**The Florida Senate**

# COMMITTEE MEETING EXPANDED AGENDA

**COMMERCE AND TOURISM**
**Senator Detert, Chair**
**Senator Abruzzo, Vice Chair**

**MEETING DATE:** Monday, December 9, 2013
**TIME:** 4:00 —6:00 p.m.
**PLACE:** *Toni Jennings Committee Room,* 110 Senate Office Building

**MEMBERS:** Senator Detert, Chair; Senator Abruzzo, Vice Chair; Senators Bean, Hays, Hukill, Margolis, Richter, Ring, Simpson, Stargel, and Thompson

| TAB | BILL NO. and INTRODUCER | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS | COMMITTEE ACTION |
|---|---|---|---|
| 1 | **SM 118**<br>Hays<br>(Identical HM 15) | National Retail Sales Tax; Urging Congress to repeal all taxes on income and enact a national retail sales tax as specified in H.R. 25, the Fair Tax Act of 2013, etc.<br><br>CM 12/09/2013 Favorable<br>GO<br>RC | Favorable<br>Yeas 9 Nays 0 |
| 2 | **SB 220**<br>Thompson<br>(Identical H 105) | Florida Civil Rights Act; Prohibiting discrimination on the basis of pregnancy in public lodging and food service establishments; prohibiting discrimination with regard to employment benefits; prohibiting discrimination on the basis of pregnancy by labor organizations, joint labor-management committees, and employment agencies; prohibiting discrimination on the basis of pregnancy in occupational licensing, certification, and membership organizations, etc.<br><br>CM 12/09/2013 Favorable<br>JU<br>CA | Favorable<br>Yeas 9 Nays 0 |
| 3 | **SB 324**<br>Detert | Employment Practices; Prohibiting an employer from using a job applicant's credit report or credit history to make certain hiring, compensation, or other employment decisions; providing specific situations in which an employer may use such information; providing exemptions for certain types of employers; providing remedies for an aggrieved person; providing for the award of actual damages and court costs; providing for a plaintiff to post a bond to indemnify the defendant for damages, including attorney fees, in certain situations, etc.<br><br>CM 12/09/2013 Fav/CS<br>JU<br>GO<br>RC | Fav/CS<br>Yeas 8 Nays 1 |

| TAB | BILL NO. and INTRODUCER | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS | COMMITTEE ACTION |
|---|---|---|---|
| 4 | Presentation by Workforce Florida, Inc., on:<br>Quick Response Training<br>Florida Occupational Governance Study<br>Expanding Business Engagement Initiative<br>Branding Initiative, required by HB 7023<br>(SB 1398; ch. 2012-29, L.O.F.) | | Presented |
| 5 | Presentation by Enterprise Florida, Inc., on exports and trade missions from the past year | | Presented |
| | Other Related Meeting Documents | | |
| | An electronic copy of the Appearance Request form is available to download from any Senate committee page on the Senate's website, www.flsenate.gov | | |

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 Commerce and Tourism

BILL: SM 118

INTRODUCER: Senator Hays

SUBJECT: National Retail Sales Tax

DATE: December 6, 2013 REVISED:

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|---|---|---|---|---|
| 1. | Siples | Hrdlicka | CM | **Favorable** |
| 2. | | | GO | |
| 3. | | | RC | |

## I. Summary:

SM 118 urges the United States Congress to enact H.R. 25, the Fair Tax Act of 2013, which imposes a national retail sales tax and eliminates the personal income tax, the alternative minimum tax, the estate tax, the gift tax, the capital gains tax, the corporate income tax, the self-employment tax, and the employee and employer payroll tax.

## II. Present Situation:

**Background**

### Sixteenth Amendment[1]

In 1913, the 16th Amendment to the United States Constitution was ratified, establishing the framework for our modern federal tax system. Specifically, the 16th Amendment grants Congress the power to lay and collect taxes on "income, from whatever source derived," and eliminates the previous requirement that all direct federal taxes be apportioned by population.

In 1939, the Internal Revenue Code (IRC) was created to simplify the process for making changes to existing tax statutes. Previously, any statutory revisions to existing law required the passage of an entirely new set of tax provisions. With the creation of the IRC, revisions to existing law would only demand changes to be made to the affected section. Since 1939, the IRC

[1] Information in this section was adapted from Shirley Dennis Escoffier & Karen A. Fortin, Taxation for Decision Makers, 3-4 (Thompson South Western 2008).

has been recodified on two occasions: 1954 and 1986. Presently, the federal government is operating under the Internal Revenue Code of 1986.

## Federal Taxes[2]

### Federal Income Tax

Federal income tax includes income taxed at both the individual and corporate level. Notable variations in the governing rules apply to each category. An individual taxpayer's liability is determined by the greater of "(1) regular individual income tax liability reduced by credits allowed against the regular tax, or (2) [alternative] minimum tax reduced by credits allowed against the minimum tax."[3] Depending on the applicable tax standard, a different rate schedule will apply.

