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

(a) "Child welfare certification" means a professional credential awarded by a department-approved third-party credentialing entity to individuals demonstrating core competency in any child welfare practice area.

(b) "Child welfare services" means any intake, protective

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investigations, preprotective services, protective services, foster care, shelter and group care, and adoption and related services program, including supportive services and supervision provided to children who are alleged to have been abused, abandoned, or neglected or who are at risk of becoming, are alleged to be, or have been found dependent pursuant to chapter 39.

(c) "Core competency" means the minimum knowledge, skills, and abilities necessary to carry out work responsibilities.

(d) "Person providing child welfare services" means a person who has a responsibility for supervisory, direct care, or support-related work in the provision of child welfare services pursuant to chapter 39.

(e) "Preservice curriculum" means the minimum statewide training content based upon the core competencies which is made available to all persons providing child welfare services.

(f) "Third-party credentialing entity" means a department-approved nonprofit organization that has met nationally recognized standards for developing and administering professional certification programs.

(4)-(3) THIRD-PARTY CREDENTIALING ENTITIES.—The department shall approve one or more third-party credentialing entities for the purpose of developing and administering child welfare certification programs for persons who provide child welfare services. A third-party credentialing entity shall request such approval in writing from the department. In order to obtain approval, the third-party credentialing entity must:

(a) Establish professional requirements and standards that applicants must achieve in order to obtain a child welfare

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certification and to maintain such certification.

(b) Develop and apply core competencies and examination instruments according to nationally recognized certification and psychometric standards.

(c) Maintain a professional code of ethics and a disciplinary process that apply to all persons holding child welfare certification.

(d) Maintain a database, accessible to the public, of all persons holding child welfare certification, including any history of ethical violations.

(e) Require annual continuing education for persons holding child welfare certification.

(f) Administer a continuing education provider program to ensure that only qualified providers offer continuing education opportunities for certificateholders.

(5)-(4) CHILD WELFARE TRAINING TRUST FUND.—

(a) There is created within the State Treasury a Child Welfare Training Trust Fund to be used by the department ~~of Children and Family Services~~ for the purpose of funding the professional development of persons providing child welfare services.

(b) One dollar from every noncriminal traffic infraction collected pursuant to s. 318.14(10)(b) or s. 318.18 shall be deposited into the Child Welfare Training Trust Fund.

(c) In addition to the funds generated by paragraph (b), the trust fund shall receive funds generated from an additional fee on birth certificates and dissolution of marriage filings, as specified in ss. 382.0255 and 28.101, respectively, and may receive funds from any other public or private source.

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(d) Funds that are not expended by the end of the budget cycle or through a supplemental budget approved by the department shall revert to the trust fund.

~~(6)(5)~~ CORE COMPETENCIES.—

(a) The department ~~of Children and Family Services~~ shall approve the core competencies and related preservice curricula that ensures that each person delivering child welfare services obtains the knowledge, skills, and abilities to competently carry out his or her work responsibilities.

(b) The identification of these core competencies and development of preservice curricula shall be a collaborative effort that includes professionals who have expertise in child welfare services, department-approved third-party credentialing entities, and providers that will be affected by the curriculum, including, but not limited to, representatives from the community-based care lead agencies, sheriffs' offices conducting child protective ~~protection~~ investigations, and child welfare legal services providers.

(c) Community-based care agencies, sheriffs' offices, and the department may contract for the delivery of preservice and any additional training for persons delivering child welfare services if the curriculum satisfies the department-approved core competencies.

(d) Department-approved credentialing entities shall, for a period of at least 12 months after implementation of the third-party child welfare certification programs, grant reciprocity and award a child welfare certification to individuals who hold current department-issued child welfare certification in good standing, at no cost to the department or the certificateholder.

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~~(7)(6)~~ ADOPTION OF RULES.—The department ~~of Children and Family Services~~ shall adopt rules necessary to administer ~~carry out the provisions of~~ this section.

Section 3. Section 402.402, Florida Statutes, is created to read:

402.402 Child protective investigators; child protective investigation supervisors.—

(1) CHILD PROTECTIVE INVESTIGATION STAFF REQUIREMENTS.—

(a) On an annual and statewide basis, 80 percent of child protective investigators and child protective investigation supervisors hired on or after July 1, 2014, by the department or a sheriff's office must have a bachelor's degree or a master's degree in social work from a college or university social work program accredited by the Council on Social Work Education.

(b) Child protective investigators and child protective investigation supervisors employed by the department or a sheriff's office before July 1, 2014, are exempt from the requirements in paragraph (a).

(2) REPORT.—By October 1, 2014, and annually thereafter, the secretary of the department shall report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on compliance with the requirements of subsection (1). A sheriff who provides child protection services shall report to the secretary of the department information regarding the progress of his or her office in meeting the requirements of subsection (1).

Section 4. Section 402.403, Florida Statutes, is created to read:

402.403 Child Protective Investigator and Supervisor

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233 Tuition Exemption Program.—

234 (1) There is established within the department the Child
 235 Protective Investigator and Supervisor Tuition Exemption Program
 236 for the purpose of recruiting and retaining high-performing
 237 individuals who are employed as child protective investigators
 238 or child protective investigation supervisors with the
 239 department or sheriff's office and who do not have a bachelor's
 240 degree or master's degree in social work. The department or
 241 sheriff's office may exempt tuition and fees to a state
 242 university for an employee who is:

243 (a) Employed as a child protective investigator or child
 244 protective investigation supervisor by the department or
 245 sheriff's office and who receives personnel evaluations
 246 indicating a high level of performance; and

247 (b) Accepted in an upper-division undergraduate or graduate
 248 level college or university social work program accredited by
 249 the Council on Social Work Education which leads to either a
 250 bachelor's degree or a master's degree in social work.

251 (2) To the greatest extent possible, the college or
 252 university social work program shall consider the training
 253 completed and experience of the child protective investigator or
 254 child protective investigation supervisor in granting credit
 255 towards the degree.

256 Section 5. Section 402.404, Florida Statutes, is created to
 257 read:

258 402.404 Child Protective Investigator and Supervisor
 259 Student Loan Forgiveness Program.—

260 (1) There is established within the department the Florida
 261 Child Protective Investigator and Supervisor Student Loan

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262 Forgiveness Program. The purpose of the program is to increase
 263 employment and retention of high-performing individuals who have
 264 either a bachelor's degree or a master's degree in social work
 265 as child protective investigators or child protective
 266 investigation supervisors with the department or sheriff's
 267 office by making payments toward loans received by students from
 268 federal or state programs or commercial lending institutions for
 269 the support of prior postsecondary study in accredited social
 270 work programs.

271 (2) In order to be eligible for the program, a candidate
 272 must be employed as a child protective investigator or child
 273 protective investigation supervisor by the department or a
 274 sheriff's office, must receive a personnel evaluation indicating
 275 a high level of performance, and must have graduated from an
 276 accredited social work program with either a bachelor's degree
 277 or a master's degree in social work.

278 (3) Only loans to pay the costs of tuition, books, fees,
 279 and living expenses shall be covered.

280 (4) The department may make loan payments of up to \$3,000
 281 each year for up to 4 years on behalf of selected graduates of
 282 an accredited social work program from the funds appropriated
 283 for this purpose. All payments are contingent upon continued
 284 proof of employment as a child protective investigator or a
 285 child protective investigation supervisor with the department or
 286 sheriff's office and made directly to the holder of the loan.

287 (5) A student who receives a tuition exemption pursuant to
 288 s. 402.403 is not eligible to participate in the Child
 289 Protective Investigator Student Loan Forgiveness Program.

290 Section 6. Section 827.10, Florida Statutes, is created to

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read:

827.10 Unlawful abandonment of a child.-(1) As used in this section, the term:

(a) "Abandons" or "abandonment" means to leave a child in a place or with a person other than a relative with the intent not to return to the child and with the intent not to provide for the care of the child.

(b) "Care" means support and services necessary to maintain the child's physical and mental health, including, but not limited to, food, nutrition, clothing, shelter, supervision, medicine, and medical services that a prudent person would consider essential for the well-being of the child.

(c) "Caregiver" has the same meaning as provided in s. 39.01(10).

(d) "Child" means a child for whose care the caregiver is legally responsible.

(e) "Relative" has the same meaning as provided in s. 39.01(64).

(2) A caregiver who abandons a child under circumstances in which the caregiver knew or should have known that the abandonment exposes the child to unreasonable risk of harm commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) This section does not apply to a person who surrenders a newborn infant in compliance with s. 383.50.

(4) This section does not preclude prosecution for a criminal act under any other law, including, but not limited to, prosecution of child abuse or neglect of a child under s. 827.03.

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Section 7. Section 1004.615, Florida Statutes, is created to read:

1004.615 Florida Institute for Child Welfare.-

(1) There is established the Florida Institute for Child Welfare. The purpose of the institute is to advance the well-being of children and families by improving the performance of child protection and child welfare services through research, policy analysis, evaluation, and leadership development. The institute shall consist of a consortium of public and private universities offering degrees in social work and shall be housed within the College of Social Work of the Florida State University.

(2) Using such resources as authorized in the General Appropriations Act, the Department of Children and Families shall contract with the institute for performance of the duties described in subsection (4).

(3) The institute shall work with the department, sheriffs, community-based care lead agencies, community-based care provider organizations, and other partners who contribute to and participate in providing child protection and child welfare services.

(4) The duties and responsibilities of the institute include the following:

(a) Maintain a program of research that contributes to scientific knowledge and informs both policy and practice related to child safety, permanency, and child and family well-being.

(b) Advise the department and other organizations participating in the child protection and child welfare process

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349 regarding scientific evidence on policy and practice related to
 350 child safety, permanency, and child and family well-being.
 351 (c) Assess the performance of child protection and child
 352 welfare services based on specific outcome measures.
 353 (d) Evaluate the scope and effectiveness of preservice and
 354 inservice training for child protection and child welfare
 355 workers.
 356 (e) Advise and assist the department in efforts to improve
 357 preservice and inservice training for child protection and child
 358 welfare workers.
 359 (f) Assess the readiness of social work graduates to assume
 360 job responsibilities in the child protection and child welfare
 361 system and identify gaps in education that can be addressed
 362 through the modification of curricula or the establishment of
 363 industry certifications.
 364 (g) Develop and maintain a program of professional support,
 365 including training to facilitate internships and transitions to
 366 the workforce and training courses and consulting services that
 367 assist both individuals and organizations in implementing
 368 adaptive and resilient responses to workplace stress.
 369 (h) Participate in the department's critical incident
 370 response team and assist in the preparation of reports about
 371 such incidents.
 372 (i) Identify effective policies and best practices,
 373 including innovations in management of human service
 374 organizations and communicate these findings to the department
 375 and other organizations participating in the child protection
 376 and child welfare process.
 377 (5) The institute shall be administered by a director who

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378 is appointed by the President of the Florida State University.
 379 The director's office shall be located at the Florida State
 380 University. Other universities participating in the consortium
 381 shall also provide facilities, staff, and other resources to the
 382 institute to establish statewide access to institute programs
 383 and services. The director must be a child welfare professional
 384 and must hold a faculty appointment in the College of Social
 385 Work. The director is responsible for overall management of the
 386 institute and for developing and executing the work plan
 387 consistent with the responsibilities in subsection (4).
 388 (6) By October 1 of each year, the institute shall provide
 389 a written report to the Governor, the President of the Senate,
 390 and the Speaker of the House of Representatives which outlines
 391 its activities in the preceding state fiscal year, reports
 392 significant research findings as well as results of other
 393 programs, and provides specific recommendations for improving
 394 child protection and child welfare services.
 395 Section 8. Paragraph (h) is added to subsection (1) of
 396 section 1009.25, Florida Statutes, to read:
 397 1009.25 Fee exemptions.—
 398 (1) The following students are exempt from the payment of
 399 tuition and fees, including lab fees, at a school district that
 400 provides workforce education programs, Florida College System
 401 institution, or state university:
 402 (h) A child protective investigator or a child protective
 403 investigation supervisor employed by the Department of Children
 404 and Families or a sheriff's office who is enrolled in an
 405 accredited bachelor's degree or master's degree in social work
 406 program pursuant to s. 402.403.

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407 Section 9. Section 402.401, Florida Statutes, is repealed.
408 Section 10. Section 1004.61, Florida Statutes, is repealed.
409 Section 11. Subsection (27) of section 39.01, Florida
410 Statutes, is amended to read:
411 39.01 Definitions.—When used in this chapter, unless the
412 context otherwise requires:
413 (27) “District administrator” means the chief operating
414 officer of each service district of the department as defined in
415 s. 20.19(5) and, where appropriate, includes any district
416 administrator whose service district falls within the boundaries
417 of a judicial circuit.
418 Section 12. This act shall take effect July 1, 2014.

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/10/2014

Meeting Date

Topic _____

Bill Number 1666
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG FLORIDA 33705
City State Zip

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☐ For ☐ Against ☒ Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-9-14

Meeting Date

Topic _____

Bill Number SB 1666
(if applicable)

Name JIM AKIN

Amendment Barcode _____
(if applicable)

Job Title EXECUTIVE DIRECTOR

Address 1931 DELLWOOD DRIVE
Street

Phone 850-224-2400

TALLAHASSEE, FL 32303
City State Zip

E-mail JIM@NASWFL.ORG

Speaking: ☒ For ☐ Against ☐ Information

Representing NATIONAL ASSN. OF SOCIAL WORKERS - FLORIDA

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/10

Meeting Date

Topic Child Welfare

Bill Number 1666
(if applicable)

Name Cynthia Henderson

Amendment Barcode _____
(if applicable)

Job Title _____

Address 108 E Jefferson St Ste A
Tall, FL 32301
City State Zip

Phone 850 210 5385

E-mail cjhenderson@me.com

Speaking: ☒ For ☐ Against ☐ Information

Representing LSA

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard 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 1724

INTRODUCER: Appropriations Committee; and Children, Families, and Elder Affairs Committee

SUBJECT: Human Trafficking

DATE: April 14, 2014

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
Crosier	Hendon		CF SPB 7088 as introduced
1. Brown	Kynoch	AP	Fav/CS

I. Summary:

CS/SB 1724 changes statutory requirements for safe houses, establishes standards for residential treatment of sexually exploited children, and authorizes safe foster homes. The bill creates a certification program for safe houses and safe foster homes at the Department of Children and Families (DCF), and requires certification in order for these facilities to accept state funds specifically allocated to care for sexually exploited children.

The bill also makes administrative changes to the requirements for the DCF and the community-based care lead agencies (lead agencies) related to sexually exploited children. The bill requires the DCF to create or adopt initial screening and assessment instruments for use in identifying and serving sexually exploited children and allows a child to be placed in a safe house if the assessment instrument determines that a safe house is available and is the most appropriate setting.

The bill requires the DCF and lead agencies to have response protocols in place regarding sexually exploited children. The bill also requires the DCF, lead agencies, and Department of Juvenile Justice (DJJ) to participate on any local task forces related to this population.

The bill creates the Statewide Council on Human Trafficking and provides for the council's membership, duties, and reporting responsibilities.

The bill requires the Office of Program Policy Analysis and Government Accountability to conduct an ongoing study on commercial sexual exploitation of children in Florida, specifies topics for inclusion in the study, and requires annual reports.

The bill has an indeterminate fiscal impact.

II. Present Situation:

Florida law defines human trafficking as “soliciting, recruiting, harboring, providing, enticing, maintaining, or obtaining another person for the purpose of exploitation of that person.”¹ Human trafficking involves the exploitation of persons for commercial sex or forced labor.² Trafficking often subjects victims to force, fraud, and coercion.³

There are no definitive statistics on the extent of human trafficking. The U.S. Department of State estimates that as many as 27 million victims are being trafficked worldwide at any given time. They also estimate that there were approximately 40,000 victims being trafficked in the United States in 2012.⁴ Florida is estimated to have the third highest rate of human trafficking in the United States, following New York and California.⁵

Commercial Sex Trafficking of Minors

Human trafficking involving commercial sex is also known as commercial sexual exploitation or commercial sex trafficking. The United States Trafficking Victims Protection Act of 2000 defines sex trafficking as the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.⁶

In cases of commercial sex trafficking of minors, handlers or “pimps” often operate as the primary domestic sex traffickers and target particularly vulnerable youth, such as runaway and homeless youth.⁷ Pimps may engage in a “grooming” process where a child is showered with gifts, treats, and compliments in order to earn his or her trust.⁸ Often the children have low self-esteem and may come from broken families or have past childhood trauma which may include sexual or physical abuse.⁹ This makes the children easier targets because they are emotionally vulnerable and may be seeking someone to love and care for them.

After the pimp earns the child’s trust, the pimp may engage in physical, sexual, and/or emotional abuse of the child.¹⁰ The effect is to psychologically and emotionally break the child so that he or she becomes completely dependent on the pimp.¹¹ Psychologists and clinicians call this phenomenon “traumatic bonding.”¹² This occurs where a person has dysfunctional attachment that occurs in the presence of danger, shame, or exploitation. These situations often include seduction, deception or betrayal, and some form of danger or risk is always present.¹³ While this

¹ Section 787.06(2)(d), F.S.

² Section 787.06(1)(a), F.S.

³ *Id.*

⁴ *Trafficking in Persons Report 2013*, U.S. Department of State, available at: <http://www.state.gov/j/tip/rls/tiprpt/2013/> (last visited March 14, 2014).

⁵ Healthy Families Subcommittee Presentation by Professor Terry Coonan, FSU Human Rights Center, (Jan. 14, 2014).

⁶ Trafficking Victims Protection Act of 2000, 22 USC 7101.

⁷ Sex Trafficking of Children in the United States, The Polaris Project, available at <http://www.polarisproject.org/what-we-do/policy-advocacy/prosecuting-traffickers/895-sex-trafficking-of-minors> (last visited March 14, 2014).

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

is a common way that commercial sexual exploitation occurs, some children are commercially sexually exploited by family members or organized networks.¹⁴

The Department of Homeland Security (DHS) reports that each year as many as 100,000 to 300,000 children in the United States are at risk of being trafficked for commercial sex in the United States.¹⁵

Commercial Sex Trafficking of Minors in Florida

The Department of Children and Families (DCF) verified 182 victims of commercial sex trafficking in Fiscal Year 2012-2013. Of these, nine victims were exploited by their caregiver, and 27 victims were removed from their caregivers. The DCF also identified an additional 185 children who may be at risk of becoming victims of commercial sexual exploitation.^{16, 17} According to the DCF, there are likely many more victims in Florida than have been identified.

The Florida Safe Harbor Act of 2012 allows sexually exploited children to be treated as dependent children¹⁸ rather than delinquent children.¹⁹ The act amended Florida law to classify child prostitution as abuse of a child, rather than a criminal act by the child, and allows children who are victims of sexual exploitation to be adjudicated dependent.²⁰

¹⁴ *Id.*

¹⁵ *Human Trafficking 101 for School Administrators and Staff*, Blue Campaign, The Department of Homeland Security, available at:

<http://www.google.com/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=1&cad=rja&ved=0CCoQFjAA&url=http%3A%2F%2Fwww.dhs.gov%2Fsites%2Fdefault%2Ffiles%2Fpublications%2Fblue-campaign%2FBlue%2520Campaign%2520-%2520Human%2520Trafficking%2520101%2520for%2520School%2520Administrators%2520and%2520Staff.pdf&ei=4DvMUUp6oO4vrkQeAsYDoBg&usg=AFQjCNGLuEaOhuEVFzRuCTYISWLOrgTQ7w&sig2=AskcWjhjSuLHF6D7LHrcg> (last visited March 14, 2014).

¹⁶ Florida Department of Children and Families *Annual Human Trafficking Report* 2012-13 Federal Fiscal Year.

¹⁷ To determine whether a child is at risk of becoming a commercial sexual exploitation victim, DCF looked at three additional data sets in their IT system for dependent children (FSFN). The three indicators in FSFN indicate that that the child possibly has involvement in sexual exploitation, is possibly involved in prostitution, or were previously verified as a victim of human trafficking.

¹⁸ A child who is found to be dependent is a child who pursuant to ch. 39, F.S., is found by the court:

- (a) To have been abandoned, abused, or neglected by the child's parent or parents or legal custodians;
- (b) To have been surrendered to the department, the former Department of Health and Rehabilitative Services, or a licensed child-placing agency for purpose of adoption;
- (c) To have been voluntarily placed with a licensed child-caring agency, a licensed child-placing agency, an adult relative, the department, or the former Department of Health and Rehabilitative Services, after which placement, under the requirements of this chapter, a case plan has expired and the parent or parents or legal custodians have failed to substantially comply with the requirements of the plan;
- (d) To have been voluntarily placed with a licensed child-placing agency for the purposes of subsequent adoption, and a parent or parents have signed a consent pursuant to the Florida Rules of Juvenile Procedure;
- (e) To have no parent or legal custodians capable of providing supervision and care;
- (f) To be at substantial risk of imminent abuse, abandonment, or neglect by the parent or parents or legal custodians; or
- (g) To have been sexually exploited and to have no parent, legal custodian, or responsible adult relative currently known and capable of providing the necessary and appropriate supervision and care.

¹⁹ Section 39.001(4)(b)(2), F.S.

²⁰ Section 39.01(67), F.S.; however, child prostitution is not considered sexual abuse of a child if the child is under arrest or being prosecuted in a delinquency or criminal proceed for a violation in ch. 796 (offenses related to prostitution) or forcing a child to solicit for or engage in prostitution, engage in a sexual performance, as defined by ch. 827, or participate in the trade of sex trafficking as provided in s. 796.035.

Law enforcement officers are required to deliver a minor taken into custody to the DCF when there is probable cause to believe he or she has been sexually exploited.²¹ Safe houses and short-term safe houses were created by the Safe Harbor Act, and the DCF is authorized to place sexually exploited children in these facilities.²²

The Department of Juvenile Justice (DJJ) conducted a tri-county pilot project implementing a screening tool for commercial sexual exploitation of children in Fiscal Year 2012-2013. In total, there were 353 individual youth screened. Of the 353 screenings, 42 youth were verified as victims of commercial sexual exploitation. This means that 11.9 percent of the youth who had a history of running away (the prerequisite for a screening), and were screened, were ultimately verified by the DCF as a sexual exploitation victim.²³

The DCF primarily becomes aware of minors who are sexually exploited due to a call to the child abuse hotline or because the child is in the dependency system. As with any allegation of abuse, when allegations of commercial sexual exploitation of a child are reported to DCF's child abuse hotline and the hotline employee believes that the report meets the statutory definition of abuse, abandonment, or neglect, an investigation by a child protective investigator is triggered.²⁴ If the allegation is verified and the child has no known parent, legal custodian, or responsible adult relative who is capable of providing the necessary and appropriate supervision and care, the DCF may petition to have the child adjudicated dependent.²⁵

Community-based care lead agencies (lead agencies) in conjunction with the court, determine placements for children who have been adjudicated dependent. According to the DCF, lead agencies may also provide services to victims of human trafficking who are not adjudicated dependent as a means of preventing future involvement in the child welfare system. The DCF has taken steps to strengthen the infrastructure for serving victims of human trafficking, such as training its child protective investigators and participating in regional task forces.

The Department of Juvenile Justice (DJJ) has also been working to identify and provide services to human trafficking victims. The DJJ secretary chairs the Florida Children and Youth Cabinet's Human Trafficking Workgroup.²⁶ The workgroup focuses on identifying ways in which Florida can end child sex trafficking. The workgroup has representation from the Governor's Office of Adoption and Child Protection, the DCF, the Florida State University Center for the Advancement of Human Rights, and other stakeholders. Workgroup members have begun researching best practices throughout the nation as well as monitoring proposed legislation addressing child sex trafficking.²⁷

Many programs for identifying and providing services for human trafficking victims have emerged through local efforts, which are unique to each community. Human trafficking task

²¹ Section 39.401(2)(b), F.S.

²² Section 409.1678, F.S.

²³ Sexual Exploitation of Youth, Department of Juvenile Justice, (January 23, 2014.)

²⁴ Section 39.201(2)(a), F.S.

²⁵ Section 39.01(15)(g), F.S.

²⁶ Florida Children and Youth Cabinet: *Human Trafficking Workgroup*, available at <http://www.flgov.com/childrens-cabinet-human-trafficking-workgroup/> (last visited Mar. 14, 2014).

²⁷ *Id.*

forces began as a way to raise awareness, coordinate responses, and share information regarding available services. There are 19 regional task forces dedicated to fighting human trafficking developed throughout Florida.²⁸ The task forces consist of community members involved in human trafficking issues in that area of the state. This may include law enforcement, providers, schools, and faith based organizations. The DCF is involved in the leadership in all task forces. The task forces meet at least monthly and operate according to the community's needs.

Services for Victims of Human Trafficking in Florida

Serving victims of human trafficking presents challenges for a variety of reasons.²⁹ Exploited children often do not see themselves as exploited or victims and thus will not self-identify. Instead, they often develop a “trauma bond” with the traffickers and see themselves as a companion to the trafficker.³⁰ These children often run away from their DCF placements, including from safe houses.³¹ In a DJJ pilot program, DJJ found that of 64 percent of children who were confirmed victims of commercial exploitation had a history of over five instances of running away.³² Victims may also try to recruit other children from their placements to go work for the pimp.³³

Services are not consistently available across the state.³⁴ Availability depends on the local response which has emerged to meet the challenge in that area.³⁵ Children's family situations also vary.³⁶ Some children come from the dependency system while others have a families that want to remain involved with the children and help the children.³⁷ There is also no standardized assessment tool for identifying victims,³⁸ and due to inconsistent training, the level of awareness of the signs of victimization and appropriate responses vary.³⁹

The Safe Harbor Act in 2012 provided for “safe houses.” Safe houses are homes for sexually exploited children who have been adjudicated dependent or delinquent and need to reside in a secure⁴⁰ residential facility.⁴¹ Safe houses must provide a living environment that has gender-specific, separate, and distinct living quarters for sexually exploited children and must have staff

²⁸ The task forces are in the following counties: Alachua, Bay, Broward, Collier, Duval, Escambia, Hernando, Lake, Leon, Manatee, Marion, Martin, Miami-Dade, Okaloosa, Orange, Palm Beach, Pinellas, Polk, and St. Johns.

²⁹ Testimony from the panel of providers for victims of human trafficking, House Healthy Families Subcommittee, (Feb. 19, 2014).

³⁰ Testimony from the Detective McBride, House Healthy Families Subcommittee, (Feb. 15, 2014).

³¹ Testimony from the panel of providers for victims of human trafficking, House Healthy Families Subcommittee, (Feb. 19, 2014).

³² Sexual Exploitation of Youth, Department of Juvenile Justice, (Jan. 23, 2014).

³³ Testimony from the panel of providers for victims of human trafficking, House Healthy Families Subcommittee, (Feb. 19, 2014).

³⁴ Testimony from the Detective McBride, House Healthy Families Subcommittee, (Feb. 15, 2014).

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

³⁸ E-mail correspondence with the Department of Children and Families, (Dec. 23, 2013), (on file with the Senate Committee on Children, Families, and Elder Affairs).

³⁹ Testimony from the Detective McBride, House Healthy Families Subcommittee, (Feb. 15, 2014).

⁴⁰ The term “secure” is defined as a facility which is supervised 24 hours a day by staff members who are awake while on duty.

⁴¹ Section 409.1678 (1)(b), F.S.

members on the job 24 hours a day. Each facility must be appropriately licensed in this state as a family foster home or a residential child-caring agency as defined in s. 409.175, F.S., and must have applied for accreditation no later than one year after being licensed.⁴² A safe house serving children who have been sexually exploited must have available staff or contracted personnel who have the clinical expertise, credentials, and training to provide:

- Security;
- Crisis intervention services;
- General counseling and victim-witness counseling;
- A comprehensive assessment;
- Residential care;
- Transportation;
- Access to behavioral health services;
- Recreational activities;
- Food;
- Clothing;
- Supplies;
- Infant care;
- Funds for miscellaneous expenses associated with caring for these children;
- The facilitation of educational services, including life skills services and planning services for the successful transition of residents back to the community; and
- Arrangements for necessary and appropriate health care and dental care.⁴³

The DCF is required to assess dependent children for placement in a safe house if the child is older than six years of age. The assessment is required to incorporate and address the following:

- Current and historical information from any law enforcement reports;
- Psychological testing or evaluation that has occurred;
- Current and historical information from the guardian ad litem, if one has been assigned;
- Current and historical information from any current therapist, teacher, or other professional who has knowledge of the child and has worked with the child; and
- Any other information concerning the availability and suitability of safe-house placement.

The child may be placed in a safe house if such placement is determined to be appropriate as a result of this assessment and if one is available, but placement is not required.⁴⁴ There are currently two safe houses in Florida, with a total of 11 beds statewide. A third safe house is projected to open in 2014 with seven beds.⁴⁵

The Citrus Health Network developed the Citrus Helping Adolescents Negatively Impacted by Commercial Exploitation (CHANCE) Program in South Florida.⁴⁶ The program uses therapeutic

⁴² According to DCF, there are currently no entities that accredit safe houses and safe houses are not sure what type of accreditation they are required to have. No safe houses have applied for accreditation at this time.

⁴³ Section 409.1671, F.S.

⁴⁴ Section 39.524, F.S.

⁴⁵ E-mail correspondence with the Florida Department of Children and Families, (Dec. 20, 2013) (on file with the Senate Committee on Children, Families, and Elder Affairs).

⁴⁶ Testimony from Human Trafficking Panel, House Healthy Families Subcommittee (Feb. 19, 2014.)

foster care and a community response team for victims of commercial sexual exploitations.⁴⁷ The program places children in a therapeutic foster home in which only one child is placed.⁴⁸ The parents receive specialized training for this population. Foster parents are required to be available 24 hours per day, 7 days per week, to respond to crises or the need for special therapeutic interventions.⁴⁹ The foster homes are also required to have an advanced alarm system to alert the foster parents of intruders and allow the parents to be aware if the child is leaving the home.⁵⁰ The CHANCE program also includes the following intensive clinical and support services:

- Assessment and evaluation of the child and the family;
- Individual therapy at least two and up to five times per week with a therapist trained in trauma focused-cognitive behavioral therapy and motivational interviewing;
- Family therapy available as necessary;
- Assignment of a life coach who is a survivor of commercial sexual exploitation for each child;
- Assignment of a peer mentor to provide peer support and encouragement;
- Clinical staff available 24/7 for crisis management or supportive intervention;
- Certified behavioral analyst services to address the behavioral needs of this population;
- Targeted case management to facilitate linkage to all appropriate support services;
- Regular monitoring by the treatment team to ensure all service and treatment plan goals are consistently pursued; and
- Group therapy with other survivors of commercial sex exploitation.

The University of South Florida is contracted to conduct an evaluation of the CHANCE program. The evaluation will be available in November 2014.⁵¹

Some victims of human trafficking have been placed with parents or relatives, in mental health facilities, in substance abuse facilities, in therapeutic foster homes, in foster care, in DJJ detention centers, or remained in their current placement, after identification as a victim.⁵²

The CHANCE program serves 17 children not placed in safe houses with wrap-around services. These services include assessment and evaluation, treatment and service plan development, 24/7 on-call clinical staff, individualized and family therapy, life coaching, peer mentorship, case management, certified behavioral analyst services, substance abuse treatment, and psychiatric services.⁵³ Victims of human trafficking may be offered other services generally available to children in need through the existing service array, such as substance abuse services, mental health services, and educational services.⁵⁴

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² Florida Department of Children and Families *Annual Human Trafficking Report* 2012-13 Federal Fiscal Year.

⁵³ Testimony from Human Trafficking Panel, House Healthy Families Subcommittee (Feb. 19, 2014.)

⁵⁴ *Id.*

Residential Programs in Other States

Limited research has been completed nationwide regarding best practices to serve and treat victims of human trafficking. However, there are some residential programs in other states which serve victims of human trafficking.

Wellspring Living (Wellspring) is a residential facility in Georgia, which serves girls from 12 to 17 years of age who are victims of human trafficking.⁵⁵ This program is licensed as a “maximum watchful oversight” child care facility.⁵⁶ The facility has security features such as locked doors, unbreakable Plexiglas windows, and a fence surrounding the facility. While this program is a locked facility, it has alarmed doors that the children can open. If the alarmed door is pushed there is a delay for the door to open and alarms inform the program staff that somebody has tried to leave the facility. While Wellspring considers itself a locked facility, exit can occur without the involvement of facility staff. At Wellspring, girls receive trauma-informed therapies, life skills classes, education,⁵⁷ group therapies, family therapy, and other needed services.⁵⁸ Following the program, most girls return to their families or to a foster-home or group home setting. The program is working to develop a study of its effectiveness.

In California, Children of the Night (COTN) is a private, non-profit program for children between the ages of 11 and 17 that receives referrals from across the country and only accepts those children whom it believes are willing to leave prostitution and participate in long-term, comprehensive treatment. COTN is a homelike environment with 24 beds.⁵⁹ The children follow a highly structured program that includes attending an on-site school and a college placement program.⁶⁰ After children complete the comprehensive program of academic and life-skills education, caseworkers are available to provide ongoing case management to graduates.⁶¹ COTN exists through the sole support of private contributions from individuals, corporations, and foundations.⁶²

Treatment for Victims of Human Trafficking

In the immediate as well as long-term aftermath of exposure to trauma, children are at risk of developing significant emotional and behavioral difficulties.⁶³ Trauma-focused cognitive behavioral therapy (TF-CBT) is an evidence-based treatment approach shown to help children, adolescents, and their caregivers overcome trauma-related difficulties.⁶⁴ It is designed to reduce negative emotional and behavioral responses following child sexual abuse, domestic violence,

⁵⁵ *Id.*

⁵⁶ *Provider Resource Results*, State of Georgia Out-of-Home Care, available at https://www.gascore.com/resourceguide/search_results.cfm.

⁵⁷ Testimony from Human Trafficking Panel, House Healthy Families Subcommittee (Feb. 19, 2014.)

⁵⁸ *Wellspring Living for Girls*, Wellspring Living, available at <https://wellspringliving.org/wellspring-living-for-girls/>

⁵⁹ *Children of the Night*, available at <https://www.childrenofthenight.org/index.html> (last visited March 14, 2014.)

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² *Id.*

⁶³ *Trauma-Focused Cognitive Behavioral Therapy for Children Affected by Sexual Abuse or Trauma*, The Administration for Children and Families, U.S. Department of Health and Human Services, (August 2012), available at <https://www.childwelfare.gov/pubs/trauma/>

⁶⁴ *Id.*

traumatic loss, and other traumatic events.⁶⁵ The treatment is based on learning and cognitive theories, and addresses distorted beliefs and attributions related to the abuse.⁶⁶ TF-CBT provides a supportive environment in which children are encouraged to talk about their traumatic experience.⁶⁷ TF-CBT combines elements drawn from:

- Cognitive therapy, which aims to change behavior by addressing a person's thoughts or perceptions, particularly those thinking patterns that create distorted or unhelpful views;
- Behavioral therapy, which focuses on modifying habitual responses (e.g., anger, fear) to identified situations or stimuli; and
- Family therapy, which examines patterns of interactions among family members to identify and alleviate problems.⁶⁸

TF-CBT is a short-term treatment typically provided in 12 to 18 sessions of 50 to 90 minutes, depending on treatment needs.⁶⁹ The intervention is usually provided in outpatient mental health facilities, but it has been used in hospital, group home, school, community, residential, and in-home settings.⁷⁰

Recent research findings suggest that TF-CBT is more effective than nondirective or client centered treatment approaches for children who have a history of multiple traumas (e.g., sexual abuse, exposure to domestic violence, physical abuse, as well as other traumas).⁷¹

An individualized, strengths-based approach refers to policies, practice methods, and strategies that identify and draw upon the strengths of children, families, and communities.⁷² Strengths-based practice involves a shift from a deficit approach, which emphasizes problems and pathology, to a positive partnership with the family.⁷³ The approach acknowledges each child and family's unique set of strengths and challenges and engages the family as a partner in developing and implementing the service plan.⁷⁴

III. Effect of Proposed Changes

Section 1 creates s. 409.1754, F.S., related to administrative requirements for serving sexually exploited children. The bill deletes the current assessment process to determine whether a child should be placed in a safe house and requires the DCF to develop or adopt one or more initial screening and assessment instruments to identify, determine the needs of, plan services for, and identify an appropriate residential environment for sexually exploited children. The bill requires that the assessment instruments include the ability to determine whether placement in a safe

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² *An Individualized, Strengths-Based Approach in Public Child Welfare Driven Systems of Care*, Administration for Children and Families, US Department of Health and Human Services, available at <https://www.childwelfare.gov/pubs/acloserlook/strengthsbased/strengthsbased1.cfm> (last visited March 14, 2014).

⁷³ *Id.*

⁷⁴ *Id.*

house is appropriate. The bill requires that the initial screening and assessment instruments used to determine appropriate residential placement of a sexually exploited child must consider:

- Risk of the sexually exploited child running away;
- Risk of the sexually exploited child recruiting other children into the commercial sex trade;
- Level of the sexually exploited child's attachment to his or her exploiter;
- Level and type of trauma that the sexually exploited child has endured;
- Nature of the child's interactions with law enforcement;
- Length of time that the child was sexually exploited; and
- Extent of any substance abuse by the sexually exploited child.

The bill specifies that if a safe house placement is determined to be the most appropriate setting, the child may be placed in a safe house, as long as a placement is available. However, the bill specifies that a child may be placed in another setting if the alternate setting is more appropriate to his or her needs and if the child's behaviors can be managed in a way that does not endanger other children, or if a safe house or safe foster home is not available.

The bill requires the initial screening and assessment instruments to be validated, if possible, and requires the instruments to be used by the DCF, juvenile assessment centers, lead agencies, and providers serving sexually exploited children. The bill requires the DCF to consult state and local agencies, organizations, and individuals involved in the identification and care of sexually exploited children to develop or adopt the initial screening and assessment instruments. The bill requires the DCF to establish rules specifying the initial screening and assessment instruments to be used, the requirements for their use, and the reporting of data collected through the instruments and specifies that entities are not precluded from using additional assessment instruments in the course of serving sexually exploited children.

The bill requires the DCF and lead agencies to assign cases where a child is alleged, suspected, or known to have been sexually exploited to child protective investigators (CPIs) and case managers who have received specialized intensive training in investigating cases involving a sexually exploited child. Similarly, the bill requires the DJJ's juvenile probation staff administering the detention risk assessment instrument to have specialized intensive training in identifying and serving sexually exploited children. The bill specifies that CPIs and case managers must receive this training prior to accepting any case involving sexually exploited children.

The bill requires each lead agency and DCF region to jointly identify the service needs of sexually exploited children and plan for developing sufficient capacity to meet them.

The bill requires each lead agency and DCF circuit to establish local protocols and procedures that are responsive to the varying circumstances that sexually exploited children are in. The bill requires the protocols and procedures to address the full continuum of needs of sexually exploited children to the extent of available funding. The bill requires that the protocols and procedures be used by case managers and CPIs when working with a sexually exploited child.

The bill requires the local circuit administrator or his or her designee, the local circuit director of the DJJ or his or her designee, and the lead agency chief operating officer or his or her designee,

to participate in any task force, committee, council, advisory group, coalition, or other entity active in the circuit for coordinating responses to address human trafficking or sexual exploitation of children. If no such entity exists, the bill specifies that the local circuit administrator must work to initiate one.

Section 2 amends the definition of “safe house” as a “group residential placement certified by the DCF to care for sexually exploited children,” and creates and defines “safe foster home” as a foster home certified by the DCF to care for sexually exploited children.

The bill also amends the definition of a sexually exploited child to include those children who have not been adjudicated dependent, which permits them to be served by safe houses and safe foster homes.

The bill specifies that safe houses and safe foster homes are required to provide a safe, separate, and therapeutic environment tailored to the needs of sexually exploited children who have endured significant trauma. The bill requires a DCF certification process for safe homes and safe foster homes and requires such homes to be certified.

The bill amends the current requirements for safe houses and creates requirements that safe foster homes must meet in order to be certified by the DCF. The bill requires that safe houses and safe foster homes be licensed as residential child-caring agencies or licensed family foster homes, respectively, and that safe houses have staff on-the-job 24 hours a day.

The bill requires that safe houses and safe foster homes must house a single sex, must group children with similar chronological ages or levels of maturity together, and must treat and care for these children in a manner that separates them from children with other needs. The bill specifies that safe houses and safe foster homes may care for other populations, as long as those populations do not interact with the sexually exploited children. The bill requires that safe houses and safe foster homes must use trauma-informed and strength-based approaches to care, to the extent possible and appropriate.

The bill requires that safe houses and safe foster homes provide appropriate security through facility design, hardware, technology, staffing, and siting, including but not limited to using external video monitoring or alarmed doors, or being situated in a remote location.

The bill requires safe houses and safe foster homes to provide services tailored to the needs of sexually exploited children and to determine these needs on a case-by-case basis. The bill specifies that in addition to the services required for traditional foster homes and child caring facilities, safe houses and safe foster homes must also coordinate the following services:

A comprehensive assessment of the service needs of each resident;

- Victim-witness counseling;
- Family counseling;
- Behavioral health services;
- Treatment and intervention for sexual assault;
- Life skills services;
- Mentoring by a survivor of sexual exploitation, if available and appropriate;

- Substance abuse screening, and where necessary, access to treatment;
- Planning services for the successful transition of residents back to the community;
- Activities for sexually exploited children residing in the safe house, scheduled in a manner that provides them with a full schedule; and
- Any additional services determined by the DCF.

The bill requires foster parents of safe foster homes to complete intensive training regarding the needs of sexually exploited children, the effects of trauma and sexual exploitation, and how to address those needs using strength-based and trauma-informed approaches. The bill requires the DCF to specify this training by rule. The bill also allows the DCF to develop or contract for the development of a standard curriculum and to establish additional criteria in rule for the certification of safe houses and safe foster homes. Such additional criteria must address the security, therapeutic, social, health, and educational needs of sexually exploited children.

The bill requires that safe houses and safe foster homes reapply for certification and be inspected annually. The bill allows the DCF to place a moratorium on referrals and revoke the certification of a safe house or safe foster home if the requirements of certification are no longer being met.

The bill requires that residential treatment centers licensed under s. 394.875, F.S., and hospitals licensed under ch. 395, F.S., that provide residential mental health treatment, must provide specialized treatment for sexually exploited children in the custody of the DCF who are placed in those facilities under ss. 39.407(6), 394.4625, or 394.467, F.S. The facilities must ensure that such children are served in single-sex groups and that staff working with such children are adequately trained. Also, for such children, the facilities must:

- Use strength-based and trauma-informed approaches to care, to the extent possible and appropriate;
- Group sexually exploited children by age or maturity level;
- Care for sexually exploited children in a manner that separates such children from children with other needs;
- Have staff on-the-job 24 hours per day, if the facility is a safe house;
- Provide appropriate security; and
- Meet other criteria established by DCF rule.

The bill specifies that in order to accept state funds specifically allocated to provide services to sexually exploited children, the residential facility must be certified as a safe house or safe foster home.

Section 3 amends s. 39.524, F.S., to add a safe foster home as an appropriate placement for a child using the initial screening and assessment instrument provided in s. 409.1754(1), F.S.

Section 4 amends s. 394.495, F.S., regarding comprehensive child and adolescent mental health services, to authorize the DCF to include trauma-informed services for children who have suffered sexual exploitation within the DCF's array of services designed to meet the individualized service and treatment needs of children and adolescents within certain target populations.

Section 5 amends s. 39.401, F.S., regarding judicial proceedings relating to children, to remove from statute the provision that if a law enforcement officer takes a child into custody under probable cause to support a finding of abuse, neglect, abandonment, or related findings, and the child is delivered to an authorized agent of the DCF, the DCF may place the child in an appropriate short-term safe house as provided under s. 409.1678, F.S., if such a short-term safe house is available. The bill also removes from statute the provision that an authorized agent of the DCF, while awaiting a shelter hearing for a child in DCF custody, may place the child in a short-term safe house if the child is a sexually exploited child.

Section 6 amends s. 796.07, F.S., regarding the crime of prostitution. Current law provides that a person who violates the prohibition against soliciting, inducing, enticing, or procuring another person to commit prostitution, lewdness, or assignation, will be assessed a civil penalty of \$5,000 if the violation results in any judicial disposition other than acquittal or dismissal. A portion of the funds collected under the penalty are required to be used by the DCF for the sole purpose of funding safe houses and short-term safe houses. The bill requires the DCF to use the funds for the sole purpose of funding safe houses and safe foster homes.

Section 7 amends s. 985.115, F.S., regarding children in the custody of the Department of Juvenile Justice (DJJ). Current law provides that a person taking a child into custody may attempt to release the child, contingent on a specific appropriation, to a shelter approved by the DJJ, an authorized agent, or a short-term safe house. The bill removes short-term safe houses from that list.

Section 8 creates s. 16.617, F.S., to provide for a Statewide Council on Human Trafficking (Council) within the Department of Legal Affairs for the purpose of enhancing the development and coordination of state and local law enforcement and social services responses to fight commercial sexual exploitation as a form of human trafficking and to support victims. The Council consists of the following members:

- The attorney general, or his or her designee, who will serve as chair;
- The secretary of the DCF, or his or her designee, who will serve as vice chair;
- The state surgeon general or his or her designee;
- The secretary of the Agency for Health Care Administration or his or her designee;
- The executive director of the Department of Law Enforcement or his or her designee;
- The secretary of the DJJ or his or her designee;
- The commissioner of the Department of Education or his or her designee;
- One member of the Senate, appointed by the president of the Senate;
- One member of the House of Representatives, appointed by the Speaker of the House of Representatives;
- An elected sheriff, appointed by the attorney general;
- An elected state attorney, appointed by the attorney general; and
- Two members appointed by the attorney general and two members appointed by the governor, all of whom have professional experience to assist the council in the development of care and treatment options for victims of human trafficking.

Members of the Council will be appointed to four-year terms, and the bill provides for variations on initial term length to allow for staggered terms. A Council member may not receive a commission, fee, or financial benefit in connection with serving on the Council but may be entitled to reimbursement for per diem and travel expenses by the respective state agencies represented. If a member is not affiliated with a state agency, the member will be reimbursed for expenses by the Department of Legal Affairs.

The bill requires the Council's first meeting to be held September 1, 2014. Thereafter, the Council is required to meet at least once each quarter of every calendar year. Meetings may be held via teleconference or other electronic means. A majority of the members of the Council constitutes a quorum. The Department of Legal Affairs is required to provide the Council with necessary staff support.

The Council has the duty to:

- Develop recommendations for comprehensive programs and services for victims of human trafficking, including those related to certification criteria for safe houses and safe foster homes;
- Make recommendations for apprehending and prosecuting traffickers and enhancing coordination of responses;
- Annually hold a statewide policy summit in conjunction with a Florida institution of higher learning;
- Work with the DCF to create and maintain an inventory of human trafficking programs and services in each county; and
- Develop policy recommendations that advance the duties of the Council and that further efforts to combat human trafficking in Florida.

By October 31 of each year, the Council is required to submit a report to the president of the Senate and the speaker of the House of Representatives summarizing the Council's accomplishments during the preceding fiscal year and to make recommendations regarding the development and coordination of state and local law enforcement and social services responses to combat human trafficking and to support victims.

Section 9 requires the Office of Program Policy Analysis and Government Accountability (OPPAGA) to conduct a study on commercial sexual exploitation of children in Florida. The bill requires the study to:

- Assess the extent of sexual exploitation of children in Florida, including the prevalence in various regions of the state;
- Determine service gaps for treating this population;
- Analyze the operation of safe houses in Florida and assess the effectiveness of safe houses, safe foster homes, residential treatment centers and hospitals with specialized programs for sexually exploited children, and other residential options in addressing the safety, therapeutic, health, and emotional needs of sexually exploited children, including the nature and appropriateness of subsequent placements, the extent of sexual exploitation post-placement, and educational attainment; and

- Include the number of children involuntarily committed to treatment facilities who are victims of sexual exploitation and the outcomes of those children for the three years after completion of inpatient treatment.

The bill requires all state agencies and contractors receiving state funds of any kind to comply with requests for data from the OPPAGA. The bill requires that, beginning July 1, 2015, and by that date each year, the OPPAGA must report its findings to the governor, the president of the Senate, and the speaker of the House of Representatives.

Section 10 provides an effective date of July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Under CS/SB 1724, certain residential treatment centers and hospitals that provide residential mental health treatment services must provide specialized treatment for sexually exploited children in the custody of the Department of Children and Families who are placed in such facilities under certain circumstances. Such residential treatment centers and hospitals could incur new costs to meet the bill's requirements for providing services to such children.

C. Government Sector Impact:

The bill places numerous new requirements in law for the Department of Children and Families and community-based care lead agencies, under contract with the DCF, regarding the assessment, placement, and treatment of sexually exploited children. Some of the bill's requirements could have fiscal impacts to an unknown extent. The overall fiscal impact of the bill is indeterminate.

The bill requires the Department of Juvenile Justice (DJJ) to provide intensive training to probation officers and other staff on identifying and serving sexually exploited children. The DJJ has not provided a fiscal impact statement on those training costs.

The Department of Legal Affairs and other state agencies represented on the Statewide Council on Human Trafficking are likely to experience costs associated with staff support and expenses for Council members which may be absorbed within existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Line 128 states each region of the DCF and each community-based care lead agency shall establish local protocols and procedures for working with sexually exploited children. The bill is not clear as to whether those entities should develop their own separate protocols or whether they should work together to produce one set of protocols per region.

Lines 146, 148, 150, 155, and 162 refer to the “local circuit administrator,” “circuits,” or “circuit administrator.” The bill is not clear as to whether the circuit administrator is a DCF employee or the administrator of the judicial circuit.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 39.401, 39.524, 394.495, 409.1678, 796.07, and 985.115.

This bill creates the following sections of the Florida Statutes: 16.617 and 409.1754.

The bill creates an undesignated section of Florida law.

IX. Additional Information:

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

CS by Appropriations on April 10, 2014:

The CS:

- Removes the bill’s provisions related to secure safe houses and a secure safe house pilot project;
- Provides that certain residential treatment centers and hospitals that provide residential mental health treatment services must provide specialized treatment for sexually exploited children in the custody of the Department of Children and Families who are placed in such facilities under certain circumstances;
- Deletes from statute certain references to short-term safe houses;
- Creates the Statewide Council on Human Trafficking; and

- Requires that the Office of Program Policy Analysis and Government Accountability's study on human trafficking must be an ongoing study with annual reports.

B. Amendments:

None.

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



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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/08/2014	.	
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The Committee on Appropriations (Joyner) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 409.1754, Florida Statutes, is created
to read:

409.1754 Sexually exploited children; screening and
assessment; training; case management; task forces.—

(1) SCREENING AND ASSESSMENT.—

(a) The department shall develop or adopt one or more



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initial screening and assessment instruments to identify, determine the needs of, plan services for, and identify appropriate placement for sexually exploited children. The department shall consult state and local agencies, organizations, and individuals involved in the identification and care of sexually exploited children in developing or adopting the initial screening and assessment instruments. The initial screening and assessment instruments must include assessment of appropriate placement, including whether placement in a safe foster home is appropriate, and must consider, at a minimum, the following factors:

1. The risk of the sexually exploited child running away.
2. The risk of the sexually exploited child recruiting other children into the commercial sex trade.
3. The level of the sexually exploited child's attachment to his or her exploiter.
4. The level and type of trauma that the sexually exploited child has endured.
5. The nature of the sexually exploited child's interactions with law enforcement.
6. The length of time that the child was sexually exploited.
7. The extent of any substance abuse by the sexually exploited child.

(b) The initial screening and assessment instruments shall be validated, if possible, and shall be used by the department, juvenile assessment centers as provided in s. 985.135, and community-based care lead agencies.

(c) The department shall establish rules specifying the



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initial screening and assessment instruments to be used, the requirements for their use, and the reporting of data collected through them.

(d) The department, the Department of Juvenile Justice, and community-based care lead agencies are not precluded from using additional assessment instruments in the course of serving sexually exploited children.

(2) TRAINING; CASE MANAGEMENT; TASK FORCES.—

(a)1. The department and community-based care lead agencies shall ensure that cases in which a child is alleged, suspected, or known to have been sexually exploited are assigned to child protective investigators and case managers who have specialized intensive training in handling cases involving a sexually exploited child. The department and lead agencies shall ensure that child protective investigators and case managers, respectively, receive this training before accepting any case involving a sexually exploited child.

2. The Department of Juvenile Justice shall ensure that juvenile probation staff or contractors administering the detention risk assessment instrument receive specialized intensive training in identifying and serving sexually exploited children.

(b) The department and community-based care lead agencies shall conduct regular multidisciplinary staffings for sexually exploited children to ensure that all relevant information is known to all parties and that services are coordinated across systems. The department or community-based care lead agency, as appropriate, shall coordinate these staffings and invite individuals involved in the child's care. This may include, but



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is not limited to, the child's guardian ad litem, juvenile justice system staff, school district staff, service providers, and victim advocates.

(c)1. Each region of the department and each community-based care lead agency shall jointly assess local service capacity to meet the specialized service needs of sexually exploited children and establish a plan to develop capacity. Each plan shall be developed in consultation with local law enforcement officials, local school officials, runaway and homeless youth program providers, local probation departments, children's advocacy centers, public defenders, state attorney's offices, and child advocates and services providers who work directly with sexually exploited children.

2. Each region of the department and each community-based care lead agency shall establish local protocols and procedures for working with sexually exploited children which are responsive to the individual circumstances of each child. The protocols and procedures shall take into account the varying types and levels of trauma endured; whether the sexual exploitation is actively occurring, occurred in the past, or inactive but likely to reoccur; and the differing community resources and degrees of familial support that may be available. Child protective investigators and case managers must use the protocols and procedures when working with a sexually exploited child.

(3) LOCAL TRAINING AND COORDINATION.—

(a) The local regional director may, to the extent that funds are available, provide training to local law enforcement officials who are likely to encounter sexually exploited



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children in the course of their law enforcement duties. Training shall address the provisions of this section and how to identify and obtain appropriate services for sexually exploited children. The local circuit administrator may contract with a not-for-profit agency having experience working with sexually exploited children to provide the training. Circuits may work cooperatively to provide training, which may be provided on a regional basis. The department shall assist circuits to obtain any available funds for the purposes of conducting law enforcement training from the Office of Juvenile Justice and Delinquency Prevention of the United States Department of Justice.

(b) Circuit administrators or their designees, chief probation officers of the Department of Juvenile Justice or their designees, and the chief operating officers of community-based care lead agencies or their designees shall participate in any task force, committee, council, advisory group, coalition, or other entity active in their service area for coordinating responses to address human trafficking or sexual exploitation of children. If such entity does not exist, the circuit administrator for the department shall work to initiate one.

Section 2. Section 409.1678, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 409.1678, F.S., for present text).

409.1678 Specialized residential options for children who are victims of sexual exploitation.—

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

(a) "Safe foster home" means a foster home certified by the



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department under this section to care for sexually exploited children.

(b) "Sexually exploited child" means a child who has suffered sexual exploitation as defined in s. 39.01(67)(g) and is ineligible for relief and benefits under the federal Trafficking Victims Protection Act, 22 U.S.C. ss. 7101 et seq.

(2) CERTIFICATION OF SAFE FOSTER HOMES.—

(a) Safe foster homes shall provide a safe, separate, and therapeutic environment tailored to the needs of sexually exploited children who have endured significant trauma. Safe foster homes shall use a model of treatment which includes strength-based and trauma-informed approaches.

(b) The department shall certify safe foster homes. A residential facility accepting state funds appropriated to provide services to sexually exploited children or child victims of sex trafficking must be certified by the department as a safe foster home. An entity may not use the designation "safe foster home" and hold itself out as serving sexually exploited children unless the entity is certified under this section.

(c) To be certified, a safe foster home must hold a license as a family foster home pursuant to s. 409.175. A safe foster home must also:

1. Use trauma-informed and strength-based approaches to care, to the extent possible and appropriate.

2. Serve exclusively one sex.

3. Group sexually exploited children by age or maturity level.

4. Care for sexually exploited children in a manner that separates these children from children with other needs. Safe



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foster homes may care for other populations if the children who have not experienced sexual exploitation do not interact with children who have experienced sexual exploitation.

5. Provide appropriate security through facility design, hardware, technology, staffing, and siting, including, but not limited to, external video monitoring or alarmed doors, a high staff-to-client ratio, or a remote facility location isolated from major transportation centers and common trafficking areas. However, such security must allow sexually exploited children to exit the safe foster home if they choose.

6. Meet other criteria established by the department in rule, which may include, but are not limited to, personnel qualifications, staffing ratios, and services content.

(d) Safe foster homes shall provide services tailored to the needs of sexually exploited children and shall conduct a comprehensive assessment of the service needs of each resident. In addition to the services required to be provided by residential child-caring agencies and family foster homes, safe foster homes shall provide, arrange for, or coordinate, at a minimum, the following services:

1. Victim-witness counseling;
2. Family counseling;
3. Behavioral health care;
4. Treatment and intervention for sexual assault;
5. Education tailored to the child's individual needs, including remedial education if necessary;
6. Life skills training;
7. Mentoring by a survivor of sexual exploitation, if available and appropriate for the child;



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8. Substance abuse screening and, if necessary, access to treatment;

9. Planning services for the successful transition of each child back to the community; and

10. Activities in a manner that provides sexually exploited children with a full schedule.

(e) The community-based care lead agencies shall ensure that foster parents of safe foster homes complete intensive training regarding, at a minimum, the needs of sexually exploited children, the effects of trauma and sexual exploitation, and how to address those needs using strength-based and trauma-informed approaches. The department shall specify this training by rule and may develop or contract for a standard curriculum. The department may establish in rule additional criteria for the certification of safe foster homes. Criteria shall address the security, therapeutic, social, health, and educational needs of sexually exploited children.

(f) The department shall inspect safe foster homes before certification and annually to ensure compliance with requirements of this section. The department may place a moratorium on referrals and may revoke the certification of a safe foster home that fails at any time to meet the requirements of this section or rules adopted pursuant to this section.

(g) The certification period for safe foster homes shall run concurrently with the terms of their licenses.

(3) SERVICES.—

(a) This section does not prohibit any provider of services for sexually exploited children from appropriately billing Medicaid for services rendered, from contracting with a local



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school district for educational services, or from obtaining federal or local funding for services provided, as long as two or more funding sources do not pay for the same specific service that has been provided to a child.

(b) The lead agency shall ensure that all children residing in safe foster homes have a case manager and a case plan, whether or not the child is a dependent child.

(c) The services specified in this section may, to the extent possible provided by law and with funding authorized, be available to all sexually exploited children whether the services are accessed voluntarily, as a condition of probation, through a diversion program, through a proceeding under chapter 39, or through a referral from a local community-based care or social service agency.

Section 3. 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(67)(g) must be assessed for placement in a safe foster home ~~house~~ as provided in s. 409.1678 using the initial screening and assessment instruments provided in s. 409.1754(1). ~~The assessment shall be conducted by the department or its agent and shall incorporate and address current and historical information from any law enforcement reports; psychological testing or evaluation that has occurred; current and historical information from the guardian ad litem, if one has been assigned; current and historical information from any current therapist, teacher,~~



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~~or other professional who has knowledge of the child and has worked with the child; and any other information concerning the availability and suitability of safe house placement.~~ 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 foster home ~~house~~, if one is available. However, the child may be placed in another setting if it is more appropriate to his or her needs and his or her behaviors can be managed in that setting so that they do not endanger other children being served in that setting, or if a safe foster home is unavailable ~~As used in this section, the term "available" as it relates to a placement means a placement that is located within the circuit or otherwise reasonably accessible.~~

(2) The results of the assessment described in s. 409.1754(1) ~~subsection (1)~~ and the actions taken as a result of the assessment must be included in the next judicial review of the child. At each subsequent judicial review, the court must be advised in writing of the status of the child's placement, with special reference regarding the stability of the placement and the permanency planning for the child.

(3) (a) By December 1 of each year, the department shall report to the Legislature on the placement of children in safe foster homes ~~houses~~ during the year, including the criteria used to determine the placement of children, the number of children who were evaluated for placement, the number of children who were placed based upon the evaluation, and the number of children who were not placed.

(b) The department shall maintain data specifying the number of children who were referred to a safe foster home ~~house~~



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for whom placement was unavailable and the counties in which such placement was unavailable. The department shall include this data in its report under this subsection so that the Legislature may consider this information in developing the General Appropriations Act.

Section 4. Paragraph (b) of subsection (2) of section 39.401, Florida Statutes, is amended to read:

39.401 Taking a child alleged to be dependent into custody; law enforcement officers and authorized agents of the department.—

(2) If the law enforcement officer takes the child into custody, that officer shall:

(b) Deliver the child to an authorized agent of the department, stating the facts by reason of which the child was taken into custody and sufficient information to establish probable cause that the child is abandoned, abused, or neglected, or otherwise dependent. For such a child for whom there is also probable cause to believe he or she has been sexually exploited, the law enforcement officer shall deliver the child to the department. ~~The department may place the child in an appropriate short-term safe house as provided for in s. 409.1678 if a short-term safe house is available.~~

For cases involving allegations of abandonment, abuse, or neglect, or other dependency cases, within 3 days after such release or within 3 days after delivering the child to an authorized agent of the department, the law enforcement officer who took the child into custody shall make a full written report to the department.



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Section 5. Subsection (6) of section 796.07, Florida Statutes, is amended to read:

796.07 Prohibiting prostitution and related acts.—

(6) A person who violates paragraph (2)(f) shall be assessed a civil penalty of \$5,000 if the violation results in any judicial disposition other than acquittal or dismissal. Of the proceeds from each penalty assessed under this subsection, the first \$500 shall be paid to the circuit court administrator for the sole purpose of paying the administrative costs of treatment-based drug court programs provided under s. 397.334. The remainder of the penalty assessed shall be deposited in the Operations and Maintenance Trust Fund of the Department of Children and Family Services for the sole purpose of funding safe foster homes ~~houses and short-term safe houses~~ as provided in s. 409.1678.

Section 6. Paragraph (b) of subsection (2) of section 985.115, Florida Statutes, is amended to read:

985.115 Release or delivery from custody.—

(2) Unless otherwise ordered by the court under s. 985.255 or s. 985.26, and unless there is a need to hold the child, a person taking a child into custody shall attempt to release the child as follows:

(b) Contingent upon specific appropriation, to a shelter approved by the department or to an authorized agent ~~or short-term safe house under s. 39.401(2)(b).~~

Section 7. The Office of Program Policy Analysis and Government Accountability (OPPAGA) shall conduct a study on commercial sexual exploitation of children in Florida. The study shall assess the extent of commercial sexual exploitation of



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children, including, but not limited to, its prevalence in
various regions of the state. The study shall also identify
specialized services needed by sexually exploited children and
any gaps in the availability of such services by region,
including, but not limited to, residential services and
specialized therapies. The study shall analyze the effectiveness
of safe foster homes and other residential options for serving
sexually exploited children in addressing their safety,
therapeutic, health, educational, and emotional needs,
including, but not limited to, the nature and appropriateness of
subsequent placements, the extent of sexual exploitation
postplacement, and the educational attainment. By July 1, 2017,
OPPAGA shall report its findings to the Governor, the President
of the Senate, and the Speaker of the House of Representatives.

Section 8. This act shall take effect July 1, 2014.

===== 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 human trafficking; creating s.
409.1754, F.S.; requiring the Department of Children
and Families to develop or adopt initial screening and
assessment instruments for sexually exploited
children; specifying the process for the department to
develop or adopt such screening and assessment
instruments; providing factors for placement in a safe
foster home; authorizing specified entities to use



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additional assessment instruments; requiring that the department and community-based care lead agencies ensure that certain personnel receive specified training in handling cases involving a sexually exploited child; requiring that the Department of Juvenile Justice ensure that certain juvenile probation staff or contractors receive training in identifying and serving sexually exploited children; requiring the Department of Children and Families and lead agencies to hold multidisciplinary staffings under certain conditions; requiring each region of the department and each lead agency to develop specified plans and protocols in consultation with specified entities; requiring the local regional director to provide specified training to local law enforcement officials; directing the department, the Department of Juvenile Justice, and lead agencies to participate in coalitions, task forces, or similar organizations to coordinate local responses to human trafficking or the sexual exploitation of children; requiring the circuit administrator of the Department of Children and Families to work to initiate a task force if one is not active in a local area; amending s. 409.1678, F.S.; defining terms; authorizing the department to certify safe foster homes; providing requirements for certification as safe foster homes; requiring a lead agency to ensure certain training; requiring the department to specify the contents of such training; authorizing the department to develop or contract for



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a standard curriculum; authorizing the department to establish additional criteria for the certification of safe foster homes; providing duties of the department relating to the certification of safe foster homes; providing requirements for services; amending s. 39.524, F.S.; requiring assessment or placement in a safe foster home under certain circumstances; authorizing placement in a setting other than a safe foster home under certain conditions; conforming provisions to changes made by the act; amending ss. 39.401, 796.07, and 985.115, F.S.; conforming provisions to changes made by the act; requiring the Office of Program Policy Analysis and Government Accountability to conduct a study on commercial exploitation of children in the state and related topics; requiring a report to the Governor and the Legislature by a specified date; providing an effective date.



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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/11/2014	.	
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	.	
	.	

The Committee on Appropriations (Joyner) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 409.1754, Florida Statutes, is created
to read:

409.1754 Sexually exploited children; screening and
assessment; training; case management; task forces.—

(1) SCREENING AND ASSESSMENT.—

(a) The department shall develop or adopt one or more



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initial screening and assessment instruments to identify,
determine the needs of, plan services for, and identify
appropriate placement for sexually exploited children. The
department shall consult state and local agencies,
organizations, and individuals involved in the identification
and care of sexually exploited children in developing or
adopting the initial screening and assessment instruments. The
initial screening and assessment instruments must include
assessment of appropriate placement, including whether placement
in a safe house or safe foster home is appropriate, and must
consider, at a minimum, the following factors:

1. The risk of the sexually exploited child running away.
2. The risk of the sexually exploited child recruiting
other children into the commercial sex trade.
3. The level of the sexually exploited child's attachment
to his or her exploiter.
4. The level and type of trauma that the sexually exploited
child has endured.
5. The nature of the sexually exploited child's
interactions with law enforcement.
6. The length of time that the child was sexually
exploited.
7. The extent of any substance abuse by the sexually
exploited child.
8. The existing community and familial resources and
supports available to the child.

(b) The initial screening and assessment instruments shall
be validated with the target population and used by the
department, juvenile assessment centers pursuant to s. 985.135,



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40 and community-based care lead agencies.

41 (c) The department shall establish rules specifying the
42 initial screening and assessment instruments to be used, the
43 requirements for their use, and the reporting of data collected
44 through them.

45 (d) The department, the Department of Juvenile Justice, and
46 community-based care lead agencies are not precluded from using
47 additional assessment instruments in the course of serving
48 sexually exploited children.

49 (2) TRAINING; CASE MANAGEMENT; TASK FORCES.—

50 (a)1. The department and community-based care lead agencies
51 shall ensure that cases in which a child is alleged, suspected,
52 or known to have been sexually exploited are assigned to child
53 protective investigators, case managers, and victim advocates
54 who have specialized intensive training in handling cases
55 involving a sexually exploited child. The department and lead
56 agencies shall ensure that child protective investigators, case
57 managers, and victim advocates receive such training before
58 accepting a case involving a sexually exploited child. The
59 department shall develop and prescribe the core elements of the
60 training curriculum.

61 2. The Department of Juvenile Justice shall ensure that
62 juvenile probation staff or contractors administering the
63 detention risk assessment instrument pursuant to s. 985.14
64 receive specialized intensive training in identifying and
65 serving sexually exploited children.

66 (b) The department and community-based care lead agencies
67 shall conduct regular multidisciplinary staffings relating to
68 services provided for sexually exploited children to ensure that



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all parties possess relevant information and that services are coordinated across systems. The department or community-based care lead agency, as appropriate, shall coordinate these staffings and invite individuals involved in the child's care, including, but not limited to, the child's guardian ad litem, juvenile justice system staff, school district staff, service providers, and victim advocates.

(c)1. Each region of the department and each community-based care lead agency shall jointly assess local service capacity to meet the specialized service needs of sexually exploited children and establish a plan to develop the necessary capacity. Each plan shall be developed in consultation with local law enforcement officials, local school officials, runaway and homeless youth program providers, local probation departments, children's advocacy centers, guardians ad litem, public defenders, state attorneys' offices, safe houses, and child advocates and services providers who work directly with sexually exploited children.

2. Each region of the department and each community-based care lead agency shall establish local protocols and procedures for working with sexually exploited children which are responsive to the individual circumstances of each child. The protocols and procedures shall take into account the varying types and levels of trauma endured; whether the sexual exploitation is actively occurring, occurred in the past, or inactive but likely to reoccur; and the differing community resources and degrees of familial support that are available. Child protective investigators and case managers must use the protocols and procedures when working with a sexually exploited



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child.

(3) LOCAL TRAINING AND COORDINATION.—

(a) The local regional director shall provide training to local law enforcement officials who are likely to encounter sexually exploited children in the course of their law enforcement duties. Training shall address the provisions of this section and how to identify and obtain appropriate services for sexually exploited children. The local circuit administrator may contract with an individual or entity approved by the department to conduct such training. Circuits may work cooperatively to provide training, which may be provided on a regional basis. The department shall assist circuits to obtain any available funds for the purposes of conducting law enforcement training from the Office of Juvenile Justice and Delinquency Prevention of the United States Department of Justice.

(b) Circuit administrators or their designees, chief probation officers of the Department of Juvenile Justice or their designees, and the chief operating officers of community-based care lead agencies or their designees shall participate in any task force, committee, council, advisory group, coalition, or other entity in their service area which is involved in coordinating responses to address human trafficking or sexual exploitation of children. If such entity does not exist, the circuit administrator for the department shall initiate one.

Section 2. Section 409.1678, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 409.1678, F.S., for present text.)



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409.1678 Specialized residential options for children who
are victims of sexual exploitation.—

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

(a) "Safe foster home" means a foster home certified by the
department under this section to care for sexually exploited
children.

(b) "Safe house" means a group residential placement
certified by the department under this section to care for
sexually exploited children.

(c) "Sexually exploited child" means a child who has
suffered sexual exploitation as defined in s. 39.01(67)(g) and
is ineligible for relief and benefits under the federal
Trafficking Victims Protection Act, 22 U.S.C. ss. 7101 et seq.

(d) "Victim advocate" means an individual assigned by the
department to each sexually exploited child who serves to inform
and explain legal and other procedures and to assist in the
child's navigation and understanding of all processes,
proceedings, treatment options, and resources.

(2) CERTIFICATION OF SAFE HOUSES AND SAFE FOSTER HOMES.—

(a) Safe houses and safe foster homes shall provide a safe,
separate, and therapeutic environment tailored to the needs of
sexually exploited children who have endured significant trauma.
Safe houses and safe foster homes shall use a model of treatment
which includes strength-based and trauma-informed approaches.

(b) A safe house or a safe foster home must be certified by
the department. A residential facility accepting state funds
appropriated to provide services to sexually exploited children
or child victims of sex trafficking must be certified by the
department as a safe house or a safe foster home. An entity may



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not use the designation "safe house" or "safe foster home" and hold itself out as serving sexually exploited children unless such entity is certified under this section.

(c) To be certified, a safe house must hold a license as a residential child-caring agency as defined in s. 409.175, and a safe foster home must hold a license as a family foster home as defined in s. 409.175. A safe house or safe foster home must also:

1. Use strength-based and trauma-informed approaches to care.

2. Serve exclusively one sex.

3. Group sexually exploited children by age or maturity level.

4. If a safe house, have awake staff members on duty 24 hours per day.

5. Provide appropriate security through facility design, hardware, technology, staffing, and siting, including, but not limited to, external video monitoring or door exit alarms, a high staff-to-client ratio, or being situated in a remote location isolated from major transportation centers and common trafficking areas. However, such security must allow sexually exploited children to exit the safe house if they choose.

6. Meet any other criteria established by department rule, which may include, but are not limited to, personnel qualifications, staffing ratios, and types of services offered.

(d) Safe houses and safe foster homes shall provide services tailored to the needs of sexually exploited children and shall conduct a comprehensive assessment of the service needs of each resident. In addition to the services required to



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be provided by residential child caring agencies and family foster homes, safe houses and safe foster homes shall provide, arrange for, or coordinate, at a minimum, the following services:

1. Victim-witness counseling.
2. Family counseling.
3. Behavioral health care.
4. Treatment and intervention for sexual assault.
5. Education tailored to the child's individual needs, including remedial education if necessary.
6. Life skills training.
7. Mentoring by a victim advocate or a survivor of sexual exploitation.
8. Substance abuse screening and, if necessary, access to treatment.
9. Planning services for the successful transition of each child back to the community.
10. Activities structured in a manner that provides sexually exploited children with a full schedule.

(e) The community-based care lead agencies shall ensure that foster parents of safe foster homes and staff of safe houses complete intensive training regarding, at a minimum, the needs of sexually exploited children, the effects of trauma and sexual exploitation, and how to address those needs using strength-based and trauma-informed approaches. The department shall specify the contents of this training by rule and may develop or contract for a standard curriculum. The department may establish by rule additional criteria for the certification of safe houses and safe foster homes which shall address the



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security, therapeutic, social, health, and educational needs of sexually exploited children.

(f) The department shall inspect safe houses and safe foster homes before certification and annually thereafter to ensure compliance with requirements of this section. The department may place a moratorium on referrals and may revoke the certification of a safe house or safe foster home that fails at any time to meet the requirements of, or rules adopted under, this section.

(g) The certification period for safe houses and safe foster homes shall run concurrently with the terms of their licenses.

(3) HUMAN TRAFFICKING VICTIMS TASK FORCE.—

(a) To ensure sexually exploited children in this state are provided specialized, evidence- and practice-informed programs and options that appropriately and effectively address their safety, therapeutic, health, educational, vocational rehabilitative, and emotional needs, the Human Trafficking Victims Task Force is established between the department and the Department of Juvenile Justice. The purpose of the task force is to develop a statewide, coordinated response, including recommendations for a secure safe house pilot program, in order to provide for the safety, welfare, and future success of children who are victims of human trafficking. The task force shall comply with the requirements of s. 20.052, except as otherwise provided in this section.

(b) The task force shall be seated by the department and Department of Juvenile Justice with co-chairs designated by each department.



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(c) The task force shall hold its initial meeting by
October 1, 2014.

(d) The task force shall make recommendations for
specialized services and treatment of sexually exploited
children and identify any gaps in the availability of such
services across the state. Recommendations shall include the
development of a secure residential safe house pilot program in
order to evaluate the therapeutic benefits of establishing such
a program within the broader array of residential and community-
based services available to meets the needs of sexually
exploited children.

(e) The department and the Department of Juvenile Justice
shall provide administrative support to the task force.

(f) The task force shall meet at least monthly and at other
times at the call of the co-chairs.

(g) Members of the task force shall serve without
compensation but are entitled to reimbursement for per diem and
travel expenses as provided in s. 112.061.

(h) By December 15, 2014, the task force shall submit a
report to the Governor, the President of the Senate, and the
Speaker of the House of Representatives which states the task
force's findings, conclusions, and recommendations as described
in paragraph (d).

Section 3. 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(67)(g)



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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). ~~The assessment shall be conducted by the department or its agent and shall incorporate and address current and historical information from any law enforcement reports; psychological testing or evaluation that has occurred; current and historical information from the guardian ad litem, if one has been assigned; current and historical information from any current therapist, teacher, or other professional who has knowledge of the child and has worked with the child; and any other information concerning the availability and suitability of safe-house placement.~~ 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 and the child's behaviors can be managed in those settings so that the child does not endanger other children served in that setting, or if a safe house or safe foster home is unavailable ~~As used in this section, the term "available" as it relates to a placement means a placement that is located within the circuit or otherwise reasonably accessible.~~

(2) The results of the assessment described in s. 409.1754(1) ~~subsection (1)~~ and the actions taken as a result of the assessment must be included in the next judicial review of the child. At each subsequent judicial review, the court must be advised in writing of the status of the child's placement, with special reference regarding the stability of the placement and



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the permanency planning for the child.

(3) (a) By December 1 of each year, the department shall report to the Legislature on the placement of children in safe houses and safe foster homes during the year, including the criteria used to determine the placement of children, the number of children who were evaluated for placement, the number of children who were placed based upon the evaluation, and the number of children who were not placed.

(b) The department shall maintain data specifying the number of children who were referred to a safe house or safe foster home for whom placement was unavailable and the counties in which such placement was unavailable. The department shall include this data in its report under this subsection so that the Legislature may consider this information in developing the General Appropriations Act.

Section 4. Paragraph (b) of subsection (2) and paragraph (b) of subsection (3) of section 39.401, Florida Statutes, are amended to read:

39.401 Taking a child alleged to be dependent into custody; law enforcement officers and authorized agents of the department.—

(2) If the law enforcement officer takes the child into custody, that officer shall:

(b) Deliver the child to an authorized agent of the department, stating the facts by reason of which the child was taken into custody and sufficient information to establish probable cause that the child is abandoned, abused, or neglected, or otherwise dependent. For such a child for whom there is also probable cause to believe he or she has been



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sexually exploited, the law enforcement officer shall deliver the child to the department. ~~The department may place the child in an appropriate short-term safe house as provided for in s. 409.1678 if a short-term safe house is available.~~

For cases involving allegations of abandonment, abuse, or neglect, or other dependency cases, within 3 days after such release or within 3 days after delivering the child to an authorized agent of the department, the law enforcement officer who took the child into custody shall make a full written report to the department.

(3) If the child is taken into custody by, or is delivered to, an authorized agent of the department, the agent shall review the facts supporting the removal with an attorney representing the department. The purpose of the review is to determine whether there is probable cause for the filing of a shelter petition.

(b) If the facts are sufficient and the child has not been returned to the custody of the parent or legal custodian, the department shall file the petition and schedule a hearing, and the attorney representing the department shall request that a shelter hearing be held within 24 hours after the removal of the child. While awaiting the shelter hearing, the authorized agent of the department may place the child in licensed shelter care, ~~or in a short-term safe house if the child is a sexually exploited child,~~ or may release the child to a parent or legal custodian or responsible adult relative or the adoptive parent of the child's sibling who shall be given priority consideration over a licensed placement, or a responsible adult approved by



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the department if this is in the best interests of the child.
Placement of a child which is not in a licensed shelter must be
preceded by a criminal history records check as required under
s. 39.0138. In addition, the department may authorize placement
of a housekeeper or homemaker ~~housekeeper/homemaker~~ in the home
of a child alleged to be dependent until the parent or legal
custodian assumes care of the child.

Section 5. Subsection (6) of section 796.07, Florida
Statutes, is amended to read:

796.07 Prohibiting prostitution and related acts.—

(6) A person who violates paragraph (2)(f) shall be
assessed a civil penalty of \$5,000 if the violation results in
any judicial disposition other than acquittal or dismissal. Of
the proceeds from each penalty assessed under this subsection,
the first \$500 shall be paid to the circuit court administrator
for the sole purpose of paying the administrative costs of
treatment-based drug court programs provided under s. 397.334.
The remainder of the penalty assessed shall be deposited in the
Operations and Maintenance Trust Fund of the Department of
Children and Families ~~Family Services~~ for the sole purpose of
funding safe houses and ~~short-term~~ safe foster homes ~~houses~~ as
provided in s. 409.1678.

Section 6. Paragraph (b) of subsection (2) of section
985.115, Florida Statutes, is amended to read:

985.115 Release or delivery from custody.—

(2) Unless otherwise ordered by the court under s. 985.255
or s. 985.26, and unless there is a need to hold the child, a
person taking a child into custody shall attempt to release the
child as follows:



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(b) Contingent upon specific appropriation, to a shelter approved by the department or to an authorized agent ~~or short-term safe house under s. 39.401(2)(b).~~

Section 7. The Office of Program Policy Analysis and Government Accountability shall conduct a study on commercial sexual exploitation of children in Florida. The study shall assess the extent of commercial sexual exploitation of children, including, but not limited to, its prevalence in various regions of the state. The study shall also identify specialized services needed by sexually exploited children and any gaps in the availability of such services by region, including, but not limited to, residential services and specialized therapies. The study shall also analyze the effectiveness of safe houses, safe foster homes, and other residential options for serving sexually exploited children in addressing their safety, therapeutic, health, educational, and emotional needs, including, but not limited to, the nature and appropriateness of subsequent placements, extent of sexual exploitation postplacement, and educational attainment. By July 1, 2017, the Office of Program Policy Analysis and Government Accountability shall report its findings to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

Section 8. This act shall take effect July 1, 2014.

===== 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



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An act relating to human trafficking; creating s.
409.1754, F.S.; requiring the Department of Children
and Families to develop or adopt initial screening and
assessment instruments for sexually exploited
children; specifying the process for the department to
develop or adopt such screening and assessment
instruments; providing factors for placement in a safe
house or safe foster home; authorizing specified
entities to use additional initial screening and
assessment instruments; requiring the staff of the
department, community-based care lead agencies, and
the Department of Juvenile Justice to receive
specified training in handling cases involving a
sexually exploited child and the administration of the
risk assessment instrument; requiring the Department
of Children and Families and lead agencies to hold
multidisciplinary staffings under certain
circumstances; requiring each region of the department
and each lead agency to develop specified plans and
protocols in consultation with specified entities;
requiring the local regional director to provide
specified training to local law enforcement officials;
directing the department, the Department of Juvenile
Justice, and lead agencies to participate in
coalitions, task forces, or similar organizations to
coordinate local responses to human trafficking;
requiring the circuit administrator of the Department
of Children and Families to initiate a task force if
one is not active in a local area; amending s.



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409.1678, F.S.; defining terms; requiring safe houses and safe foster homes to be certified by the department; providing requirements for certification and operation as a safe house or safe foster home; requiring a lead agency to ensure certain training; requiring the department to specify the contents of such training; authorizing the department to develop or contract for a standard curriculum; authorizing the department to establish additional criteria for the certification of safe houses and safe foster homes; providing duties of the department relating to the certification of safe houses and safe foster homes; establishing the Human Trafficking Victims Task Force in the department and the Department of Juvenile Justice; providing the purpose of the task force; providing for membership and co-chairs of the task force; providing for meetings; providing the duties of the task force; providing for reimbursement of task force members; requiring a report to the Governor and the Legislature by a specified date; amending s. 39.524, F.S.; requiring assessment or placement in a safe foster home under certain circumstances; authorizing placement in a setting other than a safe house or safe foster home under certain conditions; conforming provisions to changes made by the act; amending ss. 39.401, 796.07, and 985.115, F.S.; conforming provisions to changes made by the act; requiring the Office of Program Policy Analysis and Government Accountability to conduct a study on



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475 commercial exploitation of children in the state and
476 related topics; requiring a report to the Governor and
477 the Legislature by a specified date; providing an
478 effective date.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/11/2014	.	
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The Committee on Appropriations (Sobel) recommended the following:

Senate Amendment (with title amendment)

Delete lines 195 - 578
and insert:

(c) To be certified, a safe house must hold a license as a residential child-caring agency as defined in s. 409.175 and a safe foster home must hold a license as a family foster home as defined in s. 409.175. A safe house or safe foster home must also:



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10 1. Use strength-based and trauma-informed approaches to
11 care, to the extent possible and appropriate.

12 2. Serve exclusively one sex.

13 3. Group sexually exploited children by age or maturity
14 level.

15 4. Care for sexually exploited children in a manner that
16 separates these children from children with other needs. Safe
17 houses and safe foster homes may care for other populations if
18 the children who have not experienced sexual exploitation do not
19 interact with children who have experienced sexual exploitation.

20 5. Have awake staff members on duty 24 hours per day, if a
21 safe house.

22 6. Provide appropriate security through facility design,
23 hardware, technology, staffing, and siting, including, but not
24 limited to, external video monitoring or exit door alarms, a
25 high staff-to-client ratio, or being situated in a remote
26 location that is isolated from major transportation centers and
27 common trafficking areas.

28 7. Meet other criteria established by department rule,
29 which may include, but are not limited to, personnel
30 qualifications, staffing ratios, and types of services offered.

31 (d) Safe houses and safe foster homes shall provide
32 services tailored to the needs of sexually exploited children
33 and shall conduct a comprehensive assessment of the service
34 needs of each resident. In addition to the services required to
35 be provided by residential-child caring agencies and family
36 foster homes, safe houses and safe foster homes shall provide,
37 arrange for, or coordinate, at a minimum, the following
38 services:



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- 39 1. Victim-witness counseling.
- 40 2. Family counseling.
- 41 3. Behavioral health care.
- 42 4. Treatment and intervention for sexual assault.
- 43 5. Education tailored to the child's individual needs,
44 including remedial education if necessary.
- 45 6. Life skills training.
- 46 7. Mentoring by a survivor of sexual exploitation if
47 available and appropriate for the child.
- 48 8. Substance abuse screening and, if necessary, access to
49 treatment.
- 50 9. Planning services for the successful transition of each
51 child back to the community.
- 52 10. Activities in a manner that provides sexually exploited
53 children with a full schedule.
- 54 (e) The community-based care lead agencies shall ensure
55 that foster parents of safe foster homes and staff of safe
56 houses complete intensive training regarding, at a minimum, the
57 needs of sexually exploited children, the effects of trauma and
58 sexual exploitation, and how to address those needs using
59 strength-based and trauma-informed approaches. The department
60 shall specify the contents of this training by rule and may
61 develop or contract for a standard curriculum. The department
62 may establish by rule additional criteria for the certification
63 of safe houses and safe foster homes which must address the
64 security, therapeutic, social, health, and educational needs of
65 sexually exploited children.
- 66 (f) The department shall annually inspect safe houses and
67 safe foster homes before certification to ensure compliance with



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the requirements of this section. The department may place a moratorium on referrals and may revoke the certification of a safe house or safe foster home that fails at any time to meet the requirements of, or rules adopted under, this section.

(g) The certification period for safe houses and safe foster homes shall run concurrently with the terms of their licenses.

(3) SERVICES WITHIN A RESIDENTIAL TREATMENT CENTER OR HOSPITAL.—Residential treatment centers licensed under s. 394.875 and hospitals licensed under chapter 395 which provide residential mental health treatment shall provide specialized treatment for sexually exploited children in the custody of the department placed in such facilities pursuant to s. 39.407(6), s. 394.4625, or s. 394.467. For such children, such facilities shall meet the requirements of subparagraphs (2)(c)1. and 3.-7. and paragraph (2)(d). The facilities shall ensure that children are served in single-sex groups and that staff working with such children are adequately trained in the effects of trauma and sexual exploitation, the needs of sexually exploited children, and how to address those needs using strength-based and trauma-informed approaches.

(4) PROVISION OF SERVICES; CASE MANAGEMENT.—

(a) This section does not prohibit any provider of services for sexually exploited children from appropriately billing Medicaid for services rendered, from contracting with a local school district for educational services, or from obtaining federal or local funding for services provided, as long as two or more funding sources do not pay for the same specific service that has been provided to a child.



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(b) The lead agency shall ensure that all children residing in safe houses or safe foster homes or served in residential treatment centers or hospitals pursuant to subsection (3) have a case manager and a case plan, whether or not the child is a dependent child.

(5) AVAILABILITY OF SERVICES.—The services specified in this section may, to the extent possible provided by law and with authorized funding, be available to all sexually exploited children whether they are accessed voluntarily, as a condition of probation, through a diversion program, through a proceeding under chapter 39, or through a referral from a local community-based care or social service agency.

Section 3. 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(67)(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). ~~The assessment shall be conducted by the department or its agent and shall incorporate and address current and historical information from any law enforcement reports; psychological testing or evaluation that has occurred; current and historical information from the guardian ad litem, if one has been assigned; current and historical information from any current therapist, teacher, or other professional who has knowledge of the child and has worked with the child; and any other information concerning the~~



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~~availability and suitability of safe house placement.~~ 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 ~~As used in this section, the term "available" as it relates to a placement means a placement that is located within the circuit or otherwise reasonably accessible.~~

(2) The results of the assessment described in s. 409.1754(1) ~~subsection (1)~~ and the actions taken as a result of the assessment must be included in the next judicial review of the child. At each subsequent judicial review, the court must be advised in writing of the status of the child's placement, with special reference regarding the stability of the placement and the permanency planning for the child.

(3)(a) By December 1 of each year, the department shall report to the Legislature on the placement of children in safe houses and safe foster homes during the year, including the criteria used to determine the placement of children, the number of children who were evaluated for placement, the number of children who were placed based upon the evaluation, and the number of children who were not placed.

(b) The department shall maintain data specifying the number of children who were referred to a safe house or safe foster home for whom placement was unavailable and the counties in which such placement was unavailable. The department shall



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include this data in its report under this subsection so that the Legislature may consider this information in developing the General Appropriations Act.

Section 4. Paragraph (p) is added to subsection (4) of section 394.495, Florida Statutes, 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(67)(g).

Section 5. Paragraph (b) of subsection (2) and paragraph (b) of subsection (3) of section 39.401, Florida Statutes, are amended to read:

39.401 Taking a child alleged to be dependent into custody; law enforcement officers and authorized agents of the department.—

(2) If the law enforcement officer takes the child into custody, that officer shall:

(b) Deliver the child to an authorized agent of the department, stating the facts by reason of which the child was taken into custody and sufficient information to establish probable cause that the child is abandoned, abused, or neglected, or otherwise dependent. For such a child for whom there is also probable cause to believe he or she has been sexually exploited, the law enforcement officer shall deliver the child to the department. ~~The department may place the child in an appropriate short-term safe house as provided for in s. 409.1678 if a short-term safe house is available.~~



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For cases involving allegations of abandonment, abuse, or neglect, or other dependency cases, within 3 days after such release or within 3 days after delivering the child to an authorized agent of the department, the law enforcement officer who took the child into custody shall make a full written report to the department.

(3) If the child is taken into custody by, or is delivered to, an authorized agent of the department, the agent shall review the facts supporting the removal with an attorney representing the department. The purpose of the review is to determine whether there is probable cause for the filing of a shelter petition.

(b) If the facts are sufficient and the child has not been returned to the custody of the parent or legal custodian, the department shall file the petition and schedule a hearing, and the attorney representing the department shall request that a shelter hearing be held within 24 hours after the removal of the child. While awaiting the shelter hearing, the authorized agent of the department may place the child in licensed shelter care, ~~or in a short-term safe house if the child is a sexually exploited child,~~ or may release the child to a parent or legal custodian or responsible adult relative or the adoptive parent of the child's sibling who shall be given priority consideration over a licensed placement, or a responsible adult approved by the department if this is in the best interests of the child. Placement of a child which is not in a licensed shelter must be preceded by a criminal history records check as required under s. 39.0138. In addition, the department may authorize placement



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of a housekeeper/homemaker in the home of a child alleged to be dependent until the parent or legal custodian assumes care of the child.

Section 6. Subsection (6) of section 796.07, Florida Statutes, is amended to read:

796.07 Prohibiting prostitution and related acts.—

(6) A person who violates paragraph (2)(f) shall be assessed a civil penalty of \$5,000 if the violation results in any judicial disposition other than acquittal or dismissal. Of the proceeds from each penalty assessed under this subsection, the first \$500 shall be paid to the circuit court administrator for the sole purpose of paying the administrative costs of treatment-based drug court programs provided under s. 397.334. The remainder of the penalty assessed shall be deposited in the Operations and Maintenance Trust Fund of the Department of Children and Family Services for the sole purpose of funding safe houses and safe foster homes ~~short-term safe houses~~ as provided in s. 409.1678.

Section 7. Paragraph (b) of subsection (2) of section 985.115, Florida Statutes, is amended to read:

985.115 Release or delivery from custody.—

(2) Unless otherwise ordered by the court under s. 985.255 or s. 985.26, and unless there is a need to hold the child, a person taking a child into custody shall attempt to release the child as follows:

(b) Contingent upon specific appropriation, to a shelter approved by the department or to an authorized agent ~~or short-term safe house under s. 39.401(2)(b).~~

Section 8. The Office of Program Policy Analysis and



485468

Government Accountability shall conduct a study on commercial sexual exploitation of children in Florida. The study shall assess the extent of commercial sexual exploitation of children, including, but not limited to, its prevalence in various regions of the state. The study shall also identify specialized services needed by sexually exploited children and any gaps in the availability of such services by region, including, but not limited to, residential services and specialized therapies. The study shall analyze the effectiveness of safe houses, safe foster homes, residential treatment centers and hospitals with specialized programs for sexually exploited children, and other residential options for serving sexually exploited children in addressing their safety, therapeutic, health, educational, and emotional needs, including, but not limited to, the nature and appropriateness of subsequent placements, extent of sexual exploitation postplacement, and educational attainment. The study shall also include the number of children involuntarily committed to treatment facilities who are victims of sexual exploitation and the outcomes of those children for the 3 years after completion of inpatient treatment. All state agencies and contractors receiving state funds of any kind shall comply with each request for data and information from the Office of Program Policy Analysis and Government Accountability. Beginning July 1, 2015, and by this date each year, the Office of Program Policy Analysis and Government Accountability shall report its findings to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

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



485468

And the title is amended as follows:

Delete lines 23 - 48

and insert:

providing definitions; requiring that safe houses and safe foster homes be certified by the department; providing requirements for certification as a safe houses or safe foster home; requiring the department to inspect safe houses and safe foster homes; requiring specified training for persons providing services in safe houses and safe foster homes; authorizing the department to adopt rules; requiring residential treatment centers or hospitals to provide specialized treatment; providing for service providers to obtain federal or local funding under certain conditions; providing for scope of availability of services; amending s. 39.524, F.S.; providing for review of safe harbor placement of a child in a safe house or safe foster home; revising criteria for placement; authorizing placement in settings other than safe houses and safe foster homes under certain conditions; amending s. 394.495, F.S.; including trauma-informed services for sexually exploited children in the child and adolescent mental health system of care; amending ss. 39.401, 796.07, and 985.115, F.S.; conforming cross-references; requiring the Office of Program Policy Analysis and Government Accountability to conduct a study on commercial exploitation of children in Florida and related topics; requiring an annual report to the Governor and



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the Legislature; providing an effective date.



401954

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/11/2014	.	
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The Committee on Appropriations (Sobel) recommended the following:

Senate Amendment to Amendment (485468) (with title amendment)

Between lines 240 and 241
insert:

Section 8. Section 16.617, Florida Statutes, is created to read:

16.617 Statewide Council on Human Trafficking; creation; membership; duties.—

(1) CREATION.—There is created the Statewide Council on



401954

Human Trafficking within the Department of Legal Affairs. The council is created for the purpose of enhancing the development and coordination of state and local law enforcement and social services responses to fight commercial sexual exploitation, as a form of human trafficking, and support victims.

(2) MEMBERSHIP.—

(a) The council shall consist of the following members:

1. The Attorney General, or a designee, who shall serve as chair.

2. The Secretary of the Department of Children and Families, or a designee, who shall serve as vice chair.

3. The State Surgeon General, or a designee.

4. The Secretary of the Agency for Health Care Administration, or a designee.

5. The executive director of the Department of Law Enforcement, or a designee.

6. The Secretary of the Department of Juvenile Justice, or a designee.

7. The Commissioner of the Department of Education, or a designee.

8. One member of the Senate, appointed by the President of the Senate.

9. One member of the House of Representatives, appointed by the Speaker of the House of Representatives.

10. An elected sheriff, appointed by the Attorney General.

11. An elected state attorney, appointed by the Attorney General.

12. Two members appointed by the Attorney General and two members appointed by the Governor, all of whom have professional



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40 experience to assist the council in the development of care and
41 treatment options for victims of human trafficking.

42 (b) Each member shall be appointed to a 4-year term.
43 However, for the purpose of achieving staggered terms, the
44 Attorney General, the President of the Senate, and the Speaker
45 of the House of Representatives shall each initially appoint
46 their respective members to serve a 2-year term. All subsequent
47 appointments shall be for 4-year terms. A vacancy that occurs
48 shall be filled in the same manner as the original appointment
49 and shall be for the remainder of the unexpired term of that
50 seat.

51 (c) A member may not receive a commission, fee, or
52 financial benefit in connection with serving on the council.
53 Pursuant to s. 112.061, council members may be entitled to
54 reimbursement for per diem and travel expenses by the state
55 agency the member represents. If a member is not affiliated with
56 a state agency, the member shall be reimbursed by the Department
57 of Legal Affairs.

58 (3) ORGANIZATION AND SUPPORT.—

59 (a) The first meeting of the council shall be held by
60 September 1, 2014. Thereafter, the council shall meet at least
61 once each quarter every calendar year. Meetings may be held via
62 teleconference or other electronic means.

63 (b) A majority of the members of the council constitutes a
64 quorum.

65 (c) The Department of Legal Affairs shall provide the
66 council with staff necessary to assist the council in the
67 performance of its duties.

68 (4) DUTIES.—The council shall:



401954

(a) Develop recommendations for comprehensive programs and services for victims of human trafficking to include recommendations for certification criteria for safe houses and safe foster homes.

(b) Make recommendations for apprehending and prosecuting traffickers and enhancing coordination of responses.

(c) Annually hold a statewide policy summit in conjunction with an institution of higher learning in this state.

(d) Work with the Department of Children and Families to create and maintain an inventory of human trafficking programs and services in each county, including, but not limited to, awareness programs and victim assistance services, which can be used to determine how to maximize existing resources and address unmet needs and emerging trends.

(e) Develop policy recommendations that advance the duties of the council and that further the efforts to combat human trafficking in the state.

(5) REPORT.—By each October 31, the council shall submit a report to the President of the Senate and the Speaker of the House of Representatives summarizing the accomplishments of the council during the preceding fiscal year and making recommendations regarding the development and coordination of state and local law enforcement and social services responses to combat human trafficking and support victims.

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

And the title is amended as follows:

Delete line 295

and insert:



401954

98 985.115, F.S.; conforming cross-references; creating
99 s. 16.617, F.S.; creating the Statewide Council on
100 Human Trafficking within the Department of Legal
101 Affairs; providing the purpose of the council;
102 providing for membership of the council, appointment
103 of members, and reimbursement of members; providing
104 for meetings; requiring the Department of Legal
105 Affairs to provide staff to the council; specifying
106 duties of the council; requiring an annual report to
107 the Legislature by a specified date; requiring



850430

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/11/2014	.	
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The Committee on Appropriations (Joyner) recommended the following:

Senate Amendment

Delete line 579
and insert:
Section 7. This act shall take effect June 1, 2015.

By the Committee on Children, Families, and Elder Affairs

586-03536-14

20141724__

1 A bill to be entitled
 2 An act relating to human trafficking; creating s.
 3 409.1754; requiring the department to develop or adopt
 4 initial screening and assessment instruments;
 5 specifying the process for the department to develop
 6 or adopt initial screening and assessment instruments;
 7 providing criteria for placement in safe houses or
 8 safe foster homes; allowing entities to use additional
 9 initial screening and assessment instruments;
 10 requiring the department, community-based care lead
 11 agencies, and staff administering the detention risk
 12 assessment instrument to receive specified training;
 13 requiring the department and lead agencies to hold
 14 multidisciplinary staffings under certain conditions;
 15 requiring the department and lead agencies to develop
 16 specific plans and protocols; directing the
 17 department, the Department of Juvenile Justice, and
 18 lead agencies to participate in coalitions, task
 19 forces, or similar organizations to coordinate local
 20 responses to human trafficking; requiring the
 21 department to attempt to initiate a task force if none
 22 is active in a local area; amending s. 409.1678;
 23 providing definitions; authorizing the Department of
 24 Children and Families to certify safe houses and safe
 25 foster homes; providing requirements for certification
 26 as safe houses and safe foster homes; allowing the
 27 department to certify a secure safe house to operate
 28 as a pilot program; providing requirements for the
 29 secure safe house pilot program; amending s. 39.524;

Page 1 of 20

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

586-03536-14

20141724__

30 providing for review of appropriateness of safe harbor
 31 placement in both safe houses and safe foster homes;
 32 amending criteria for placement; authorizing placement
 33 in settings other than safe houses and safe foster
 34 homes under certain conditions; requiring the Office
 35 of Program Policy Analysis and Government
 36 Accountability to conduct a study on commercial
 37 exploitation of children in Florida and related
 38 topics; creating s. 39.4072; providing for placement
 39 for evaluation in a secure safe house if certain
 40 criteria is met; specifying the process for evaluating
 41 whether a child meets criteria for placement for
 42 treatment in a secure safe house; creating s. 39.4074;
 43 authorizing the department to file a petition for
 44 placement in a secure safe house if the child is
 45 evaluated to meet criteria; providing for court
 46 determination; requiring reporting on a child's
 47 treatment progress in a secure safe house; providing
 48 for court review; providing an effective date.

49
 50 Be It Enacted by the Legislature of the State of Florida:

51
 52 Section 1. Section 409.1754, Florida Statutes, is created
 53 to read:

54 409.1754 Sexually Exploited Children; Screening and
 55 Assessment; Training; Case Management; Task Forces.—

56 (1) SCREENING AND ASSESSMENT.—

57 (a) The department shall develop or adopt one or more
 58 initial screening and assessment instruments to identify,

Page 2 of 20

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

586-03536-14

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determine the needs of, plan services for, and identify appropriate placement for sexually exploited children. The department shall consult state and local agencies, organizations, and individuals involved in the identification and care of sexually exploited children in developing or adopting the initial screening and assessment instruments. The initial screening and assessment instruments shall include assessment of appropriate placement, including whether placement in a safe house or safe foster home is appropriate, and shall consider, at a minimum, the following factors:

1. Risk of the sexually exploited child running away.
2. Risk of the sexually exploited child recruiting other children into the commercial sex trade.
3. Level of the sexually exploited child's attachment to his or her exploiter.
4. Level and type of trauma that the sexually exploited child has endured.
5. Nature of the sexually exploited child's interactions with law enforcement.
6. Length of time that the child was sexually exploited.
7. Extent of any substance abuse by the sexually exploited child.

(b) The initial screening and assessment instruments shall be validated if possible and must be used by the department, juvenile assessment centers as provided in s. 985.135, and community-based care lead agencies.

(c) The department shall establish rules specifying the initial screening and assessment instruments to be used, the requirements for their use, and the reporting of data collected

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through them.

(d) The department, the Department of Juvenile Justice, and community-based care lead agencies are not precluded from using additional assessment instruments in the course of serving sexually exploited children.

(2) TRAINING; CASE MANAGEMENT; TASK FORCES.-

(a)1. The department and community-based care lead agencies shall ensure that cases in which a child is alleged, suspected, or known to have been sexually exploited are assigned to child protective investigators and case managers who have specialized intensive training in handling cases involving a sexually exploited child. The department and lead agencies shall ensure that child protective investigators and case managers, respectively, receive this training prior to accepting any case involving a sexually exploited child.

2. The Department of Juvenile Justice shall ensure that juvenile probation staff or contractors administering the detention risk assessment instrument receive specialized intensive training in identifying and serving sexually exploited children.

(b) The department and community-based care lead agencies shall conduct regular multidisciplinary staffings for sexually exploited children to ensure that all relevant information is known to all parties and that services are coordinated across systems. The department or community-based care lead agency, as appropriate, shall coordinate these staffings and invite individuals involved in the child's care. This may include, but is not limited to, the child's guardian ad litem, juvenile justice system staff, school district staff, service providers,

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and victim advocates.

(c)1. Each region of the department and each community-based care lead agency shall jointly assess local service capacity to meet the specialized service needs of sexually exploited children and establish a plan to develop capacity. Each plan shall be developed in consultation with local law enforcement officials, local school officials, runaway and homeless youth program providers, local probation departments, children's advocacy centers, public defenders, state attorney's offices, safe houses, and child advocates and services providers who work directly with sexually exploited children.

2. Each region of the department and each community-based care lead agency shall establish local protocols and procedures for working with sexually exploited children which are responsive to the individual circumstances of each child. The protocols and procedures shall take into account the varying types and levels of trauma endured; whether the sexual exploitation is actively occurring, occurred in the past, or inactive but likely to reoccur; and the differing community resources and degrees of familial support that may be available. Child protective investigators and case managers must use the protocols and procedures when working with a sexually exploited child.

(3)(a) The local regional director may, to the extent that funds are available, provide training to local law enforcement officials who are likely to encounter sexually exploited children in the course of their law enforcement duties. Training shall address the provisions of this section and how to identify and obtain appropriate services for sexually exploited children.

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The local circuit administrator may contract with a not-for-profit agency having experience working with sexually exploited children to provide the training. Circuits may work cooperatively to provide training, which may be provided on a regional basis. The department shall assist circuits to obtain any available funds for the purposes of conducting law enforcement training from the Office of Juvenile Justice and Delinquency Prevention of the United States Department of Justice.

(b) Circuit administrators or their designees, chief probation officers of the Department of Juvenile Justice or their designees, and the chief operating officers of community based care lead agencies or their designees shall participate in any task force, committee, council, advisory group, coalition, or other entity active in their service area for coordinating responses to address human trafficking or sexual exploitation of children. If no such entity exists, the circuit administrator for the department shall work to initiate one.

Section 2. Section 409.1678, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 409.1678, F.S., for present text).

409.1678 Specialized residential options for children who are victims of sexual exploitation.—

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

(a) "Safe foster home" means a foster home certified by the department under this section to care for sexually exploited children.

(b) "Safe house" means a group residential placement

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175 certified by the department under this section to care for
 176 sexually exploited children.

177 (c) "Sexually exploited child" means a child who has
 178 suffered sexual exploitation as defined in s. 39.01(67)(g) and
 179 is ineligible for relief and benefits under the federal
 180 Trafficking Victims Protection Act, 22 U.S.C. ss. 7101 et seq.

181 (2) CERTIFICATION OF SAFE HOUSES AND SAFE FOSTER HOMES.—

182 (a) Safe houses and safe foster homes shall provide a safe,
 183 separate, and therapeutic environment tailored to the needs of
 184 sexually exploited children who have endured significant trauma.
 185 Safe houses and safe foster homes shall use a model of treatment
 186 that includes strength-based and trauma-informed approaches.

187 (b) The department shall certify safe houses and safe
 188 foster homes. A residential facility accepting state funds
 189 appropriated to provide services to sexually exploited children
 190 or child victims of sex trafficking must be certified by the
 191 department as a safe house or a safe foster home. No entity may
 192 use the designation "safe house" or "safe foster home" and hold
 193 themselves out as serving sexually exploited children unless the
 194 entity is certified under this section.

195 (c) To be certified, a safe house must hold a license as a
 196 residential child-caring agency, and a safe foster home must
 197 hold a license as a family foster home, pursuant to s. 409.175.
 198 A safe house or safe foster home must also:

199 1. Use trauma-informed and strength-based approaches to
 200 care, to the extent possible and appropriate.
 201 2. Serve exclusively one sex.
 202 3. Group sexually exploited children by age or maturity
 203 level.

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204 4. Care for sexually exploited children in a manner that
 205 separates these children from children with other needs. Safe
 206 houses and safe foster homes may care for other populations, if
 207 the children who have not experienced sexual exploitation do not
 208 interact with children who have experienced sexual exploitation.

209 5. Have awake staff members on duty 24 hours a day, if a
 210 safe house.

211 6. Provide appropriate security through facility design,
 212 hardware, technology, staffing, and siting, including but not
 213 limited to external video monitoring or alarmed doors, having a
 214 high staff-to-client ratio, or being situated in a remote
 215 location isolated from major transportation centers and common
 216 trafficking areas. However, such security must allow sexually
 217 exploited children to exit the safe house if they choose.

218 7. Meet other criteria established by the department in
 219 rule, which may include, but are not limited to, personnel
 220 qualifications, staffing ratios, and services content.

221 (d) Safe houses and safe foster homes shall provide
 222 services tailored to the needs of sexually exploited children
 223 and shall conduct a comprehensive assessment of the service
 224 needs of each resident. In addition to the services required to
 225 be provided by residential child caring agencies and family
 226 foster homes, safe houses and safe foster homes must provide,
 227 arrange for or coordinate, at a minimum, the following services:

228 1. Victim-witness counseling;
 229 2. Family counseling;
 230 3. Behavioral health care;
 231 4. Treatment and intervention for sexual assault;
 232 5. Education tailored to the child's individual needs,

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including remedial education if necessary;

6. Life skills training;

7. Mentoring by a survivor of sexual exploitation, if available and appropriate for the child;

8. Substance abuse screening, and where necessary, access to treatment;

9. Planning services for the successful transition of each child back to the community; and

10. Activities, in a manner that provides sexually exploited children with a full schedule.

(e) The community-based care lead agencies shall ensure that foster parents of safe foster homes and staff of safe houses complete intensive training regarding, at a minimum, the needs of sexually exploited children, the effects of trauma and sexual exploitation, and how to address those needs using strength-based and trauma-informed approaches. The department shall specify this training by rule and may develop or contract for a standard curriculum. The department may establish in rule additional criteria for the certification of safe houses and safe foster homes. Criteria shall address the security, therapeutic, social, health, and educational needs of sexually exploited children.

(f) The department shall inspect safe houses and safe foster homes prior to certification and annually to ensure compliance with requirements of this section. The department may place a moratorium on referrals and may revoke the certification of a safe house or safe foster home which fails at any time to meet the requirements of this section or rules adopted pursuant to this section.

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(g) The certification period for safe houses and safe foster homes shall run concurrently with the terms of their licenses.

(3) SECURE SAFE HOUSE PILOT PROGRAM.—

(a) The department may facilitate the development of one secure safe house on a pilot basis to evaluate the therapeutic benefits of a secure residential setting within the broader array of residential and community-based services available to meet the needs of sexually exploited children. The secure safe house is intended for those sexually exploited children with the greatest needs, for whom no less restrictive placement has been or will be effective in addressing the effects of severe abuse, violence, trauma, or exploiter control endured by the child. The setting is only available to a sexually exploited child:

1. Who is the subject of an open investigation due to an allegation of abuse, neglect, or exploitation, or has been adjudicated dependent;

2. Who has been placed in accordance with ss. 39.4072 and 39.4074; and

3. Whose needs cannot be met in less restrictive placements.

(b) The secure safe house must be a certified safe house, and may have no more than 15 beds. The department shall select the region where the secure safe house shall be sited. The department shall collaborate with the local community-based care lead agency to design the pilot project, including, but not limited to, selection of the location, selection of the provider, the facility's security features, referral processes, and services provided within the secure safe house.

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291 (c) Children from any region of the state may be placed in
 292 the secure safe house pursuant to ss. 39.4072 and 39.4074. The
 293 department, in consultation with the community-based care lead
 294 agencies serving the children, shall approve all placements of
 295 children in the facility. In addition to the criteria in s.
 296 409.1754(1) and any other criteria determined by the department
 297 pursuant to that subsection, the following criteria at a minimum
 298 shall also be used to determine whether a child qualifies for
 299 placement in the secure safe house:

300 1. Lack of willingness to participate in less intensive
 301 programs; and

302 2. Lack of treatment progress in less restrictive
 303 placements, if the child has been placed elsewhere.

304 (d) The secure safe house shall include features which
 305 prevent any entry into or exit from the facility or its grounds
 306 without the involvement of staff, including, but not limited to,
 307 walls, fencing, gates, and locking doors.

308 (e) A child may be placed in the secure safe house for a
 309 minimum of 5 days and a maximum of 10 months. Pursuant to s.
 310 39.4074(4), the secure safe house shall regularly review and
 311 report on the child's progress, and during judicial reviews the
 312 court shall determine whether continued placement in the secure
 313 safe house is appropriate. The department shall place the child
 314 in another setting when continued placement in the secure safe
 315 house is no longer appropriate.

316 (f) The department shall contract for an evaluation of the
 317 effectiveness of the secure safe house in facilitating the
 318 rehabilitation of sexually exploited children. The evaluation
 319 report shall be provided to the Governor, the President of the

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320 Senate, and the Speaker of the House of Representatives by
 321 February 1, 2018. The evaluation shall, at a minimum, describe
 322 the program model and facility design, assess the effectiveness
 323 of the facility in meeting the treatment and security needs of
 324 sexually exploited children, analyze its cost-effectiveness, and
 325 provide recommendations regarding the continued operation of the
 326 pilot program and any changes or enhancements.

327 (4) (a) This section does not prohibit any provider of
 328 services for sexually exploited children from appropriately
 329 billing Medicaid for services rendered, from contracting with a
 330 local school district for educational services, or from
 331 obtaining federal or local funding for services provided, as
 332 long as two or more funding sources do not pay for the same
 333 specific service that has been provided to a child.

334 (b) The lead agency shall ensure that all children residing
 335 in safe houses or safe foster homes have a case manager and a
 336 case plan, whether or not the child is a dependent child.

337 (5) The services specified in this section may, to the
 338 extent possible provided by law and with funding authorized, be
 339 available to all sexually exploited children whether they are
 340 accessed voluntarily, as a condition of probation, through a
 341 diversion program, through a proceeding under chapter 39, or
 342 through a referral from a local community-based care or social
 343 service agency.

344 Section 3. Section 39.524, Florida Statutes, is amended to
 345 read:

346 39.524 Safe-harbor placement.—

347 (1) Except as provided in s. 39.407 or s. 985.801, a
 348 dependent child 6 years of age or older who has been found to be

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349 a victim of sexual exploitation as defined in s. 39.01(67)(g)
 350 must be assessed for placement in a safe house or safe foster
 351 home as provided in s. 409.1678 using the initial screening and
 352 assessment instruments provided in s. 409.1754(1). ~~The~~
 353 ~~assessment shall be conducted by the department or its agent and~~
 354 ~~shall incorporate and address current and historical information~~
 355 ~~from any law enforcement reports, psychological testing or~~
 356 ~~evaluation that has occurred; current and historical information~~
 357 ~~from the guardian ad litem, if one has been assigned; current~~
 358 ~~and historical information from any current therapist, teacher,~~
 359 ~~or other professional who has knowledge of the child and has~~
 360 ~~worked with the child; and any other information concerning the~~
 361 ~~availability and suitability of safe house placement.~~ If such
 362 placement is determined to be appropriate for the child as a
 363 result of this assessment, the child may be placed in a safe
 364 house or safe foster home, if one is available. However, the
 365 child may be placed in another setting if it is more appropriate
 366 to his or her needs and his or her behaviors can be managed in
 367 those settings so that they do not endanger other children being
 368 served in those settings, or if a safe house or safe foster home
 369 is unavailable. As used in this section, the term "available" as
 370 it relates to a placement means a placement that is located
 371 within the circuit or otherwise reasonably accessible.

372 (2) The results of the assessment described in s.
 373 409.1754(1) subsection (1) and the actions taken as a result of
 374 the assessment must be included in the next judicial review of
 375 the child. At each subsequent judicial review, the court must be
 376 advised in writing of the status of the child's placement, with
 377 special reference regarding the stability of the placement and

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378 the permanency planning for the child.

379 (3) (a) By December 1 of each year, the department shall
 380 report to the Legislature on the placement of children in safe
 381 houses and safe foster homes during the year, including the
 382 criteria used to determine the placement of children, the number
 383 of children who were evaluated for placement, the number of
 384 children who were placed based upon the evaluation, and the
 385 number of children who were not placed.

386 (b) The department shall maintain data specifying the
 387 number of children who were referred to a safe house or safe
 388 foster home for whom placement was unavailable and the counties
 389 in which such placement was unavailable. The department shall
 390 include this data in its report under this subsection so that
 391 the Legislature may consider this information in developing the
 392 General Appropriations Act.

393 Section 4. Section 39.4072, Florida Statutes, is created to
 394 read:

395 39.4072 Evaluation for secure safe house placement.—

396 (1) The Legislature finds that victims of child sexual
 397 exploitation as defined in s. 39.01(67)(g) often exhibit
 398 behaviors that place themselves and others in danger. The
 399 Legislature finds that when sexually exploited children
 400 repeatedly run away from their home or residential placement to
 401 unsafe placements, engage in commercial sexual activity as
 402 defined in s. 787.06(2)(b), F.S., or seek to maintain a
 403 relationship with their exploiters, these children and other
 404 children are in danger of being sexually exploited and
 405 physically abused, which can lead to grave emotional and
 406 physical harm.

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(2) CRITERIA.—A child may be taken to a secure safe house for evaluation of the appropriateness of placement for treatment in a secure safe house as provided in this section if there is probable cause that the child has been sexually exploited as defined in s. 39.01(67)(g) and:

(a) The child meets the criteria in s. 409.1678(3) for safe house placement; and

(b) The child recently engaged in behaviors that subject the child to victimization, violence, emotional harm, serious bodily harm, or health risks that endanger the child, posing a real and present threat of substantial harm to the child's well-being. Such behaviors include, but are not limited to, repeatedly running away from home or residential placement to an unsafe situation, engaging in commercial sexual activity as defined in s. 787.06(2)(b), and seeking to maintain a relationship with the child's trafficker despite others' attempts to separate the child from the trafficker;

(c) There is a substantial likelihood that without care or treatment the child will endanger or cause serious bodily harm to others, as evidenced by previous behavior including recruiting other children into the commercial sex trade or using coercion such as violence, illegal substances, or other means to compel their participation in such trade; and

(d) Less restrictive placement alternatives are unlikely to be effective in keeping the child from engaging in behaviors provided in paragraphs (b) and (c), as determined by a department or community-based care lead agency.

(3) EVALUATION.—

(a) An official of the department may initiate an

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evaluation of a child who is the subject of an open investigation or under the supervision of the court if the criteria in subsection (2) are met. A child protective investigator, a law enforcement officer, case manager, or other qualified individual may transport the child to the secure safe house, which may admit the child for assessment and stabilization pending the filing and adjudication of a petition by the department as provided in s. 39.522(1) alleging a need for a change in placement. The secure safe house shall provide notice regarding the child's admittance for assessment for secure safe house placement, to the child's parent or guardian, foster parent, case manager, and guardian ad litem. If the child does not have a guardian ad litem and a lawyer, the court shall appoint them.

(b) A psychiatrist, clinical psychologist, licensed mental health counselor, or licensed clinical social worker at the secure safe house who has training in working with sexually exploited children shall conduct an initial evaluation of the child as soon as it is appropriate to do so given the child's emotional, mental, and physical condition. The child may be provided medical screening and treatment pursuant to s. 39.407. The secure safe house may initiate appropriate therapeutic services to stabilize and treat the child.

(c) Facility staff shall continue to evaluate the child throughout his or her placement for evaluation in the secure safe house and may access the child's case file and other relevant records and request information from other individuals involved in the child's life. The child's parent or guardian, foster parent, case manager, and guardian ad litem may provide

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any information they believe relevant to the evaluation. The evaluation of the child shall be based on whether the child meets the criteria established under s. 409.1678(3) for admission to the secure safe house, and the criteria in paragraphs (1)(a) and (b).

(d) Within five days after the child's admittance to the secure safe house for evaluation, the psychiatrist, clinical psychologist, licensed mental health counselor, or licensed clinical social worker shall determine, based on the evaluation, whether the secure safe house would best meet the child's needs, or whether additional evaluation is required before a conclusion can be reached.

1. If the secure safe house would not best meet the child's needs, the department shall place the child in the least restrictive setting which is appropriate for the child's needs.

2. If placement in the secure safe house for treatment would best meet the child's needs, the department shall petition the court within 24 hours for placement under s. 39.4074, and the secure safe house shall admit the child pending a judicial determination.

3. If additional evaluation is required before a determination may be made about the child's need for secure safe house placement for treatment, the department shall petition the court within 24 hours to extend the placement of the child for evaluation purposes up to 30 days or until a determination may be made regarding the need for secure safe house placement for treatment, whichever comes first. The child shall remain in the secure safe house pending the court order.

(f) The department shall provide all evaluations to the

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child's parent or guardian, case manager, and guardian ad litem.

Section 5. Section 39.4074, Florida Statutes, is created to read:

39.4074 Placement in a secure safe house.—

(1) PETITION FOR PLACEMENT.—If an evaluation pursuant to s. 39.4072(3) results in a determination that placement for treatment in a secure safe house would best meet the child's needs, the department may file a petition for placement in dependency court. The department shall provide notice to the child's parents as required under s. 39.502(1). If the child's parents consent to such placement, the court shall enter an order placing the child in the secure safe house for up to 45 days, pending review by the court as provided herein. If the child's parents refuse or are unable to consent, the court within 24 hours of the filing of the petition shall hear all parties in person or by counsel, or both. If the court concludes that the child meets the criteria for placement in the secure safe house in s. 39.4072(1), it shall order that the child be placed in the secure safe house for a period of up to 45 days, pending review by the court.

(2) TREATMENT PLAN AND JUDICIAL REVIEW.—

(a) Within 10 days after the placement of a child for treatment in a secure safe house, the secure safe house must prepare an individualized treatment plan which addresses both preliminary residential treatment and comprehensive discharge, identifying care appropriate for the child upon completion of residential treatment. The plan must be approved by the department. The child must be involved in the preparation of the plan to the maximum feasible extent consistent with the child's

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ability to do so. The child's parents, guardian, or foster parents, guardian ad litem, and staff from the child's home school district must be involved with the child's treatment and discharge planning. Other individuals may also participate in plan development as appropriate. A secure safe house shall provide a copy and an explanation of the plan to the child, the child's parent or guardian, the guardian ad litem, and case manager. The department shall also provide the plan to the court.

(b) At 20-day intervals, commencing upon the beginning of treatment according to the treatment plan, the secure safe house must review the child's progress toward the treatment goals and assess whether the child's needs could be met in a less restrictive treatment program. The secure safe house must submit a report of its findings to the child's parents or guardian, guardian ad litem, case manager, the department and the court. The department may not reimburse a secure safe house until the secure safe house has submitted every written report that is due.

(c) The court shall conduct an initial review of the status of the child's treatment plan no later than 35 days after the child's placement for treatment in the secure safe house. For any child in a secure safe house at the time a judicial review is held pursuant to s. 39.701, the child's continued placement in a secure safe house must be a subject of the judicial review. If, at any time, the court determines that the child has not been sexually exploited or that the child has been sexually exploited but is not appropriate for placement in a secure safe house, the court shall order the department to place the child

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in the least restrictive setting that is best suited to meet the child's needs.

(d) After the initial review, the court must review the child's treatment plan every 60 days until the child no longer requires placement in the secure safe house, or until the child has resided in the secure safe house for 10 months. If the child has resided in the secure safe house for 9 months, a court hearing shall be held to determine an appropriate setting and appropriate services for the child.

Section 6. The Office of Program Policy Analysis and Government Accountability (OPPAGA) shall conduct a study on commercial sexual exploitation of children in Florida. The study shall assess the extent of commercial sexual exploitation of children, including but not limited to its prevalence in various regions of the state. The study shall also identify specialized services needed by sexually exploited children and any gaps in the availability of such services by region, including but not limited to residential services and specialized therapies. The study shall analyze the effectiveness of safe houses, safe foster homes, and other residential options for serving sexually exploited children in addressing their safety, therapeutic, health, educational, and emotional needs, including but not limited to, the nature and appropriateness of subsequent placements, extent of sexual exploitation post-placement, and educational attainment. By July 1, 2017, OPPAGA shall report its findings to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/10/14

Meeting Date

Topic Human Trafficking

Bill Number 1724
(if applicable)

Name Chris Dawson

Amendment Barcode 485468
(if applicable)

Job Title _____

Address 301 E. Pine Street Suite 1400
Street

Phone _____

Orlando FL 32801
City State Zip

E-mail Chris.dawson@gray-robinson.com

Speaking: ☒ For ☐ Against ☐ Information

Representing FL Smart Justice Alliance

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

This form is part of the public record for this meeting

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/10/14

Meeting Date

Topic Human Trafficking

Bill Number 1724
(if applicable)

Name May Marx

Amendment Barcode 485468
(if applicable)

Job Title President + CEO

Address One West Adams St. #301

Phone 904-383-9403

Street

Jacksonville

FL

32202

City

State

Zip

E-mail may.marx@
pace center.org

Speaking: ☒ For ☐ Against ☐ Information

Representing PACE Center for Girls

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard 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)

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

4/10/14

Meeting Date

Topic Human Trafficking

Bill Number 1724

Name Chris Dawson

Amendment Barcode 401954
(if applicable)

Job Title _____

Address 301 E Pine St Ste 1400

Phone 850-447-0066

Orlando FL 32801
Street City State Zip

E-mail Chris.dawson@gray-collier.com

Speaking: ☒ For ☐ Against ☐ Information

Representing FL Smart Justice Alliance

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard 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)

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4/10/14
Meeting Date

Topic Human Trafficking

Bill Number 1724
(if applicable)

Name Mary Marx

Amendment Barcode 401954
(if applicable)

Job Title President + CEO

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32202

Zip

E-mail mary.marx@
pacecenter.org

Speaking: ☒ For ☐ Against ☐ Information

Representing PACE Center for Girls

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/10/14

Meeting Date

Topic Human Trafficking
Name Babette Hanky
Job Title COO

Bill Number 1724
(if applicable)

Amendment Barcode _____
(if applicable)

Address 5151 Adamson St
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City State Zip

Phone 407/488-9480

E-mail bhanky@cfdfi.com

Speaking: ☐ For ☐ Against ☒ Information

Representing Center for Drug Free Living

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/10/2014

Meeting Date

Topic _____

Bill Number 1724
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH
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SAINT PETERSBURG FLORIDA 33705
City State Zip

Phone 727-897-9291

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☐ For ☐ Against ☒ Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/10/14
Meeting Date

Topic HUMAN TRAFFICKING

Bill Number SB1724
(if applicable)

Name Mary Marx

Amendment Barcode _____
(if applicable)

Job Title President & CEO

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Jacksonville FL 32202
City State Zip

Phone 904-383-9403

E-mail mary.marx@pacecenter.org

Speaking: ☒ For ☐ Against ☐ Information

Representing PACE Center for Girls

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/8/14
Meeting Date

Topic Human Trafficking
Name Ben Wilcox
Job Title _____

Bill Number SB 1724
(if applicable)

Amendment Barcode _____
(if applicable)

Address 1719 Old Fort Ave
Street
City _____ State _____ Zip _____

Phone 850-544-4448

E-mail benw@infonline.net

Speaking: ☒ For ☐ Against ☐ Information

Representing The Children's Campaign

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard 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)

4/10/14
Meeting Date

Topic Human Trafficking

Bill Number 1724
(if applicable)

Name Chris Dawson

Amendment Barcode _____
(if applicable)

Job Title _____

Address 301 E Pine St Ste 1400
Street
Orlando FL 32801
City State Zip

Phone 850-449-0066

E-mail chris.dawson@gray-robinson.com

Speaking: ☒ For ☐ Against ☐ Information

Representing FL Smart Justice Alliance

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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THE FLORIDA SENATE
APPEARANCE RECORD

4-10-14

Meeting Date

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

Topic

Human Trafficking

Bill Number

SB 1724

(if applicable)

Name

Amy Datz

Amendment Barcode

(if applicable)

Job Title

Self.

Address

1130 Crestview Ave

Street

Tallahassee FL 32303

City

State

Zip

Phone

850 322 7540

E-mail

amaldatz@a
mac.com

Speaking:

☒

For

☐

Against

☐

Information

Representing

National Council of Jewish Women

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☐

Yes

☒

No

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Meeting Date

Topic <u>SEX TRAFFICKING</u>	Bill Number <u>SB 1724</u> (if applicable)
Name <u>DR. LAWANDA RAVOIRA</u>	Amendment Barcode _____ (if applicable)
Job Title <u>PRESIDENT & CEO</u>	
Address <u>1022 PARK ST</u> Street	Phone <u>904 2378660</u>
<u>JACKSONVILLE</u> <u>FL</u> <u>32204</u> City State Zip	E-mail <u>lravoira@seethe</u> <u>sid.org</u>
Speaking: ☐ For ☐ Against ☐ Information	
Representing <u>DELORES BARR WEAVER POLICY CENTER</u>	
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/SB 1726

INTRODUCER: Appropriations Committee; and Children, Families, and Elder Affairs Committee

SUBJECT: Reimbursement for Crisis Stabilization Unit Services

DATE: April 14, 2014

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
Crosier	Hendon		CF SPB 7122 as introduced
1. Brown	Kynoch	AP	Fav/CS

I. Summary:

CS/SB 1726 directs the Department of Children and Families (DCF) to develop, implement, and maintain standards under which behavioral health managing entities¹ must collect utilization data from public receiving facilities that are operating under DCF designation as crisis stabilization units. The bill requires the DCF to ensure compatibility of data and data transmittal. The DCF must require managing entities to comply with the bill's requirements for data collection by August 1, 2014.

The bill requires managing entities to collect specified utilization data in real time or at least daily. Managing entities must perform reconciliations monthly and annually to ensure data accuracy. After ensuring data accuracy, managing entities must submit data to the DCF on a monthly and annual basis. The DCF is required to create a statewide database for the purpose of analyzing the payments for and the use of state-funded crisis stabilization services on a statewide basis and on an individual public receiving facility basis.

The bill requires the DCF to adopt rules and submit a report by January 31, 2015, and annually thereafter, to the governor, the president of the Senate, and the speaker of the House of Representatives with details on the bill's implementation and an analysis of the data collected.

Implementation of the bill is subject to specific appropriations provided to the DCF in the General Appropriations Act.

¹ See s. 394.9082, F.S. A managing entity is a not-for-profit corporation organized in Florida and is under contract with the DCF on a regional basis to manage the day-to-day operational delivery of behavioral health services through an organized system of care and a network of providers who are contracted with the managing entity to provide a comprehensive array of emergency, acute care, residential, outpatient, recovery support, and consumer support services related to behavioral health.

II. Present Situation:

Individuals experiencing severe emotional or behavioral problems often require emergency treatment to stabilize their situations before referral for outpatient services or inpatient services can occur. Emergency mental health stabilization services may be provided to voluntary or involuntary patients. Involuntary patients must be taken to one of the state's designated "receiving facilities." Receiving facilities are defined by the Florida Mental Health Act (ss. 394.451 – 394.4789, F.S.) and are often referred to as Baker Act Receiving Facilities.²

The Florida Legislature enacted the Florida Mental Health Act in 1971 to revise the state's mental health commitment laws. The Act substantially strengthened the due process and civil rights of persons in mental health facilities and those alleged to be in need of emergency evaluation and treatment. A major intent of the Act was to increase community care of persons with mental illnesses.³

The purpose of receiving facilities is to receive and hold involuntary patients under emergency conditions or for psychiatric evaluation and to provide short-term treatment. Law enforcement officers usually transport individuals requiring involuntary Baker Act examinations to the nearest receiving facility.⁴ However, involuntary examinations may be initiated by a court order, a certificate executed by a physician, clinical psychologist, psychiatric nurse, mental health counselor, marriage and family therapist, or clinical social worker or by self-presentation.⁵ A facility must accept individuals brought by a law enforcement officer for involuntary examination, regardless of bed availability.⁶

Receiving facilities may be either public or private but only facilities that have a contract with a managing entity to provide mental health services to all persons, regardless of their ability to pay, and that are receiving state funds for this purpose, are considered public receiving facilities.⁷ Transfer of individuals between two public facilities, from a public facility to a private facility, and from a private facility to a public facility is permitted.⁸ Funds appropriated for Baker Act services only may pay for services to diagnostically and financially-eligible persons, or those who are acutely ill, in need of mental health services, and the least able to pay.

Crisis Stabilization Units (CSUs) are public receiving facilities that receive state funding and provide a less intensive and less costly alternative to inpatient psychiatric hospitalizations for individuals presenting as acutely mentally ill. CSUs screen, assess, and admit for short-term services persons brought to the unit under the Baker Act as well as those who present themselves for services.⁹ CSUs provide services 24 hours a day, seven days a week, through a team of mental health professionals. The purpose of the CSU is to examine, stabilize, and redirect people

² Section 394.455(25)(26), F.S.

³ Budget Subcommittee on Health and Human Services Appropriations, the Florida Senate, *Crisis Stabilization Units*, (Interim Report 2012-109) (Sept. 2011).

⁴ *Id.*

⁵ Section 394.4655(2), F.S.

⁶ Section 394.462, F.S.

⁷ Budget Subcommittee on Health and Human Services Appropriations, the Florida Senate, *Crisis Stabilization Units*, (Interim Report 2012-109) (Sept. 2011).

⁸ Section 394.4685, F.S.

⁹ Section 394.875, F.S.

to the most appropriate and least restrictive treatment settings, consistent with their mental health needs. Individuals often enter the public mental health system through CSUs.¹⁰

Managing entities have assumed the responsibility for purchasing, managing, and monitoring behavioral health services in the state. The DCF's contracts with the managing entities are required to include payment methods that promote flexibility, efficiency, and accountability. Managing entities must follow current statutes and rules that require CSUs be paid for bed availability rather than utilization.

Through January 2014, the DCF's expenditures during Fiscal Year 2013-2014 for adult CSUs, Baker Act, and Inpatient Crisis Services were \$50.4 million. Expenditures for the same services for children in the same time period were \$10.9 million.¹¹ As of March 2014, there were 51 public receiving facilities with 1,971 beds and 66 private receiving facilities with 3,118 beds. The DCF has a contracted capacity of 2,987 adults and 478 children for Fiscal Year 2013-2014. Based on the Florida Mental Health Institute's Annual Report of Baker Act Data Summary for 2012, released February 2014, in calendar year 2012 157,352 involuntary examinations were initiated.¹²

III. Effect of Proposed Changes:

Section 1 amends s. 394.9082, F.S., by creating a new subsection (10). The bill directs the DCF to develop, implement, and maintain standards under which a behavioral health managing entity must collect utilization data from all public receiving facilities within its geographic service area. For those purposes, the bill defines "public receiving facility" as an entity that meets the licensure requirements of and is designated by the DCF to operate as a public receiving facility under s. 394.875, F.S., and which is operating as a licensed crisis stabilization unit.

The bill requires the DCF to develop standards for managing entities and public receiving facilities to be used for data collection, storage, transmittal, and analysis. The standards must allow for compatibility of data and data transmittal. The DCF must require managing entities to comply with the bill's requirements for data collection by August 1, 2014.

A managing entity must require a public receiving facility within its provider network to submit data, in real time or at least daily, for:

- All admissions and discharges of clients receiving public receiving facility services who qualify as indigent as defined in s. 394.4787, F.S.; and
- Current active census of total licensed beds, the number of beds purchased by the DCF, the number of clients qualifying as indigent occupying those beds, and the total number of unoccupied licensed beds regardless of funding.

A managing entity must require a public receiving facility within its provider network to submit data on a monthly basis which aggregates the daily data previously submitted. The managing entity must reconcile the data in the monthly submission to the daily data to check for

¹⁰ Budget Subcommittee on Health and Human Services Appropriations, the Florida Senate, *Crisis Stabilization Units*, (Interim Report 2012-109) (Sept. 2011).

¹¹ Information received from the Department of Children and Families on March 26, 2014.

¹² *Id.*

consistency. If the monthly aggregate data is inconsistent with the daily data, the managing entity must consult with the public receiving facility to make corrections as necessary to ensure accurate data.

A managing entity must require a public receiving facility within its provider network to submit data on an annual basis which aggregates the monthly data previously submitted and reconciled. The managing entity must reconcile the data in the annual submission to the monthly data to check for consistency. If the annual aggregate data is inconsistent with the reconciled monthly data, the managing entity must consult with the public receiving facility to make corrections as necessary to ensure accurate data.

After ensuring accurate data, the managing entity must submit the data to the DCF on a monthly and annual basis. The DCF is required to create a statewide database for the purpose of analyzing the payments for and the use of crisis stabilization services funded by the Baker Act on a statewide basis and on an individual public receiving facility basis.

The DCF is required to adopt rules to administer the bill's provisions. The DCF is required to submit a report by January 31, 2015, and annually thereafter, to the governor, the president of the Senate, and the speaker of the House of Representatives which provides details on the bill's implementation, including the status of the data collection process and a detailed analysis of the data collected.

The bill's implementation is subject to specific appropriations provided to the DCF under the General Appropriations Act.

Section 2 provides that the bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Public receiving facilities and managing entities may experience an indeterminate amount of costs to submit and reconcile data under the parameters created by CS/SB 1726.

C. Government Sector Impact:

The Department of Children and Families (DCF) may experience an indeterminate amount of costs for establishing and maintaining the statewide database under the requirements and parameters of the bill. However, the bill provides that those provisions will be implemented subject to specific appropriations in the General Appropriations Act. Neither the Senate nor the House of Representatives has included such funding in their respective appropriation bills for Fiscal Year 2014-2015.¹³

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends s. 394.9082 of the Florida Statutes.

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

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

CS by Appropriations on April 10, 2014:

The CS deletes the bill's provisions requiring reimbursement for crisis stabilization services be converted to a utilization-based methodology and replaces those provisions with requirements for the DCF, managing entities, and public receiving facilities to engage in a data collection, submission, and reconciliation process for the purpose of creating a statewide database of utilization data that may be analyzed in the aggregate and on an individual public receiving facility basis.

B. Amendments:

None.

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

¹³ See SB 2500 and HB 5001.



752622

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/10/2014	.	
	.	
	.	
	.	

The Committee on Appropriations (Grimsley) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Present subsections (10) and (11) of section
394.9082, Florida Statutes, are renumbered as subsections (11)
and (12), respectively, and a new subsection (10) is added to
that section, to read:

394.9082 Behavioral health managing entities.—

(10) CRISIS STABILIZATION SERVICES UTILIZATION DATABASE.—



752622

The department shall develop, implement, and maintain standards under which a managing entity shall collect utilization data from all public receiving facilities situated within its geographic service area. As used in this subsection, the term "public receiving facility" means an entity that meets the licensure requirements of and is designated by the department to operate as a public receiving facility under s. 394.875 and that is operating as a licensed crisis stabilization unit.

(a) The department shall develop standards and protocols for managing entities and public receiving facilities to be used for data collection, storage, transmittal, and analysis. The standards and protocols must allow for compatibility of data and data transmittal between public receiving facilities, managing entities, and the department for the implementation and requirements of this subsection. The department shall require managing entities contracted under this section to comply with this subsection by August 1, 2014.

(b) A managing entity shall require a public receiving facility within its provider network to submit data, in real time or at least daily, to the managing entity for:

1. All admissions and discharges of clients receiving public receiving facility services who qualify as indigent, as defined in s. 394.4787; and

2. Current active census of total licensed beds, the number of beds purchased by the department, the number of clients qualifying as indigent occupying those beds, and the total number of unoccupied licensed beds regardless of funding.

(c) A managing entity shall require a public receiving facility within its provider network to submit data, on a



752622

monthly basis, to the managing entity which aggregates the daily data submitted under paragraph (b). The managing entity shall reconcile the data in the monthly submission to data received by the managing entity under paragraph (b) to check for consistency. If the monthly aggregate data submitted by a public receiving facility under this paragraph is inconsistent with the daily data submitted under paragraph (b), the managing entity shall consult with the public receiving facility to make corrections as necessary to ensure accurate data.

(d) A managing entity shall require a public receiving facility within its provider network to submit data, on an annual basis, to the managing entity which aggregates the data submitted and reconciled under paragraph (c). The managing entity shall reconcile the data in the annual submission to data received and reconciled by the managing entity under paragraph (c) to check for consistency. If the annual aggregate data submitted by a public receiving facility under this paragraph is inconsistent with the data received and reconciled under paragraph (c), the managing entity shall consult with the public receiving facility to make corrections as necessary to ensure accurate data.

(e) After ensuring accurate data under paragraphs (c) and (d), the managing entity shall submit the data to the department on a monthly and annual basis. The department shall create a statewide database for the data described under paragraph (b) and submitted under this paragraph for the purpose of analyzing the payments for and the use of crisis stabilization services funded by the Baker Act on a statewide basis and on an individual public receiving facility basis.



752622

(f) The department shall adopt rules to administer this subsection.

(g) The department shall submit a report by January 31, 2015, and annually thereafter, to the Governor, the President of the Senate, and the Speaker of the House of Representatives which provides details on the implementation of this subsection, including the status of the data collection process and a detailed analysis of the data collected under this subsection.

(h) The implementation of this subsection is subject to specific appropriations provided to the department under the General Appropriations Act.

Section 2. This act shall take effect upon becoming a law.

===== 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 crisis stabilization services;
amending s. 394.9082, F.S.; requiring the Department
of Children and Families to develop standards and
protocols for the collection, storage, transmittal,
and analysis of utilization data from public receiving
facilities; defining the term "public receiving
facility"; requiring the department to require
compliance by managing entities by a specified date;
requiring a managing entity to require public
receiving facilities in its provider network to submit
certain data within specified timeframes; requiring



752622

98 managing entities to reconcile data to ensure
99 accuracy; requiring managing entities to submit
100 certain data to the department within specified
101 timeframes; requiring the department to create a
102 statewide database; requiring the department to adopt
103 rules; requiring the department to submit an annual
104 report to the Governor and the Legislature; providing
105 that implementation is subject to specific
106 appropriations; providing an effective date.

By the Committee on Children, Families, and Elder Affairs

586-03534-14

20141726__

A bill to be entitled

An act relating to reimbursement for crisis stabilization unit services; amending s. 394.9082, F.S.; requiring the Department of Children and Families to require that managing entities implement a specified reimbursement methodology by a specified date; providing requirements for managing entities, providers, and the reimbursement methodology; requiring the department to establish uniform standards for claims data submitted by providers; requiring the department to establish a statewide database of claims data; requiring the department and managing entities to maintain the security of claims data; requiring the department to submit a report to the Legislature by a specified date; providing requirements for such report; providing an effective date.

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

Section 1. Present subsections (10) and (11) of section 394.9082, Florida Statutes, are redesignated as subsections (11) and (12), respectively, and a new subsection (10) is added to that section, to read:

394.9082 Behavioral health managing entities.—

(10) CRISIS STABILIZATION UNIT REIMBURSEMENT.—The department shall require managing entities to implement a reimbursement methodology for crisis stabilization unit services consistent with this subsection by January 1, 2015.

Page 1 of 4

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

586-03534-14

20141726__

(a) Each managing entity shall enter into agreements with all providers qualified to serve as receiving facilities as defined in s. 394.455 and located within the managing entity's designated service area. If a private receiving facility does not choose to participate it cannot be paid by the managing entity for involuntary care. A crisis stabilization unit may not be a private receiving facility pursuant to s. 394.875.

(b) Using no more than one-quarter of the funds provided to the managing entity for crisis stabilization services, the managing entity shall allocate a base funding amount to each receiving facility with a signed agreement entered into pursuant to paragraph (a) which exceeded a minimum utilization level specified by the managing entity. The amount of the base funding for each receiving facility shall be proportionate to the number of involuntary admissions to the receiving facility in the prior fiscal year and shall be updated annually.

(c) The remainder of the funds provided for crisis stabilization services shall be used by the managing entity to provide per diem reimbursement to receiving facilities with a signed agreement entered into pursuant to paragraph (a). The per diem payment shall be made when a claim is submitted by the receiving facility following a patient's discharge and verified by the managing entity. The claim must document the following:

1. The identity of the patient;
2. The date of the admission;
3. The date of discharge;
4. The lack of any third-party coverage;
5. The services provided during the patient's stay; and
6. The status of the patient's discharge, whether to his or

Page 2 of 4

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

586-03534-14

20141726__

her home or to another receiving facility.

(d) Each managing entity shall define a standard per diem reimbursement rate for the service area based on the available funds, cost of service, and the expected total days of care in the area.

(e) The total payment for each claim shall be the per diem rate set by the managing entity multiplied by the days of care provided.

(f) The managing entity may establish caps for the amount of reimbursements each receiving facility with a signed agreement entered into pursuant to paragraph (a) may earn each month. Such caps must be part of the written agreement and must be proportionate to the days of care provided by each receiving facility.

(g) If, after 3 months, the total paid reimbursements during the period are less than one-quarter of the funds available for this purpose, the managing entity shall distribute the remaining funds in an amount proportionate to the days of care provided by each receiving facility with a signed agreement entered into pursuant to paragraph (a).

(h) By signing an agreement entered into pursuant to paragraph (a), a provider certifies its willingness to accept all patients and agrees that the base funding plus the claims-based reimbursement as adjudicated by the managing entity constitutes payment in full for services rendered to involuntary patients.

(i) The department shall establish uniform standards for the data that providers must submit with reimbursement claims and shall establish a statewide database to compile claims data

586-03534-14

20141726__

from all managing entities in order to track use of crisis stabilization services regardless of available funding.

(j) The department and the managing entities shall maintain the security of the claims data consistent with state and federal law.

(k) By January 31, 2016, and annually thereafter, the department shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives which provides details on the provider participation and patient services provided in each service area. The report must describe the expenditure of funds pursuant to this section, including the base allocations and per diem rates in each service area, the total per diem reimbursements by provider, the amount of any quarterly disbursements, and the amount of unfunded care in each service area.

Section 2. This act shall take effect July 1, 2014.

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4/10/14
Meeting Date

Topic SB 1726 Bill Number 1726
 Name Chet Bell Amendment Barcode 752622
 Job Title CEO, Stewart Marchman Act
 Address 1220 Willis Ave Phone 386 290-8930
 Street City State Zip E-mail cbell@smabehavioral.org
Daytona Beach FL 32114
 Speaking: ☒ For ☐ Against ☐ Information
 Representing Strike ALL Florida Council for Community Mental Health
 Appearing at request of Chair: ☐ Yes ☐ No Lobbyist registered with Legislature: ☐ Yes ☒ No

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4/10/14
Meeting Date

Topic CSUs Bill Number 1726

Name Jay Reeve Amendment Barcode Strike all
(if applicable)

Job Title Chief Executive Officer, Apalachee Center

Address 2364 Capital Circle NE Phone 888-523-3213
Street

Tallahassee FL 32308 E-mail jay@apalacheecenter.org
City State Zip

Speaking: ☒ For ☐ Against ☐ Information waive in support of Strike all

Representing Apalachee Center

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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4/10/14
Meeting Date

Topic CSU

Bill Number 1726

Name Mario Jardon

Amendment Barcode 752622
(if applicable)

Job Title CEO

Address 4175 W 20 AVE
Street

Phone _____

Hialeah FL
City State Zip

E-mail _____

Speaking: ☒ For ☐ Against ☐ Information

Representing Citrus Health Network

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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4/10/14
Meeting Date

Topic Crisis Unit Services Bill Number SRB 1726
Name Linda McKinnon Amendment Barcode 752622
Job Title CEO, Central Florida Behavioral Health Network
Address 219 US hwy Phone 813-740-4811
City Tampa State FL Zip 33619 E-mail LMCKINNON@CFBHN.org
Speaking: ☒ For ☐ Against ☐ Information strike all amendment
Representing Managing Entities
Appearing at request of Chair: ☐ Yes ☒ No Lobbyist registered with Legislature: ☐ Yes ☒ No

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Meeting Date

Topic CSU

Bill Number SB 1726
(if applicable)

Name MARK P. FONTAINE

Amendment Barcode 752622
(if applicable)

Job Title EXECUTIVE DIRECTOR

Address 2868 Mahan Drive

Phone 878-2196

Street

Tallahassee

FL

32308

City

State

Zip

E-mail _____

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida Alcohol + Drug Abuse Assoc.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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4-10-14

Meeting Date

Topic Crisis Stabilization

Bill Number SB 172

Name Tim Macsuga

Amendment Barcode 752622
(if applicable)

Job Title Corp. Director Clinical Services

Address 4480 51st Street West

Phone 813-486-8437

Bradenton FL 34210
City State Zip

E-mail timothy.macsuga@wtsinc.com

Speaking: ☒ For ☐ Against ☐ Information

Representing Universal Health Services

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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4-10-14

Meeting Date

Topic Crisis Stabilization Units

Bill Number 1726

(if applicable)

Name Adam Roberts

Amendment Barcode 752622

(if applicable)

Job Title lobbyist

Address 2924 Quail Rise Court

Phone 850-591-9293

Street

Tallahassee

FL

32309

City

State

Zip

E-mail adam@gunlobby.com

Speaking: ☒ Amendment For

☐ Against

☐ Information

Representing The Apalachee Center

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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4/10/14

Meeting Date

Topic crisis stabilization units

Bill Number 1726
(if applicable)

Name Susan Harbin

Amendment Barcode 752622
(if applicable)

Job Title Legislative Advocate

Address 100 S. Monroe
Street
Tallahassee
City

Phone 770 546 8545

E-mail sharbin@gmail.com

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida Association of Counties

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/10/14
Meeting Date

Topic Crisis Stabilization Unit

Bill Number 1726
(if applicable)

Name Chris Floyd

Amendment Barcode 752622
(if applicable)

Job Title Consultant

Address 515 Danube Ave
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City State Zip

Phone 813-624-5117

E-mail Chris@CLFconsulting.com

Speaking: ☒ For ☐ Against ☐ Information

Representing Northside Mental Health

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/10/2014

Meeting Date

Topic Reimbursement for CSU services

Bill Number 1726

(if applicable)

Name Savrah Carroll

Amendment Barcode 8772145

(if applicable)

Job Title Asst Executive Director

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Phone 850 877 2145

Street

Tallahassee

FL

32308

City

State

Zip

E-mail

Speaking: ☒ For ☐ Against ☐ Information

Representing FL Sheriffs Association

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

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4/10/14

Meeting Date

Topic Crisis Stabilization Unit Services

Bill Number SB 1726
(if applicable)

Name David Shepp

Amendment Barcode 752622
(if applicable)

Job Title Consultant

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State

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Speaking: ☒ For ☐ Against ☐ Information

Representing Peace River Center

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

4/10/14
Meeting Date

Topic Crisis Stabilization Services

Bill Number 1726
(if applicable)

Name Todd Dixon

Amendment Barcode _____
(if applicable)

Job Title Administrator

Address 5151 Adamson St.
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Orlando FL 32804
City State Zip

Phone 407/697.8644

E-mail tdixon@cfltl.com

Speaking: ☐ For ☐ Against ☒ Information

Representing Aspire Health Partners

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)

Meeting Date _____

Topic SB 1726 CSU Bill Number 1726
Name FRANK RABBITO (if applicable)
Job Title SR. VICE President Amendment Barcode _____ (if applicable)
Address 3000 4th OCEAN Phone _____
Street
City MARATHON State FL Zip 33050 E-mail _____

Speaking: ☐ For ☐ Against ☒ Information

Representing WESTCARE / GUIDANCE CARE CENTER

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: HB 5601

INTRODUCER: House Appropriations Subcommittee on Finance and Tax and Rep. Workman

SUBJECT: Economic Development

DATE: April 9, 2014

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Diez-Arguelles	Kynoch	AP	Pre-meeting

I. Summary:

HB 5601 makes the following changes:

- Creates four temporary “tax holiday” periods where sales of certain goods will be exempt from the sales tax – a “back to school” holiday, a hurricane supplies holiday, a physical fitness admissions holiday and an energy efficient products holiday.
- Creates a temporary sales tax exemption for cement mixing drums.
- Creates a permanent sales tax exemption for child restraint systems and booster seats for use in motor vehicles.
- Creates a permanent sales tax exemption for bicycle helmets marketed for use by youth.
- Increases the corporate income tax exemption from the first \$50,000 of income to the first \$75,000 of income.
- Expands the amount of credits available under the New Markets Tax Credit program from \$178.8 million to \$227.55 million.
- Delays the repeal of the Community Contributions Tax Credit program.
- Creates a \$20 million revolving loan program to encourage the production of television programs in Florida.
- Amends the statutory definition of “prepaid calling arrangement” to provide that certain prepaid mobile communications services are subject to state and local sales taxes instead of state and local communications services taxes.
- Reduces the sales tax rate for electricity purchases.
- Decreases the Sales Tax rate on sales of electricity from seven to four percent and increases the gross receipts tax rate on electrical power or energy delivered to a non-exempt retail consumer from two and one-half to five and one-half percent.
- Transfers \$100 million in recurring state sales tax revenue, currently deposited in the General Revenue Fund, to the State Transportation Trust Fund.

The bill has a significant, negative fiscal impact on state and local government revenues. See the table in Section V.A. for the fiscal impact of the bill.

The mandates constitutional provision may apply to this bill, requiring a two-thirds vote of the membership of each house for passage. See Section IV.A. of the analysis.

II. Present Situation:

The present situation for each issue in the bill is discussed below in Section III, Effect of Proposed Changes.

III. Effect of Proposed Changes:

Prepaid Calling Arrangements – Sections 1, 2, 4, and 5

Present situation: The communication services tax (CST) is applied to the sales price of each communications service which originates and terminates in this state, or originates or terminates in this state and is charged to a service address in this state.¹ However, the definition of the term “sales price” expressly excludes the “sale or recharge of a prepaid calling arrangement,” so CST is not collected on the sale of a prepaid calling arrangement.²

The term “prepaid calling arrangement” is defined to mean “the separately stated retail sale by advance payment of communications services that consist exclusively of telephone calls originated by using an access number, authorization code, or other means that may be manually, electronically, or otherwise entered and that are sold in predetermined units or dollars of which the number declines with use in a known amount.”³

Chapter 212, F.S., provides for the application of the sales tax to the sale of tangible personal property and some services. The sales tax rate of 6 percent is applicable to charges for prepaid calling arrangements.⁴ The term “prepaid calling arrangement” as defined in ch. 212, F.S., means “the separately stated retail sale by advance payment of communications services that consist exclusively of telephone calls originated by using an access number, authorization code, or other means that may be manually, electronically, or otherwise entered and that are sold in predetermined units or dollars whose number declines with use in a known amount.”⁵ The definition of “prepaid calling arrangement” in ch. 202, F.S. is virtually identical to the definition in ch. 212, F.S.

When the definition of prepaid calling arrangement was placed in the statute⁶, prepaid calling arrangements typically consisted of prepaid calling cards purchased in advance and limited to telephone calls. However, since then the telecommunications industry has developed to offer more prepaid plans compatible with the texting, data, video, and other capabilities of today’s modern smartphones. This has led to increased utilization of prepaid mobile services. As markets

¹ Section 202.12, F.S.

² Section 202.11(13)(b)4., F.S.

³ Section 202.11(9), F.S.

⁴ Section 212.05(1)(e)1., F.S.

⁵ *Id.*

⁶ Chapter 2000-260, Laws of Florida.

and technology have evolved, the statutory definition has become increasingly incompatible and inconsistent with industry practice and the ability to collect communication services taxes.

As technology evolved, most communications service providers and other prepaid phone retailers continued to apply the sales tax to all prepaid mobile phone plans, even though the plans did not meet the strict definition of a “prepaid calling arrangement.” This practice continues today for all prepaid plans.

Proposed change: The bill amends subsection 202.11(9), F.S., to revise the definition of the term “prepaid calling arrangement.” For other than mobile communications services, the term includes a right to use communications services “for which a separately stated price must be paid in advance, which is sold at retail in predetermined units that decline in number with use on a predetermined basis, and which consists exclusively of telephone calls originated by using an access number, authorization code, or other means that may be manually, electronically, or otherwise entered.”

For mobile communications services, the term includes “a right to use mobile communications services that must be paid for in advance and is sold at retail in predetermined units that expire or decline in number on a predetermined basis if:

1. The purchaser’s right to use mobile communications services terminates upon all purchased units expiring or being exhausted unless the purchaser pays for additional units;
2. The purchaser is not required to purchase additional units; and
3. Any right of the purchaser to use units to obtain communications services other than mobile communications services is limited to services that are provided to or through the same handset or other electronic device that is used by the purchaser to access mobile communications services.”

Predetermined units may be quantified as amounts of usage, time, money, or a combination of these or other means of measurement.

The bill expands the definition of “prepaid calling arrangement” to include prepaid communication services other than those that consist exclusively of telephone calls. The changes recognize that under current industry practices prepaid services may include services other than telephone calls, such as text messaging, web access, and email.

In addition, the bill provides that the purchaser of prepaid units may use the units to purchase other communication services other than mobile communication services if the other services are provided to or through the same handset or other electronic device the purchaser uses to access mobile communication services. This provision may result in communication services currently subject to CST tax rates being subject to only sales tax in the future if they are sold as part of a prepaid calling arrangement.

These changes are remedial in nature and apply retroactively, but do not create the right to a refund or credit of any tax paid.

Electrical Energy or Power Provided to a Retail Customer – Sections 3, 6, and 7

Present situation: The sale of electric power or energy by an electric utility is subject to the state sales tax at the rate of 7 percent,⁷ subject to numerous exemptions. The exemptions include sales for use in residential households, sales for certain agricultural purposes, sales for use in operating manufacturing machinery and equipment in a fixed location, and sales in enterprise zones. The distribution for sales and use tax receipts is governed by s. 212.20, F.S., with roughly 89% of the proceeds being deposited in the General Revenue Fund, and most of the remainder shared with counties and municipalities.

Chapter 203 imposes, at the rate of two and one-half percent, a tax on gross receipts from the sale, delivery, or transportation of natural gas, manufactured gas, or electricity to a retail consumer in Florida. All revenue received pursuant to this tax is deposited in the Public Education Capital Outlay and Debt Service (“PECO”) Trust Fund. The use of such funds is limited to paying the principal and interest on bonds to finance capital projects for institutions of higher learning, community colleges, vocational technical schools, or public schools; the cost of any public educational facility capital project; and the cost of maintenance and repairs.

Proposed change: The bill decreases the sales tax rate on sales of electricity from seven to four percent and increases the gross receipts tax rate on electrical power or energy delivered to a non-exempt retail consumer from two and one-half to five and one-half percent. The new gross receipts tax additional rate will incorporate the existing exemptions from the sales tax in order to make this change revenue neutral to both the state and to taxpayers. These changes will result in an increase in the amount of revenue deposited in the PECO Trust Fund.

Cement Mixers – Section 6

Present situation: Chapter 212, F.S., levies a six percent state sales and use tax on most items of tangible personal property. Also, local governments are authorized to levy several types of local discretionary sales surtaxes pursuant to s. 212.055, F.S. Rates currently range from one-half percent to one and one-half percent. The surtax does not apply to any sales amount about \$5,000 on any item of tangible personal property.⁸ Section 212.08, F.S., provides a variety of exemptions from these taxes.

In 2013, the legislature passed an exemption for machinery and equipment used at a fixed location within Florida to manufacture, process, compound, or produce tangible goods for sale. This sales tax exemption is available for three years, from April 30, 2014 until April 30, 2017.⁹

Proposed change: The bill adds cement mixer drums that are affixed to mixer trucks, as well as the parts and labor necessary to affix the drums to mixer trucks, to the sales tax exemption for manufacturing machinery and equipment that will sunset on April 20, 2017.

⁷ Section 212.05(1)(e)1.c., F.S.

⁸ Section 212.054(2)(b)1., F.S.

⁹ Chapter 2013-39, L.O.F.

Motor Vehicle Child Restraints – Section 6

Proposed change: The bill adds a permanent exemption from the sales tax for child restraint systems and booster seats used in motor vehicles.

Youth Bicycle Helmets – Section 6

Proposed change: The bill adds a permanent exemption from the sales tax for bicycle helmets marketed for use by youth.

State Transportation Trust Fund Distribution – Sections 8 and 16

Present situation: The State Transportation Trust Fund (STTF) is currently funded by a variety of tax sources, including portions of the revenue received from the tax on motor and aviation fuels imposed by ch. 206, F.S., motor vehicle fees imposed by ch. 320, F.S., the rental car surcharge imposed by s. 212.0606, F.S., and the documentary stamp tax imposed by ch. 201, F.S. The funds deposited in the trust fund are used for transportation purposes, as provided by law.¹⁰

Proposed change: The bill will transfer \$100 million annually from sales and use tax revenue that would otherwise be deposited into the General Revenue Fund to the STTF. Newly created s. 339.0803, F.S., directs that, of those funds, \$85 million will be used annually for transportation projects that connect major markets within this state or between this state and other states, and which increase Florida's viability in national and global markets. The remaining \$15 million will be used annually for regionally-significant transportation projects that provide connectivity to and through rural areas. To be eligible for the regional funding, projects must be production ready in the five-year work program. State funds can be used to provide up to 75 percent of project costs. Preference will be given to projects identified as regionally significant, according to current law, and that have an increased level of non-state match.

Corporate Income Tax Exemption – Sections 9, 10, 12, and 13

Present situation: Florida levies an income tax of five and one-half percent on corporations,¹¹ banks, and savings associations.¹²

Florida's corporate income tax is imposed on a taxpayer's "net income." Net income is calculated by starting with the taxpayer's federal taxable income, making certain statutory adjustments, apportioning income attributable to Florida, and applying the statutory exemption.¹³ Currently, the statutory exemption is \$50,000.¹⁴

Proposed change: The bill increases the statutory exemption from \$50,000 to \$75,000.

¹⁰ Section 206.46(1), F.S.

¹¹ "Corporation" is defined in s. 220.03(1)(e), F.S. Tax is imposed by s. 220.11, F.S. Only some Florida businesses are considered corporations subject to the Florida corporate income tax. Sole proprietorships, limited liability companies, and S corporations are not subject to the tax, except under limited circumstances. See s. 220.03(1)(e), F.S.

¹² "Bank" and "savings association" are defined in s. 220.62, F.S., and tax is imposed by s. 220.63, F.S.

¹³ Section 220.12, F.S.

¹⁴ Section 220.14, F.S.

Community Contribution Tax Credits – Sections 11 and 17

Present situation: The Community Contribution Tax Credit Program provides a 50 percent tax credit or refund for eligible donations made by Florida businesses to community development projects and housing projects for low-income persons sponsored by organizations that have been approved by the Department of Economic Opportunity to participate in the program.

The total amount of tax credits which may be granted for the Community Contribution Tax Credit Program is \$10.5 million annually for projects that provide homeownership opportunities for low-income and very-low-income households and \$3.5 million for all other projects.¹⁵ During Fiscal Year 2012-2013, 345 tax credit applications in 36 local governments were approved by the DEO.¹⁶

A business that makes a donation to an eligible sponsor must apply for a tax credit during the first 10 business days of the fiscal year after the donation is made. Each business is eligible to receive credits of up to a maximum of \$200,000 per tax year.

Businesses may take the credit against corporate income tax pursuant to s. 220.183, F.S., insurance premium tax pursuant to s. 624.5105, F.S., or as a refund on sales tax collected pursuant to s. 212.08(5)(p), F.S. If requests for tax credits within the first 10 business days of a fiscal year exceed the tax credit allocation, tax credit applications will be approved on a pro rata basis. If they do not exceed that allocation, they will be approved on a first-come, first-served basis.

The Community Contribution Tax Credit Program expires on June 30, 2015.

Proposed change: The bill delays the expiration date of the program by one year from June 30, 2015 to June 30, 2016.

Qualified Television Loan Fund – Sections 14 and 22

Present situation: Florida does not provide a loan program for television program production.

Proposed change:

The Fund. The bill creates the Qualified Television Loan Fund (QTV fund) – a \$20 million revolving loan fund – within the Department of Economic Opportunity (DEO). The QTV fund will make loans to companies that produce television shows in Florida. As the loans are repaid, the principal and interest will be returned to the fund and loaned to additional production companies.

The Fund Administrator. The DEO will contract with a private organization (fund administrator) to administer the QTV fund. The fund administrator will be selected based on the following qualifications:

¹⁵ Sections 212.08(5)(p)1.e., F.S.; 220.183(1)(c), F.S.; and 624.5105(1)(c), F.S.

¹⁶ Department of Economic Opportunity, *supra* note 8.

- A track record of managing private sector equity or debt funds in the entertainment industry;
- Having a partnership with a qualified lending partner capable of providing at least two and one-half times the capital amount in the QTV fund; and
- Experience managing economic development or job creation-related funds.

The DEO will give preference to applicants headquartered in Florida.

Additional Capital. The fund administrator must partner with a qualified lending partner, who will invest its own capital along with funds from the QTV fund in qualifying projects. The fund administrator may also partner with other companies who provide equity financing, mezzanine financing, or other types of financing. Capital provided by private entities, including the qualified lending partner, must be kept in separate accounts, and such entities are responsible for paying their own management fees.

The Loans. The QTV fund and the qualified lending partner will make joint loans to production companies in order to fund production or improve the credit profile of the production's structured financial transactions. Loans from the QTV fund may not exceed 30 percent of the total production funding cost for the project and may not have a term exceeding 36 months, unless the fund administrator approves a longer period. The loan issued by the qualified lending partner will have a senior position to the loan issued by the QTV fund. Loans from private capital may not be made at more favorable terms and conditions than loans from the QTV fund.

All loans made by the QTV fund must be secured. The security may consist of domestic and international broadcaster license agreements, tax credits, or other revenues. Additionally, if the production cost per episode exceeds \$1 million, the project must be bonded and secured by an industry-approved completion guarantor. With the exception of appropriated funds, the credit of the state may not be pledged. The state is not liable or obligated in any way for claims against the QTV fund or against the qualified lending partner.

The fund administrator is required to evaluate loan applications based on:

- Eligible collateral;
- The project's creditworthiness;
- The producer's track record;
- The possibility that the project will encourage economic benefits; and
- The extent to which the loan will attract private debt or equity investment.

Qualifying Productions. The production company is required to have an agreement with a major network for broadcasting on a major network, cable or streaming channel. If the production content is a series, at least 13 episodes must be ordered, unless a lesser number is approved by the fund administrator. The production must spend at least 80 percent of the production budget in Florida, unless the fund administrator approves a lesser percentage.

Reporting. Each year by February 28, the fund administrator is required to submit audited financial statements to the DEO, along with a fund annual report. The annual report must detail, for each loan:

- The name of the television program;

- The counties in which production occurred;
- The number of jobs created or retained because of the production;
- The loan amounts (including private loans made in association with the QTV loan);
- The loan repayment status;
- Details on any past due loans;
- Details on any loans in default;
- A description of assets securing the loans; and
- Any other information required by the department.

Management Fee. The fund administrator will be paid a fee equal to five percent of the assets under management for the first five years, and three percent of the assets under management every year thereafter until the end of the contract. After the first year, the fee may not exceed the investment proceeds earned from the fund's completed loans. Additionally, the fund administrator may receive 20 percent of the fund's net income on an annual basis. This amount may not be paid from the fund's principal.

Expiration. The program is repealed on December 31, 2024, and all funds remaining in the QTV fund at that point revert to the General Revenue Fund.

Appropriation. The bill appropriates \$20 million in nonrecurring general revenue to the DEO to fund the Qualified Television Loan Fund program.

New Markets Tax Credit Program – Section 15

Present situation: Florida created the New Markets Development Program in 2009¹⁷ to encourage capital investment in rural and low-income communities.¹⁸ Under the program, the state grants tax credits in return for investments in low-income community businesses.¹⁹ The Florida program is based on a similar federal program, created in 2000.²⁰

The program involves two “investments”: a taxpayer interested in tax credits makes a “qualified investment”²¹ (a cash payment) to a qualified community development entity (CDE) in return for the tax credits. The CDE then makes a “qualified low-income community investment”²² (either a cash loan or an equity investment) to a qualifying low-income community business.²³

Prior to either investment taking place, the CDE applies to the DEO for a determination of whether its qualified low-income community investment qualifies under the program.²⁴ Upon

¹⁷ Chapter 2009-50, L.O.F. See ss. 288.991, F.S. – 288.9922, F.S.

¹⁸ Section 288.9912, F.S.

¹⁹ *Id.*

²⁰ The Federal New Markets Tax Credit Program was enacted as P.L. 106-554, Community Tax Relief Act of 2000 and signed into law on December 21, 2000. For an overview of the federal program, see Overview, http://cdfifund.gov/what_we_do/programs_id.asp?programID=5 (last visited April 5, 2013).

²¹ Section 288.9913(7), F.S.

²² Section 288.9913(8), F.S.

²³ Section 288.9913(5), F.S.

²⁴ Section 288.9914(2), F.S.

approval, the DEO awards a tax credit equal to 39 percent of the CDE's qualifying low-income community investment.

The tax credits may not be claimed for two years. After the second year, the taxpayer may claim the credits over the next five years.²⁵

When the program was created in 2009, the total tax credits that could be issued were limited to \$97.5 million.²⁶ The limit was increased to \$163.8 million (a \$66.3 million increase) in 2012²⁷ and to \$178.8 million (a \$15 million increase) in 2013²⁸.

Proposed change: The bill increases the total amount of tax credits available from \$178.8 million to \$227.55 million (a \$50 million increase).

Energy Star and WaterSense Sales Tax Holiday – Sections 18 and 22

Present situation: In 2006, the Legislature approved a sales tax holiday for energy-efficient products priced under \$1,500 and that met or exceeded the requirements of the federal ENERGY STAR program²⁹. The holiday ran from October 5 through October 11, 2006. The following items were exempted:

- Refrigerators.
- Dishwashers.
- Clothes washers.
- Air conditioners.
- Ceiling fans.
- Light bulbs.
- Dehumidifiers.
- Thermostats.

Proposed change: The bill provides that no sales tax will be collected on the first \$1,500 of the sales price for a new ENERGY STAR product or WaterSense product³⁰ during the period beginning on September 19, 2014, and ending on September 21, 2014.

ENERGY STAR products eligible for this holiday are:

- Room air conditioners.
- Air purifiers.
- Ceiling fans.
- Clothes washers.
- Clothes dryers.

²⁵ Section 288.9916(1), F.S.

²⁶ Section 7, 2009-50, L.O.F.

²⁷ Section 16, 2012-32, L.O.F.

²⁸ Section 36, 2013-42, L.O.F.

²⁹ ENERGY STAR products must meet energy efficiency standards established by the U.S. Environmental Protection Agency.

³⁰ WaterSense labeled products and meet the US Environmental Protection Agency specifications for water efficiency and performance.

- Dehumidifiers.
- Dishwashers.
- Freezers.
- Refrigerators.
- Water heaters.
- Swimming pool pumps.
- Light bulbs.

WaterSense products eligible for this holiday are:

- Bathroom sink faucets.
- Faucet accessories.
- High-efficiency toilets and urinals.
- Showerheads.
- Weather or sensor-based irrigation controllers.

A person is limited to a single purchase for each specific type of item listed above with a sales price over \$500 during the holiday, and a second purchase of the same type of product will be subject to tax on the entire price.

The bill contains a nonrecurring appropriations from the General Revenue Fund to the Department of Revenue of \$43,941 to implement the Energy Efficient Appliances Sales Tax Holiday.

Physical Fitness Admissions Tax Holiday – Section 19

Present situation: Section 212.04, F.S., establishes a six percent state sales and use tax on admissions.

Proposed change: The bill provides that the sales and use tax levied on admissions will not be collected during the period beginning September 1, 2014, and ending September 8, 2014, on the sale of athletic, exercise, and physical fitness facility memberships. To participate in the holiday, a facility must be registered as a health studio with the Department of Agriculture and Consumer Services under ss. 501.012 through 501.019, F.S.

Back-to-School Sales Tax Holiday – Sections 20 and 22

Present situation: The Legislature has approved back-to-school sales tax holidays in eight of the past ten years. The length of the exemption period has varied from three to 10 days. The type and value of exempt items has also varied. The holiday is typically offered just prior to the start of a new school year.

Proposed change: The bill provides for a three-day sales tax holiday beginning August 1, 2014, and ending August 3, 2013. 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. Also exempt will be the first \$750 of the sales price for personal computers and related accessories purchased for noncommercial home or personal use, including tablets, laptops, monitors, input devices, and non-recreational software. Cell phones, furniture and devices or software intended primarily for recreational use are not exempt.

The bill contains a nonrecurring appropriation from the General Revenue Fund to the Department of Revenue of \$223,048 to implement the Back to School Sales Tax Holiday (this appropriation occurs during the 2013-14 fiscal year and carries forward into 2014-15).

Hurricane Preparedness Sales Tax Holiday – Sections 21 and 22

Present situation: The Legislature has approved sales tax holidays for hurricane preparedness in the past. In 2005, 2006, and 2007 the state established 12-day periods where items below certain thresholds were exempt from tax. The type and value of exempt items has also varied. In 2005 and 2007, the hurricane preparedness holidays ran from June 1 through June 12, and in 2006 the holiday was from May 21 through June 1.

Proposed change: The bill proposes a sales tax exemption for the following items for the period beginning on June 1, 2014, and ending on June 12, 2014:

- A portable self-powered light source selling for \$20 or less.
- A portable self-powered radio, two-way radio, or weather band radio selling for \$50 or less.
- A tarpaulin or other flexible waterproof sheeting selling for \$50 or less.
- A self-contained first-aid kit selling for \$30 or less.
- A ground anchor system or tie-down kit selling for \$50 or less.
- A gas or diesel fuel tank selling for \$25 or less.
- A package of AA-cell, C-cell, D-cell, 6-volt, or 9-volt batteries, excluding automobile and boat batteries, selling for \$30 or less.
- A nonelectric food storage cooler selling for \$30 or less.
- A portable generator selling for \$750 or less.
- Reusable ice selling for \$10 or less.

The bill contains a nonrecurring appropriation from the General Revenue Fund to the Department of Revenue of \$280,912 to implement the Hurricane Preparedness Sales Tax Holiday (this appropriation occurs during the 2013-2014 fiscal year and carries forward into the 2014-2015 fiscal year).

Effective Date – Section 23

The bill has an effective date of July 1, 2104, except as otherwise expressly provided.

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

Subsection (b) of s. 18, Art. VII of the Florida Constitution provides that except upon approval of each house of the Legislature by two-thirds vote of the membership, the Legislature may not enact, amend or repeal any general law if the anticipated effect of doing so would be to reduce the authority that municipalities or counties have to raise revenue in the aggregate, as such authority existed on February 1, 1989.

This mandates provision may apply because the bill provides numerous sales tax exemptions that will reduce municipalities' and counties' local option sales tax collections, thereby reducing their revenue-raising authority. In addition, the bill redefines the types of services to which local Communication Services tax rates apply, thereby potentially reducing the authority of municipalities to raise revenue.

Subsection (c) of s. 18, Art. VII of the Florida Constitution provides that except upon approval of each house of the Legislature by two-thirds vote of the membership, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would be to reduce the percentage of a state tax shared with counties and municipalities as an aggregate on February 1, 1989.

This mandates provision may apply to the reduction in the sales tax rate for electricity, since counties and municipalities receive a share of sales tax revenue through distributions to the Local Government Half-Cent Sales Tax Clearing Trust Fund, the County Revenue Sharing Trust Fund, and the Municipal Revenue Sharing Trust Fund.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

HB 5601 has the following estimated fiscal impacts:

Fiscal Year 2014-2015 Estimated Fiscal Impacts (millions of \$)								
Issue	General Revenue		State Trust Funds		Local		Total	
	Cash	Recur.	Cash	Recur.	Cash	Recur.	Cash	Recur.
Sales Tax: Physical Fitness Holiday (ss. 19, 22)	(4.1)	-	(*)	-	(0.9)	-	(5.0)	0.0
Sales Tax: Back to School Holiday (ss. 20, 22)	(32.3)	-	(*)	-	(7.3)	-	(39.6)	0.0
Sales Tax: Energy Efficient Holiday (ss. 18, 22)	(1.7)	-	(*)	-	(0.3)	-	(2.0)	0.0
Sales Tax: Hurricane Prep. Holiday (ss. 21, 22)	(3.0)	-	(*)	-	(0.7)	-	(3.7)	0.0
Sales Tax: Car Seats (s. 6)	(2.0)	(2.2)	(*)	(*)	(0.5)	(0.5)	(2.5)	(2.7)
Sales Tax: Youth Bicycle Helmets (s. 6)	(0.2)	(0.2)	(*)	(*)	(*)	(*)	(0.2)	(0.2)
Sales Tax: Cement Mixers (s. 6)	(3.3)	-	(*)	-	(0.4)	-	(3.7)	0.0
Sales Tax/Gross Receipts: Electricity (ss. 3, 4)	(143.0)	(171.6)	161.3	193.6	(18.3)	(22.0)	0.0	0.0
Corp Income Tax: Income Exemption (ss. 9, 12)	(8.8)	(21.6)	-	-	-	-	(8.8)	(21.6)
QTV Fund (ss. 14, 22)	(20.0)	-	--	-	-	-	(20.0)	0.0
New Markets Credits (s. 15)	-	(10.0)	-	-	-	-	0.0	(10.0)
Transportation Funding (ss. 8,16)	(100.0)	(100.0)	100.0	100.0	-	-	0.0	0.0
Prepaid Calling Definition** (ss. 1, 4)	-	(1.4)	-	(5.7)	-	(11.2)	0.0	(18.3)
Tax Holiday Appropriations***	(0.54)	-	-	-	-	-	(0.54)	0.0
FY 2014-2015 Total	(318.9)	(307.0)	261.3	287.9	(28.4)	(33.7)	(86.0)	(52.8)
Community Contribution Tax Credits (ss. 6, 11, 17) (FY 2015-2016)	(12.6)	-	(*)	-	(1.4)	-	(14.0)	0.0
Bill Total	(331.5)	(307.0)	261.3	287.9	(29.8)	(33.7)	(100.0)	(52.8)
Estimates reflect minimums. See paragraph below for further potential impacts. * The appropriations for the Hurricane Preparedness and Back-to-School Holidays are for FY 2013-2014, with carry over into 2014-2015.								

In addition to the fiscal impact shown on the table above for the Prepaid Calling Definition issue, a loss of up to \$600 million in audit recoveries may occur if the Department of Revenue were to successfully enforce the strict definition of “prepaid calling arrangement,” with a potential loss of up to \$200 million annually on a going-forward basis. These amounts reflect the estimate of what Communications Services Tax (CST) tax collections would have been in the past and would be in the future if CST tax, instead of sales tax, were collected on prepaid calling arrangements. However, because

current industry practice is to collect sales tax on prepaid mobile communications services, and the timing of any successful Department of Revenue action is unknown, it is uncertain if and when these losses would be realized.

B. Private Sector Impact:

The bill provides a number of tax exemptions that will benefit the purchasers of the exempt items.

Increasing the corporate income tax exemption from \$50,000 to \$75,000 will reduce corporate income taxes on all taxpayers that currently pay the tax; it is estimated to eliminate all corporate income tax liability for approximately 2,100 taxpayers.

C. Government Sector Impact:

Impacts to state government that are not tax-related are also included in the table in Section V.A.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill substantially amends the following sections of the Florida Statutes: 202.11, 203.01, 212.05, 212.08, 212.12, 212.20, 220.14, 220.183, 220.63, 288.9914, and 624.5105.

The bill creates the following sections of the Florida Statutes: 288.127 and 339.0803.

The bill creates undesignated sections of Florida law.

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: FAV	.	
04/10/2014	.	
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The Committee on Appropriations (Hukill) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraphs (a) and (b) of subsection (1) of
section 202.12, Florida Statutes, are amended to read:

202.12 Sales of communications services.—The Legislature
finds that every person who engages in the business of selling
communications services at retail in this state is exercising a
taxable privilege. It is the intent of the Legislature that the



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tax imposed by chapter 203 be administered as provided in this chapter.

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

(a) Except as otherwise provided in this subsection, at a rate of 6.07 ~~6.65~~ percent applied to the sales price of the communications service that ~~which~~:

1. Originates and terminates in this state;~~;~~ or
2. Originates or terminates in this state and is charged to a service address in this state,

when sold at retail, computed on each taxable sale for the purpose of remitting the tax due. The gross receipts tax imposed by chapter 203 shall be collected on the same taxable transactions and remitted with the tax imposed by this paragraph. If no tax is imposed by this paragraph due to the exemption provided under ~~by reason of~~ s. 202.125(1), the tax imposed by chapter 203 shall nevertheless be collected and remitted in the manner and at the time prescribed for tax collections and remittances under this chapter.

(b) At the rate of 10.22 ~~10.8~~ percent on the retail sales price of any direct-to-home satellite service received in this state. The proceeds of the tax imposed under this paragraph shall be accounted for and distributed in accordance with s. 202.18(2). The gross receipts tax imposed by chapter 203 shall be collected on the same taxable transactions and remitted with the tax imposed by this paragraph.

Section 2. Section 202.12001, Florida Statutes, is amended



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to read:

202.12001 Combined rate for tax collected pursuant to ss. 202.12(1)(a) and 203.01(1)(b).—In complying with ss. 1-3, ch. 2010-149, Laws of Florida, the dealer of communication services may collect a combined rate of 6.22 ~~6.8~~ percent comprised of 6.07 ~~6.65~~ percent and 0.15 percent required by ss. 202.12(1)(a) and 203.01(1)(b)3., respectively, if ~~as long as~~ the provider properly reflects the tax collected with respect to the two provisions as required in the return to the Department of Revenue.

Section 3. Subsection (2) of section 202.18, Florida Statutes, is amended to read:

202.18 Allocation and disposition of tax proceeds.—The proceeds of the communications services taxes remitted under this chapter shall be treated as follows:

(2) The proceeds of the taxes remitted under s. 202.12(1)(b) shall be allocated ~~divided~~ as follows:

(a) The portion of such proceeds that constitute ~~which constitutes~~ gross receipts taxes, imposed at the rate prescribed in chapter 203, shall be deposited as provided by law and in accordance with s. 9, Art. XII of the State Constitution.

(b) Sixty and nine-tenths ~~Sixty-three~~ percent of the remainder shall be allocated to the state and distributed pursuant to s. 212.20(6), except that the proceeds allocated pursuant to s. 212.20(6)(d)2. shall be prorated to the participating counties in the same proportion as that month's collection of the taxes and fees imposed pursuant to chapter 212 and paragraph (1)(b).

(c)1. During each calendar year, the remaining portion of



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such proceeds shall be transferred to the Local Government Half-cent Sales Tax Clearing Trust Fund. Seventy percent of such proceeds shall be allocated in the same proportion as the allocation of total receipts of the half-cent sales tax under s. 218.61 and the emergency distribution under s. 218.65 in the prior state fiscal year. Thirty percent of such proceeds shall be distributed pursuant to s. 218.67.

2. The proportion of the proceeds allocated based on the emergency distribution under s. 218.65 shall be distributed pursuant to s. 218.65.

3. In each calendar year, the proportion of the proceeds allocated based on the half-cent sales tax under s. 218.61 shall be allocated to each county in the same proportion as the county's percentage of total sales tax allocation for the prior state fiscal year and distributed pursuant to s. 218.62.

4. The department shall distribute the appropriate amount to each municipality and county each month at the same time that local communications services taxes are distributed pursuant to subsection (3).

Section 4. Section 203.001, Florida Statutes, is amended to read:

203.001 Combined rate for tax collected pursuant to ss. 202.12(1)(a) and 203.01(1)(b).—In complying with ss. 1-3, ch. 2010-149, Laws of Florida, the dealer of communication services may collect a combined rate of 6.22 ~~6.8~~ percent comprised of 6.07 ~~6.65~~ percent and 0.15 percent required by ss. 202.12(1)(a) and 203.01(1)(b)3., respectively, if ~~as long as~~ the provider properly reflects the tax collected with respect to the two provisions as required in the return to the Department of



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Revenue.

Section 5. Effective July 1, 2014, paragraph (d) of subsection (6) of section 212.20, Florida Statutes, is amended to read:

212.20 Funds collected, disposition; additional powers of department; operational expense; refund of taxes adjudicated unconstitutionally collected.—

(6) Distribution of all proceeds under this chapter and s. 202.18(1)(b) and (2)(b) shall be as follows:

(d) The proceeds of all other taxes and fees imposed pursuant to this chapter or remitted pursuant to s. 202.18(1)(b) and (2)(b) shall be distributed as follows:

1. In any fiscal year, the greater of \$500 million, minus an amount equal to 4.6 percent of the proceeds of the taxes collected pursuant to chapter 201, or 5.2 percent of all other taxes and fees imposed pursuant to this chapter or remitted pursuant to s. 202.18(1)(b) and (2)(b) shall be deposited in monthly installments into the General Revenue Fund.

2. After the distribution under subparagraph 1., 8.814 percent of the amount remitted by a sales tax dealer located within a participating county pursuant to s. 218.61 shall be transferred into the Local Government Half-cent Sales Tax Clearing Trust Fund. Beginning July 1, 2003, the amount to be transferred shall be reduced by 0.1 percent, and the department shall distribute this amount to the Public Employees Relations Commission Trust Fund less \$5,000 each month, which shall be added to the amount calculated in subparagraph 3. and distributed accordingly.

3. After the distribution under subparagraphs 1. and 2.,



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0.095 percent shall be transferred to the Local Government Half-cent Sales Tax Clearing Trust Fund and distributed pursuant to s. 218.65.

4. After the distributions under subparagraphs 1., 2., and 3., 2.0440 percent of the available proceeds shall be transferred monthly to the Revenue Sharing Trust Fund for Counties pursuant to s. 218.215.

5. After the distributions under subparagraphs 1., 2., and 3., 1.3409 percent of the available proceeds shall be transferred monthly to the Revenue Sharing Trust Fund for Municipalities pursuant to s. 218.215. If the total revenue to be distributed pursuant to this subparagraph is at least as great as the amount due from the Revenue Sharing Trust Fund for Municipalities and the former Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000, no municipality shall receive less than the amount due from the Revenue Sharing Trust Fund for Municipalities and the former Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000. If the total proceeds to be distributed are less than the amount received in combination from the Revenue Sharing Trust Fund for Municipalities and the former Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000, each municipality shall receive an amount proportionate to the amount it was due in state fiscal year 1999-2000.

6. Of the remaining proceeds:

a. In each fiscal year, the sum of \$29,915,500 shall be divided into as many equal parts as there are counties in the state, and one part shall be distributed to each county. The distribution among the several counties must begin each fiscal



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year on or before January 5th and continue monthly for a total of 4 months. If a local or special law required that any moneys accruing to a county in fiscal year 1999-2000 under the then-existing provisions of s. 550.135 be paid directly to the district school board, special district, or a municipal government, such payment must continue until the local or special law is amended or repealed. The state covenants with holders of bonds or other instruments of indebtedness issued by local governments, special districts, or district school boards before July 1, 2000, that it is not the intent of this subparagraph to adversely affect the rights of those holders or relieve local governments, special districts, or district school boards of the duty to meet their obligations as a result of previous pledges or assignments or trusts entered into which obligated funds received from the distribution to county governments under then-existing s. 550.135. This distribution specifically is in lieu of funds distributed under s. 550.135 before July 1, 2000.

b. The department shall distribute \$166,667 monthly ~~pursuant to s. 288.1162~~ to each applicant certified as a facility for a new or retained professional sports franchise pursuant to s. 288.1162. Up to \$41,667 shall be distributed monthly by the department to each certified applicant as defined in s. 288.11621 for a facility for a spring training franchise. However, not more than \$416,670 may be distributed monthly in the aggregate to all certified applicants for facilities for spring training franchises. The department shall also distribute \$166,667 monthly to an applicant certified as a motorsports entertainment complex under s. 288.1171. Distributions begin 60



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days after such certification and continue for not more than 30 years, except as otherwise provided in s. 288.11621. A certified applicant identified in this sub-subparagraph may not receive more in distributions than expended by the applicant for the public purposes provided for under ~~in~~ s. 288.1162(5), ~~or~~ s. 288.11621(3), or s. 288.1171(7).

c. Beginning 30 days after notice by the Department of Economic Opportunity to the Department of Revenue that an applicant has been certified as the professional golf hall of fame pursuant to s. 288.1168 and is open to the public, \$166,667 shall be distributed monthly, for up to 300 months, to the applicant.

d. Beginning 30 days after notice by the Department of Economic Opportunity to the Department of Revenue that the applicant has been certified as the International Game Fish Association World Center facility pursuant to s. 288.1169, and the facility is open to the public, \$83,333 shall be distributed monthly, for up to 168 months, to the applicant. This distribution is subject to reduction pursuant to s. 288.1169. A lump sum payment of \$999,996 shall be made, after certification and before July 1, 2000.

e. The department shall distribute up to \$55,555 monthly to each certified applicant as defined in s. 288.11631 for a facility used by a single spring training franchise, or up to \$111,110 monthly to each certified applicant as defined in s. 288.11631 for a facility used by more than one spring training franchise. Monthly distributions begin 60 days after such certification or July 1, 2016, whichever is later, and continue for not more than 30 years, except as otherwise provided in s.



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288.11631. A certified applicant identified in this sub-
subparagraph may not receive more in distributions than expended
by the applicant for the public purposes provided in s.

288.11631(3).

7. All other proceeds must remain in the General Revenue
Fund.

Section 6. Effective July 1, 2014, subsection (2) of
section 288.1171, Florida Statutes, is amended, present
subsections (4) through (7) of that section are redesignated as
subsections (5) through (8), respectively, and amended, and a
new subsection (4) is added to that section, to read:

288.1171 Motorsports entertainment complex; definitions;
certification; duties.—

(2) The department shall serve as the state agency for
screening applicants for funding under s. 212.20, for local
option funding under s. 218.64(3), and for certifying an
applicant as a motorsports entertainment complex. The department
shall develop and adopt rules for the receipt and processing of
applications for funding under ss. 212.20 and s. 218.64(3). The
department shall make a determination regarding any application
filed by an applicant within not later than 120 days after the
application is filed.

(4) The department may certify a single applicant as a
motorsports entertainment complex for funding under s. 212.20 if
the applicant meets all of the following conditions:

(a) The applicant meets the requirements of subsection (3).

(b) The applicant has a verified copy of the approval of a
sanctioning body stating that motorsport events are sanctioned
to occur at the applicant's complex.



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(c) The applicant's facility has at least 50,000 fixed seats.

(d) The applicant has projections, verified by the department, which demonstrate that the motorsports entertainment complex will annually attract paid attendance of more than 100,000 persons.

(e) The applicant has an independent analysis or study, verified by the department, which demonstrates that the amount of revenues generated by the taxes imposed under chapter 212 with respect to the use and operation of the motorsports entertainment complex will annually equal or exceed \$2 million.

(f) The applicant has demonstrated that it has provided, is capable of providing, or has financial or other commitments to provide more than one-half of the costs incurred or related to the improvement and development of the complex.

(g) The total cost of construction, reconstruction, expansion, or renovation of the complex exceeds \$250 million.

The approved applicant may not seek funding under s. 218.64(3) while receiving funding under s. 212.20.

(5)(4) Upon determining that an applicant meets the requirements of subsection (3) or subsection (4), the department shall notify the applicant and the executive director of the Department of Revenue of such certification by means of an official letter granting certification. If the applicant fails to meet the certification requirements of subsection (3) or subsection (4), the department shall notify the applicant within not later than 10 days following such determination.

(6)(5) A motorsports entertainment complex that has been



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previously certified under this section and has received funding under such certification is ineligible for ~~any~~ additional certification.

~~(7)(6)~~ An applicant certified as a motorsports entertainment complex may use funds provided pursuant to s. 212.20 or s. 218.64(3) only for the following public purposes:

(a) Paying for the construction, reconstruction, expansion, or renovation of a motorsports entertainment complex.

(b) Paying debt service reserve funds, arbitrage rebate obligations, or other amounts relating ~~payable with respect~~ to bonds issued for the construction, reconstruction, expansion, or renovation of the motorsports entertainment complex or for the reimbursement of such costs or the refinancing of bonds issued for such purposes.

(c) Paying for construction, reconstruction, expansion, or renovation of transportation or other infrastructure improvements related to, necessary for, or appurtenant to the motorsports entertainment complex, including, ~~without limitation,~~ paying debt service reserve funds, arbitrage rebate obligations, or other amounts relating ~~payable with respect~~ to bonds issued for the construction, reconstruction, expansion, or renovation of such transportation or other infrastructure improvements, and for the reimbursement of such costs or the refinancing of bonds issued for such purposes.

(d) Paying for programs of advertising and promotion of or related to the motorsports entertainment complex or the municipality in which the motorsports entertainment complex is located, or the county if the motorsports entertainment complex is located in an unincorporated area, if such programs of



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advertising and promotion are designed to increase paid attendance at the motorsports entertainment complex or increase tourism in or promote the economic development of the community in which the motorsports entertainment complex is located.

~~(8) (7) The Department of Revenue may audit,~~ As provided in s. ~~11.45 213.34~~, the Auditor General may conduct an audit to verify that the distributions pursuant to this section have been expended as required in this section. Such information is subject to the confidentiality requirements of chapter 213. If the Auditor General ~~Department of Revenue~~ determines that the distributions pursuant to certification ~~under this section~~ have not been expended as required by this section, the Auditor General shall notify the Department of Revenue, which it may pursue recovery of such funds pursuant to the laws and rules governing the assessment of taxes.

Section 7. (1) The tax levied under chapter 212, Florida Statutes, may not be collected during the period from 12:01 a.m. on August 1, 2014, through 11:59 p.m. on August 3, 2014, on the 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 \$75 or less per item. As used in this paragraph, the term "clothing" means:

1. An 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, rollerblades, and skates.



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(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.

(c) Personal computers and related accessories that have a sales price of \$750 or less and are purchased for noncommercial home or personal use. As used in this paragraph, the term:

1. "Personal computer" means an electronic device that accepts information in digital or similar form and manipulates such information for a result based on a sequence of instructions. The term includes an electronic book reader and a laptop, desktop, handheld, tablet, or tower computer but does not include a cellular telephone, video game console, digital media receiver, or device that is not primarily designed to process data.

2. "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 but does not include furniture or systems, devices, software, monitors with a television tuner, or other peripherals that are designed or intended primarily for recreational use.

(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, Florida Statutes, within a public lodging establishment as defined in s. 509.013, Florida Statutes, or



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within an airport as defined in s. 330.27, 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.

Section 8. For the 2013-2014 fiscal year, the sum of \$223,048 in nonrecurring funds is appropriated from the General Revenue Fund to the Department of Revenue for the purpose of administering section 7 of this act. Funds from the appropriation that remain unexpended or unencumbered as of June 30, 2014, shall revert and be reappropriated for the same purpose in the 2014-2015 fiscal year.

Section 9. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

===== 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. 202.12, F.S.;
reducing the tax rate applied to the sale of
communications services; reducing the tax rate applied
to the retail sale of direct-to-home satellite
services; amending s. 202.12001, F.S.; conforming
rates to the reduction of the communications services
tax; amending s. 202.18, F.S.; revising the
distribution of tax revenues received; amending s.
203.001, F.S.; conforming rates to the reduction of
the communications services tax; amending s. 212.20,



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F.S.; providing for a monthly distribution of a specified amount of sales tax revenue to a complex certified as a motorsports entertainment complex by the Department of Economic Opportunity; amending s. 288.1171, F.S.; authorizing the department to certify a single applicant as a motorsports entertainment complex if it meets specified criteria; authorizing the Auditor General to verify the expenditure of specified distributions and to notify the Department of Revenue of improperly expended funds so that it may pursue recovery; specifying a period during which the sale of clothing, wallets, bags, school supplies, personal computers, and personal computer-related accessories are exempt from the sales tax; providing definitions; providing exceptions; authorizing the Department of Revenue to adopt emergency rules; providing an appropriation; providing effective dates.



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LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
04/10/2014	.	
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The Committee on Appropriations (Galvano) recommended the following:

Senate Amendment to Amendment (477076) (with title amendment)

Delete lines 16 - 98
and insert:

(a) Except as otherwise provided in this subsection, at a rate of 6.13 ~~6.65~~ percent applied to the sales price of the communications service that ~~which~~:

1. Originates and terminates in this state; or
2. Originates or terminates in this state and is charged to



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a service address in this state,
when sold at retail, computed on each taxable sale for the purpose of remitting the tax due. The gross receipts tax imposed by chapter 203 shall be collected on the same taxable transactions and remitted with the tax imposed by this paragraph. If no tax is imposed by this paragraph due to the exemption provided under ~~by reason of~~ s. 202.125(1), the tax imposed by chapter 203 shall nevertheless be collected and remitted in the manner and at the time prescribed for tax collections and remittances under this chapter.

(b) At the rate of 10.28 ~~10.8~~ percent on the retail sales price of any direct-to-home satellite service received in this state. The proceeds of the tax imposed under this paragraph shall be accounted for and distributed in accordance with s. 202.18(2). The gross receipts tax imposed by chapter 203 shall be collected on the same taxable transactions and remitted with the tax imposed by this paragraph.

Section 2. Section 202.12001, Florida Statutes, is amended to read:

202.12001 Combined rate for tax collected pursuant to ss. 202.12(1)(a) and 203.01(1)(b).—In complying with ss. 1-3, ch. 2010-149, Laws of Florida, the dealer of communication services may collect a combined rate of 6.28 ~~6.8~~ percent comprised of 6.13 ~~6.65~~ percent and 0.15 percent required by ss. 202.12(1)(a) and 203.01(1)(b)3., respectively, if ~~as long as~~ the provider properly reflects the tax collected with respect to the two provisions as required in the return to the Department of Revenue.



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Section 3. Subsection (2) of section 202.18, Florida Statutes, is amended to read:

202.18 Allocation and disposition of tax proceeds.—The proceeds of the communications services taxes remitted under this chapter shall be treated as follows:

(2) The proceeds of the taxes remitted under s. 202.12(1)(b) shall be allocated ~~divided~~ as follows:

(a) The portion of such proceeds that constitute ~~which constitutes~~ gross receipts taxes, imposed at the rate prescribed in chapter 203, shall be deposited as provided by law and in accordance with s. 9, Art. XII of the State Constitution.

(b) Sixty and nine-tenths ~~Sixty-three~~ percent of the remainder shall be allocated to the state and distributed pursuant to s. 212.20(6), except that the proceeds allocated pursuant to s. 212.20(6)(d)2. shall be prorated to the participating counties in the same proportion as that month's collection of the taxes and fees imposed pursuant to chapter 212 and paragraph (1)(b).

(c)1. During each calendar year, the remaining portion of such proceeds shall be transferred to the Local Government Half-cent Sales Tax Clearing Trust Fund. Seventy percent of such proceeds shall be allocated in the same proportion as the allocation of total receipts of the half-cent sales tax under s. 218.61 and the emergency distribution under s. 218.65 in the prior state fiscal year. Thirty percent of such proceeds shall be distributed pursuant to s. 218.67.

2. The proportion of the proceeds allocated based on the emergency distribution under s. 218.65 shall be distributed pursuant to s. 218.65.



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69 3. In each calendar year, the proportion of the proceeds
70 allocated based on the half-cent sales tax under s. 218.61 shall
71 be allocated to each county in the same proportion as the
72 county's percentage of total sales tax allocation for the prior
73 state fiscal year and distributed pursuant to s. 218.62.

74 4. The department shall distribute the appropriate amount
75 to each municipality and county each month at the same time that
76 local communications services taxes are distributed pursuant to
77 subsection (3).

78 Section 4. Section 203.001, Florida Statutes, is amended to
79 read:

80 203.001 Combined rate for tax collected pursuant to ss.
81 202.12(1)(a) and 203.01(1)(b).—In complying with ss. 1-3, ch.
82 2010-149, Laws of Florida, the dealer of communication services
83 may collect a combined rate of 6.28 ~~6.8~~ percent comprised of
84 6.13 ~~6.65~~ percent and 0.15 percent required by ss. 202.12(1)(a)
85 and 203.01(1)(b)3., respectively, if ~~as long as~~ the provider
86 properly reflects the tax collected with respect to the two
87 provisions as required in the return to the Department of
88 Revenue.

89 Section 5. Subsection (9) of section 202.11, Florida
90 Statutes, is amended to read:

91 202.11 Definitions.—As used in this chapter, the term:

92 (9) "Prepaid calling arrangement" means: the separately
93 ~~stated retail sale by advance payment of~~

94 (a) A right to use communications services, other than
95 mobile communications services, for which a separately stated
96 price must be paid in advance, which is sold at retail in
97 predetermined units that decline in number with use on a



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predetermined basis, and which ~~that~~ consist exclusively of
telephone calls originated by using an access number,
authorization code, or other means that may be manually,
electronically, or otherwise entered; or ~~and that are sold in~~
~~predetermined units or dollars of which the number declines with~~
~~use in a known amount.~~

(b) A right to use mobile communications services that must
be paid for in advance and is sold at retail in predetermined
units that expire or decline in number on a predetermined basis
if:

1. The purchaser's right to use mobile communications
services terminates upon all purchased units expiring or being
exhausted unless the purchaser pays for additional units;

2. The purchaser is not required to purchase additional
units; and

3. Any right of the purchaser to use units to obtain
communications services other than mobile communications
services is limited to services that are provided to or through
the same handset or other electronic device that is used by the
purchaser to access mobile communications services.

Predetermined units described in this subsection may be
quantified as amounts of usage, time, money, or a combination of
these or other means of measurement.

Section 6. Paragraph (e) 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



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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:

(e)1. At the rate of 6 percent on charges for:

a. Prepaid calling arrangements. The tax on charges for prepaid calling arrangements shall be collected at the time of sale and remitted by the selling dealer.

(I) "Prepaid calling arrangement" has the same meaning as provided in s. 202.11 ~~means the separately stated retail sale by advance payment of communications services that consist exclusively of telephone calls originated by using an access number, authorization code, or other means that may be manually, electronically, or otherwise entered and that are sold in predetermined units or dollars whose number declines with use in a known amount.~~

(II) If the sale or recharge of the prepaid calling arrangement does not take place at the dealer's place of business, it shall be deemed to have taken ~~take~~ place at the customer's shipping address or, if no item is shipped, at the customer's address or the location associated with the customer's mobile telephone number.

(III) The sale or recharge of a prepaid calling arrangement shall be treated as a sale of tangible personal property for



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purposes of this chapter, whether or not a tangible item evidencing such arrangement is furnished to the purchaser, and such sale within this state subjects the selling dealer to the jurisdiction of this state for purposes of this subsection.

(IV) No additional tax under this chapter or chapter 202 is due or payable if a purchaser of a prepaid calling arrangement, who has paid tax under this chapter on the sale or recharge of such arrangement, applies one or more units of the prepaid calling arrangement to obtain communications services as described in s. 202.11(9)(b)3., other services that are not communications services, or products.

b. The installation of telecommunication and telegraphic equipment.

c. Electrical power or energy, except that the tax rate for charges for electrical power or energy is 7 percent.

2. The provisions of s. 212.17(3), regarding credit for tax paid on charges subsequently found to be worthless, are ~~shall be~~ equally applicable to any tax paid under ~~the provisions of~~ this section on charges for prepaid calling arrangements, telecommunication or telegraph services, or electric power subsequently found to be uncollectible. The term ~~word~~ "charges" under ~~in~~ this paragraph does not include any excise or similar tax levied by the Federal Government, any political subdivision of this ~~the~~ state, or any municipality upon the purchase, sale, or recharge of prepaid calling arrangements or upon the purchase or sale of telecommunication, television system program, or telegraph service or electric power, which tax is collected by the seller from the purchaser.

Section 7. The amendments made to ss. 202.11 and 212.05,



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Florida Statutes, by this act are intended to be remedial in
nature and apply retroactively, but do not provide a basis for
an assessment of any tax not paid or create a right to a refund
or credit of any tax paid before the effective date of this act.

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

And the title is amended as follows:

 Delete line 387

and insert:

 the communications services tax; amending ss. 202.11
 and 212.05, F.S.; revising the term "prepaid calling
 arrangement" to clarify and update which services are
 included under that definition and subject to a sales
 tax; providing for retroactive application; amending
 s. 212.20,



648522

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
04/10/2014	.	
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The Committee on Appropriations (Ring) recommended the following:

Senate Amendment to Amendment (477076) (with title amendment)

Between lines 98 and 99
insert:

Section 5. Subsections (4) and (5) of section 205.0535,
Florida Statutes, are amended to read:

205.0535 Reclassification and rate structure revisions.—
(4) After the conditions specified in subsections (2) and
(3) are met, municipalities and counties may, every other year



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thereafter, increase or decrease by ordinance the rates of business taxes by up to 5 percent. However, an increase must, ~~however, may not~~ be enacted by at least ~~less than~~ a majority plus one vote of the governing body.

(5) ~~Nothing in~~ This chapter does not shall be construed to prohibit a municipality or county from decreasing or repealing any business tax authorized under this chapter. By majority vote, the governing body of a county or municipality may adopt an ordinance repealing a local business tax or establishing new rates that decrease local business taxes and do not result in an increase in local business taxes for a taxpayer. Such ordinances are not subject to subsections (2) and (3).

(6) ~~(5)~~ A receipt may not be issued unless the federal employer identification number or social security number is obtained from the person to be taxed.

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

And the title is amended as follows:

Delete line 387

and insert:

the communications services tax; amending s. 205.0535, F.S.; providing that a county or municipality may repeal or reduce a local business tax by majority vote; amending s. 212.20,



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LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
04/10/2014	.	
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The Committee on Appropriations (Lee) recommended the following:

Senate Amendment to Amendment (477076) (with title amendment)

Between lines 98 and 99
insert:

Section 5. Section 212.17, Florida Statutes, is reordered
and amended to read:

212.17 Tax credits or refunds ~~for returned goods, rentals,
or admissions; goods acquired for dealer's own use and
subsequently resold; additional powers of department.-~~

(1) (a) If ~~In the event~~ purchases are returned to a dealer



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by the purchaser or consumer after the tax imposed by this chapter has been collected from or charged to the account of the consumer or user, the dealer is ~~shall be~~ entitled to reimbursement of the amount of tax collected or charged by the dealer, in the manner prescribed by the department.

(b) A registered dealer that purchases property for the dealer's own use, pays tax on acquisition, and sells the property subsequent to acquisition without ~~ever~~ having used the property is entitled to reimbursement, in the manner prescribed by the department, of the amount of tax paid on the property's acquisition.

(c) If the tax has not been remitted by a dealer to the department, the dealer may deduct the same in submitting his or her return upon receipt of a signed statement by ~~of~~ the dealer as to the gross amount of such refunds during the period covered by the ~~said~~ signed statement, which may ~~period shall~~ not be longer than 90 days. The department shall issue to the dealer an official credit memorandum equal to the net amount remitted by the dealer for such tax collected or paid. Such memorandum shall be accepted by the department at full face value from the dealer to whom it is issued upon, ~~in~~ the remittance of ~~for~~ subsequent taxes accrued under ~~the provisions of~~ this chapter. If a dealer has retired from business and ~~has~~ filed a final return, a refund of tax may be made if it can be established to the satisfaction of the department that the tax was not due.

(2) A dealer who has paid the tax imposed by this chapter on tangible personal property sold under a retained title, conditional sale, or similar contract, or under a contract in which ~~wherein~~ the dealer retains a security interest in the



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property pursuant to chapter 679, may take credit or obtain a refund for the tax paid by the dealer on the unpaid balance due him or her when he or she repossesses the property, ~~with or without judicial process,~~ the property within 12 months after following the month in which the property was repossessed. If ~~When~~ such repossessed property is resold, the sale is subject in all respects to the tax imposed by this chapter.

(3) Except as provided in subsection (4), a dealer who has paid the tax imposed by this chapter on tangible personal property or services may take a credit or obtain a refund for any tax paid by the dealer on the unpaid balance due on worthless accounts within 12 months after following the month in which the bad debt has been charged off for federal income tax purposes. If any accounts so charged off for which a credit or refund has been obtained are subsequently, thereafter in whole or in part, paid to the dealer, the amount so paid shall be included in the first return filed after such collection and the tax paid accordingly.

(4) With respect to the payment of taxes on purchases made through a private-label credit card program:

(a) If consumer accounts or receivables are found to be worthless or uncollectible, the dealer may claim a credit for, or obtain a refund of, the tax remitted by the dealer on the unpaid balance due if:

1. The accounts or receivables have been charged off as bad debt on the lender's books and records on or after January 1, 2014;

2. A credit was not previously claimed and a refund was not previously allowed on any portion of the accounts or



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70 receivables; and

71 3. The credit or refund is claimed within 12 months after
72 the month in which the bad debt has been charged off by the
73 lender for federal income tax purposes.

74 (b) If the dealer or the lender subsequently collects, in
75 whole or in part, the accounts or receivables for which a credit
76 or refund has been granted under paragraph (a), the dealer must
77 include the taxable percentage of the amount collected in the
78 first return filed after the collection and pay the tax on the
79 portion of that amount for which a credit or refund was granted.

80 (c) The credit or refund allowed includes all credit sale
81 transaction amounts that are outstanding in the specific
82 private-label credit card account or receivable at the time the
83 account or receivable is charged off, regardless of the date on
84 which the credit sale transaction actually occurred.

85 (d) A dealer may use one of the following methods to
86 determine the amount of the credit or refund:

87 1. An apportionment method to substantiate the amount of
88 tax imposed under this chapter which is included in the bad debt
89 to which the credit or refund applies. The method must use the
90 dealer's Florida and non-Florida sales, the dealer's taxable and
91 nontaxable sales, and the amount of tax the dealer remitted to
92 this state; or

93 2. A specified percentage of the accounts or receivables
94 giving rise to the credit or refund, which is derived from a
95 sampling of the dealer's or lender's records in accordance with
96 a methodology agreed upon by the department and the dealer.

97 (e) For purposes of computing the credit or refund,
98 payments on the accounts or receivables shall be allocated based



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on the terms and conditions of the contract between the dealer or lender and the consumer.

(f) The credit or refund for tax on bad debt may be claimed on any return filed by an entity related by a direct or indirect common ownership of 50 percent or more.

(g) The amount of the credit or refund that a dealer is eligible to recover under this subsection is limited to 25 percent of the tax paid to the department which is attributable to bad debt.

(h) As used in this subsection, the term:

1. "Dealer's affiliates" means an entity affiliated with the dealer under 26 U.S.C. s. 1504 or an entity that would be an affiliate under that section if the entity were a corporation.

2. "Lender" means a person who owns or has owned a private-label credit card account or an interest in a private-label credit card receivable that:

a. The person purchased directly from a dealer who remitted the tax imposed under this chapter or from the dealer's affiliates, or that was transferred from a third party;

b. The person originated pursuant to that person's contract with a dealer who remitted the tax imposed under this chapter or with the dealer's affiliates; or

c. Is affiliated in the manner described under 26 U.S.C. s. 1504, regardless of whether the different entities are corporations, with a person described in sub-subparagraph a. or sub-subparagraph b. or with an assignee or other transferee of such person.

3. "Private-label credit card" means a charge card or credit card that carries, refers to, or is branded with the name



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or logo of a dealer and can be used for purchases from the dealer whose name or logo appears on the card or for purchases from the dealer's affiliates or franchisees.

(6)~~(4)~~~~(a)~~ The department shall:

(a) Design, prepare, print and furnish to all dealers, except dealers filing through electronic data interchange, or make available or prescribe to the dealers, all necessary forms for filing returns and instructions to ensure a full collection from dealers and an accounting for the taxes due. The, but failure of a any dealer to secure such forms does not relieve the dealer from the payment of the tax at the time and in the manner provided.

(b) ~~The department shall~~ Prescribe the format and instructions necessary for filing returns in a manner that is initiated through an electronic data interchange to ensure a full collection from dealers and an accounting for the taxes due. The failure of a any dealer to use such format does not relieve the dealer from the payment of the tax at the time and in the manner provided.

(7)~~(5)~~ The department and its assistants are ~~hereby~~ authorized and empowered to administer the oath for the purpose of enforcing and administering ~~the provisions of this chapter.~~

(8)~~(6)~~ The department may ~~has authority to~~ adopt rules pursuant to ~~ss. 120.536(1) and 120.54~~ to administer and enforce ~~the provisions of this section chapter.~~

(5)~~(7)~~ If ~~The department, where~~ admissions, license fees, ~~or~~ rental payments, or payments for services are made and ~~thereafter~~ returned to the payors after the taxes ~~thereon~~ have been paid, the department shall return or credit the taxpayer



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for taxes ~~so~~ paid on the moneys returned in the same manner as
~~is~~ provided for returns or credits of taxes if ~~where~~ purchases
or tangible personal property are returnable to a dealer.

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

And the title is amended as follows:

Delete line 387

and insert:

the communications services tax; amending s. 212.17,
F.S.; providing procedures, requirements, and
calculation methodologies that allow dealers to obtain
tax credits or refunds for taxes paid on worthless or
uncollectible private-label credit card accounts or
receivables; providing a cap on the amount that may be
recovered; providing definitions; amending s. 212.20,



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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/10/2014	.	
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The Committee on Appropriations (Galvano) recommended the following:

Senate Amendment to Amendment (477076) (with title amendment)

Between lines 98 and 99
insert:

Section 5. Subsection (5) of section 212.05, 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



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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.

(5) Notwithstanding any other provision of this chapter, the maximum amount of tax imposed under this chapter and collected on each sale or use of a boat in this state may not exceed \$18,000 and for each repair of a boat in this state may not exceed \$120,000.

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

And the title is amended as follows:

Delete line 387

and insert:

the communications services tax; amending s. 212.05,
F.S.; providing a cap on the amount of sales tax
collected for the repair of a boat; amending s.
212.20,



316994

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/10/2014	.	
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The Committee on Appropriations (Bean) recommended the following:

Senate Amendment to Amendment (477076) (with title amendment)

Between lines 219 and 220
insert:

Section 6. Section 288.127, Florida Statutes, is created to read:

288.127 Qualified Television Loan Fund (QTV Fund).—

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

(a) "Fund administrator" means a private sector



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organization under contract with the department to manage and administer the QTV Fund.

(b) "Major broadcaster" means broadcasting organizations that include, but are not limited to, television broadcasting networks, cable television, direct broadcast satellite, telecommunications companies, and internet streaming or other digital media platforms.

(c) "Private investment capital" means capital from private, nongovernmental funding sources that will be coinvested with the QTV Fund in segregated accounts.

(d) "Qualified lending partner" means a financial institution, as defined in s. 655.005, selected by a fund administrator with demonstrated capability in providing financing to television production and specialized expertise in intellectual property, tax credit programs, customary broadcast license agreements, advertising inventories, and ancillary revenue sources, with a combined portfolio in film, television, and entertainment media of at least \$500 million.

(e) "Qualified television content" means series, mini-series, or made-for-TV content produced by a qualified production company that has in place a distribution contract with a major broadcaster, under a customary broadcast license agreement. The term does not include a production that contains content that is obscene, as defined in s. 847.001.

(2) PURPOSE.—The purpose of the QTV Fund is to create a public-private partnership in the form of a revolving loan fund to administer a loan program for television production. The QTV Fund shall be privately managed under state oversight to incentivize the use of this state as a site for producing



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qualified television content and to develop and sustain the
workforce and infrastructure for television content production.

(3) CREATION.—The Qualified Television Loan Fund is created within the department. The QTV Fund shall be a public fund that is privately managed by the fund administrator under contract entered into with the department. The department shall disburse the funds appropriated for this program to the fund administrator to invest in the QTV Fund during the existence of the program pursuant to this section and the contract entered into between the fund administrator and the department. State funds in the QTV Fund may be used only to enter into loan agreements and to pay any administrative costs or other authorized fees under this section.

(a) The QTV Fund shall be a revolving loan fund that shall invest and reinvest the principal and interest of the fund in accordance with s. 617.2104, in such a manner as to not subject the funds to state or federal taxes and to be consistent with the investment policy statement adopted by the fund administrator. As the production companies repay the principal and interest for the QTV Fund, the state funds shall be returned, less any QTV Fund expenses, to the account to be lent to subsequent borrowers.

(b) Funds from the QTV Fund shall be disbursed by the fund administrator through a lending vehicle to make short-term loans pursuant to this section.

(4) FUND ADMINISTRATOR.—

(a) The department shall contract with a fund administrator by September 1, 2014, and award the contract in accordance with the competitive bidding requirements in s. 287.057.



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69 (b) The department shall select as fund administrator a
70 private sector entity that demonstrates the ability to implement
71 the program under this section and that meets the requirements
72 set forth in this section. Preference shall be given to
73 applicants that are headquartered in this state. Additional
74 consideration may be given to applicants with experience in the
75 management of economic development or job creation-related
76 funds. The qualifications for the fund administrator must
77 include, but are not limited to, the following:

78 1. A demonstrated track record of managing private sector
79 equity or debt funds in the entertainment and media industries.

80 2. The ability to demonstrate through a partnership
81 agreement that a qualified lending partner is in place, with the
82 capability of providing leverage of a minimum of 2.5 times the
83 capital amount of the QTV Fund, for financing the production
84 cost of qualified television content in the form of senior debt.

85 (c) For overseeing and administering the QTV Fund, the fund
86 administrator shall be reimbursed for the portion of costs the
87 fund administrator incurs in establishing and operating the
88 Fund related to the state's investment, which shall be paid from
89 state funds in the QTV Fund. Any additional private investment
90 capital in the segregated accounts is responsible for its own
91 management fees. The fund administrator shall be entitled to a
92 reasonable profit, but such distribution may not be made from
93 any principal funds from the original appropriation.

94 (d) The fund administrator shall provide services defined
95 under this section for the duration of the QTV Fund term unless
96 removed for cause. Cause shall be further defined under the
97 contract with the fund administrator and must include, but is



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not limited to, the engagement in fraud or other criminal acts by board members, incapacity, unfitness, neglect of duty, official incompetence and irresponsibility, misfeasance, malfeasance, nonfeasance, or lack of performance.

(5) FUND ADMINISTRATOR POWERS AND DUTIES.—

(a) Authority to contract.—The fund administrator may enter into agreements with qualified lending partners for concurrent lending through the QTV Fund. A loan made by the qualified lending partner must be accounted for separately from the state funds or any other private investment capital. Such loan shall be made as senior debt. The fund administrator may raise private investment capital for mezzanine equity and other equity or raise junior capital for concurrent lending through the QTV Fund. However, loans from private investment capital may not be made at more favorable terms and conditions than the terms and conditions of the state funds in the QTV Fund. The state appropriation must be maintained in a separate account from any private investment capital and administered in a separate legal investment entity or entities. Private investment capital and loans shall be segregated from each other, and funds may not be commingled.

(b) General duties.—The fund administrator:

1. Shall prudently manage the funds in the QTV Fund as a revolving loan fund.

2. Shall contract with one or more qualified lending partners.

3. Shall provide improvement of the credit profile of a structured financial transaction for qualified production companies that produce qualified television content meeting the



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criteria in subsection (7).

4. May raise additional private investment capital to be held in separate accounts, in addition to the leverage provided by the qualified lending partner.

5. Shall administer the QTV Fund in accordance with this part.

6. Shall agree to maintain the recipient's books and records relating to funds received from the department according to generally accepted accounting principles and in accordance with the requirements of s. 215.97(7) and to make those books and records available to the department for inspection upon reasonable notice. The books and records must be maintained with detailed records showing the use of proceeds from loans to fund qualified television content.

7. Shall maintain its registered office in this state throughout the duration of the contract.

(c) Financial reporting.—The fund administrator shall submit to the department by February 28 each year audited financial statements for the preceding tax year which are audited by an independent certified public accountant after the end of each year in which the fund administrator is under contract with the department. In addition to providing an independent opinion on the annual financial statements, such audit provides a basis to verify the segregation of state funds from those of any private investment capital.

(d) Program reporting.—The fund administrator shall submit an annual report to the department by February 28 after the end of each year in which the fund administrator is under contract with the department. The report must include information on the



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loans made in the preceding calendar year and must include, but need not be limited to, the following:

1. The name of the qualified television content.
2. The names of the counties in which the production occurred.
3. The number of jobs created and retained as a result of the production.
4. The loan amounts, including the amount of private investment capital and funds provided by a qualified lending partner.
5. The loan repayment status for each loan.
6. The number, and amounts, of any loans with payments past due.
7. The number, and amounts, of any loans in default.
8. A description of the assets securing the loans.
9. Other information and documentation required by the department.

(e) Plan of accountability.—The fund administrator shall submit an annual plan of accountability of economic development, including a report detailing the job creation resulting from the QTV Fund loans made during the current year and cumulatively since the inception of the program. The fund administrator shall also provide any additional information requested by the department pertaining to economic development and job creation in the state.

(f) Conflict-of-interest statement.—The fund administrator shall provide a conflict-of-interest statement from its governing board certifying that no board member, director, employee, agent, immediate family member thereof, or other



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185 person connected to or affiliated with the fund administrator is
186 receiving or will receive any type of compensation or
187 remuneration from a production company that has received or will
188 receive funds from the loan program or from a qualified lending
189 partner. The department may waive this requirement for good
190 cause shown.

191 (6) LOAN STRUCTURE.—

192 (a) The QTV Fund may make loans to production companies to
193 fund production costs or provide improvement of the credit
194 profile of a structured financial transaction for qualified
195 television content that meets the criteria requirements of
196 subsection (7). To make a loan, the fund administrator shall
197 take into consideration the types of eligible collateral, the
198 credit worthiness of the project, the producer's track record,
199 the possibility that the project will encourage, enhance, or
200 create economic benefits, and the extent to which assistance
201 would foster innovative public-private partnerships and attract
202 private debt or equity investment.

203 (b) The QTV Fund loan package shall be secured by
204 contractual and predictable sources of repayment such as
205 domestic and international broadcaster license agreements and
206 other ancillary revenues that are derived from media content
207 rights. Unsecured loans may not be made.

208 (c) The loans shall be made on the basis of a second lien
209 or primary security rights on the media assets listed in
210 paragraph (b).

211 (d) The QTV Fund shall provide funding only in conjunction
212 with senior loans provided by a qualified lending partner. Loans
213 from the QTV Fund may be subordinated to senior debt from the



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214 qualified lending partner and may not exceed 30 percent of the
215 total production funding cost of any particular project.

216 (e) The production company's repayment of any loan shall be
217 in accordance with the broadcast license agreement and the
218 delivery of qualified television content to the major
219 broadcaster and shall be within 60 days after such delivery.

220 (f) Loans made by the QTV Fund may not exceed 36 months in
221 duration, except for extenuating circumstances for which the
222 fund administrator may grant an extension upon making written
223 findings to the department specifying the conditions requiring
224 the extension.

225 (g) The fund administrator or a board member, employee, or
226 agent thereof, or an immediate family member of a board member,
227 employee, or agent, may not have a financial interest in an
228 entity that is awarded a loan under a loan program and may not
229 benefit directly or indirectly from the making of such a loan. A
230 loan may not be made to a person if it violates this paragraph.
231 As used in this section, the term "immediate family" means a
232 parent, child, or spouse, or any other relative by blood,
233 marriage, or adoption, of a board member, employee, or agent of
234 the loan administrator.

235 (h) With the exception of funds appropriated to the
236 department for the loan program, the credit of the state may not
237 be pledged. The state is not liable or obligated in any way for
238 claims against the QTV Fund or against the fund administrator,
239 the qualified lending partner, or the department.

240 (7) QUALIFIED TELEVISION CONTENT CRITERIA.—The fund
241 administrator must consider at a minimum the following criteria
242 for evaluating the qualifying television content:



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243 (a) The content is intended for broadcast by a major
244 broadcaster on a major network, cable, or streaming channel.

245 (b) The content is produced in this state, or a minimum of
246 80 percent of the production budget must be spent in this state.
247 This requirement may be amended by the fund administrator upon
248 notice to the department. Such notice must include a specific
249 justification for the change and must be transmitted to the
250 department in writing. The department has 10 business days to
251 object to the change. If the department does not object to the
252 change within 10 business days, the change is deemed acceptable
253 by the department, and the fund administrator may grant the
254 amendment to the requirement in this paragraph.

255 (c) If the content is a series, there is a programming
256 order for at least 13 episodes. This requirement may be amended
257 by the fund administrator upon notice to the department. Such
258 notice must include a specific justification for the change and
259 must be transmitted to the department in writing. The department
260 has 10 business days to object to the change. If the department
261 does not object to the change within 10 business days, the
262 change is deemed acceptable by the department, and the fund
263 administrator may grant the amendment to the requirement in this
264 paragraph.

265 (d) The producer must have a contract in place with a major
266 broadcaster to acquire content programming under a customary
267 broadcast license agreement and the contract must cover at least
268 60 percent of the budget.

269 (e) The producer must retain a foreign sales agent and must
270 be able to provide the fund administrator with the foreign sales
271 agent's official estimates of foreign and ancillary sales.



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(f) The project must be bonded and secured by an industry-
approved completion guarantor if the production cost per episode
exceeds \$1 million. This requirement may be waived if the loan
applicant provides the fund administrator with evidence of
adequate structure to protect the state's funds.

(8) AUDITOR GENERAL AUDIT.—The Auditor General is
authorized to conduct operational audits, as defined in s.
11.45, of the QTV Fund and fund administrator. The scope of
audit must include, but is not limited to, internal controls
evaluations, internal audit functions, reporting and performance
requirements for the use of the funds, and compliance with state
and federal law. The fund administrator shall provide to the
Auditor General any detail or supplemental data required.

(9) RULEMAKING AUTHORITY.—The department may adopt rules to
administer this section.

(10) EXPIRATION.—This section expires December 31, 2024, at
which point all funds remaining in the QTV Fund shall revert to
the General Revenue Fund.

(11) EMERGENCY RULES.—

(a) The executive director of the department is authorized,
and all conditions are deemed met, to adopt emergency rules
pursuant to ss. 120.536(1) and 120.54(4) for the purpose of
implementing this section.

(b) Notwithstanding any other law, the emergency rules
adopted pursuant to paragraph (a) remain in effect 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.

(c) This subsection expires October 1, 2015.



316994

Section 7. Paragraph (b) of subsection (2) of section 288.0001, Florida Statutes, is amended to read:

288.0001 Economic Development Programs Evaluation.—The Office of Economic and Demographic Research and the Office of Program Policy Analysis and Government Accountability (OPPAGA) shall develop and present to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairs of the legislative appropriations committees the Economic Development Programs Evaluation.

(2) The Office of Economic and Demographic Research and OPPAGA shall provide a detailed analysis of economic development programs as provided in the following schedule:

(b) By January 1, 2015, and every 3 years thereafter, an analysis of the following:

1. The entertainment industry financial incentive program established under s. 288.1254.

2. The entertainment industry sales tax exemption program established under s. 288.1258.

3. The ~~VISIT~~ Florida Tourism Industry Marketing Corporation and its programs established or funded under ss. 288.122, 288.1226, 288.12265, and 288.124.

4. The Florida Sports Foundation and related programs established under ss. 288.1162, 288.11621, 288.1166, 288.1167, 288.1168, 288.1169, and 288.1171.

5. The qualified television loan fund established under s. 288.127.

Section 8. For fiscal year 2014-2015, the sum of \$20 million of nonrecurring funds is appropriated from the General Revenue Fund to the Economic Development Trust Fund of the



316994

Department of Economic Opportunity for the purpose of making
disbursements in accordance with s. 288.127(3), Florida
Statutes.

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

And the title is amended as follows:

Delete lines 378 - 391

and insert:

An act relating to economic development; amending s.
202.12, F.S.; reducing the tax rate applied to the
sale of communications services; reducing the tax rate
applied to the retail sale of direct-to-home satellite
services; amending s. 202.12001, F.S.; conforming
rates to the reduction of the communications services
tax; amending s. 202.18, F.S.; revising the
distribution of tax revenues received; amending s.
203.001, F.S.; conforming rates to the reduction of
the communications services tax; amending s. 212.20,
F.S.; providing for a monthly distribution of a
specified amount of sales tax revenue to a complex
certified as a motorsports entertainment complex by
the Department of Economic Opportunity; creating s.
288.127, F.S.; providing definitions; providing a
purpose; creating the Qualified Television Loan Fund;
requiring the Department of Economic Opportunity to
contract with a fund administrator; providing fund
administrator qualifications; providing for the fund
administrator's compensation and removal; specifying
the fund administrator powers and duties; providing



316994

359 the structure of the loans; providing qualified
360 television content criteria; permitting the Auditor
361 General to conduct an operational audit of the fund
362 and the fund administrator; authorizing the department
363 to adopt rules; providing for expiration of the act;
364 providing emergency rulemaking authority; amending s.
365 288.0001, F.S.; requiring an analysis of the qualified
366 television loan fund in the Economic Development
367 Programs Evaluation; providing an appropriation;
368 amending s.



758080

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
04/10/2014	.	
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The Committee on Appropriations (Bradley) recommended the following:

Senate Amendment to Amendment (477076) (with title amendment)

Between lines 315 and 316
insert:

Section 7. Effective upon this act becoming a law,
subsection (5) of section 624.4094, Florida Statutes, is amended
to read:

624.4094 Bail bond premiums.—

~~(5) This section does not affect the reporting or payment~~



758080

~~of insurance premium taxes under ss. 624.509, 624.5091, and
624.5092, and the insurance premium tax and related excise taxes
shall continue to be calculated using gross bail bond premiums.~~

Section 8. Effective upon this act becoming a law,
subsection (1) of section 624.509, Florida Statutes, is amended
to read:

624.509 Premium tax; rate and computation.—

(1) In addition to the license taxes provided for in this
chapter, each insurer shall also annually, and on or before
March 1 in each year, except as to wet marine and transportation
insurance taxed under s. 624.510, pay to the Department of
Revenue a tax on insurance premiums, premiums for title
insurance, or assessments, including membership fees and policy
fees and gross deposits received from subscribers to reciprocal
or interinsurance agreements, and on annuity premiums or
considerations, received during the preceding calendar year, the
amounts thereof to be determined as set forth in this section,
to wit:

(a) An amount equal to 1.75 percent of the gross amount of
such receipts on account of life and health insurance policies
covering persons resident in this state and on account of all
other types of policies and contracts, ~~except annuity policies
or contracts taxable under paragraph (b) and bail bond policies
or contracts taxable under paragraph (c),~~ covering property,
subjects, or risks located, resident, or to be performed in this
state, omitting premiums on reinsurance accepted, and less
return premiums or assessments, but without deductions:

1. For reinsurance ceded to other insurers;
2. For moneys paid upon surrender of policies or



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certificates for cash surrender value;

3. For discounts or refunds for direct or prompt payment of premiums or assessments; and

4. On account of dividends of any nature or amount paid and credited or allowed to holders of insurance policies; certificates; or surety, indemnity, reciprocal, or interinsurance contracts or agreements; ~~and~~

(b) An amount equal to 1 percent of the gross receipts on annuity policies or contracts paid by holders thereof in this state; ~~and-~~

(c) An amount equal to 1.75 percent of the direct written premiums for bail bonds, excluding any amounts retained by licensed bail bond agents or licensed managing general agents.

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

Delete line 398
and insert:

pursue recovery; amending s. 624.4094, F.S.; deleting a provision relating to the reporting or payment of specified insurance premium taxes; amending s. 624.509, F.S.; requiring an insurer to pay to the Department of Revenue a specified amount of the direct written premiums for bail bonds; specifying a period during which the



877542

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/10/2014	.	
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The Committee on Appropriations (Richter) recommended the following:

Senate Amendment to Amendment (477076) (with title amendment)

Between lines 369 and 370
insert:

Section 9. Effective July 1, 2014, paragraph (c) of subsection (3) of section 288.9914, Florida Statutes, is amended to read:

288.9914 Certification of qualified investments; investment issuance reporting.—



877542

(3) REVIEW.—

(c) The department may not approve a cumulative amount of qualified investments that may result in the claim of more than \$227.55 ~~\$178.8~~ million in tax credits during the existence of the program or more than \$46.6 ~~\$36.6~~ million in tax credits in a single state fiscal year. However, the potential for a taxpayer to carry forward an unused tax credit may not be considered in calculating the annual limit.

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

And the title is amended as follows:

Delete lines 378 - 404

and insert:

An act relating to economic development; amending s. 202.12, F.S.; reducing the tax rate applied to the sale of communications services; reducing the tax rate applied to the retail sale of direct-to-home satellite services; amending s. 202.12001, F.S.; conforming rates to the reduction of the communications services tax; amending s. 202.18, F.S.; revising the distribution of tax revenues received; amending s. 203.001, F.S.; conforming rates to the reduction of the communications services tax; amending s. 212.20, F.S.; providing for a monthly distribution of a specified amount of sales tax revenue to a complex certified as a motorsports entertainment complex by the Department of Economic Opportunity; amending s. 288.1171, F.S.; authorizing the department to certify a single applicant as a motorsports entertainment



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complex if it meets specified criteria; authorizing the Auditor General to verify the expenditure of specified distributions and to notify the Department of Revenue of improperly expended funds so that it may pursue recovery; specifying a period during which the sale of clothing, wallets, bags, school supplies, personal computers, and personal computer-related accessories are exempt from the sales tax; providing definitions; providing exceptions; authorizing the Department of Revenue to adopt emergency rules; providing an appropriation; amending s. 288.9914, F.S.; revising limits on tax credits that may be approved by the Department of Economic Opportunity under the New Markets Development Program; providing effective dates.



971444

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/10/2014	.	
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The Committee on Appropriations (Bradley) recommended the following:

Senate Amendment to Amendment (477076) (with title amendment)

Between lines 369 and 370
insert:

Section 9. Hurricane preparedness tax suspension.—

(1) Effective June 1, 2014, through June 12, 2014, a tax levied pursuant to chapter 212, Florida Statutes, may not be collected on the sale of:

(a) A portable self-powered light source selling for \$20 or



971444

less.

(b) A portable self-powered radio, two-way radio, or weather band radio selling for \$50 or less.

(c) A tarpaulin or other flexible waterproof sheeting selling for \$50 or less.

(d) A self-contained first-aid kit selling for \$30 or less.

(e) A ground anchor system or tie-down kit selling for \$50 or less.

(f) A gas or diesel fuel tank selling for \$25 or less.

(g) A package of AA-cell, C-cell, D-cell, 6-volt, or 9-volt batteries, excluding automobile and boat batteries, selling for \$30 or less.

(h) A nonelectric food storage cooler selling for \$30 or less.

(i) A portable generator that is used to provide light or communications or preserve food in the event of a power outage selling for \$750 or less.

(2) The Department of Revenue may adopt rules to implement this section.

(3) This section expires September 30, 2014.

Section 10. The sum of \$221,400 is appropriated from the General Revenue Fund to the Department of Revenue for purposes of administering the hurricane preparedness tax suspension.

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

And the title is amended as follows:

Delete line 404

and insert:

providing an appropriation; providing an exemption



971444

40 from the sales and use tax for sales of certain
41 tangible personal property relating to hurricane
42 preparedness for a certain period; providing for
43 expiration; authorizing the Department of Revenue to
44 adopt rules; providing an appropriation; providing
45 effective dates.



341776

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/10/2014	.	
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The Committee on Appropriations (Sobel) recommended the following:

Senate Amendment to Amendment (477076) (with title amendment)

Between lines 369 and 370
insert:

Section 8. Sales tax holiday for Energy Star and WaterSense products.—

(1) The tax levied under chapter 212, Florida Statutes, may not be collected during the period from 12:01 a.m. on September 19, 2014, through 11:59 p.m. on September 21, 2014, on the first



341776

\$1,500 of the sale price of a new Energy Star product or WaterSense product. However, a person is limited to one purchase of each specific type of Energy Star or WaterSense product listed in paragraph (2)(a) or paragraph (2)(b) that has a sales price of \$500 or more. A second or subsequent purchase of a specific type of Energy Star product or WaterSense product that has a sales price of \$500 or more is subject to tax.

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

(a) "Energy Star product" means a room air conditioner, air purifier, ceiling fan, clothes washer, clothes dryer, dehumidifier, dishwasher, freezer, refrigerator, water heater, swimming pool pump, or package of light bulbs that is designated by the United States Environmental Protection Agency and the United States Department of Energy as meeting or exceeding each agency's requirements under the Energy Star program and that is affixed with an Energy Star label.

(b) "WaterSense product" means a bathroom sink faucet, faucet accessory, high-efficiency toilet or urinal, showerhead, or weather or sensor-based irrigation controller that is recognized as water efficient by the WaterSense program sponsored by the United States Environmental Protection Agency and that is affixed with a WaterSense label.

(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. This subsection expires July 1, 2017.

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

And the title is amended as follows:



341776

40 Delete line 404
41 and insert:
42 providing an appropriation: providing for a sales tax
43 holiday for certain Energy Star and WaterSense
44 products; providing restrictions; providing
45 definitions; authorizing the Department of Revenue to
46 adopt emergency rules; providing effective dates.



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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/10/2014	.	
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The Committee on Appropriations (Bean) recommended the following:

Senate Amendment to Amendment (477076) (with title amendment)

Between lines 369 and 370
insert:

Section 9. Section 288.127, Florida Statutes, is created to read:

288.127 Qualified Television Loan Fund (QTV Fund).—

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

(a) "Fund administrator" means a private sector



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organization under contract with the department to manage and administer the QTV Fund.

(b) "Major broadcaster" means broadcasting organizations that include, but are not limited to, television broadcasting networks, cable television, direct broadcast satellite, telecommunications companies, and internet streaming or other digital media platforms.

(c) "Private investment capital" means capital from private, nongovernmental funding sources that will be coinvested with the QTV Fund in segregated accounts.

(d) "Qualified lending partner" means a financial institution, as defined in s. 655.005, selected by a fund administrator with demonstrated capability in providing financing to television production and specialized expertise in intellectual property, tax credit programs, customary broadcast license agreements, advertising inventories, and ancillary revenue sources, with a combined portfolio in film, television, and entertainment media of at least \$500 million.

(e) "Qualified television content" means series, mini-series, or made-for-TV content produced by a qualified production company that has in place a distribution contract with a major broadcaster, under a customary broadcast license agreement. The term does not include a production that contains content that is obscene, as defined in s. 847.001.

(2) PURPOSE.—The purpose of the QTV Fund is to create a public-private partnership in the form of a revolving loan fund to administer a loan program for television production. The QTV Fund shall be privately managed under state oversight to incentivize the use of this state as a site for producing



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qualified television content and to develop and sustain the workforce and infrastructure for television content production.

(3) CREATION.—The Qualified Television Loan Fund is created within the department. The QTV Fund shall be a public fund that is privately managed by the fund administrator under contract entered into with the department. The department shall disburse the funds appropriated for this program to the fund administrator to invest in the QTV Fund during the existence of the program pursuant to this section and the contract entered into between the fund administrator and the department. State funds in the QTV Fund may be used only to enter into loan agreements and to pay any administrative costs or other authorized fees under this section.

(a) The QTV Fund shall be a revolving loan fund that shall invest and reinvest the principal and interest of the fund in accordance with s. 617.2104, in such a manner as to not subject the funds to state or federal taxes and to be consistent with the investment policy statement adopted by the fund administrator. As the production companies repay the principal and interest for the QTV Fund, the state funds shall be returned, less any QTV Fund expenses, to the account to be lent to subsequent borrowers.

(b) Funds from the QTV Fund shall be disbursed by the fund administrator through a lending vehicle to make short-term loans pursuant to this section.

(4) FUND ADMINISTRATOR.—

(a) The department shall contract with a fund administrator by September 1, 2014, and award the contract in accordance with the competitive bidding requirements in s. 287.057.



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69 (b) The department shall select as fund administrator a
70 private sector entity that demonstrates the ability to implement
71 the program under this section and that meets the requirements
72 set forth in this section. Preference shall be given to
73 applicants that are headquartered in this state. Additional
74 consideration may be given to applicants with experience in the
75 management of economic development or job creation-related
76 funds. The qualifications for the fund administrator must
77 include, but are not limited to, the following:

78 1. A demonstrated track record of managing private sector
79 equity or debt funds in the entertainment and media industries.

80 2. The ability to demonstrate through a partnership
81 agreement that a qualified lending partner is in place, with the
82 capability of providing leverage of a minimum of 2.5 times the
83 capital amount of the QTV Fund, for financing the production
84 cost of qualified television content in the form of senior debt.

85 (c) For overseeing and administering the QTV Fund, the fund
86 administrator shall be reimbursed for the portion of costs the
87 fund administrator incurs in establishing and operating the
88 Fund related to the state's investment, which shall be paid from
89 state funds in the QTV Fund. Any additional private investment
90 capital in the segregated accounts is responsible for its own
91 management fees. The fund administrator shall be entitled to a
92 reasonable profit, but such distribution may not be made from
93 any principal funds from the original appropriation.

94 (d) The fund administrator shall provide services defined
95 under this section for the duration of the QTV Fund term unless
96 removed for cause. Cause shall be further defined under the
97 contract with the fund administrator and must include, but is



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not limited to, the engagement in fraud or other criminal acts by board members, incapacity, unfitness, neglect of duty, official incompetence and irresponsibility, misfeasance, malfeasance, nonfeasance, or lack of performance.

(5) FUND ADMINISTRATOR POWERS AND DUTIES.—

(a) Authority to contract.—The fund administrator may enter into agreements with qualified lending partners for concurrent lending through the QTV Fund. A loan made by the qualified lending partner must be accounted for separately from the state funds or any other private investment capital. Such loan shall be made as senior debt. The fund administrator may raise private investment capital for mezzanine equity and other equity or raise junior capital for concurrent lending through the QTV Fund. However, loans from private investment capital may not be made at more favorable terms and conditions than the terms and conditions of the state funds in the QTV Fund. The state appropriation must be maintained in a separate account from any private investment capital and administered in a separate legal investment entity or entities. Private investment capital and loans shall be segregated from each other, and funds may not be commingled.

(b) General duties.—The fund administrator:

1. Shall prudently manage the funds in the QTV Fund as a revolving loan fund.

2. Shall contract with one or more qualified lending partners.

3. Shall provide improvement of the credit profile of a structured financial transaction for qualified production companies that produce qualified television content meeting the



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criteria in subsection (7).

4. May raise additional private investment capital to be held in separate accounts, in addition to the leverage provided by the qualified lending partner.

5. Shall administer the QTV Fund in accordance with this part.

6. Shall agree to maintain the recipient's books and records relating to funds received from the department according to generally accepted accounting principles and in accordance with the requirements of s. 215.97(7) and to make those books and records available to the department for inspection upon reasonable notice. The books and records must be maintained with detailed records showing the use of proceeds from loans to fund qualified television content.

7. Shall maintain its registered office in this state throughout the duration of the contract.

(c) Financial reporting.—The fund administrator shall submit to the department by February 28 each year audited financial statements for the preceding tax year which are audited by an independent certified public accountant after the end of each year in which the fund administrator is under contract with the department. In addition to providing an independent opinion on the annual financial statements, such audit provides a basis to verify the segregation of state funds from those of any private investment capital.

(d) Program reporting.—The fund administrator shall submit an annual report to the department by February 28 after the end of each year in which the fund administrator is under contract with the department. The report must include information on the



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loans made in the preceding calendar year and must include, but need not be limited to, the following:

1. The name of the qualified television content.
2. The names of the counties in which the production occurred.
3. The number of jobs created and retained as a result of the production.
4. The loan amounts, including the amount of private investment capital and funds provided by a qualified lending partner.
5. The loan repayment status for each loan.
6. The number, and amounts, of any loans with payments past due.
7. The number, and amounts, of any loans in default.
8. A description of the assets securing the loans.
9. Other information and documentation required by the department.

(e) Plan of accountability.—The fund administrator shall submit an annual plan of accountability of economic development, including a report detailing the job creation resulting from the QTV Fund loans made during the current year and cumulatively since the inception of the program. The fund administrator shall also provide any additional information requested by the department pertaining to economic development and job creation in the state.

(f) Conflict-of-interest statement.—The fund administrator shall provide a conflict-of-interest statement from its governing board certifying that no board member, director, employee, agent, immediate family member thereof, or other



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185 person connected to or affiliated with the fund administrator is
186 receiving or will receive any type of compensation or
187 remuneration from a production company that has received or will
188 receive funds from the loan program or from a qualified lending
189 partner. The department may waive this requirement for good
190 cause shown.

191 (6) LOAN STRUCTURE.—

192 (a) The QTV Fund may make loans to production companies to
193 fund production costs or provide improvement of the credit
194 profile of a structured financial transaction for qualified
195 television content that meets the criteria requirements of
196 subsection (7). To make a loan, the fund administrator shall
197 take into consideration the types of eligible collateral, the
198 credit worthiness of the project, the producer's track record,
199 the possibility that the project will encourage, enhance, or
200 create economic benefits, and the extent to which assistance
201 would foster innovative public-private partnerships and attract
202 private debt or equity investment.

203 (b) The QTV Fund loan package shall be secured by
204 contractual and predictable sources of repayment such as
205 domestic and international broadcaster license agreements and
206 other ancillary revenues that are derived from media content
207 rights. Unsecured loans may not be made.

208 (c) The loans shall be made on the basis of a second lien
209 or primary security rights on the media assets listed in
210 paragraph (b).

211 (d) The QTV Fund shall provide funding only in conjunction
212 with senior loans provided by a qualified lending partner. Loans
213 from the QTV Fund may be subordinated to senior debt from the



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qualified lending partner and may not exceed 30 percent of the total production funding cost of any particular project.

(e) The production company's repayment of any loan shall be in accordance with the broadcast license agreement and the delivery of qualified television content to the major broadcaster and shall be within 60 days after such delivery.

(f) Loans made by the QTV Fund may not exceed 36 months in duration, except for extenuating circumstances for which the fund administrator may grant an extension upon making written findings to the department specifying the conditions requiring the extension.

(g) The fund administrator or a board member, employee, or agent thereof, or an immediate family member of a board member, employee, or agent, may not have a financial interest in an entity that is awarded a loan under a loan program and may not benefit directly or indirectly from the making of such a loan. A loan may not be made to a person if it violates this paragraph. As used in this section, the term "immediate family" means a parent, child, or spouse, or any other relative by blood, marriage, or adoption, of a board member, employee, or agent of the loan administrator.

(h) With the exception of funds appropriated to the department for the loan program, the credit of the state may not be pledged. The state is not liable or obligated in any way for claims against the QTV Fund or against the fund administrator, the qualified lending partner, or the department.

(7) QUALIFIED TELEVISION CONTENT CRITERIA.—The fund administrator must consider at a minimum the following criteria for evaluating the qualifying television content:



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(a) The content is intended for broadcast by a major broadcaster on a major network, cable, or streaming channel.

(b) The content is produced in this state, or a minimum of 80 percent of the production budget must be spent in this state. This requirement may be amended by the fund administrator upon notice to the department. Such notice must include a specific justification for the change and must be transmitted to the department in writing. The department has 10 business days to object to the change. If the department does not object to the change within 10 business days, the change is deemed acceptable by the department, and the fund administrator may grant the amendment to the requirement in this paragraph.

(c) If the content is a series, there is a programming order for at least 13 episodes. This requirement may be amended by the fund administrator upon notice to the department. Such notice must include a specific justification for the change and must be transmitted to the department in writing. The department has 10 business days to object to the change. If the department does not object to the change within 10 business days, the change is deemed acceptable by the department, and the fund administrator may grant the amendment to the requirement in this paragraph.

(d) The producer must have a contract in place with a major broadcaster to acquire content programming under a customary broadcast license agreement and the contract must cover at least 60 percent of the budget.

(e) The producer must retain a foreign sales agent and must be able to provide the fund administrator with the foreign sales agent's official estimates of foreign and ancillary sales.



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(f) The project must be bonded and secured by an industry-
approved completion guarantor if the production cost per episode
exceeds \$1 million. This requirement may be waived if the loan
applicant provides the fund administrator with evidence of
adequate structure to protect the state's funds.

(8) AUDITOR GENERAL AUDIT.—The Auditor General is
authorized to conduct operational audits, as defined in s.
11.45, of the QTV Fund and fund administrator. The scope of
audit must include, but is not limited to, internal controls
evaluations, internal audit functions, reporting and performance
requirements for the use of the funds, and compliance with state
and federal law. The fund administrator shall provide to the
Auditor General any detail or supplemental data required.

(9) RULEMAKING AUTHORITY.—The department may adopt rules to
administer this section.

(10) EXPIRATION.—This section expires December 31, 2024, at
which point all funds remaining in the QTV Fund shall revert to
the General Revenue Fund.

(11) EMERGENCY RULES.—

(a) The executive director of the department is authorized,
and all conditions are deemed met, to adopt emergency rules
pursuant to ss. 120.536(1) and 120.54(4) for the purpose of
implementing this section.

(b) Notwithstanding any other law, the emergency rules
adopted pursuant to paragraph (a) remain in effect 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.

(c) This subsection expires October 1, 2015.



811482

Section 10. Paragraph (b) of subsection (2) of section 288.0001, Florida Statutes, is amended to read:

288.0001 Economic Development Programs Evaluation.—The Office of Economic and Demographic Research and the Office of Program Policy Analysis and Government Accountability (OPPAGA) shall develop and present to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairs of the legislative appropriations committees the Economic Development Programs Evaluation.

(2) The Office of Economic and Demographic Research and OPPAGA shall provide a detailed analysis of economic development programs as provided in the following schedule:

(b) By January 1, 2015, and every 3 years thereafter, an analysis of the following:

1. The entertainment industry financial incentive program established under s. 288.1254.

2. The entertainment industry sales tax exemption program established under s. 288.1258.

3. The ~~VISIT~~ Florida Tourism Industry Marketing Corporation and its programs established or funded under ss. 288.122, 288.1226, 288.12265, and 288.124.

4. The Florida Sports Foundation and related programs established under ss. 288.1162, 288.11621, 288.1166, 288.1167, 288.1168, 288.1169, and 288.1171.

5. The qualified television loan fund established under s. 288.127.

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

And the title is amended as follows:



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330 Delete lines 378 - 404
331 and insert:
332 An act relating to economic development; amending s.
333 202.12, F.S.; reducing the tax rate applied to the
334 sale of communications services; reducing the tax rate
335 applied to the retail sale of direct-to-home satellite
336 services; amending s. 202.12001, F.S.; conforming
337 rates to the reduction of the communications services
338 tax; amending s. 202.18, F.S.; revising the
339 distribution of tax revenues received; amending s.
340 203.001, F.S.; conforming rates to the reduction of
341 the communications services tax; amending s. 212.20,
342 F.S.; providing for a monthly distribution of a
343 specified amount of sales tax revenue to a complex
344 certified as a motorsports entertainment complex by
345 the Department of Economic Opportunity; amending s.
346 288.1171, F.S.; authorizing the department to certify
347 a single applicant as a motorsports entertainment
348 complex if it meets specified criteria; authorizing
349 the Auditor General to verify the expenditure of
350 specified distributions and to notify the Department
351 of Revenue of improperly expended funds so that it may
352 pursue recovery; specifying a period during which the
353 sale of clothing, wallets, bags, school supplies,
354 personal computers, and personal computer-related
355 accessories are exempt from the sales tax; providing
356 definitions; providing exceptions; authorizing the
357 Department of Revenue to adopt emergency rules;
358 providing an appropriation; creating s. 288.127, F.S.;



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providing definitions; providing a purpose; creating the Qualified Television Loan Fund; requiring the Department of Economic Opportunity to contract with a fund administrator; providing fund administrator qualifications; providing for the fund administrator's compensation and removal; specifying the fund administrator powers and duties; providing the structure of the loans; providing qualified television content criteria; permitting the Auditor General to conduct an operational audit of the fund and the fund administrator; authorizing the department to adopt rules; providing for expiration of the act; providing emergency rulemaking authority; amending s. 288.0001, F.S.; requiring an analysis of the qualified television loan fund in the Economic Development Programs Evaluation; providing effective dates.



158978

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/09/2014	.	
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The Committee on Appropriations (Richter) recommended the following:

Senate Amendment (with title amendment)

Delete lines 136 - 301

and insert:

Section 3. Effective January 1, 2015, subsections (5) through (9) of section 203.01, Florida Statutes, are renumbered as subsections (6) through (10), respectively, paragraph (b) of subsection (1), paragraph (d) of subsection (3), and present subsections (4) and (8) are amended, and a new subsection (4) is added to that section, to read:



158978

203.01 Tax on gross receipts for utility and communications services.—

(1)

(b)1. The rate applied to utility services shall be 2.5 percent.

2. The rate applied to communications services shall be 2.37 percent.

3. There shall be an additional rate of 0.15 percent applied to communication services subject to the tax levied pursuant to s. 202.12(1)(a), (c), and (d). The exemption provided in s. 202.125(1) applies to the tax levied pursuant to this subparagraph.

4. There shall be an additional rate of 3 percent applied to the gross receipts for electrical power or energy delivered to a retail consumer in this state. Notwithstanding s. 203.0111, any increase in the gross receipts tax provided in this subparagraph applies to charges for electrical power or energy on any bill dated on or after the date upon which the increase takes effect.

(3) The tax imposed by subsection (1) does not apply to:

(d) The sale or transportation ~~to, or use of,~~ natural gas or manufactured gas to, or the use of natural gas or manufactured gas by, a person eligible for an exemption under s. 212.08(7)(ff)2. for use as an energy source or a raw material. Possession by a seller of natural or manufactured gas or by any person providing transportation or delivery of natural or manufactured gas of a written certification by the purchaser, certifying the purchaser's entitlement to the exclusion permitted by this paragraph, relieves the seller or person



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providing transportation or delivery from the responsibility of remitting tax on the nontaxable amounts, and the department shall look solely to the purchaser for recovery of such tax if the department determines that the purchaser was not entitled to the exclusion. The certification must include an acknowledgment by the purchaser that it will be liable for tax pursuant to paragraph (1)(f) if the requirements for exclusion are not met.

(4) The additional rate imposed by subparagraph (1)(b)4. does not apply to:

(a) The sale of electrical power or energy to a person eligible for an exemption under s. 212.08(7)(ff) for use in operating machinery and equipment at a fixed location in this state;

(b) The sale or transportation of electrical power or energy to, or the use of electrical power or energy by, a person eligible for an exemption under s. 212.08(5)(e) for certain agricultural purposes;

(c) The sale or transportation of electrical power or energy to, or the use of electrical power or energy by, a person eligible for an exemption under s. 212.08(7)(j) for use as a household fuel;

(d) The sale or transportation of electrical power or energy to, or the use of electrical power or energy by, a person eligible for an exemption under s. 212.08(15)(a) for use in an enterprise zone;

(e) The sale or transportation of electrical power or energy to, or the use of electrical power or energy by, a person who holds a valid Consumer's Certificate of Exemption issued by the Department of Revenue;



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(f) The sale or transportation of electrical power or energy to, or the use of electrical power or energy by, foreign diplomats and consular personnel who hold a tax exemption card issued by the United States Department of State; or

(g) The sale or transportation of electrical power or energy to, or the use of electrical power or energy by, the Federal Government or any federal department, commission, agency, or other instrumentality thereof.

(5)(4) The taxes tax imposed pursuant to this chapter relating to the provision of any utility services at the option of the person supplying the taxable services may be separately stated as Florida gross receipts taxes tax on the total amount of any bill, invoice, or other tangible evidence of the provision of such taxable services and may be added as a component part of the total charge. Whenever a provider of taxable services elects to separately state such taxes tax as a component of the charge for the provision of such taxable services, every person, including all governmental units, shall remit the taxes tax to the person who provides such taxable services as a part of the total bill, and the taxes are tax is a component part of the debt of the purchaser to the person who provides such taxable services until paid and, if unpaid, are is recoverable at law in the same manner as any other part of the charge for such taxable services. If a utility provider elects to separately state the additional rate imposed by subparagraph (1)(b)4. on any bill, invoice, or other tangible evidence of the provision of such taxable service, the additional tax shall not be included as part of the taxable base on which the gross receipts tax is calculated. For a utility, the decision to



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separately state any increase in the rate of tax imposed by this chapter which is effective after December 31, 1989, and the ability to recover the increased charge from the customer shall not be subject to regulatory approval.

~~(9)(8)~~ Notwithstanding ~~the provisions of~~ subsection (5) ~~(4)~~ and s. 212.07(2), sums that were charged or billed as taxes under this section and chapter 212 and that were remitted to the state in full as taxes shall not be subject to refund by the state or by the utility or other person that remitted the sums, when the amount remitted was not in excess of the amount of tax imposed by chapter 212 and this section.

Section 4. Effective January 1, 2015, paragraph (e) 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:

(e)1. At the rate of 6 percent on charges for:

a. Prepaid calling arrangements. The tax on charges for prepaid calling arrangements shall be collected at the time of



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sale and remitted by the selling dealer.

(I) "Prepaid calling arrangement" has the same meaning as provided in s. 202.11 ~~means the separately stated retail sale by advance payment of communications services that consist exclusively of telephone calls originated by using an access number, authorization code, or other means that may be manually, electronically, or otherwise entered and that are sold in predetermined units or dollars whose number declines with use in a known amount.~~

(II) If the sale or recharge of the prepaid calling arrangement does not take place at the dealer's place of business, it shall be deemed to have taken ~~take~~ place at the customer's shipping address or, if no item is shipped, at the customer's address or the location associated with the customer's mobile telephone number.

(III) The sale or recharge of a prepaid calling arrangement shall be treated as a sale of tangible personal property for purposes of this chapter, whether or not a tangible item evidencing such arrangement is furnished to the purchaser, and such sale within this state subjects the selling dealer to the jurisdiction of this state for purposes of this subsection.

(IV) No additional tax under this chapter or chapter 202 is due or payable if a purchaser of a prepaid calling arrangement, who has paid tax under this chapter on the sale or recharge of such arrangement, applies one or more units of the prepaid calling arrangement to obtain communications services as described in s. 202.11(9)(b)3., other services that are not communications services, or products.

b. The installation of telecommunication and telegraphic



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equipment.

c. Electrical power or energy, except that the tax rate for charges for electrical power or energy is 4 7 percent.

2. The provisions of s. 212.17(3)~~7~~ regarding credit for tax paid on charges subsequently found to be worthless are, ~~shall be~~ equally applicable to any tax paid under ~~the provisions of~~ this section on charges for prepaid calling arrangements, telecommunication or telegraph services, or electric power subsequently found to be uncollectible. The term word "charges" under ~~in~~ this paragraph does not include any excise or similar tax levied by the Federal Government, any political subdivision of this ~~the~~ state, or any municipality upon the purchase, sale, or recharge of prepaid calling arrangements or upon the purchase or sale of telecommunication, television system program, or telegraph service or electric power, which tax is collected by the seller from the purchaser.

Section 5. The Department of Revenue may delay the effective date of the tax rate changes in ss. 203.01 and 212.05, Florida Statutes, made by this act for up to 60 days for a taxpayer that is unable to comply despite good faith efforts or due to circumstances beyond the taxpayer's reasonable control. Grounds for approving such delay include that the taxpayer requires additional time to program computer systems to accommodate the tax changes or that complying with this requirement would cause the taxpayer an extraordinary financial hardship.

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



158978

185 Delete line 18
186 and insert:
187 for electrical power or energy; authorizing the
188 Department of Revenue to approve a delay in the
189 effective date of certain tax rate changes made by
190 this act for a taxpayer under certain conditions;
191 providing for



626840

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/10/2014	.	
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The Committee on Appropriations (Ring) recommended the following:

Senate Amendment (with title amendment)

Between lines 239 and 240
insert:

Section 4. Subsections (4) and (5) of section 205.0535,
Florida Statutes, are amended to read:

205.0535 Reclassification and rate structure revisions.—

(4) After the conditions specified in subsections (2) and
(3) are met, municipalities and counties may, every other year
thereafter, increase or decrease by ordinance the rates of



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business taxes by up to 5 percent. However, an increase must,
~~however, may not~~ be enacted by at least ~~less than~~ a majority
plus one vote of the governing body.

(5) ~~Nothing in~~ This chapter does not ~~shall be construed to~~
prohibit a municipality or county from decreasing or repealing
any business tax authorized under this chapter. By majority
vote, the governing body of a county or municipality may adopt
an ordinance repealing a local business tax or establishing new
rates that decrease local business taxes and do not result in an
increase in local business taxes for a taxpayer. Such ordinances
are not subject to subsections (2) and (3).

(6) ~~(5)~~ A receipt may not be issued unless the federal
employer identification number or social security number is
obtained from the person to be taxed.

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

And the title is amended as follows:

Between lines 13 and 14
insert:

205.0535, F.S.; providing that a county or
municipality may repeal or reduce a local business tax
by majority vote; amending s.



416716

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/10/2014	.	
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The Committee on Appropriations (Galvano) recommended the following:

Senate Amendment (with directory and title amendments)

Between lines 301 and 302
insert:

(5) Notwithstanding any other provision of this chapter,
the maximum amount of tax imposed under this chapter and
collected on each sale or use of a boat in this state may not
exceed \$18,000 and for each repair of a boat in this state may
not exceed \$120,000.



416716

11 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

12 And the directory clause is amended as follows:

13 Delete lines 240 - 241

14 and insert:

15 Section 4. Paragraph (e) of subsection (1) and subsection
16 (5) of section 212.05, Florida Statutes, are amended to read:

17

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

19 And the title is amended as follows:

20 Delete line 18

21 and insert:

22 for electrical power or energy; providing a cap on the
23 amount of sales tax collected for the repair of a
24 boat; providing for



350176

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/10/2014	.	
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The Committee on Appropriations (Lee) recommended the following:

Senate Amendment (with title amendment)

Between lines 642 and 643
insert:

Section 8. Section 212.17, Florida Statutes, is reordered
and amended to read:

212.17 Tax credits or refunds ~~for returned goods, rentals,~~
~~or admissions; goods acquired for dealer's own use and~~
~~subsequently resold; additional powers of department.~~

(1) (a) If ~~In the event~~ purchases are returned to a dealer
by the purchaser or consumer after the tax imposed by this



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chapter has been collected from or charged to the account of the consumer or user, the dealer is ~~shall be~~ entitled to reimbursement of the amount of tax collected or charged by the dealer, in the manner prescribed by the department.

(b) A registered dealer that purchases property for the dealer's own use, pays tax on acquisition, and sells the property subsequent to acquisition without ~~ever~~ having used the property is entitled to reimbursement, in the manner prescribed by the department, of the amount of tax paid on the property's acquisition.

(c) If the tax has not been remitted by a dealer to the department, the dealer may deduct the same in submitting his or her return upon receipt of a signed statement by ~~of~~ the dealer as to the gross amount of such refunds during the period covered by the ~~said~~ signed statement, which may ~~period shall~~ not be longer than 90 days. The department shall issue to the dealer an official credit memorandum equal to the net amount remitted by the dealer for such tax collected or paid. Such memorandum shall be accepted by the department at full face value from the dealer to whom it is issued upon, ~~in~~ the remittance of ~~for~~ subsequent taxes accrued under ~~the provisions of~~ this chapter. If a dealer has retired from business and ~~has~~ filed a final return, a refund of tax may be made if it can be established to the satisfaction of the department that the tax was not due.

(2) A dealer who has paid the tax imposed by this chapter on tangible personal property sold under a retained title, conditional sale, or similar contract, or under a contract in which ~~wherein~~ the dealer retains a security interest in the property pursuant to chapter 679, may take credit or obtain a



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refund for the tax paid by the dealer on the unpaid balance due him or her when he or she repossesses the property, ~~(with or without judicial process,)~~ ~~the property~~ within 12 months after following the month in which the property was repossessed. If ~~When~~ such repossessed property is resold, the sale is subject in all respects to the tax imposed by this chapter.

(3) Except as provided under subsection (4), a dealer who has paid the tax imposed by this chapter on tangible personal property or services may take a credit or obtain a refund for any tax paid by the dealer on the unpaid balance due on worthless accounts within 12 months after following the month in which the bad debt has been charged off for federal income tax purposes. If any accounts so charged off for which a credit or refund has been obtained are subsequently, thereafter in whole or in part, paid to the dealer, the amount so paid shall be included in the first return filed after such collection and the tax paid accordingly.

(4) With respect to the payment of taxes on purchases made through a private-label credit card program:

(a) If consumer accounts or receivables are found to be worthless or uncollectible, the dealer may claim a credit for, or obtain a refund of, the tax remitted by the dealer on the unpaid balance due if:

1. The accounts or receivables have been charged off as bad debt on the lender's books and records on or after January 1, 2014;

2. A credit was not previously claimed and a refund was not previously allowed on any portion of the accounts or receivables; and



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70 3. The credit or refund is claimed within 12 months after
71 the month in which the bad debt is charged off by the lender for
72 federal income tax purposes.

73 (b) If the dealer or the lender subsequently collects, in
74 whole or in part, the accounts or receivables for which a credit
75 or refund has been granted under paragraph (a), the dealer must
76 include the taxable percentage of the amount collected in the
77 first return filed after the collection and pay the tax on the
78 portion of that amount for which a credit or refund was granted.

79 (c) The credit or refund allowed includes all credit sale
80 transaction amounts that are outstanding in the specific
81 private-label credit card account or receivable at the time the
82 account or receivable is charged off, regardless of the date on
83 which the credit sale transaction actually occurred.

84 (d) A dealer may use one of the following methods to
85 determine the amount of the credit or refund:

86 1. An apportionment method to substantiate the amount of
87 tax imposed under this chapter which is included in the bad debt
88 to which the credit or refund applies. The method must use the
89 dealer's Florida and non-Florida sales, the dealer's taxable and
90 nontaxable sales, and the amount of tax the dealer remitted to
91 this state; or

92 2. A specified percentage of the accounts or receivables
93 giving rise to the credit or refund, which is derived from a
94 sampling of the dealer's or lender's records in accordance with
95 a methodology agreed upon by the department and the dealer.

96 (e) For purposes of computing the credit or refund,
97 payments on the accounts or receivables shall be allocated based
98 on the terms and conditions of the contract between the dealer



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99 or lender and the consumer.

100 (f) The credit or refund for tax on bad debt may be claimed
101 on any return filed by an entity related by a direct or indirect
102 common ownership of 50 percent or more.

103 (g) The amount of the credit or refund a dealer is eligible
104 to recover under this subsection is limited to 25 percent of the
105 tax paid to the department which is attributable to bad debt.

106 (h) As used in this subsection, the term:

107 1. "Dealer's affiliates" means an entity affiliated with
108 the dealer under 26 U.S.C. s. 1504 or an entity that would be an
109 affiliate under that section if the entity were a corporation.

110 2. "Lender" means a person who owns or has owned a private-
111 label credit card account or an interest in a private-label
112 credit card receivable that:

113 a. The person purchased directly from a dealer who remitted
114 the tax imposed under this chapter or from the dealer's
115 affiliates, or that was transferred from a third party;

116 b. The person originated pursuant to that person's contract
117 with a dealer who remitted the tax imposed under this chapter or
118 with the dealer's affiliates; or

119 c. Is affiliated in the manner described under 26 U.S.C. s.
120 1504, regardless of whether the different entities are
121 corporations, to a person described in sub-subparagraph a. or
122 sub-subparagraph b. or to an assignee or other transferee of
123 such person.

124 3. "Private-label credit card" means a charge card or
125 credit card that carries, refers to, or is branded with the name
126 or logo of a dealer and can be used for purchases from the
127 dealer whose name or logo appears on the card or for purchases



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from the dealer's affiliates or franchisees.

~~(6)-(4)-(a)~~ The department shall:

(a) Design, prepare, print and furnish to all dealers, except dealers filing through electronic data interchange, or make available or prescribe to the dealers, all necessary forms for filing returns and instructions to ensure a full collection from dealers and an accounting for the taxes due. The, but failure of a any dealer to secure such forms does not relieve the dealer from the payment of the tax at the time and in the manner provided.

~~(b) The department shall~~ Prescribe the format and instructions necessary for filing returns in a manner that is initiated through an electronic data interchange to ensure a full collection from dealers and an accounting for the taxes due. The failure of a any dealer to use such format does not relieve the dealer from the payment of the tax at the time and in the manner provided.

~~(7)-(5)~~ The department and its assistants are ~~hereby~~ authorized and empowered to administer the oath for the purpose of enforcing and administering ~~the provisions of~~ this chapter.

~~(8)-(6)~~ The department may ~~has authority to~~ adopt rules pursuant to ~~ss. 120.536(1) and 120.54~~ to administer and enforce ~~the provisions of this section chapter.~~

~~(5)-(7)~~ If ~~The department, where~~ admissions, license fees, ~~or~~ rental payments, or payments for services are made and ~~thereafter~~ returned to the payors after the taxes ~~thereon~~ have been paid, the department shall return or credit the taxpayer for taxes ~~so~~ paid on the moneys returned in the same manner as ~~is~~ provided for returns or credits of taxes if ~~where~~ purchases



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or tangible personal property are returnable to a dealer.

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

And the title is amended as follows:

Delete line 33

and insert:

provision to changes made by the act; amending s.
212.17, F.S.; providing procedures, requirements, and
calculation methodologies that allow dealers to obtain
tax credits or refunds for taxes paid on worthless or
uncollectible private-label credit card accounts or
receivables; providing a cap on the amount that may be
recovered; providing definitions; amending s.



599428

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/09/2014	.	
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The Committee on Appropriations (Ring) recommended the following:

Senate Amendment

Delete line 760
and insert:
of each fiscal year and \$9 million on the first day of each



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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/09/2014	.	
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The Committee on Appropriations (Bean) recommended the following:

Senate Amendment (with title amendment)

Delete lines 798 - 1089
and insert:

Section 14. Effective upon becoming law, section 288.127, Florida Statutes, is created to read:

288.127 Qualified Television Loan Fund (QTV Fund).—

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

(a) "Fund administrator" means a private sector organization under contract with the department to manage and



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administer the QTV Fund.

(b) "Major broadcaster" means broadcasting organizations that include, but are not limited to, television broadcasting networks, cable television, direct broadcast satellite, telecommunications companies, and internet streaming or other digital media platforms.

(c) "Private investment capital" means capital from private, nongovernmental funding sources that will be coinvested with the QTV Fund in segregated accounts.

(d) "Qualified lending partner" means a financial institution, as defined in s. 655.005, selected by a fund administrator with demonstrated capability in providing financing to television production and specialized expertise in intellectual property, tax credit programs, customary broadcast license agreements, advertising inventories, and ancillary revenue sources, with a combined portfolio in film, television, and entertainment media of at least \$500 million.

(e) "Qualified television content" means series, mini-series, or made-for-TV content produced by a qualified production company that has in place a distribution contract with a major broadcaster, under a customary broadcast license agreement. The term does not include a production that contains content that is obscene, as defined in s. 847.001.

(2) PURPOSE.—The purpose of the QTV Fund is to create a public-private partnership in the form of a revolving loan fund to administer a loan program for television production. The QTV Fund shall be privately managed under state oversight to incentivize the use of this state as a site for producing qualified television content and to develop and sustain the



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workforce and infrastructure for television content production.

(3) CREATION.—The Qualified Television Loan Fund is created within the department. The QTV Fund shall be a public fund that is privately managed by the fund administrator under contract entered into with the department. The department shall disburse the funds appropriated for this program to the fund administrator to invest in the QTV Fund during the existence of the program pursuant to this section and the contract entered into between the fund administrator and the department. State funds in the QTV Fund may be used only to enter into loan agreements and to pay any administrative costs or other authorized fees under this section.

(a) The QTV Fund shall be a revolving loan fund that shall invest and reinvest the principal and interest of the fund in accordance with s. 617.2104, in such a manner as to not subject the funds to state or federal taxes and to be consistent with the investment policy statement adopted by the fund administrator. As the production companies repay the principal and interest for the QTV Fund, the state funds shall be returned, less any QTV Fund expenses, to the account to be lent to subsequent borrowers.

(b) Funds from the QTV Fund shall be disbursed by the fund administrator through a lending vehicle to make short-term loans pursuant to this section.

(4) FUND ADMINISTRATOR.—

(a) The department shall contract with a fund administrator by September 1, 2014, and award the contract in accordance with the competitive bidding requirements in s. 287.057.

(b) The department shall select as fund administrator a



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private sector entity that demonstrates the ability to implement the program under this section and that meets the requirements set forth in this section. Preference shall be given to applicants that are headquartered in this state. Additional consideration may be given to applicants with experience in the management of economic development or job creation-related funds. The qualifications for the fund administrator must include, but are not limited to, the following:

1. A demonstrated track record of managing private sector equity or debt funds in the entertainment and media industries.

2. The ability to demonstrate through a partnership agreement that a qualified lending partner is in place, with the capability of providing leverage of a minimum of 2.5 times the capital amount of the QTV Fund, for financing the production cost of qualified television content in the form of senior debt.

(c) For overseeing and administering the QTV Fund, the fund administrator shall be reimbursed for the portion of costs the fund administrator incurs in establishing and operating the Fund related to the state's investment, which shall be paid from state funds in the QTV Fund. Any additional private investment capital in the segregated accounts is responsible for its own management fees. The fund administrator shall be entitled to a reasonable profit, but such distribution may not be made from any principal funds from the original appropriation.

(d) The fund administrator shall provide services defined under this section for the duration of the QTV Fund term unless removed for cause. Cause shall be further defined under the contract with the fund administrator and must include, but is not limited to, the engagement in fraud or other criminal acts



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by board members, incapacity, unfitness, neglect of duty,
official incompetence and irresponsibility, misfeasance,
malfeasance, nonfeasance, or lack of performance.

(5) FUND ADMINISTRATOR POWERS AND DUTIES.—

(a) Authority to contract.—The fund administrator may enter into agreements with qualified lending partners for concurrent lending through the QTV Fund. A loan made by the qualified lending partner must be accounted for separately from the state funds or any other private investment capital. Such loan shall be made as senior debt. The fund administrator may raise private investment capital for mezzanine equity and other equity or raise junior capital for concurrent lending through the QTV Fund. However, loans from private investment capital may not be made at more favorable terms and conditions than the terms and conditions of the state funds in the QTV Fund. The state appropriation must be maintained in a separate account from any private investment capital and administered in a separate legal investment entity or entities. Private investment capital and loans shall be segregated from each other, and funds may not be commingled.

(b) General duties.—The fund administrator:

1. Shall prudently manage the funds in the QTV Fund as a revolving loan fund.

2. Shall contract with one or more qualified lending partners.

3. Shall provide improvement of the credit profile of a structured financial transaction for qualified production companies that produce qualified television content meeting the criteria in subsection (7).



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4. May raise additional private investment capital to be held in separate accounts, in addition to the leverage provided by the qualified lending partner.

5. Shall administer the QTV Fund in accordance with this part.

6. Shall agree to maintain the recipient's books and records relating to funds received from the department according to generally accepted accounting principles and in accordance with the requirements of s. 215.97(7) and to make those books and records available to the department for inspection upon reasonable notice. The books and records must be maintained with detailed records showing the use of proceeds from loans to fund qualified television content.

7. Shall maintain its registered office in this state throughout the duration of the contract.

(c) Financial reporting.—The fund administrator shall submit to the department by February 28 each year audited financial statements for the preceding tax year which are audited by an independent certified public accountant after the end of each year in which the fund administrator is under contract with the department. In addition to providing an independent opinion on the annual financial statements, such audit provides a basis to verify the segregation of state funds from those of any private investment capital.

(d) Program reporting.—The fund administrator shall submit an annual report to the department by February 28 after the end of each year in which the fund administrator is under contract with the department. The report must include information on the loans made in the preceding calendar year and must include, but



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need not be limited to, the following:

1. The name of the qualified television content.

2. The names of the counties in which the production occurred.

3. The number of jobs created and retained as a result of the production.

4. The loan amounts, including the amount of private investment capital and funds provided by a qualified lending partner.

5. The loan repayment status for each loan.

6. The number, and amounts, of any loans with payments past due.

7. The number, and amounts, of any loans in default.

8. A description of the assets securing the loans.

9. Other information and documentation required by the department.

(e) Plan of accountability.—The fund administrator shall submit an annual plan of accountability of economic development, including a report detailing the job creation resulting from the QTV Fund loans made during the current year and cumulatively since the inception of the program. The fund administrator shall also provide any additional information requested by the department pertaining to economic development and job creation in the state.

(f) Conflict-of-interest statement.—The fund administrator shall provide a conflict-of-interest statement from its governing board certifying that no board member, director, employee, agent, immediate family member thereof, or other person connected to or affiliated with the fund administrator is



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receiving or will receive any type of compensation or remuneration from a production company that has received or will receive funds from the loan program or from a qualified lending partner. The department may waive this requirement for good cause shown.

(6) LOAN STRUCTURE.—

(a) The QTV Fund may make loans to production companies to fund production costs or provide improvement of the credit profile of a structured financial transaction for qualified television content that meets the criteria requirements of subsection (7). To make a loan, the fund administrator shall take into consideration the types of eligible collateral, the credit worthiness of the project, the producer's track record, the possibility that the project will encourage, enhance, or create economic benefits, and the extent to which assistance would foster innovative public-private partnerships and attract private debt or equity investment.

(b) The QTV Fund loan package shall be secured by contractual and predictable sources of repayment such as domestic and international broadcaster license agreements and other ancillary revenues that are derived from media content rights. Unsecured loans may not be made.

(c) The loans shall be made on the basis of a second lien or primary security rights on the media assets listed in paragraph (b).

(d) The QTV Fund shall provide funding only in conjunction with senior loans provided by a qualified lending partner. Loans from the QTV Fund may be subordinated to senior debt from the qualified lending partner and may not exceed 30 percent of the



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total production funding cost of any particular project.

(e) The production company's repayment of any loan shall be in accordance with the broadcast license agreement and the delivery of qualified television content to the major broadcaster and shall be within 60 days after such delivery.

(f) Loans made by the QTV Fund may not exceed 36 months in duration, except for extenuating circumstances for which the fund administrator may grant an extension upon making written findings to the department specifying the conditions requiring the extension.

(g) The fund administrator or a board member, employee, or agent thereof, or an immediate family member of a board member, employee, or agent, may not have a financial interest in an entity that is awarded a loan under a loan program and may not benefit directly or indirectly from the making of such a loan. A loan may not be made to a person if it violates this paragraph. As used in this section, the term "immediate family" means a parent, child, or spouse, or any other relative by blood, marriage, or adoption, of a board member, employee, or agent of the loan administrator.

(h) With the exception of funds appropriated to the department for the loan program, the credit of the state may not be pledged. The state is not liable or obligated in any way for claims against the QTV Fund or against the fund administrator, the qualified lending partner, or the department.

(7) QUALIFIED TELEVISION CONTENT CRITERIA.—The fund administrator must consider at a minimum the following criteria for evaluating the qualifying television content:

(a) The content is intended for broadcast by a major



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243 broadcaster on a major network, cable, or streaming channel.

244 (b) The content is produced in this state, or a minimum of
245 80 percent of the production budget must be spent in this state.
246 This requirement may be amended by the fund administrator upon
247 notice to the department. Such notice must include a specific
248 justification for the change and must be transmitted to the
249 department in writing. The department has 10 business days to
250 object to the change. If the department does not object to the
251 change within 10 business days, the change is deemed acceptable
252 by the department, and the fund administrator may grant the
253 amendment to the requirement in this paragraph.

254 (c) If the content is a series, there is a programming
255 order for at least 13 episodes. This requirement may be amended
256 by the fund administrator upon notice to the department. Such
257 notice must include a specific justification for the change and
258 must be transmitted to the department in writing. The department
259 has 10 business days to object to the change. If the department
260 does not object to the change within 10 business days, the
261 change is deemed acceptable by the department, and the fund
262 administrator may grant the amendment to the requirement in this
263 paragraph.

264 (d) The producer must have a contract in place with a major
265 broadcaster to acquire content programming under a customary
266 broadcast license agreement and the contract must cover at least
267 60 percent of the budget.

268 (e) The producer must retain a foreign sales agent and must
269 be able to provide the fund administrator with the foreign sales
270 agent's official estimates of foreign and ancillary sales.

271 (f) The project must be bonded and secured by an industry-



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approved completion guarantor if the production cost per episode exceeds \$1 million. This requirement may be waived if the loan applicant provides the fund administrator with evidence of adequate structure to protect the state's funds.

(8) AUDITOR GENERAL AUDIT.—The Auditor General is authorized to conduct operational audits, as defined in s. 11.45, of the QTV Fund and fund administrator. The scope of audit must include, but is not limited to, internal controls evaluations, internal audit functions, reporting and performance requirements for the use of the funds, and compliance with state and federal law. The fund administrator shall provide to the Auditor General any detail or supplemental data required.

(9) RULEMAKING AUTHORITY.—The department may adopt rules to administer this section.

(10) EXPIRATION.—This section expires December 31, 2024, at which point all funds remaining in the QTV Fund shall revert to the General Revenue Fund.

(11) EMERGENCY RULES.—

(a) The executive director of the department is authorized, and all conditions are deemed met, to adopt emergency rules pursuant to ss. 120.536(1) and 120.54(4) for the purpose of implementing this section.

(b) Notwithstanding any other law, the emergency rules adopted pursuant to paragraph (a) remain in effect 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.

(c) This subsection expires October 1, 2015.

Section 15. Effective upon becoming law, paragraph (b) of



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subsection (2) of section 288.0001, Florida Statutes, is amended to read:

288.0001 Economic Development Programs Evaluation.—The Office of Economic and Demographic Research and the Office of Program Policy Analysis and Government Accountability (OPPAGA) shall develop and present to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairs of the legislative appropriations committees the Economic Development Programs Evaluation.

(2) The Office of Economic and Demographic Research and OPPAGA shall provide a detailed analysis of economic development programs as provided in the following schedule:

(b) By January 1, 2015, and every 3 years thereafter, an analysis of the following:

1. The entertainment industry financial incentive program established under s. 288.1254.

2. The entertainment industry sales tax exemption program established under s. 288.1258.

3. The ~~VISIT~~ Florida Tourism Industry Marketing Corporation and its programs established or funded under ss. 288.122, 288.1226, 288.12265, and 288.124.

4. The Florida Sports Foundation and related programs established under ss. 288.1162, 288.11621, 288.1166, 288.1167, 288.1168, 288.1169, and 288.1171.

5. The qualified television loan fund established under s. 288.127.

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

And the title is amended as follows:



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330 Delete lines 57 - 61
331 and insert:
332 television content criteria; permitting the Auditor
333 General to conduct an operational audit of the fund
334 and the fund administrator; authorizing the department
335 to adopt rules; providing for expiration of the act;
336 providing emergency rulemaking authority; amending s.
337 288.0001, F.S.; requiring an analysis of the qualified
338 television loan fund in the Economic Development
339 Programs Evaluation; amending s.



808202

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/09/2014	.	
	.	
	.	
	.	

The Committee on Appropriations (Ring) recommended the following:

Senate Amendment (with title amendment)

Delete lines 1104 - 1128

and insert:

339.0803 Funding for transportation projects.-

Notwithstanding any other provision of law, beginning in the 2014-2015 fiscal year and each fiscal year thereafter, funds deposited into the State Transportation Trust Fund pursuant to s. 212.20(6)(d)6.f. must be used annually as follows:

(1) Eighty-five million shall be used for existing or



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planned strategic transportation projects that connect major markets within this state or between this state and other states, that focus on job creation, and that increase this state's viability in the national and global markets.

(2) Fifteen million shall be used for regionally significant transportation projects that support the state's economic regions and provide connectivity to and through rural areas. To be eligible for funding under this subsection, projects must be production-ready in the 5-year work program developed pursuant to s. 339.135. Funds under this subsection may be used to provide up to 75 percent of project costs for eligible projects. Preference shall be given to projects that have been identified as regionally significant in accordance with s. 339.155(4)(c), (d), and (e) and that have provided an increased level of nonstate match.

(3) Ten million shall be used for capital projects, equipment, or facilities for existing or planned public transit transportation projects.

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

And the title is amended as follows:

Delete line 68

and insert:

specified transportation



829084

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/10/2014	.	
	.	
	.	
	.	

The Committee on Appropriations (Bradley) recommended the following:

Senate Amendment

Delete line 1229
and insert:
on May 31, 2014, through 11:59 p.m. on June 12, 2014, on the

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1 A bill to be entitled
 2 An act relating to economic development; amending s.
 3 202.11, F.S.; revising the definition of "prepaid
 4 calling arrangement"; providing for retroactive
 5 applicability and construction; amending s. 203.01,
 6 F.S.; imposing an additional rate on gross receipts
 7 for electrical power or energy; revising exemptions
 8 from the tax on gross receipts for utility and
 9 communications services; providing exemptions from the
 10 additional tax on gross receipts from electrical power
 11 or energy; requiring the additional tax to be excluded
 12 from the taxable base on which gross receipts are
 13 calculated under certain circumstances; amending s.
 14 212.05, F.S.; revising the definition of "prepaid
 15 calling arrangement" to clarify and update which
 16 services are included under the definition and subject
 17 to sales tax; reducing the sales tax rate for charges
 18 for electrical power or energy; providing for
 19 retroactive applicability and construction; amending
 20 s. 212.08, F.S.; extending the expiration date
 21 applicable to the granting of community contribution
 22 tax credits against the sales and use tax for
 23 contributions to eligible sponsors of community
 24 projects approved by the Department of Economic
 25 Opportunity; revising a provision exempting certain
 26 machinery and equipment from the sales and use tax to

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27 exempt certain mixer drums and parts and labor
 28 required to affix certain mixer drums to mixer trucks
 29 from the sales and use tax; exempting sales of child
 30 restraint systems and booster seats for use in motor
 31 vehicles and youth bicycle helmets from the sales and
 32 use tax; amending s. 212.12, F.S.; conforming a
 33 provision to a change made by the act; amending s.
 34 212.20, F.S.; requiring the Department of Revenue to
 35 distribute funds to the State Transportation Trust
 36 Fund for strategic and regionally significant
 37 transportation projects; amending s. 220.14, F.S.;
 38 increasing the amount of income that is exempt from
 39 the corporate income tax; providing applicability;
 40 amending s. 220.183, F.S.; extending the expiration
 41 date applicable to the granting of community
 42 contribution tax credits against the corporate income
 43 tax for contributions to eligible sponsors of
 44 community projects approved by the Department of
 45 Economic Opportunity; amending s. 220.63, F.S.;
 46 increasing the amount of income that is exempt from
 47 the franchise tax imposed on banks and savings
 48 associations; providing applicability; creating s.
 49 288.127, F.S.; providing definitions; providing a
 50 purpose; creating the Qualified Television Loan Fund;
 51 requiring the Department of Economic Opportunity to
 52 contract with a fund administrator; providing fund

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53 administrator qualifications; providing for the fund
 54 administrator's compensation and removal; specifying
 55 the fund administrator powers and duties; providing
 56 the structure of the loans; providing qualified
 57 television content criteria; requiring the Auditor
 58 General to conduct an operational audit of the fund
 59 and the fund administrator; authorizing the department
 60 to adopt rules; providing for expiration of the act;
 61 providing emergency rulemaking authority; amending s.
 62 288.9914, F.S.; revising limits on tax credits that
 63 may be approved by the Department of Economic
 64 Opportunity under the New Markets Development Program;
 65 creating s. 339.0803, F.S.; requiring a specified
 66 amount of funds deposited into the State
 67 Transportation Trust Fund to be used annually for
 68 strategic and regionally significant transportation
 69 projects; amending s. 624.5105, F.S.; extending the
 70 expiration date applicable to the granting of
 71 community contribution tax credits against the
 72 insurance premium tax for contributions to eligible
 73 sponsors of community projects approved by the
 74 Department of Economic Opportunity; providing for a
 75 sales tax holiday for certain Energy Star and
 76 WaterSense products; providing restrictions; providing
 77 definitions; authorizing the Department of Revenue to
 78 adopt emergency rules; providing that the admissions

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79 tax may not be levied on the sale of athletic,
 80 exercise, and physical fitness facility memberships by
 81 certain health studios during a specified period;
 82 authorizing the Department of Revenue to adopt
 83 emergency rules; specifying a period during which the
 84 sale of clothing, wallets, bags, school supplies,
 85 personal computers, and personal computer-related
 86 accessories are exempt from the sales tax; providing
 87 definitions; providing exceptions; authorizing the
 88 Department of Revenue to adopt emergency rules;
 89 providing an exemption from the sales and use tax for
 90 sales during a specified period of certain tangible
 91 personal property related to hurricane preparedness;
 92 authorizing the Department of Revenue to adopt
 93 emergency rules; providing appropriations; providing
 94 an effective date.

95
 96 Be It Enacted by the Legislature of the State of Florida:

97
 98 Section 1. Subsection (9) of section 202.11, Florida
 99 Statutes, is amended to read:

100 202.11 Definitions.—As used in this chapter, the term:

101 (9) "Prepaid calling arrangement" means: ~~the separately~~
 102 ~~stated retail sale by advance payment of~~

103 (a) A right to use communications services, other than
 104 mobile communications services, for which a separately stated

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105 price must be paid in advance, which is sold at retail in
 106 predetermined units that decline in number with use on a
 107 predetermined basis, and which ~~that~~ consist exclusively of
 108 telephone calls originated by using an access number,
 109 authorization code, or other means that may be manually,
 110 electronically, or otherwise entered; or ~~and that are sold in~~
 111 ~~predetermined units or dollars of which the number declines with~~
 112 ~~use in a known amount.~~

113 (b) A right to use mobile communications services that
 114 must be paid for in advance and is sold at retail in
 115 predetermined units that expire or decline in number on a
 116 predetermined basis if:

117 1. The purchaser's right to use mobile communications
 118 services terminates upon all purchased units expiring or being
 119 exhausted unless the purchaser pays for additional units;

120 2. The purchaser is not required to purchase additional
 121 units; and

122 3. Any right of the purchaser to use units to obtain
 123 communications services other than mobile communications
 124 services is limited to services that are provided to or through
 125 the same handset or other electronic device that is used by the
 126 purchaser to access mobile communications services.

127
 128 Predetermined units described in this subsection may be
 129 quantified as amounts of usage, time, money, or a combination of
 130 these or other means of measurement.

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131 Section 2. The amendments made by this act to s. 202.11,
 132 Florida Statutes, are intended to be remedial in nature and
 133 apply retroactively, but do not provide a basis for an
 134 assessment of any tax not paid or create a right to a refund or
 135 credit of any tax paid before the effective date of this act.

136 Section 3. Subsections (5) through (9) of section 203.01,
 137 Florida Statutes, are renumbered as subsections (6) through
 138 (10), respectively, paragraph (b) of subsection (1), paragraph
 139 (d) of subsection (3), and present subsections (4) and (8) are
 140 amended, and a new subsection (4) is added to that section, to
 141 read:

142 203.01 Tax on gross receipts for utility and
 143 communications services.—

144 (1)

145 (b)1. The rate applied to utility services shall be 2.5
 146 percent.

147 2. The rate applied to communications services shall be
 148 2.37 percent.

149 3. There shall be an additional rate of 0.15 percent
 150 applied to communication services subject to the tax levied
 151 pursuant to s. 202.12(1)(a), (c), and (d). The exemption
 152 provided in s. 202.125(1) applies to the tax levied pursuant to
 153 this subparagraph.

154 4. There shall be an additional rate of 3 percent applied
 155 to the gross receipts for electrical power or energy delivered
 156 to a retail consumer in this state. Notwithstanding s. 203.0111,

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157 any increase in the gross receipts tax provided by this
 158 subparagraph applies to charges for electrical power or energy
 159 on any bill dated on or after the date upon which the increase
 160 takes effect.

161 (3) The tax imposed by subsection (1) does not apply to:

162 (d) The sale or transportation ~~to, or use of,~~ natural gas
 163 or manufactured gas to, or the use of natural gas or
 164 manufactured gas by, a person eligible for an exemption under s.
 165 212.08(7)(ff)2. for use as an energy source or a raw material.
 166 Possession by a seller of natural or manufactured gas or by any
 167 person providing transportation or delivery of natural or
 168 manufactured gas of a written certification by the purchaser,
 169 certifying the purchaser's entitlement to the exclusion
 170 permitted by this paragraph, relieves the seller or person
 171 providing transportation or delivery from the responsibility of
 172 remitting tax on the nontaxable amounts, and the department
 173 shall look solely to the purchaser for recovery of such tax if
 174 the department determines that the purchaser was not entitled to
 175 the exclusion. The certification must include an acknowledgment
 176 by the purchaser that it will be liable for tax pursuant to
 177 paragraph (1)(f) if the requirements for exclusion are not met.

178 (4) The additional rate imposed by subparagraph (1)(b)4.
 179 does not apply to:

180 (a) The sale of electrical power or energy to a person
 181 eligible for an exemption under s. 212.08(7)(ff) for use in
 182 operating machinery and equipment at a fixed location in this

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183 state;

184 (b) The sale or transportation of electrical power or
 185 energy to, or the use of electrical power or energy by, a person
 186 eligible for an exemption under s. 212.08(5)(e) for certain
 187 agricultural purposes;

188 (c) The sale or transportation of electrical power or
 189 energy to, or the use of electrical power or energy by, a person
 190 eligible for an exemption under s. 212.08(7)(j) for use as a
 191 household fuel;

192 (d) The sale or transportation of electrical power or
 193 energy to, or the use of electrical power or energy by, a person
 194 eligible for an exemption under s. 212.08(15)(a) for use in an
 195 enterprise zone;

196 (e) The sale or transportation of electrical power or
 197 energy to, or the use of electrical power or energy by, a person
 198 who holds a valid Consumer's Certificate of Exemption issued by
 199 the Department of Revenue;

200 (f) The sale or transportation of electrical power or
 201 energy to, or the use of electrical power or energy by, foreign
 202 diplomats and consular personnel who hold a tax exemption card
 203 issued by the United States Department of State; or

204 (g) The sale or transportation of electrical power or
 205 energy to, or the use of electrical power or energy by, the
 206 Federal Government or any federal department, commission,
 207 agency, or other instrumentality thereof.

208 (5)(4) The taxes ~~tax~~ imposed pursuant to this chapter

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relating to the provision of any utility services at the option of the person supplying the taxable services may be separately stated as Florida gross receipts ~~taxes tax~~ on the total amount of any bill, invoice, or other tangible evidence of the provision of such taxable services and may be added as a component part of the total charge. Whenever a provider of taxable services elects to separately state such ~~taxes tax~~ as a component of the charge for the provision of such taxable services, every person, including all governmental units, shall remit the ~~taxes tax~~ to the person who provides such taxable services as a part of the total bill, and the ~~taxes are tax~~ is a component part of the debt of the purchaser to the person who provides such taxable services until paid and, if unpaid, ~~are is~~ recoverable at law in the same manner as any other part of the charge for such taxable services. If a utility provider elects to separately state the additional rate imposed by subparagraph (1)(b)4. on any bill, invoice, or other tangible evidence of the provision of such taxable service, the additional tax shall not be included as part of the taxable base on which the gross receipts tax is calculated. For a utility, the decision to separately state any increase in the rate of tax imposed by this chapter which is effective after December 31, 1989, and the ability to recover the increased charge from the customer shall not be subject to regulatory approval.

~~(9)(8)~~ Notwithstanding ~~the provisions of~~ subsection (5) ~~(4)~~ and s. 212.07(2), sums that were charged or billed as taxes

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under this section and chapter 212 and that were remitted to the state in full as taxes shall not be subject to refund by the state or by the utility or other person that remitted the sums, when the amount remitted was not in excess of the amount of tax imposed by chapter 212 and this section.

Section 4. Paragraph (e) 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:

(e)1. At the rate of 6 percent on charges for:

a. Prepaid calling arrangements. The tax on charges for prepaid calling arrangements shall be collected at the time of sale and remitted by the selling dealer.

(I) "Prepaid calling arrangement" has the same meaning as provided in s. 202.11 ~~means the separately stated retail sale by advance payment of communications services that consist~~

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261 ~~exclusively of telephone calls originated by using an access~~
 262 ~~number, authorization code, or other means that may be manually,~~
 263 ~~electronically, or otherwise entered and that are sold in~~
 264 ~~predetermined units or dollars whose number declines with use in~~
 265 ~~a known amount.~~

266 (II) If the sale or recharge of the prepaid calling
 267 arrangement does not take place at the dealer's place of
 268 business, it shall be deemed to have taken ~~take~~ place at the
 269 customer's shipping address or, if no item is shipped, at the
 270 customer's address or the location associated with the
 271 customer's mobile telephone number.

272 (III) The sale or recharge of a prepaid calling
 273 arrangement shall be treated as a sale of tangible personal
 274 property for purposes of this chapter, whether or not a tangible
 275 item evidencing such arrangement is furnished to the purchaser,
 276 and such sale within this state subjects the selling dealer to
 277 the jurisdiction of this state for purposes of this subsection.

278 (IV) No additional tax under this chapter or chapter 202
 279 is due or payable if a purchaser of a prepaid calling
 280 arrangement, who has paid tax under this chapter on the sale or
 281 recharge of such arrangement, applies one or more units of the
 282 prepaid calling arrangement to obtain communications services as
 283 described in s. 202.11(9)(b)3., other services that are not
 284 communications services, or products.

285 b. The installation of telecommunication and telegraphic
 286 equipment.

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287 c. Electrical power or energy, except that the tax rate
 288 for charges for electrical power or energy is 4 ~~7~~ percent.

289 2. The provisions of s. 212.17(3)~~r~~ regarding credit for
 290 tax paid on charges subsequently found to be worthless are
 291 ~~shall be~~ equally applicable to any tax paid under ~~the provisions~~
 292 ~~of~~ this section on charges for prepaid calling arrangements,
 293 telecommunication or telegraph services, or electric power
 294 subsequently found to be uncollectible. The term ~~word~~ "charges"
 295 under ~~in~~ this paragraph does not include any excise or similar
 296 tax levied by the Federal Government, any political subdivision
 297 of this ~~the~~ state, or any municipality upon the purchase, sale,
 298 or recharge of prepaid calling arrangements or upon the purchase
 299 or sale of telecommunication, television system program, or
 300 telegraph service or electric power, which tax is collected by
 301 the seller from the purchaser.

302 Section 5. The amendments made by this act to s.
 303 212.05(1)(e)1.a., Florida Statutes, are intended to be remedial
 304 in nature and apply retroactively, but do not provide a basis
 305 for an assessment of any tax not paid or create a right to a
 306 refund or credit of any tax paid before the effective date of
 307 this act.

308 Section 6. Paragraph (p) of subsection (5) and paragraph
 309 (j) of subsection (7) of section 212.08, Florida Statutes, are
 310 amended, paragraph (kkk) of subsection (7), as created by
 311 chapter 2013-39, Laws of Florida, is amended, and paragraphs
 312 (lll) and (mmm) are added to subsection (7) of that section, to

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313 read:

314 212.08 Sales, rental, use, consumption, distribution, and
 315 storage tax; specified exemptions.—The sale at retail, the
 316 rental, the use, the consumption, the distribution, and the
 317 storage to be used or consumed in this state of the following
 318 are hereby specifically exempt from the tax imposed by this
 319 chapter.

320 (5) EXEMPTIONS; ACCOUNT OF USE.—

321 (p) Community contribution tax credit for donations.—

322 1. Authorization.—Persons who are registered with the
 323 department under s. 212.18 to collect or remit sales or use tax
 324 and who make donations to eligible sponsors are eligible for tax
 325 credits against their state sales and use tax liabilities as
 326 provided in this paragraph:

327 a. The credit shall be computed as 50 percent of the
 328 person's approved annual community contribution.

329 b. The credit shall be granted as a refund against state
 330 sales and use taxes reported on returns and remitted in the 12
 331 months preceding the date of application to the department for
 332 the credit as required in sub-subparagraph 3.c. If the annual
 333 credit is not fully used through such refund because of
 334 insufficient tax payments during the applicable 12-month period,
 335 the unused amount may be included in an application for a refund
 336 made pursuant to sub-subparagraph 3.c. in subsequent years
 337 against the total tax payments made for such year. Carryover
 338 credits may be applied for a 3-year period without regard to any

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339 time limitation that would otherwise apply under s. 215.26.

340 c. A person may not receive more than \$200,000 in annual
 341 tax credits for all approved community contributions made in any
 342 one year.

343 d. All proposals for the granting of the tax credit
 344 require the prior approval of the Department of Economic
 345 Opportunity.

346 e. The total amount of tax credits which may be granted
 347 for all programs approved under this paragraph, s. 220.183, and
 348 s. 624.5105 is \$10.5 million annually for projects that provide
 349 homeownership opportunities for low-income or very-low-income
 350 households as defined in s. 420.9071(19) and (28) and \$3.5
 351 million annually for all other projects.

352 f. A person who is eligible to receive the credit provided
 353 for in this paragraph, s. 220.183, or s. 624.5105 may receive
 354 the credit only under the one section of the person's choice.

355 2. Eligibility requirements.—

356 a. A community contribution by a person must be in the
 357 following form:

358 (I) Cash or other liquid assets;

359 (II) Real property;

360 (III) Goods or inventory; or

361 (IV) Other physical resources as identified by the
 362 Department of Economic Opportunity.

363 b. All community contributions must be reserved
 364 exclusively for use in a project. As used in this sub-

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365 subparagraph, the term "project" means any activity undertaken
 366 by an eligible sponsor which is designed to construct, improve,
 367 or substantially rehabilitate housing that is affordable to low-
 368 income or very-low-income households as defined in s.
 369 420.9071(19) and (28); designed to provide commercial,
 370 industrial, or public resources and facilities; or designed to
 371 improve entrepreneurial and job-development opportunities for
 372 low-income persons. A project may be the investment necessary to
 373 increase access to high-speed broadband capability in rural
 374 communities with enterprise zones, including projects that
 375 result in improvements to communications assets that are owned
 376 by a business. A project may include the provision of museum
 377 educational programs and materials that are directly related to
 378 any project approved between January 1, 1996, and December 31,
 379 1999, and located in an enterprise zone designated pursuant to
 380 s. 290.0065. This paragraph does not preclude projects that
 381 propose to construct or rehabilitate housing for low-income or
 382 very-low-income households on scattered sites. With respect to
 383 housing, contributions may be used to pay the following eligible
 384 low-income and very-low-income housing-related activities:

- 385 (I) Project development impact and management fees for
- 386 low-income or very-low-income housing projects;
- 387 (II) Down payment and closing costs for eligible persons,
- 388 as defined in s. 420.9071(19) and (28);
- 389 (III) Administrative costs, including housing counseling
- 390 and marketing fees, not to exceed 10 percent of the community

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391 contribution, directly related to low-income or very-low-income
 392 projects; and

- 393 (IV) Removal of liens recorded against residential
- 394 property by municipal, county, or special district local
- 395 governments when satisfaction of the lien is a necessary
- 396 precedent to the transfer of the property to an eligible person,
- 397 as defined in s. 420.9071(19) and (28), for the purpose of
- 398 promoting home ownership. Contributions for lien removal must be
- 399 received from a nonrelated third party.
- 400 c. The project must be undertaken by an "eligible
- 401 sponsor," which includes:
- 402 (I) A community action program;
- 403 (II) A nonprofit community-based development organization
- 404 whose mission is the provision of housing for low-income or
- 405 very-low-income households or increasing entrepreneurial and
- 406 job-development opportunities for low-income persons;
- 407 (III) A neighborhood housing services corporation;
- 408 (IV) A local housing authority created under chapter 421;
- 409 (V) A community redevelopment agency created under s.
- 410 163.356;
- 411 (VI) A historic preservation district agency or
- 412 organization;
- 413 (VII) A regional workforce board;
- 414 (VIII) A direct-support organization as provided in s.
- 415 1009.983;
- 416 (IX) An enterprise zone development agency created under

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417 s. 290.0056;

418 (X) A community-based organization incorporated under

419 chapter 617 which is recognized as educational, charitable, or

420 scientific pursuant to s. 501(c)(3) of the Internal Revenue Code

421 and whose bylaws and articles of incorporation include

422 affordable housing, economic development, or community

423 development as the primary mission of the corporation;

424 (XI) Units of local government;

425 (XII) Units of state government; or

426 (XIII) Any other agency that the Department of Economic

427 Opportunity designates by rule.

428

429 In no event may a contributing person have a financial interest

430 in the eligible sponsor.

431 d. The project must be located in an area designated an

432 enterprise zone or a Front Porch Florida Community, unless the

433 project increases access to high-speed broadband capability for

434 rural communities with enterprise zones but is physically

435 located outside the designated rural zone boundaries. Any

436 project designed to construct or rehabilitate housing for low-

437 income or very-low-income households as defined in s.

438 420.9071(19) and (28) is exempt from the area requirement of

439 this sub-subparagraph.

440 e.(I) If, during the first 10 business days of the state

441 fiscal year, eligible tax credit applications for projects that

442 provide homeownership opportunities for low-income or very-low-

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443 income households as defined in s. 420.9071(19) and (28) are

444 received for less than the annual tax credits available for

445 those projects, the Department of Economic Opportunity shall

446 grant tax credits for those applications and shall grant

447 remaining tax credits on a first-come, first-served basis for

448 any subsequent eligible applications received before the end of

449 the state fiscal year. If, during the first 10 business days of

450 the state fiscal year, eligible tax credit applications for

451 projects that provide homeownership opportunities for low-income

452 or very-low-income households as defined in s. 420.9071(19) and

453 (28) are received for more than the annual tax credits available

454 for those projects, the Department of Economic Opportunity shall

455 grant the tax credits for those applications as follows:

456 (A) If tax credit applications submitted for approved

457 projects of an eligible sponsor do not exceed \$200,000 in total,

458 the credits shall be granted in full if the tax credit

459 applications are approved.

460 (B) If tax credit applications submitted for approved

461 projects of an eligible sponsor exceed \$200,000 in total, the

462 amount of tax credits granted pursuant to sub-sub-sub-

463 subparagraph (A) shall be subtracted from the amount of

464 available tax credits, and the remaining credits shall be

465 granted to each approved tax credit application on a pro rata

466 basis.

467 (II) If, during the first 10 business days of the state

468 fiscal year, eligible tax credit applications for projects other

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469 than those that provide homeownership opportunities for low-
 470 income or very-low-income households as defined in s.
 471 420.9071(19) and (28) are received for less than the annual tax
 472 credits available for those projects, the Department of Economic
 473 Opportunity shall grant tax credits for those applications and
 474 shall grant remaining tax credits on a first-come, first-served
 475 basis for any subsequent eligible applications received before
 476 the end of the state fiscal year. If, during the first 10
 477 business days of the state fiscal year, eligible tax credit
 478 applications for projects other than those that provide
 479 homeownership opportunities for low-income or very-low-income
 480 households as defined in s. 420.9071(19) and (28) are received
 481 for more than the annual tax credits available for those
 482 projects, the Department of Economic Opportunity shall grant the
 483 tax credits for those applications on a pro rata basis.

484 3. Application requirements.—

485 a. Any eligible sponsor seeking to participate in this
 486 program must submit a proposal to the Department of Economic
 487 Opportunity which sets forth the name of the sponsor, a
 488 description of the project, and the area in which the project is
 489 located, together with such supporting information as is
 490 prescribed by rule. The proposal must also contain a resolution
 491 from the local governmental unit in which the project is located
 492 certifying that the project is consistent with local plans and
 493 regulations.

494 b. Any person seeking to participate in this program must

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495 submit an application for tax credit to the Department of
 496 Economic Opportunity which sets forth the name of the sponsor, a
 497 description of the project, and the type, value, and purpose of
 498 the contribution. The sponsor shall verify the terms of the
 499 application and indicate its receipt of the contribution, which
 500 verification must be in writing and accompany the application
 501 for tax credit. The person must submit a separate tax credit
 502 application to the Department of Economic Opportunity for each
 503 individual contribution that it makes to each individual
 504 project.

505 c. Any person who has received notification from the
 506 Department of Economic Opportunity that a tax credit has been
 507 approved must apply to the department to receive the refund.
 508 Application must be made on the form prescribed for claiming
 509 refunds of sales and use taxes and be accompanied by a copy of
 510 the notification. A person may submit only one application for
 511 refund to the department within any 12-month period.

512 4. Administration.—

513 a. The Department of Economic Opportunity may adopt rules
 514 pursuant to ss. 120.536(1) and 120.54 necessary to administer
 515 this paragraph, including rules for the approval or disapproval
 516 of proposals by a person.

517 b. The decision of the Department of Economic Opportunity
 518 must be in writing, and, if approved, the notification shall
 519 state the maximum credit allowable to the person. Upon approval,
 520 the Department of Economic Opportunity shall transmit a copy of

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521 the decision to the Department of Revenue.

522 c. The Department of Economic Opportunity shall
523 periodically monitor all projects in a manner consistent with
524 available resources to ensure that resources are used in
525 accordance with this paragraph; however, each project must be
526 reviewed at least once every 2 years.

527 d. The Department of Economic Opportunity shall, in
528 consultation with the statewide and regional housing and
529 financial intermediaries, market the availability of the
530 community contribution tax credit program to community-based
531 organizations.

532 5. Expiration.—This paragraph expires June 30, 2016 ~~2015~~;
533 however, any accrued credit carryover that is unused on that
534 date may be used until the expiration of the 3-year carryover
535 period for such credit.

536 (7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any
537 entity by this chapter do not inure to any transaction that is
538 otherwise taxable under this chapter when payment is made by a
539 representative or employee of the entity by any means,
540 including, but not limited to, cash, check, or credit card, even
541 when that representative or employee is subsequently reimbursed
542 by the entity. In addition, exemptions provided to any entity by
543 this subsection do not inure to any transaction that is
544 otherwise taxable under this chapter unless the entity has
545 obtained a sales tax exemption certificate from the department
546 or the entity obtains or provides other documentation as

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547 required by the department. Eligible purchases or leases made
548 with such a certificate must be in strict compliance with this
549 subsection and departmental rules, and any person who makes an
550 exempt purchase with a certificate that is not in strict
551 compliance with this subsection and the rules is liable for and
552 shall pay the tax. The department may adopt rules to administer
553 this subsection.

554 (j) Household fuels.—Also exempt from payment of the tax
555 imposed by this chapter are sales of utilities to residential
556 households or owners of residential models in this state by
557 utility companies who pay the gross receipts tax imposed under
558 s. 203.01(1)(b)1. ~~203.01~~, and sales of fuel to residential
559 households or owners of residential models, including oil,
560 kerosene, liquefied petroleum gas, coal, wood, and other fuel
561 products used in the household or residential model for the
562 purposes of heating, cooking, lighting, and refrigeration,
563 regardless of whether such sales of utilities and fuels are
564 separately metered and billed direct to the residents or are
565 metered and billed to the landlord. If any part of the utility
566 or fuel is used for a nonexempt purpose, the entire sale is
567 taxable. The landlord shall provide a separate meter for
568 nonexempt utility or fuel consumption. For the purposes of this
569 paragraph, licensed family day care homes shall also be exempt.

570 (kkk) Certain machinery and equipment.—

571 1. Industrial machinery and equipment purchased by
572 eligible manufacturing businesses which is used at a fixed

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573 location within this state, or a mixer drum affixed to a mixer
 574 truck, used at any location within this state to mix, agitate,
 575 and transport freshly mixed concrete in a plastic state, for the
 576 manufacture, processing, compounding, or production of items of
 577 tangible personal property for sale shall be exempt from the tax
 578 imposed by this chapter. Parts and labor required to affix a
 579 mixer drum exempt under this paragraph to a mixer truck shall
 580 also be exempt. If at the time of purchase the purchaser
 581 furnishes the seller with a signed certificate certifying the
 582 purchaser's entitlement to exemption pursuant to this paragraph,
 583 the seller is relieved of the responsibility for collecting the
 584 tax on the sale of such items, and the department shall look
 585 solely to the purchaser for recovery of the tax if it determines
 586 that the purchaser was not entitled to the exemption.

587 2. For purposes of this paragraph, the term:

588 a. "Eligible manufacturing business" means any business
 589 whose primary business activity at the location where the
 590 industrial machinery and equipment is located is within the
 591 industries classified under NAICS codes 31, 32, and 33. As used
 592 in this subparagraph, "NAICS" means those classifications
 593 contained in the North American Industry Classification System,
 594 as published in 2007 by the Office of Management and Budget,
 595 Executive Office of the President.

596 b. "Primary business activity" means an activity
 597 representing more than fifty percent of the activities conducted
 598 at the location where the industrial machinery and equipment is

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599 located.

600 c. "Industrial machinery and equipment" means tangible
 601 personal property or other property that has a depreciable life
 602 of 3 years or more and that is used as an integral part in the
 603 manufacturing, processing, compounding, or production of
 604 tangible personal property for sale. A building and its
 605 structural components are not industrial machinery and equipment
 606 unless the building or structural component is so closely
 607 related to the industrial machinery and equipment that it houses
 608 or supports that the building or structural component can be
 609 expected to be replaced when the machinery and equipment are
 610 replaced. Heating and air conditioning systems are not
 611 industrial machinery and equipment unless the sole justification
 612 for their installation is to meet the requirements of the
 613 production process, even though the system may provide
 614 incidental comfort to employees or serve, to an insubstantial
 615 degree, nonproduction activities. The term includes parts and
 616 accessories for industrial machinery and equipment only to the
 617 extent that the parts and accessories are purchased prior to the
 618 date the machinery and equipment are placed in service.

619 3. This paragraph is repealed April 30, 2017.

620 (l11) Motor vehicle child restraint.—The sale of a child
 621 restraint system or booster seat for use in a motor vehicle is
 622 exempt from the tax imposed by this chapter.

623 (mmm) Youth bicycle helmets.—The sale of a bicycle helmet
 624 marketed for use by youth is exempt from the tax imposed by this

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625 chapter.

626 Section 7. Subsection (11) of section 212.12, Florida
 627 Statutes, is amended to read:

628 212.12 Dealer's credit for collecting tax; penalties for
 629 noncompliance; powers of Department of Revenue in dealing with
 630 delinquents; brackets applicable to taxable transactions;
 631 records required.—

632 (11) The department shall make available in an electronic
 633 format or otherwise the tax amounts and brackets applicable to
 634 all taxable transactions that occur in counties that have a
 635 surtax at a rate other than 1 percent which transactions would
 636 otherwise have been transactions taxable at the rate of 6
 637 percent. Likewise, the department shall make available in an
 638 electronic format or otherwise the tax amounts and brackets
 639 applicable to transactions taxable at 4 7 percent pursuant to s.
 640 212.05(1)(e)1.c. ~~212.05(1)(e)~~ and on transactions which would
 641 otherwise have been so taxable in counties which have adopted a
 642 discretionary sales surtax.

643 Section 8. Paragraph (d) of subsection (6) of section
 644 212.20, Florida Statutes, is amended to read:

645 212.20 Funds collected, disposition; additional powers of
 646 department; operational expense; refund of taxes adjudicated
 647 unconstitutionally collected.—

648 (6) Distribution of all proceeds under this chapter and s.
 649 202.18(1)(b) and (2)(b) shall be as follows:

650 (d) The proceeds of all other taxes and fees imposed

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651 pursuant to this chapter or remitted pursuant to s. 202.18(1)(b)
 652 and (2)(b) shall be distributed as follows:

653 1. In any fiscal year, the greater of \$500 million, minus
 654 an amount equal to 4.6 percent of the proceeds of the taxes
 655 collected pursuant to chapter 201, or 5.2 percent of all other
 656 taxes and fees imposed pursuant to this chapter or remitted
 657 pursuant to s. 202.18(1)(b) and (2)(b) shall be deposited in
 658 monthly installments into the General Revenue Fund.

659 2. After the distribution under subparagraph 1., 8.814
 660 percent of the amount remitted by a sales tax dealer located
 661 within a participating county pursuant to s. 218.61 shall be
 662 transferred into the Local Government Half-cent Sales Tax
 663 Clearing Trust Fund. Beginning July 1, 2003, the amount to be
 664 transferred shall be reduced by 0.1 percent, and the department
 665 shall distribute this amount to the Public Employees Relations
 666 Commission Trust Fund less \$5,000 each month, which shall be
 667 added to the amount calculated in subparagraph 3. and
 668 distributed accordingly.

669 3. After the distribution under subparagraphs 1. and 2.,
 670 0.095 percent shall be transferred to the Local Government Half-
 671 cent Sales Tax Clearing Trust Fund and distributed pursuant to
 672 s. 218.65.

673 4. After the distributions under subparagraphs 1., 2., and
 674 3., 2.0440 percent of the available proceeds shall be
 675 transferred monthly to the Revenue Sharing Trust Fund for
 676 Counties pursuant to s. 218.215.

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677 5. After the distributions under subparagraphs 1., 2., and
 678 3., 1.3409 percent of the available proceeds shall be
 679 transferred monthly to the Revenue Sharing Trust Fund for
 680 Municipalities pursuant to s. 218.215. If the total revenue to
 681 be distributed pursuant to this subparagraph is at least as
 682 great as the amount due from the Revenue Sharing Trust Fund for
 683 Municipalities and the former Municipal Financial Assistance
 684 Trust Fund in state fiscal year 1999-2000, no municipality shall
 685 receive less than the amount due from the Revenue Sharing Trust
 686 Fund for Municipalities and the former Municipal Financial
 687 Assistance Trust Fund in state fiscal year 1999-2000. If the
 688 total proceeds to be distributed are less than the amount
 689 received in combination from the Revenue Sharing Trust Fund for
 690 Municipalities and the former Municipal Financial Assistance
 691 Trust Fund in state fiscal year 1999-2000, each municipality
 692 shall receive an amount proportionate to the amount it was due
 693 in state fiscal year 1999-2000.

694 6. Of the remaining proceeds:

695 a. In each fiscal year, the sum of \$29,915,500 shall be
 696 divided into as many equal parts as there are counties in the
 697 state, and one part shall be distributed to each county. The
 698 distribution among the several counties must begin each fiscal
 699 year on or before January 5th and continue monthly for a total
 700 of 4 months. If a local or special law required that any moneys
 701 accruing to a county in fiscal year 1999-2000 under the then-
 702 existing provisions of s. 550.135 be paid directly to the

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703 district school board, special district, or a municipal
 704 government, such payment must continue until the local or
 705 special law is amended or repealed. The state covenants with
 706 holders of bonds or other instruments of indebtedness issued by
 707 local governments, special districts, or district school boards
 708 before July 1, 2000, that it is not the intent of this
 709 subparagraph to adversely affect the rights of those holders or
 710 relieve local governments, special districts, or district school
 711 boards of the duty to meet their obligations as a result of
 712 previous pledges or assignments or trusts entered into which
 713 obligated funds received from the distribution to county
 714 governments under then-existing s. 550.135. This distribution
 715 specifically is in lieu of funds distributed under s. 550.135
 716 before July 1, 2000.

717 b. The department shall distribute \$166,667 monthly
 718 pursuant to s. 288.1162 to each applicant certified as a
 719 facility for a new or retained professional sports franchise
 720 pursuant to s. 288.1162. Up to \$41,667 shall be distributed
 721 monthly by the department to each certified applicant as defined
 722 in s. 288.11621 for a facility for a spring training franchise.
 723 However, not more than \$416,670 may be distributed monthly in
 724 the aggregate to all certified applicants for facilities for
 725 spring training franchises. Distributions begin 60 days after
 726 such certification and continue for not more than 30 years,
 727 except as otherwise provided in s. 288.11621. A certified
 728 applicant identified in this sub-subparagraph may not receive

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729 more in distributions than expended by the applicant for the
 730 public purposes provided for in s. 288.1162(5) or s.
 731 288.11621(3).

732 c. Beginning 30 days after notice by the Department of
 733 Economic Opportunity to the Department of Revenue that an
 734 applicant has been certified as the professional golf hall of
 735 fame pursuant to s. 288.1168 and is open to the public, \$166,667
 736 shall be distributed monthly, for up to 300 months, to the
 737 applicant.

738 d. Beginning 30 days after notice by the Department of
 739 Economic Opportunity to the Department of Revenue that the
 740 applicant has been certified as the International Game Fish
 741 Association World Center facility pursuant to s. 288.1169, and
 742 the facility is open to the public, \$83,333 shall be distributed
 743 monthly, for up to 168 months, to the applicant. This
 744 distribution is subject to reduction pursuant to s. 288.1169. A
 745 lump sum payment of \$999,996 shall be made, after certification
 746 and before July 1, 2000.

747 e. The department shall distribute up to \$55,555 monthly
 748 to each certified applicant as defined in s. 288.11631 for a
 749 facility used by a single spring training franchise, or up to
 750 \$111,110 monthly to each certified applicant as defined in s.
 751 288.11631 for a facility used by more than one spring training
 752 franchise. Monthly distributions begin 60 days after such
 753 certification or July 1, 2016, whichever is later, and continue
 754 for not more than 30 years, except as otherwise provided in s.

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755 288.11631. A certified applicant identified in this sub-
 756 subparagraph may not receive more in distributions than expended
 757 by the applicant for the public purposes provided in s.
 758 288.11631(3).

759 f. The department shall distribute \$20 million by August 1
 760 of each fiscal year and \$8 million on the first day of each
 761 subsequent month for the remainder of the fiscal year to the
 762 State Transportation Trust Fund to be used as directed by s.
 763 339.0803.

764 7. All other proceeds must remain in the General Revenue
 765 Fund.

766 Section 9. Subsection (1) of section 220.14, Florida
 767 Statutes, is amended to read:

768 220.14 Exemption.—

769 (1) In computing a taxpayer's liability for tax under this
 770 code, \$75,000 ~~there shall be exempt from the tax \$50,000~~ of net
 771 income as defined in s. 220.12 is exempt from the tax or such
 772 lesser amount as will, without increasing the taxpayer's federal
 773 income tax liability, provide the state with an amount under
 774 this code which is equal to the maximum federal income tax
 775 credit which may be available from time to time under federal
 776 law.

777 Section 10. The amendments made by this act to s. 220.14,
 778 Florida Statutes, apply to taxable years beginning on or after
 779 January 1, 2015.

780 Section 11. Subsection (5) of section 220.183, Florida

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781 Statutes, is amended to read:

782 220.183 Community contribution tax credit.—

783 (5) EXPIRATION.—The provisions of this section, except
784 paragraph (1) (e), shall expire and be void on June 30, 2016
785 ~~2015~~.

786 Section 12. Subsection (3) of section 220.63, Florida
787 Statutes, is amended to read:

788 220.63 Franchise tax imposed on banks and savings
789 associations.—

790 (3) For purposes of this part, the franchise tax base is
791 ~~shall be~~ adjusted federal income, as defined in s. 220.13,
792 apportioned to this state, plus nonbusiness income allocated to
793 this state pursuant to s. 220.16, less the deduction allowed in
794 subsection (5) and less \$75,000 ~~\$50,000~~.

795 Section 13. The amendments made by this act to s. 220.63,
796 Florida Statutes, apply to taxable years beginning on or after
797 January 1, 2015.

798 Section 14. Section 288.127, Florida Statutes, is created
799 to read:

800 288.127 Qualified Television Loan Fund (QTV Fund).—

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

802 (a) "Fund administrator" means a private sector
803 organization under contract with the department to manage and
804 administer the QTV Fund.

805 (b) "Major broadcaster" means broadcasting organizations
806 that include, but are not limited to, television broadcasting

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807 networks, cable television, direct broadcast satellite,
808 telecommunications companies, and internet streaming or other
809 digital media platforms.

810 (c) "Private investment capital" means capital from
811 private, nongovernmental funding sources that will be coinvested
812 with the QTV Fund in segregated accounts.

813 (d) "Qualified lending partner" means a financial
814 institution, as defined in s. 655.005, selected by a fund
815 administrator with demonstrated capability in providing
816 financing to television production and specialized expertise in
817 intellectual property, tax credit programs, customary broadcast
818 license agreements, advertising inventories, and ancillary
819 revenue sources, with a combined portfolio in film, television,
820 and entertainment media of at least \$500 million.

821 (e) "Qualified television content" means series, mini-
822 series, or made-for-TV content produced by a qualified
823 production company that has in place a distribution contract
824 with a major broadcaster, under a customary broadcast license
825 agreement. The term does not include a production that contains
826 content that is obscene, as defined in s. 847.001.

827 (2) PURPOSE.—The purpose of the QTV Fund is to create a
828 public-private partnership in the form of a revolving loan fund
829 to administer a loan program for television production. The QTV
830 Fund shall be privately managed under state oversight to
831 incentivize the use of this state as a site for producing
832 qualified television content and to develop and sustain the

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833 workforce and infrastructure for television content production.
 834 (3) CREATION.—The Qualified Television Loan Fund is
 835 created within the department. The QTV Fund shall be a public
 836 fund that is privately managed by the fund administrator under
 837 contract entered into with the department. The department shall
 838 disburse the funds appropriated for this program to the fund
 839 administrator to invest in the QTV Fund during the existence of
 840 the program pursuant to this section and the contract entered
 841 into between the fund administrator and the department. State
 842 funds in the QTV Fund may be used only to enter into loan
 843 agreements and to pay any administrative costs or other
 844 authorized fees under this section.
 845 (a) The QTV Fund shall be a revolving loan fund that shall
 846 invest and reinvest the principal and interest of the fund in
 847 accordance with s. 617.2104, in such a manner as to not subject
 848 the funds to state or federal taxes and to be consistent with
 849 the investment policy statement adopted by the fund
 850 administrator. As the production companies repay the principal
 851 and interest for the QTV Fund, the state funds shall be
 852 returned, less any QTV Fund expenses, to the account to be lent
 853 to subsequent borrowers.
 854 (b) Funds from the QTV Fund shall be disbursed by the fund
 855 administrator through a lending vehicle to make short-term loans
 856 pursuant to this section.
 857 (4) FUND ADMINISTRATOR.—
 858 (a) The department shall contract with a fund

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859 administrator by September 1, 2014, and award the contract in
 860 accordance with the competitive bidding requirements in s.
 861 287.057.
 862 (b) The department shall select as fund administrator a
 863 private sector entity that demonstrates the ability to implement
 864 the program under this section and that meets the requirements
 865 set forth in this section. Preference shall be given to
 866 applicants that are headquartered in this state. Additional
 867 consideration may be given to applicants with experience in the
 868 management of economic development or job creation-related
 869 funds. The qualifications for the fund administrator must
 870 include, but are not limited to, the following:
 871 1. A demonstrated track record of managing private sector
 872 equity or debt funds in the entertainment and media industries.
 873 2. The ability to demonstrate through a partnership
 874 agreement that a qualified lending partner is in place, with the
 875 capability of providing leverage of a minimum of 2.5 times the
 876 capital amount of the QTV Fund, for financing the production
 877 cost of qualified television content in the form of senior debt.
 878 (c) For overseeing and administering the QTV Fund, the
 879 fund administrator shall be paid an annual management fee equal
 880 to 5 percent of the assets under management during the first 5
 881 years and 3 percent of the assets under management after the
 882 fifth year and for the remaining duration of the contract.
 883 However, after the first year of the QTV Fund, the annual
 884 management fee may not exceed the investment proceeds earned

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885 from the fund's completed loans. The annual management fee shall
 886 be paid from state funds in the QTV Fund and shall be paid in
 887 advance, in equal quarterly installments. Any additional private
 888 investment capital in the segregated accounts is responsible for
 889 its own management fees. In addition, the fund administrator may
 890 receive income or profit distribution equal to 20 percent of the
 891 net income of the QTV Fund on an annual basis. Such distribution
 892 may not be made from any principal funds from the original
 893 appropriation.

894 (d) The fund administrator shall provide services defined
 895 under this section for the duration of the QTV Fund term unless
 896 removed for cause. Cause shall be further defined under the
 897 contract with the fund administrator and must include, but is
 898 not limited to, the engagement in fraud or other criminal acts
 899 by board members, incapacity, unfitness, neglect of duty,
 900 official incompetence and irresponsibility, misfeasance,
 901 malfeasance, nonfeasance, or lack of performance.

902 (5) FUND ADMINISTRATOR POWERS AND DUTIES.—

903 (a) Authority to contract.—The fund administrator may
 904 enter into agreements with qualified lending partners for
 905 concurrent lending through the QTV Fund. A loan made by the
 906 qualified lending partner must be accounted for separately from
 907 the state funds or any other private investment capital. Such
 908 loan shall be made as senior debt. The fund administrator may
 909 raise private investment capital for mezzanine equity and other
 910 equity or raise junior capital for concurrent lending through

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911 the QTV Fund. However, loans from private investment capital may
 912 not be made at more favorable terms and conditions than the
 913 terms and conditions of the state funds in the QTV Fund. The
 914 state appropriation must be maintained in a separate account
 915 from any private investment capital and administered in a
 916 separate legal investment entity or entities. Private investment
 917 capital and loans shall be segregated from each other, and funds
 918 may not be commingled.

919 (b) General duties.—The fund administrator:

920 1. Shall prudently manage the funds in the QTV Fund as a
 921 revolving loan fund.

922 2. Shall contract with one or more qualified lending
 923 partners.

924 3. Shall provide improvement of the credit profile of a
 925 structured financial transaction for qualified production
 926 companies that produce qualified television content meeting the
 927 criteria in subsection (7).

928 4. May raise additional private investment capital to be
 929 held in separate accounts, in addition to the leverage provided
 930 by the qualified lending partner.

931 5. Shall administer the QTV Fund in accordance with this
 932 part.

933 6. Shall agree to maintain the recipient's books and
 934 records relating to funds received from the department according
 935 to generally accepted accounting principles and in accordance
 936 with the requirements of s. 215.97(7) and to make those books

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937 and records available to the department for inspection upon
 938 reasonable notice. The books and records must be maintained with
 939 detailed records showing the use of proceeds from loans to fund
 940 qualified television content.

941 7. Shall maintain its registered office in this state
 942 throughout the duration of the contract.

943 (c) Financial reporting.—The fund administrator shall
 944 submit to the department by February 28 each year audited
 945 financial statements for the preceding tax year which are
 946 audited by an independent certified public accountant after the
 947 end of each year in which the fund administrator is under
 948 contract with the department. In addition to providing an
 949 independent opinion on the annual financial statements, such
 950 audit provides a basis to verify the segregation of state funds
 951 from those of any private investment capital.

952 (d) Program reporting.—The fund administrator shall submit
 953 an annual report to the department by February 28 after the end
 954 of each year in which the fund administrator is under contract
 955 with the department. The report must include information on the
 956 loans made in the preceding calendar year and must include, but
 957 need not be limited to, the following:

958 1. The name of the qualified television content.

959 2. The names of the counties in which the production
 960 occurred.

961 3. The number of jobs created and retained as a result of
 962 the production.

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963 4. The loan amounts, including the amount of private
 964 investment capital and funds provided by a qualified lending
 965 partner.

966 5. The loan repayment status for each loan.

967 6. The number, and amounts, of any loans with payments
 968 past due.

969 7. The number, and amounts, of any loans in default.

970 8. A description of the assets securing the loans.

971 9. Other information and documentation required by the
 972 department.

973 (e) Plan of accountability.—The fund administrator shall
 974 submit an annual plan of accountability of economic development,
 975 including a report detailing the job creation resulting from the
 976 QTV Fund loans made during the current year and cumulatively
 977 since the inception of the program. The fund administrator shall
 978 also provide any additional information requested by the
 979 department pertaining to economic development and job creation
 980 in the state.

981 (f) Conflict-of-interest statement.—The fund administrator
 982 shall provide a conflict-of-interest statement from its
 983 governing board certifying that no board member, director,
 984 employee, agent, or other person connected to or affiliated with
 985 the fund administrator is receiving or will receive any type of
 986 compensation or remuneration from a production company that has
 987 received or will receive funds from the loan program or from a
 988 qualified lending partner. The department may waive this

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989 requirement for good cause shown.
 990 (6) LOAN STRUCTURE.—
 991 (a) The QTV Fund may make loans to production companies to
 992 fund production costs or provide improvement of the credit
 993 profile of a structured financial transaction for qualified
 994 television content that meets the criteria requirements of
 995 subsection (7). To make a loan, the fund administrator shall
 996 take into consideration the types of eligible collateral, the
 997 credit worthiness of the project, the producer's track record,
 998 the possibility that the project will encourage, enhance, or
 999 create economic benefits, and the extent to which assistance
 1000 would foster innovative public-private partnerships and attract
 1001 private debt or equity investment.
 1002 (b) The QTV Fund loan package shall be secured by
 1003 contractual and predictable sources of repayment such as
 1004 domestic and international broadcaster license agreements, tax
 1005 credits, and other ancillary revenues that are derived from
 1006 media content rights. Unsecured loans may not be made.
 1007 (c) The loans shall be made on the basis of a second lien
 1008 or primary security rights on the media assets listed in
 1009 paragraph (b).
 1010 (d) The QTV Fund shall provide funding only in conjunction
 1011 with senior loans provided by a qualified lending partner. Loans
 1012 from the QTV Fund may be subordinated to senior debt from the
 1013 qualified lending partner and may not exceed 30 percent of the
 1014 total production funding cost of any particular project.

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1015 (e) The production company's repayment of any loan shall
 1016 be in accordance with the broadcast license agreement and the
 1017 delivery of qualified television content to the major
 1018 broadcaster and shall be within 60 days after such delivery.
 1019 (f) Loans made by the QTV Fund may not exceed 36 months in
 1020 duration, except for extenuating circumstances for which the
 1021 fund administrator may grant an extension upon making written
 1022 findings to the department specifying the conditions requiring
 1023 the extension.
 1024 (g) With the exception of funds appropriated to the
 1025 department for the loan program, the credit of the state may not
 1026 be pledged. The state shall not be liable or obligated in any
 1027 way for claims against the QTV Fund or against the qualified
 1028 lending partner.
 1029 (7) QUALIFIED TELEVISION CONTENT CRITERIA.—The fund
 1030 administrator must consider at a minimum the following criteria
 1031 for evaluating the qualifying television content:
 1032 (a) The content is intended for broadcast by a major
 1033 broadcaster on a major network, cable, or streaming channel.
 1034 (b) The content is produced in this state, or a minimum of
 1035 80 percent of the production budget must be spent in this state.
 1036 This requirement may be amended by the fund administrator upon
 1037 notice to the department. Such notice must include a specific
 1038 justification for the change and must be transmitted to the
 1039 department in writing. The department has 10 business days to
 1040 object to the change. If the department does not object to the

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1041 change within 10 business days, the change is deemed acceptable
 1042 by the department, and the fund administrator may grant the
 1043 amendment to the requirement in this paragraph.

1044 (c) If the content is a series, there is a programming
 1045 order for at least 13 episodes. This requirement may be amended
 1046 by the fund administrator upon notice to the department. Such
 1047 notice must include a specific justification for the change and
 1048 must be transmitted to the department in writing. The department
 1049 has 10 business days to object to the change. If the department
 1050 does not object to the change within 10 business days, the
 1051 change is deemed acceptable by the department, and the fund
 1052 administrator may grant the amendment to the requirement in this
 1053 paragraph.

1054 (d) The producer must have a contract in place with a
 1055 major broadcaster to acquire content programming under a
 1056 customary broadcast license agreement and the contract must
 1057 cover at least 60 percent of the budget.

1058 (e) The producer must retain a foreign sales agent and
 1059 must be able to provide the fund administrator with the foreign
 1060 sales agent's official estimates of foreign and ancillary sales.

1061 (f) The project must be bonded and secured by an industry-
 1062 approved completion guarantor if the production cost per episode
 1063 exceeds \$1 million. This requirement may be waived if the loan
 1064 applicant provides the fund administrator with evidence of
 1065 adequate structure to protect the state's funds.

1066 (8) AUDITOR GENERAL REPORT.—The Auditor General shall

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1067 conduct an operational audit, as defined in s. 11.45, of the QTV
 1068 Fund and fund administrator. The scope of review must include,
 1069 but is not limited to, internal controls evaluations, internal
 1070 audit functions, reporting and performance requirements for the
 1071 use of the funds, and compliance with state and federal law. The
 1072 fund administrator shall provide to the Auditor General any
 1073 detail or supplemental data required.

1074 (9) RULEMAKING AUTHORITY.—The department may adopt rules
 1075 to administer this section.

1076 (10) EXPIRATION.—This section expires December 31, 2024,
 1077 at which point all funds remaining in the QTV Fund shall revert
 1078 to the General Revenue Fund.

1079 (11) EMERGENCY RULES.—

1080 (a) The executive director of the department is
 1081 authorized, and all conditions are deemed met, to adopt
 1082 emergency rules pursuant to ss. 120.536(1) and 120.54(4) for the
 1083 purpose of implementing this section.

1084 (b) Notwithstanding any other law, the emergency rules
 1085 adopted pursuant to paragraph (a) remain in effect for 6 months
 1086 after adoption and may be renewed during the pendency of
 1087 procedures to adopt permanent rules addressing the subject of
 1088 the emergency rules.

1089 (c) This subsection expires October 1, 2015.

1090 Section 15. Paragraph (c) of subsection (3) of section
 1091 288.9914, Florida Statutes, is amended to read:

1092 288.9914 Certification of qualified investments;

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1093 investment issuance reporting.—

1094 (3) REVIEW.—

1095 (c) The department may not approve a cumulative amount of
1096 qualified investments that may result in the claim of more than
1097 \$227.55 ~~\$178.8~~ million in tax credits during the existence of
1098 the program or more than \$36.6 million in tax credits in a
1099 single state fiscal year. However, the potential for a taxpayer
1100 to carry forward an unused tax credit may not be considered in
1101 calculating the annual limit.

1102 Section 16. Section 339.0803, Florida Statutes, is created
1103 to read:

1104 339.0803 Funding for strategic and regionally significant
1105 transportation projects.—Funds deposited into the State
1106 Transportation Trust Fund pursuant to s. 212.20(6)(d)6.f. must
1107 be used annually, first as set forth in subsection (1), and then
1108 as set forth in subsection (2), notwithstanding any other
1109 provision of law.

1110 (1) Beginning in the 2014-2015 fiscal year and in each
1111 fiscal year thereafter, \$85 million shall be used annually for
1112 transportation projects within this state for existing or
1113 planned strategic transportation projects that connect major
1114 markets within this state or between this state and other
1115 states, focus on job creation, and increase this state's
1116 viability in the national and global markets.

1117 (2) Beginning in the 2014-2015 fiscal year and in each
1118 fiscal year thereafter, \$15 million shall be used annually for

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1119 regionally significant transportation projects that support this
1120 state's economic regions and provide connectivity to and through
1121 rural areas. To be eligible for funding under this subsection,
1122 projects must be production-ready in the 5-year work program
1123 developed pursuant to s. 339.135. Funds required to be used
1124 under this subsection may be used to provide up to 75 percent of
1125 project costs for eligible projects. Preference shall be given
1126 to projects that have been identified as regionally significant
1127 in accordance with s. 339.155(4)(c), (d), and (e) and that have
1128 provided an increased level of non-state match.

1129 Section 17. Subsection (6) of section 624.5105, Florida
1130 Statutes, is amended to read:

1131 624.5105 Community contribution tax credit; authorization;
1132 limitations; eligibility and application requirements;
1133 administration; definitions; expiration.—

1134 (6) EXPIRATION.—The provisions of this section, except
1135 paragraph (1)(e), shall expire and be void on June 30, 2016
1136 2015.

1137 Section 18. Sales tax holiday for Energy Star and
1138 WaterSense products.—

1139 (1) The tax levied under chapter 212, Florida Statutes,
1140 may not be collected during the period from 12:01 a.m. on
1141 September 19, 2014, through 11:59 p.m. on September 21, 2014, on
1142 the first \$1,500 of the sale price of a new Energy Star product
1143 or WaterSense product. However, a person is limited to one
1144 purchase of each specific type of Energy Star or WaterSense

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1145 product listed in paragraph (2)(a) or paragraph (2)(b) with a
 1146 sales price of \$500 or more. A second or subsequent purchase of
 1147 a specific type of Energy Star product or WaterSense product
 1148 with a sales price of \$500 or more is subject to tax.

1149 (2) As used in this section, the term:

1150 (a) "Energy Star product" means a room air conditioner,
 1151 air purifier, ceiling fan, clothes washer, clothes dryer,
 1152 dehumidifier, dishwasher, freezer, refrigerator, water heater,
 1153 swimming pool pump, or package of light bulbs that is designated
 1154 by the United States Environmental Protection Agency and the
 1155 United States Department of Energy as meeting or exceeding each
 1156 agency's requirements under the Energy Star program and that is
 1157 affixed with an Energy Star label.

1158 (b) "WaterSense product" means a bathroom sink faucet,
 1159 faucet accessory, high-efficiency toilet or urinal, showerhead,
 1160 or weather or sensor-based irrigation controller that is
 1161 recognized as water efficient by the WaterSense program
 1162 sponsored by the United States Environmental Protection Agency
 1163 and that is affixed with a WaterSense label.

1164 (3) The Department of Revenue may, and all conditions are
 1165 deemed met to, adopt emergency rules pursuant to ss. 120.536(1)
 1166 and 120.54, Florida Statutes, to administer this section.

1167 Section 19. Physical fitness admissions tax suspension.—

1168 (1) The tax levied under s. 212.04, Florida Statutes, may
 1169 not be collected during the period from 12:01 a.m. on September
 1170 1, 2014, through 11:59 p.m. on September 8, 2014, on the sale of

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1171 athletic, exercise, and physical fitness facility memberships by
 1172 a health studio registered under ss. 501.012-501.019, Florida
 1173 Statutes.

1174 (2) The Department of Revenue may, and all conditions are
 1175 deemed met to, adopt emergency rules pursuant to ss. 120.536(1)
 1176 and 120.54, Florida Statutes, to administer this section.

1177 Section 20. (1) The tax levied under chapter 212, Florida
 1178 Statutes, may not be collected during the period from 12:01 a.m.
 1179 on August 1, 2014, through 11:59 p.m. on August 3, 2014, on the
 1180 sale of:

1181 (a) Clothing, wallets, or bags, including handbags,
 1182 backpacks, fanny packs, and diaper bags, but excluding
 1183 briefcases, suitcases, and other garment bags, having a sales
 1184 price of \$100 or less per item. As used in this paragraph, the
 1185 term "clothing" means:

1186 1. Any article of wearing apparel intended to be worn on
 1187 or about the human body, excluding watches, watchbands, jewelry,
 1188 umbrellas, and handkerchiefs; and

1189 2. All footwear, excluding skis, swim fins, roller blades,
 1190 and skates.

1191 (b) School supplies having a sales price of \$15 or less
 1192 per item. As used in this paragraph, the term "school supplies"
 1193 means pens, pencils, erasers, crayons, notebooks, notebook
 1194 filler paper, legal pads, binders, lunch boxes, construction
 1195 paper, markers, folders, poster board, composition books, poster
 1196 paper, scissors, cellophane tape, glue or paste, rulers,

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1197 computer disks, protractors, compasses, and calculators.

1198 (2) The tax levied under chapter 212, Florida Statutes,

1199 may not be collected during the period from 12:01 a.m. on August

1200 1, 2014, through 11:59 p.m. on August 3, 2014, on the first \$750

1201 of the sales price of personal computers or personal computer-

1202 related accessories purchased for noncommercial home or personal

1203 use. As used in this subsection, the term:

1204 (a) "Personal computers" includes electronic book readers,

1205 laptops, desktops, handhelds, tablets, and tower computers. The

1206 term does not include cellular telephones, video game consoles,

1207 digital media receivers, or devices that are not primarily

1208 designed to process data.

1209 (b) "Personal computer-related accessories" includes

1210 keyboards, mice, personal digital assistants, monitors, other

1211 peripheral devices, modems, routers, and nonrecreational

1212 software, regardless of whether the accessories are used in

1213 association with a personal computer base unit. The term does

1214 not include furniture or systems, devices, software, or

1215 peripherals designed or intended primarily for recreational use.

1216 (c) "Monitors" does not include devices that have a

1217 television tuner.

1218 (3) The tax exemptions provided in this section do not

1219 apply to sales within a theme park or entertainment complex as

1220 defined in s. 509.013(9), Florida Statutes, within a public

1221 lodging establishment as defined in s. 509.013(4), Florida

1222 Statutes, or within an airport as defined in s. 330.27(2),

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1223 Florida Statutes.

1224 (4) The Department of Revenue may, and all conditions are

1225 deemed met to, adopt emergency rules pursuant to ss. 120.536(1)

1226 and 120.54, Florida Statutes, to administer this section.

1227 Section 21. (1) The tax levied under chapter 212, Florida

1228 Statutes, may not be collected during the period from 12:01 a.m.

1229 on June 1, 2014, through 11:59 p.m. on June 12, 2014, on the

1230 sale of:

1231 (a) A portable self-powered light source selling for \$20

1232 or less.

1233 (b) A portable self-powered radio, two-way radio, or

1234 weatherband radio selling for \$50 or less.

1235 (c) A tarpaulin or other flexible waterproof sheeting

1236 selling for \$50 or less.

1237 (d) A self-contained first-aid kit selling for \$30 or

1238 less.

1239 (e) A ground anchor system or tie-down kit selling for \$50

1240 or less.

1241 (f) A gas or diesel fuel tank selling for \$25 or less.

1242 (g) A package of AA-cell, C-cell, D-cell, 6-volt, or 9-

1243 volt batteries, excluding automobile and boat batteries, selling

1244 for \$30 or less.

1245 (h) A nonelectric food storage cooler selling for \$30 or

1246 less.

1247 (i) A portable generator used to provide light or

1248 communications or preserve food in the event of a power outage

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1249 selling for \$750 or less.

1250 (j) Reusable ice selling for \$10 or less.

1251 (2) The Department of Revenue may, and all conditions are

1252 deemed met to, adopt emergency rules pursuant to ss. 120.536(1)

1253 and 120.54, Florida Statutes, to administer this section.

1254 Section 22. (1) For fiscal year 2014-2015, the sum of \$20

1255 million of nonrecurring funds is appropriated from the General

1256 Revenue Fund to the Economic Development Trust Fund of the

1257 Department of Economic Opportunity for the purpose of making

1258 disbursements in accordance with s. 288.127(3), Florida

1259 Statutes.

1260 (2) For fiscal year 2014-2015, the sum of \$43,941 of

1261 nonrecurring funds is appropriated from the General Revenue Fund

1262 to the Department of Revenue for the purpose of administering

1263 section 18 of this act.

1264 (3) For fiscal year 2013-2014, the sum of \$223,048 of

1265 nonrecurring funds is appropriated from the General Revenue Fund

1266 to the Department of Revenue for the purpose of administering

1267 section 20 of this act. On June 30, 2014, the unexpended balance

1268 of this appropriation shall revert to the General Revenue Fund

1269 and be reappropriated for the same purpose for fiscal year 2014-

1270 2015.

1271 (4) For fiscal year 2013-2014, the sum of \$280,912 of

1272 nonrecurring funds is appropriated from the General Revenue Fund

1273 to the Department of Revenue for the purpose of administering

1274 section 21 of this act. On June 30, 2014, the unexpended balance

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1275 of this appropriation shall revert to the General Revenue Fund

1276 and be reappropriated for the same purpose for fiscal year 2014-

1277 2015.

1278 Section 23. Except as otherwise expressly provided in this

1279 act, this act shall take effect July 1, 2014.

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THE FLORIDA SENATE
APPEARANCE RECORD

4.10.14

Meeting Date

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

Topic LOCAL BUSINESS TAX

Bill Number HB 5601
(if applicable)

Name RON BOOK

Amendment Barcode ~~477678~~
648522
(if applicable)

Job Title I

Address 18851 NE 29 AVE

Phone 305.935.1866

Street

Aventura FL 33180

City

State

Zip

E-mail _____

Speaking: ☒ For ☐ Against ☐ Information

Representing CITY OF SUNRISE

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/10/14
Meeting Date

Topic _____

Bill Number 5601
(if applicable)

Name FRANK MEINERS

Amendment Barcode 747306
(if applicable)

Job Title _____

Address PO Box 1633
Street
Tall FL 33302
City State Zip

Phone 591-0172

E-mail frank@chgmil.com

Speaking: ☒ For ☐ Against ☐ Information

Representing AIF

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Topic Sales tax

Bill Number _____

Name Melissa Joiner Ramba

Amendment Barcode 747306 (if applicable)

Job Title Director of Government Affairs

5601 (if applicable)

Address 227 S Adams St

Phone 850-570-0269

Tallahassee FL
City State Zip

E-mail Melissa@frf.org

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida Retail Federation

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/10/14

Meeting Date

Topic _____

Bill Number 5601
(if applicable)

Name FRANK MEINERS

Amendment Barcode 877542
(if applicable)

Job Title _____

Address PO BOX 11633
Street
TALL FL 33302
City State Zip

Phone 591-0177

E-mail frank@chqswest.com

Speaking: ☒ For ☐ Against ☐ Information

Representing AIF

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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4/10/14

Meeting Date

Topic Bail Bond Premium Tax Bill Number 5601
 Name Jason Unger Amendment Barcode AA 758080 (Bradley) to 477076 (Hakill)
 Job Title Attorney Phone 407-843-8880
 Address 301 S. Bronough St., Ste 600 E-mail jason.unger@gray-robinson.com
 Street City State Zip
Tallahassee FL
 Speaking: ☒ For ☐ Against ☐ Information
 Representing Accredited Surety
 Appearing at request of Chair: ☐ Yes ☒ No Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/10/14

Meeting Date

Topic Economic Development

Bill Number 5601

(if applicable)

Name Samantha Pudgett

Amendment Barcode 973828

(if applicable)

Job Title General Counsel

Address 227 S. Adams St.

Street

Phone 850-222-4082

~~227 S. Adams St.~~

Tallahassee, FL 32301

City

State

Zip

E-mail samantha@frt.org

Speaking:



For



Against



Information

Representing Florida Retail Federation

Appearing at request of Chair:



Yes



No

Lobbyist registered with Legislature:



Yes



No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-10-14

Meeting Date

Amendment #973828
FOR

Topic Prepaid Calling

Bill Number HB5601
(if applicable)

Name Woody Simmons

Amendment Barcode _____
(if applicable)

Job Title VP-GOV. AFFAIRS

Address 106 E. College Ave. Ste. 710

Phone 850-222-6304

Street

Tallahassee, FL 32301

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

E-mail woodyw.simmons@verizon.com

Representing

Verizon

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

9/10/14
Meeting Date

Topic _____

Bill Number 5601

Name FRANK MEINERS

Amendment Barcode 973828
(if applicable)

Job Title _____

Address PO BOX 1633
Street
1000 FL 32302
City State Zip

Phone 591-0177

E-mail frank@chymail.com

Speaking: ☒ For ☐ Against ☐ Information

Representing AIF

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

9/10/14

Meeting Date

Topic Pre Paid Calling Arrangements

Bill Number HB5601
(if applicable)

Name JC Flores

Amendment Barcode 973828
(if applicable)

Job Title Regional Director - External Affairs

Address 150 W. Flagler St.
Street

Phone 305-347-5406

Miami FL 33130
City State Zip

E-mail JF323W@qfl.com

Speaking: ☒ For ☐ Against ☐ Information

Representing AT&T WAVE IN Support

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Topic Hurricane Sales Tax Holiday

Bill Number _____

Name Melissa Joiner Ramba

Amendment Barcode 971444 (if applicable)
5601 (if applicable)

Job Title Director of Government Affairs

Address 227 S Adams St

Phone 850-570-0269

Street
Tallahassee Fl.
City State Zip

E-mail Melissa@frf.org

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida Retail Federation

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/10/14

Meeting Date

Topic Prepaid Calling Arrangements

Bill Number ~~451001~~ 5601
(if applicable)

Name Diana Ferguson

Amendment Barcode 447076
(if applicable)

Job Title Attorney

Address 119 S Monroe St Ste 202
Street
Tallah FL 32308
City State Zip

Phone 850-681-6788

E-mail dfergusma@verizon.com

Speaking: ☒ For ☐ Against ☐ Information

Representing T-Mobile

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/10/14
Meeting Date

Topic Economic Development

Bill Number 5601
(if applicable)

Name David Hart

Amendment Barcode 477076
(if applicable)

Job Title Ex VP

Address 136 S. Bronough St.
Street
Tallahassee FL 32307
City State Zip

Phone 850/521-1200

E-mail _____

Speaking: ☒ For ☐ Against ☒ Information

Representing Amendment 5601 FL Chamber

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/ /14

Meeting Date

Topic Communications Services TAX

Bill Number HB 5601

Name Charles Dudley

Amendment Barcode 477076 - HSH/11
(if applicable)
(if applicable)

Job Title General Counsel

Address 108 S. Monroe St.

Phone 681 0024

Street

Tallahassee FL 32301

City

State

Zip

E-mail cdudley@flapartners.com

Speaking: ☐ For ☐ Against ☐ Information

Representing FL Cable Telecommunications Assoc.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/10/14
Meeting Date

Topic _____

Bill Number 5601
(if applicable)

Name FRANK MEINERS

Amendment Barcode 477076
(if applicable)

Job Title _____

Address PO Box 1633
Street
Idell FL 33302
City State Zip

Phone 591 0177

E-mail frank@hymail.com

Speaking: ☒ For ☐ Against ☐ Information

Representing AIF

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

April 10, 2014
Meeting Date

Topic Tax Cuts

Bill Number HB 5601
(if applicable)

Name Dean Asher

Amendment Barcode 477076
(if applicable)

Job Title Immediate Past President

Address 1801 Cook Avenue
Street
Orlando FL 32806
City State Zip

Phone 407 496 0373

E-mail Dean@DonAsher.Com

Speaking: ☐ For ☐ Against ☒ Information

Representing Florida Realtors

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/10/14

Meeting Date

Phasing Out:

Topic

Sales Tax on Commercial Leases

Bill Number

5601

(if applicable)

Name

BO JOHNSON

Amendment Barcode

(if applicable)

Job Title

PRES - Florida Land & Investment, Inc

Address

201 E. Government St. - Suite #20

Phone

(850) 438-8433

Street

Pensacola, FL

32502

City

State

Zip

E-mail

bojohnson1@hotmail.com

Speaking:

☒

For

☐

Against

☐

Information

Representing

NAIOP - State President

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☐

Yes

☒

No

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/10/14

Meeting Date

Topic Economic Development

Bill Number 5601
(if applicable)

Name Doug Bell

Amendment Barcode _____
(if applicable)

Job Title _____

Address 215 S. Monroe St
Street
Tall. FL 32312
City State Zip

Phone 222-3533

E-mail _____

Speaking: ☒ For ☐ Against ☐ Information

Representing McDonald's Restaurants

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)

Meeting Date

Topic Economic Developments

Bill Number 5601
(if applicable)

Name Dr Dan Holsenbeck

Amendment Barcode
(if applicable)

Job Title VP

Address UCF

Phone 407-247-9421

Street

Orlando

FL

City

State

Zip

E-mail danh@ucf.edu

Speaking: ☐ For ☐ Against ☒ Information

Representing State Universities

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-10-14

Meeting Date

Topic Community Contribution Tax Credit Bill Number HB 5601
(if applicable)

Name Barbara Inman Amendment Barcode _____
(if applicable)

Job Title President / CEO

Address 2605 Enterprise Rd E Phone 727-742-9616
Street
Clearwater FL 33759 E-mail ceo@habitatflorida.org
City State Zip

Speaking: ☐ For ☐ Against ☒ Information

Representing Habitat for Humanity of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-10-14

Meeting Date

Topic Economic Development

Bill Number HB 5601
(if applicable)

Name Wendy Dodge

Amendment Barcode _____
(if applicable)

Job Title Director of Govt Affairs

Address PO Box 391
Street
Bartow FL 33831
City State Zip

Phone 813-838-3632

E-mail wendy.dodge@polk-fl.net

Speaking: ☐ For ☐ Against ☐ Information

Representing Polk County School District

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)

April 10, 2014
Meeting Date

Topic Phase out of sales tax on commercial leases

Bill Number H 5601
(if applicable)

Name DAVID DANIEL

Amendment Barcode _____
(if applicable)

Job Title _____

Address 311 EAST DARK AVENUE
Street
TALLAHASSEE FL 32301
City State Zip

Phone 224-5081

E-mail daniel@smithbryan.com
and myer@lcs.com

Speaking: ☐ For ☐ Against ☐ Information

Representing INTERNATIONAL COUNCIL OF SHOPPING CENTERS

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/10/14

Meeting Date

Topic Economic Development

Bill Number HB 5601

(if applicable)

Name Jonathan Rees

Amendment Barcode _____

(if applicable)

Job Title Deputy Legislative Affairs Director

Address 400 S. Monroe St.

Phone (850) 617-7700

Street

Tallahassee

FL

32399

City

State

Zip

E-mail Jonathan.Rees@

freshfromflorida.com

Speaking: ☒ For ☐ Against ☒ Information

Representing Florida Department of Agriculture and Consumer Services

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/10/14

Meeting Date

Topic

Economic Development

Bill Number

HB 5601

(if applicable)

Name

Richard Watson

Amendment Barcode

(if applicable)

Job Title

Legislative Counsel

Address

P.O. Box 10038

Phone

850 222-0000

Street

Tallahassee FL 32302

E-mail

rick@rwatsonand

City

State

Zip

Speaking:

☒ For

☐ Against

☐ Information

Associated Builders and Contractors of FL
AECO dedicated funding source.

Representing

Associated Builders and Contractors of FL

Appearing at request of Chair:

☐ Yes

☒ No

Lobbyist registered with Legislature:

☒ Yes

☐ No

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/10/2014

Meeting Date

Topic _____

Bill Number 5601
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Street

SAINT PETERSBURG

City

FLORIDA

State

33705

Zip

Phone 727-897-9291

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☐ For ☐ Against ☒ Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/20/11)

CourtSmart Tag Report

Room: KN 412

Caption: Senate Appropriations Committee

Case:

Judge:

Type:

Started: 4/10/2014 1:02:31 PM

Ends: 4/10/2014 5:52:30 PM

Length: 04:50:00

1:02:33 PM	Sen. Negron (Chair)
1:05:25 PM	
1:05:29 PM	S 1008
1:05:34 PM	Sen. Stargel
1:06:22 PM	Sen. Negron
1:06:28 PM	Am. 153888
1:06:39 PM	Sen. Stargel
1:07:22 PM	Sen. Negron
1:07:50 PM	Sen. Joyner
1:08:02 PM	Sen. Stargel
1:08:39 PM	Sen. Joyner
1:08:58 PM	Sen. Stargel
1:09:37 PM	Sen. Joyner
1:09:54 PM	Sen. Stargel
1:10:10 PM	Sen. Joyner
1:10:29 PM	Sen. Stargel
1:10:42 PM	Sen. Sobel
1:11:05 PM	Sen. Stargel
1:11:26 PM	Sen. Sobel
1:11:30 PM	Sen. Stargel
1:11:44 PM	Sen. Sobel
1:11:57 PM	Sen. Stargel
1:12:30 PM	Sen. Margolis
1:13:54 PM	Sen. Stargel
1:14:37 PM	Sen. Negron
1:14:50 PM	S 1008 (cont.)
1:15:12 PM	Amy Datz, Retiree (waives in support)
1:16:23 PM	
1:16:39 PM	S 1480
1:16:48 PM	Matthew Hunter, Legislative Assistant to Senator Benacquisto
1:17:46 PM	Sen. Negron
1:17:56 PM	Am. 333198
1:18:01 PM	M. Hunter
1:18:24 PM	Sen. Negron
1:18:33 PM	S 1480 (cont.)
1:18:42 PM	Brian Pitts, Trustee, Justice-2-Jesus
1:20:43 PM	Sen. Negron
1:20:54 PM	Sen. Ring
1:21:44 PM	M. Hunter
1:21:53 PM	Sen. Negron
1:23:00 PM	
1:23:02 PM	S 1216
1:23:09 PM	Sen. Latvala
1:24:27 PM	Sen. Negron
1:24:37 PM	Am. 407778
1:24:46 PM	Sen. Latvala
1:27:00 PM	Sen. Negron
1:27:10 PM	Sen. Joyner
1:27:37 PM	Sen. Latvala
1:27:59 PM	Sen. Negron
1:28:04 PM	Sen. Bradley
1:28:50 PM	Sen. Latvala

1:29:23 PM Sen. Negron
 1:29:55 PM Am. 413820
 1:30:01 PM Sen. Latvala
 1:30:24 PM Sen. Negron
 1:30:31 PM Am 334530
 1:30:38 PM Sen. Galvano
 1:30:49 PM Sen. Negron
 1:30:57 PM Am. 407778 (cont.)
 1:31:48 PM S 1216 (cont.)
 1:31:51 PM Jim Brainerd, Polk County (waives in support)
 1:31:56 PM Brewster Bevis, Senior Vice President, Associated Industries of Florida (waives in support)
 1:32:01 PM Brian Pitts, Trustee, Justice-2-Jesus
 1:33:05 PM Sen. Latvala
 1:33:27 PM Kathy Russell, Director of Government Relations, City of Orlando (waives in support)
 1:33:30 PM Robert Stuart, Government Consultant, Orlando City Soccer (waives in support)
 1:33:30 PM Joie Chitwood, President of Daytona International Speedway, International Speedway Corporation
 (waives in support)
 1:33:36 PM David Shepp, Consultant, City of Lakeland (waives in support)
 1:33:37 PM Ron Book, Sunlife Stadium (waives in support)
 1:33:59 PM Sen. Bean
 1:34:29 PM Sen. Lee
 1:36:14 PM Sen. Gardiner
 1:38:13 PM Sen. Negron
 1:38:21 PM Sen. Joyner
 1:38:37 PM Sen. Latvala
 1:39:03 PM Sen. Joyner
 1:41:19 PM Sen. Negron
 1:41:36 PM Sen. Latvala
 1:44:35 PM Sen. Negron
 1:44:40 PM Sen. Benacquisto
 1:44:46 PM
 1:44:52 PM S 726
 1:44:58 PM Sen. Detert
 1:45:52 PM Sen. Joyner
 1:46:11 PM Sen. Detert
 1:46:24 PM Sen. Benacquisto
 1:46:35 PM Sen. Detert
 1:46:41 PM Sen. Benacquisto
 1:47:28 PM
 1:47:31 PM S 724
 1:47:35 PM Sen. Dean
 1:48:06 PM Sen. Benacquisto
 1:49:21 PM
 1:49:22 PM S 544
 1:49:29 PM Sen. Simpson
 1:49:43 PM Sen. Benacquisto
 1:49:47 PM Am. 895330
 1:49:54 PM Sen. Simpson
 1:50:06 PM Sen. Benacquisto
 1:50:18 PM Marion Hammer, National Rifle Association (waives in support)
 1:50:30 PM S 544 (cont.)
 1:50:37 PM Larry Hart, Tax Collector, Lee County Tax Collector (waives in support)
 1:51:04 PM Jean Jordan, Tax Collector, Indian River Tax Collector (waives in support)
 1:51:12 PM Tim Qualls, Executive Director, Florida Tax Collectors Association (waives in support)
 1:51:17 PM Jonathan Rees, Deputy Director of Legislative Affairs, Department of Agriculture and Consumer Services
 (waives in support)
 1:51:25 PM Brian Pitts, Trustee, Justice-2-Jesus
 1:53:12 PM Sen. Benacquisto
 1:53:22 PM Sen. Smith
 1:54:39 PM Sen. Benacquisto
 1:54:44 PM
 1:54:48 PM S 782

1:54:55 PM	Sen. Brandes
1:55:46 PM	Sen. Benacquisto
1:55:57 PM	PCS 205260
1:56:16 PM	Am. 323464
1:56:21 PM	Sen. Brandes
1:56:26 PM	Sen. Benacquisto
1:56:37 PM	S 782 (cont.)
1:57:11 PM	Sen. Negron
1:57:42 PM	
1:57:47 PM	S 5601
1:59:39 PM	Sen. Hukill
2:01:42 PM	Sen. Negron
2:01:51 PM	Am. 477076
2:02:11 PM	Sen. Hukill
2:05:07 PM	Sen. Smith
2:05:23 PM	Sen. Negron
2:05:37 PM	Sen. Smith
2:05:41 PM	Sen. Negron
2:05:57 PM	Sen. Thrasher
2:06:22 PM	Sen. Hukill
2:06:46 PM	Sen. Joyner
2:06:52 PM	Sen. Negron
2:07:01 PM	Am. 648522
2:07:39 PM	Sen. Ring
2:09:08 PM	Sen. Negron
2:10:18 PM	Ron Book, City of Sunrise (waives in support)
2:10:22 PM	Am. 747306
2:10:30 PM	Sen. Lee
2:11:59 PM	Sen. Negron
2:12:50 PM	Sen. Latvala
2:13:35 PM	Sen. Lee
2:13:44 PM	Sen. Negron
2:13:46 PM	Sen. Joyner
2:14:09 PM	Sen. Lee
2:14:42 PM	Sen. Smith
2:14:55 PM	Sen. Lee
2:14:58 PM	Sen. Smith
2:15:06 PM	Sen. Negron
2:15:48 PM	Melissa Joyner Ramba, Director of Government Affairs, Florida Retail Federation (waives in support)
2:15:54 PM	Frank Meiners, Associated Industries of Florida (waives in support)
2:16:39 PM	Sen. Hukill
2:17:29 PM	Sen. Lee
2:17:48 PM	Sen. Negron
2:18:01 PM	Am. 316994
2:18:11 PM	Sen. Bean
2:18:18 PM	Am. 877542
2:18:22 PM	Sen. Richter
2:20:11 PM	Sen. Benacquisto
2:20:17 PM	Sen. Joyner
2:20:29 PM	Sen. Richter
2:20:44 PM	Sen. Joyner
2:20:48 PM	Sen. Benacquisto
2:20:53 PM	Frank Meiners, Associated Industries of Florida (waives in support)
2:21:03 PM	Sen. Hukill
2:21:09 PM	Sen. Richter
2:22:04 PM	Sen. Hukill
2:22:15 PM	Sen. Richter
2:22:30 PM	Sen. Negron
2:22:54 PM	Sen. Margolis
2:23:56 PM	Sen. Negron
2:24:04 PM	Sen. Richter
2:25:07 PM	Sen. Margolis

2:25:32 PM	Sen. Benacquisto
2:28:05 PM	Recording Paused
2:32:57 PM	Recording Resumed
2:33:30 PM	Am. 877542 (cont.)
2:33:42 PM	Sen. Richter
2:34:22 PM	Am. 758080
2:34:55 PM	Sen. Bradley
2:35:22 PM	Sen. Negron
2:35:32 PM	Jason Unger, Attorney, Accredited Surety (waives in support)
2:36:05 PM	Sen. Lee
2:37:47 PM	Sen. Negron
2:37:55 PM	Sen. Joyner
2:38:25 PM	Sen. Bradley
2:39:23 PM	Sen. Joyner
2:41:06 PM	Sen. Bradley
2:41:38 PM	Sen. Joyner
2:41:48 PM	Sen. Bradley
2:42:13 PM	Sen. Joyner
2:42:42 PM	Sen. Negron
2:42:52 PM	Sen. Margolis
2:43:36 PM	Sen. Negron
2:43:40 PM	Sen. Lee
2:45:01 PM	Sen. Negron
2:46:12 PM	Sen. Bradley
2:46:25 PM	Sen. Negron
2:46:34 PM	Am. 268468
2:46:43 PM	Sen. Galvano
2:47:03 PM	Am. 973828
2:47:10 PM	Sen Galvano
2:47:45 PM	Sen. Negron
2:48:03 PM	Sen. Margolis
2:48:32 PM	Sen. Galvano
2:48:37 PM	Sen. Margolis
2:48:49 PM	Sen. Galvano
2:49:12 PM	Sen. Negron
2:49:28 PM	Sen. Margolis
2:49:33 PM	Sen. Negron
2:49:52 PM	JC Flores, Regional Director External Affairs, AT&T (waives in support)
2:49:57 PM	Frank Meiners, Associated Industries of Florida (waives in support)
2:50:00 PM	Woody Simmons, Vice President Government Affairs, Verizon (waives in support)
2:50:04 PM	Samantha Padgett, General Counsel, Florida Retail Federation (waives in support)
2:50:24 PM	Sen. Hukill
2:50:51 PM	Sen. Negron
2:51:13 PM	Am. 971444
2:51:18 PM	Sen. Bradley
2:52:11 PM	Sen. Negron
2:52:18 PM	Am. 341776
2:52:22 PM	Sen. Sobel
2:54:17 PM	Am. 811482
2:54:21 PM	Sen. Bean
2:56:53 PM	Sen. Negron
2:57:06 PM	Susan Harbin, Legislative Advocate, Florida Association of Counties (waives in support)
2:57:57 PM	Sen. Ring
2:58:15 PM	Sen. Bean
2:58:34 PM	Sen. Negron
2:59:03 PM	Sen. Bean
2:59:44 PM	Am. 477076 (cont.)
3:01:52 PM	David Hert, Executive Vice President, Florida Chamber
3:04:10 PM	Sen. Smith
3:04:29 PM	D. Hert
3:04:29 PM	Diana Ferguson, Attorney, T-Mobile (waives in support)
3:05:13 PM	Charles Dugby, General Counsel, Florida Cable Telecommunication Association

3:06:53 PM Frank Meiners, Associated Industries of Florida (waives in support)
 3:06:59 PM Dean Asher, Immediate Past President, Florida Realtors
 3:08:58 PM Sen. Negron
 3:11:08 PM Sen. Joyner
 3:11:30 PM Sen. Negron
 3:12:09 PM Sen. Hukill
 3:12:53 PM Sen. Negron
 3:13:07 PM Sen. Smith
 3:14:00 PM Sen. Negron
 3:14:08 PM Sen. Margolis
 3:15:54 PM Sen. Joyner
 3:19:55 PM Sen. Negron
 3:21:53 PM Sen. Lee
 3:22:52 PM Sen. Negron
 3:23:06 PM Sen. Hukill
 3:23:39 PM Sen. Negron
 3:23:46 PM S 5601 (cont.)
 3:23:56 PM Doug Bell, McDonald's Restaurants
 3:24:46 PM Sen. Negron
 3:24:51 PM Bo Johnson, President, Florida Land and Investment Incorporation, National Association of Industrial and Office Properties
 3:27:02 PM Sen. Benacquisto
 3:27:07 PM Barbara Inman, President/CEO, Habitat for Humanity of Florida
 3:29:49 PM Sen. Negron
 3:29:54 PM Dan Holsenback, Vice President, State Universities
 3:30:33 PM David Daniel, International Council of Shopping Centers
 3:31:34 PM Wendy Dodge, Director of Government Affairs, Polk County School District
 3:32:06 PM Richard Watson, Legislative Counsel, Associated Builders and Contractors of Florida
 3:32:42 PM Jonathan Rees, Deputy Legislative Affairs Director, Department of Agriculture and Consumer Services
 3:32:59 PM Sen. Negron
 3:33:03 PM Brian Pitts, Trustee, Justice-2-Jesus
 3:33:45 PM Sen. Negron
 3:34:04 PM B. Pitts
 3:35:00 PM Sen. Negron
 3:37:05 PM
 3:38:04 PM S 514
 3:38:21 PM Patricia Flor, Legislative Assistant to Senator Flores
 3:39:03 PM PCS 792326
 3:39:26 PM Sen. Negron
 3:39:35 PM Brian Pitts, Trustee, Justice-2-Jesus
 3:40:39 PM Sen. Negron
 3:40:54 PM Sen. Joyner
 3:42:11 PM Sen. Negron
 3:43:03 PM
 3:43:06 PM S 268
 3:43:10 PM Sen. Grimsley
 3:43:57 PM Sen. Negron
 3:44:09 PM Brian Pitts, Trustee, Justice-2-Jesus
 3:45:38 PM Tony Marshall, Senior Director of Reimbursement, Florida Health Care Association (waives in support)
 3:45:45 PM Steve Bogomilsley, CEO, North Bay Health Associates (waives in support)
 3:45:52 PM Harold Foster, Vice President Government Affairs, North Bay Health Associates (waives in support)
 3:45:58 PM Laura Cantwell, Associate State Director, American Association of Retired Persons (waives in support)
 3:46:01 PM Brewster Bevis, Senior Vice President, Associated Industries of Florida (waives in support)
 3:47:09 PM
 3:47:12 PM S 1726
 3:47:24 PM Sen. Sobel
 3:48:48 PM Sen. Negron
 3:49:19 PM Am. 752622
 3:49:23 PM Sen. Grimsley
 3:51:27 PM Sen. Negron
 3:51:30 PM Sen. Montford
 3:51:49 PM Sen. Grimsley

3:52:12 PM	Sen. Joyner
3:52:53 PM	Sen. Grimsley
3:53:08 PM	Sen. Joyner
3:53:45 PM	Sen. Grimsley
3:54:03 PM	Sen. Negron
3:54:17 PM	Chet Bell, CEO, Florida Council for Community Mental Health
3:56:11 PM	Sen. Negron
3:56:19 PM	Mark Fontaine, Executive Director, Florida Alcohol & Drug Abuse Association (waives in support)
3:56:20 PM	Linda McKinnon, CEO, Central Florida Behavioral Health Network (waives in support)
3:56:36 PM	Mario Jardon, CEO, Citrus Health Network (waives in support)
3:56:40 PM	Jay Reeve, Chief Executive Officer, Apalachee Center (waives in support)
3:56:44 PM	Tim Macsuga, Corporation Director Clinical Services, Universal Health Services (waives in support)
3:56:49 PM	Adam Roberts, Lobbyist, Apalachee Center (waives in support)
3:57:10 PM	Chris Floyd, Consultant, Northside Mental Health (waives in support)
3:57:14 PM	Sara Carroll, Assistant Executive Director, Florida Sheriff's Association (waives in support)
3:57:20 PM	David Shepp, Consultant, Peace River Center (waives in support)
3:57:39 PM	Sen. Richter
3:58:48 PM	Sen. Negron
3:59:03 PM	S 1726 (cont.)
3:59:09 PM	Frank Rabbito, Senior Vice President, Westcare/Guidance Care Center (waives in support)
3:59:16 PM	Todd Dixon, Administrator, Aspire Health Partners (waives in support)
4:00:35 PM	Sen. Grimsley
4:01:00 PM	Sen. Negron
4:01:04 PM	Sen. Sobel
4:01:43 PM	Sen. Negron
4:02:25 PM	
4:02:28 PM	S 1276
4:02:30 PM	Sen. Grimsley
4:03:58 PM	Sen. Negron
4:04:04 PM	Sen. Joyner
4:04:39 PM	Sen. Grimsley
4:04:46 PM	Sen. Joyner
4:04:59 PM	Sen. Grimsley
4:05:22 PM	Sen. Joyner
4:05:24 PM	Sen. Grimsley
4:05:29 PM	Sen. Joyner
4:05:34 PM	Sen. Grimsley
4:05:42 PM	Sen. Negron
4:05:52 PM	Sen. Joyner
4:06:06 PM	Sen. Grimsley
4:06:09 PM	Sen. Joyner
4:06:15 PM	Sen. Grimsley
4:06:29 PM	Sen. Joyner
4:06:37 PM	Sen. Grimsley
4:06:42 PM	Sen. Joyner
4:06:48 PM	Sen. Grimsley
4:07:05 PM	Sen. Joyner
4:07:21 PM	Sen. Grimsley
4:07:31 PM	Sen. Negron
4:07:37 PM	Am. 184462
4:07:45 PM	Sen. Grimsley
4:09:04 PM	Sen. Smith
4:09:28 PM	Sen. Grimsley
4:09:55 PM	Sen. Negron
4:10:17 PM	David Ciesla, Professor of Surgery University of South Florida, Trauma Director, Teaching Hospital Council
4:12:02 PM	Mark Delegal, Attorney, Safety Net Hospital Alliance of Florida
4:16:36 PM	Sen. Negron
4:16:41 PM	Sen. Hays
4:16:52 PM	M. Delegal
4:17:30 PM	Sen. Hays
4:18:03 PM	M. Delegal

4:19:59 PM	Sen. Hays
4:20:34 PM	Sen. Montford
4:21:00 PM	M. Delegal
4:21:49 PM	Sen. Montford
4:22:27 PM	M. Delegal
4:23:20 PM	Sen. Negron
4:24:03 PM	M. Delegal
4:25:02 PM	Sen. Sobel
4:25:22 PM	M. Delegal
4:25:49 PM	Sen. Sobel
4:25:54 PM	M. Delegal
4:26:48 PM	Sen. Sobel
4:27:19 PM	M. Delegal
4:27:35 PM	Sen. Grimsley
4:27:57 PM	Sen. Negron
4:28:22 PM	S 1276 (cont.)
4:28:29 PM	David Tillman, Engineer, Marion County (waives in support)
4:28:34 PM	Anna Burrus, citizen
4:32:16 PM	Derrick Walsh, citizen
4:35:05 PM	Kathy Bryant, Marion County Commissioner, Marion County
4:38:02 PM	Sen. Negron
4:38:06 PM	Stuart McElhaney, Fire Chief, Marion County Fire Rescue/ BCC
4:41:10 PM	Samantha Maywell, citizen
4:42:50 PM	Gary Johnson, citizen
4:44:57 PM	Patrick Lindo, citizen
4:46:38 PM	Darwin Ang, Trauma Medical Director, Ocala Health
4:52:16 PM	Mark McKenny, Chief of Trauma, Kendall Hospital (waives in support)
4:52:24 PM	Sen. Grimsley
4:54:12 PM	Sen. Negron
4:54:54 PM	
4:55:22 PM	S 1724
4:55:30 PM	Sen. Sobel
4:56:57 PM	Sen. Negron
4:57:00 PM	Am. 265286
4:57:12 PM	Sen. Joyner
4:57:23 PM	Am. 850430
4:57:27 PM	Sen. Joyner
4:57:29 PM	Am. 485468
4:57:52 PM	Sen. Sobel
4:58:17 PM	Sen. Negron
4:58:26 PM	Sen. Sobel
4:58:42 PM	Sen. Joyner
4:59:11 PM	Sen. Sobel
4:59:50 PM	Sen. Joyner
5:00:06 PM	Sen. Sobel
5:00:10 PM	Sen. Negron
5:00:23 PM	Am. 401954
5:00:35 PM	Sen. Sobel
5:00:45 PM	Sen. Negron
5:00:54 PM	Am. 485468 (cont.)
5:01:09 PM	S 1724 (cont.)
5:01:29 PM	Brian Pitts, Trustee, Justice-2-Jesus
5:02:36 PM	Sen. Sobel
5:02:49 PM	Mary Marx, President & CEO, PACE Center for Girls (waives in support)
5:02:58 PM	Bill Willcox, The Children's Campaign (waives in support)
5:03:03 PM	Chris Dawson, Florida Smart Justice Alliance (waives in support)
5:03:07 PM	Amy Datz, National Council of Jewish Women
5:04:40 PM	Lawanda Ravoir, President & CEO, Delores Barr Weaver Policy Center (waives in support)
5:04:50 PM	Babelte Hankey, CEO, Center for Drug Free Living (waives in support)
5:05:18 PM	Sen. Sobel
5:06:09 PM	Sen. Negron
5:06:13 PM	

5:06:15 PM S 564
 5:06:17 PM Sen. Richter
 5:06:52 PM Sen. Negron
 5:06:55 PM Brian Pitts, Trustee, Justice-2-Jesus (waives in support)
 5:06:59 PM Kim Siamkos, Vice President Government Affairs, Florida Bankers Association (waives in support)
 5:07:03 PM Logan McFaddin, Director Legislative Affairs, Office of the Chief Financial Officer (waives in support)
 5:07:05 PM Sen. Negron
 5:07:53 PM
 5:07:54 PM S 702
 5:07:57 PM Sen. Bean
 5:08:27 PM Sen. Negron
 5:08:30 PM Am. 273458
 5:08:34 PM Sen. Bean
 5:08:42 PM Am. 126836
 5:08:48 PM Sen. Bean
 5:09:05 PM Sen. Negron
 5:09:08 PM S 702 (cont.)
 5:09:14 PM Cynthia Henderson, EPIC Pharmacy (waives in support)
 5:09:19 PM Mike Fisher, Florida Independent Pharmacy Network (waives in support)
 5:09:24 PM Jorge Chamizo, Attorney, Independent Pharmacy Cooperative (waives in support)
 5:09:26 PM Michael Jackson, Executive Vice President & CEO, Florida Pharmacy Association (waives in support)
 5:10:20 PM Sen. Negron
 5:10:22 PM
 5:10:23 PM S 1142
 5:10:35 PM Sen. Lee
 5:11:40 PM Sen. Negron
 5:11:51 PM Brian Pitts, Trustee, Justice-2-Jesus (waives in support)
 5:11:56 PM Gene McGee, SeaWorld (waives in support)
 5:11:57 PM Adam Babington, Manager Government Relations, Walt Disney World (waives in support)
 5:12:02 PM Greg Black, Florida Restaurants and Lodging Association (waives in support)
 5:12:06 PM Will McKinley, Universal Studios (waives in support)
 5:12:13 PM Brewster Bevis, Senior Vice President, Associated Industries of Florida (waives in support)
 5:12:26 PM Sen. Negron
 5:13:12 PM
 5:13:17 PM S 132
 5:13:19 PM Tracy Lodel, Legislative Assistant to Senator Latvala
 5:14:31 PM Sen. Negron
 5:15:27 PM
 5:15:29 PM S 834
 5:15:31 PM Tracy Lodel, Legislative Assistant to Senator Latvala
 5:16:08 PM Brian Pitts, Trustee, Justice-2-Jesus (waives in support)
 5:16:12 PM Martha Edenfield, The Real Property, Probate & Trust Law Section of the Florida Bar (waives in support)
 5:16:17 PM Wayne Malaney, American Lawyer Media, LLC & Bailey Publishing (waives in support)
 5:16:23 PM Sam Morley, General Counsel, Florida Press Association (waives in support)
 5:17:15 PM Sen. Negron
 5:17:34 PM
 5:17:36 PM S 1150
 5:17:39 PM Sen. Lee
 5:18:00 PM Sen. Negron
 5:18:08 PM Brian Pitts, Trustee, Justice-2-Jesus
 5:19:25 PM Ellen Anderson, Vice President Advocacy, Florida Hospital Association (waives in support)
 5:19:32 PM David Christian, Vice President Government Affairs, Florida Chamber (waives in support)
 5:19:38 PM Sen. Negron
 5:20:09 PM
 5:20:12 PM S 1210
 5:20:16 PM Sen. Bean
 5:20:39 PM Sen. Negron
 5:21:08 PM Laura Pearce, General Counsel, Florida Association of Insurance Agents (waives in support)
 5:21:15 PM Brian Pitts, Trustee, Justice-2-Jesus (waives in support)
 5:21:20 PM Logan McFaddin, Director Legislative Affairs, Office of the Chief Financial Officer (waives in support)
 5:22:18 PM Sen. Negron
 5:22:23 PM

5:22:27 PM	S 246
5:22:30 PM	Sen. Ring
5:22:43 PM	Sen. Bradley
5:25:45 PM	Sen. Negron
5:25:59 PM	Am. 966054
5:26:06 PM	Sen. Negron
5:26:13 PM	Am. 736386
5:26:22 PM	Sen. Ring
5:27:36 PM	Sen. Negron
5:27:51 PM	Sen. Montford
5:28:17 PM	Sen. Bradley
5:28:59 PM	Sen. Montford
5:29:11 PM	Sen. Bradley
5:29:50 PM	Sen. Montford
5:30:03 PM	Sen. Richter
5:30:19 PM	Sen. Bradley
5:30:59 PM	Sen. Richter
5:31:09 PM	Sen. Bradley
5:31:16 PM	Sen. Ring
5:31:40 PM	Sen. Richter
5:32:00 PM	Sen. Ring
5:32:09 PM	Sen. Bradley
5:32:28 PM	Sen. Negron
5:32:36 PM	Sen. Margolis
5:33:14 PM	Sen. Negron
5:33:29 PM	Matt Puckett, Executive Director, Florida Police Benevolent Association Inc.
5:34:01 PM	Sen. Negron
5:34:02 PM	Am. 333798
5:35:02 PM	Sen. Ring
5:35:23 PM	Sen. Margolis
5:36:11 PM	Sen. Negron
5:36:22 PM	Sen. Margolis
5:36:27 PM	Sen. Ring
5:36:47 PM	Sen. Negron
5:37:11 PM	Sen. Bradley
5:40:07 PM	Sen. Margolis
5:40:19 PM	Sen. Bradley
5:40:27 PM	Sen. Margolis
5:40:57 PM	Sen. Bradley
5:41:15 PM	Sen. Margolis
5:41:24 PM	Sen. Bradley
5:41:32 PM	Sen. Margolis
5:41:38 PM	Sen. Bradley
5:41:54 PM	Sen. Negron
5:42:18 PM	S 246 (cont.)
5:42:23 PM	Matt Puckett, Executive Director, Florida Police Benevolent Association Inc. (waives in support)
5:42:29 PM	Craig Conn, Florida League of Cities
5:42:51 PM	Sen. Negron
5:43:29 PM	Leticia Adams, Senior Policy Director, Florida Chamber of Commerce (waives in support)
5:43:36 PM	Jim Tolley, President Florida Professional Firefighters
5:44:54 PM	Sen. Negron
5:45:14 PM	Sen. Richter
5:47:19 PM	Sen. Negron
5:47:32 PM	Sen. Bradley
5:48:31 PM	Sen. Ring
5:51:05 PM	Sen. Negron