Determining regular tax liability requires calculating taxable income, defined as "the taxpayer's total gross income less certain exclusions, exemptions, and deductions."[4] An individual's adjusted gross income (AGI) is calculated by subtracting "above-the-line-deductions," such as trade or business expenses, moving expenses, and capital losses, from the individual's gross income.[5] The AGI is then reduced by the personal exemption deduction and by either the appropriate standard deduction or itemized deduction amount to arrive to the taxable income figure.[6] Marginal tax rates based on corresponding ordinary income brackets are then applied to the taxable income, with the maximum rate set at 39.6 percent. Note that most gain acquired from a capital asset is taxed under a separate rate structure, with the maximum rate set at 20 percent.[7]

Additionally, federal law requires that the alternative minimum tax also be calculated to determine if an individual's regular tax liability falls below the alternative minimum tax liability amount. If so, then an alternative minimum tax will be imposed to account for the difference between the taxable income and alternative minimum taxable income (AMTI) amount.[8] When calculating the AMTI, the taxpayer is precluded from taking a personal exemption, standard deduction, and certain itemized deductions, such as state and local taxes paid, to reduce his or her overall income.[9] The AMTI is then reduced by the appropriate exemption amount. The difference, if any,[10] is the taxable excess, which serves as the basis for determining the taxpayer's tentative minimum tax liability.

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[2] Staff of J. Comm. on Taxation, 113th Cong., Overview of the Federal Tax System as in Effect for 2013 (JCX-2-13R), (Jan. 8, 2013), *available at* https://www.jct.gov/publications.html?func=startdown&id=4498 (select download link to access pdf file) (last visited December 2, 2013).

[3] *Id.* at 4.

[4] *Id.* at 2.

[5] *Id.*

[6] *Id.* at 3.

[7] *Id.* at 7. Although historically classified as ordinary income, the Jobs and Growth Tax Relief Reconciliation Act of 2003 allows for dividends to be taxed at favorable capital gains rate subject to certain conditions.

[8] *Id* at 6.

[9] *Id* at 6. ("AMTI is the taxpayer's taxable income increased by the taxpayer's tax preferences and adjusted by determining the tax treatment of certain items in a manner that negates the deferral of income resulting from the regular tax treatment of those items.")

[10] *Id.* Note that if there is no difference then the individual taxpayer is subject to federal tax rules governing regular tax liability.

At the corporate level, regular income tax liability is calculated in a similar way. Numerous rules exist that are unique to corporations, such as the dividends received deduction (DRD) provision that allows a corporate shareholder to deduct, at a minimum, 70 percent of the dividend it receives.[11] The effect of this provision is to mitigate the effects of a triple taxation.[12] However, a distributing corporation is restricted from deducting the dividend amount paid to shareholders.[13] Furthermore, unlike individuals, a separate tax rate structure does not apply for corporate capital gains. Thus, corporate capital gains will be taxed at the same schedule as ordinary corporate income tax rates.[14]

Corporations are also required to calculate an alternative minimum tax. Like the individual taxpayer, a corporation is subject to the alternative minimum tax to the extent that it exceeds its regular income tax liability.[15] A corporation's alternative minimum taxable income is calculated by increasing the corporation's regular taxable income by disallowing favorable tax treatment on certain items. Again, the effect is to negate the deferral of income that would normally take place under the regular tax treatment of those items. The alternative minimum taxable income is then increased by 75 percent of the difference between a corporation's adjusted current earnings and its alternative minimum taxable income.[16] That amount is then reduced by the applicable exemption amount, if one is applicable.[17] The leftover amount is then taxed at a flat rate of 20 percent.[18]

**Estate and Gift Tax**

In the United States, a gift tax is imposed on the transfer of any property by gift that is made by a U.S. citizen or resident.[19] The gift tax is imposed at the donor level and is based on the fair market value of the property transferred. Deductions are allowed for certain gifts that are made to spouses and charities. As of 2013, annual gifts of $14,000 or less per donor and per donee generally will not be subject to any tax.

An estate tax is imposed on the taxable estate of any person who was a citizen or resident of the United States at the time of death. A nonresident's estate may also be subject to the estate tax if certain property belonging to the decedent is located in the United States at the time of death. Similar to the gift tax, the tax is imposed based on the fair market value of the property at the time of death. In its simplest form, the taxable estate generally will equal the value of the

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[11] *Id.* at 10 and United States Department of the Treasury, Internal Revenue Service, Corporations (Publication 542, Rev. March 2012), *available at* http://www.irs.gov/pub/irs-pdf/p542.pdf (last visited December 2, 2013).
[12] Note that without this deduction, corporate profits would be taxed first to the corporation that earned them, again to the corporate shareholder receiving the distribution, and again to the individual shareholder upon receipt of a distribution from the second corporation.
[13]Staff on J. Comm. on Taxation. at 10.
[14] *Id.* at 11.
[15] *Id.* at 12.
[16] *Id.*
[17] Note that the exemption amount is phased out for corporations with income above certain thresholds, and is completely phased out for corporations with alternative minimum taxable income of $310,000 or more. *Id.* at n. 19.
[18] *Id*. at 12.
[19] *Id*. at 14.

worldwide gross estate reduced by allowable deductions, such as marital deductions and charitable bequests.

The gift and estate taxes are based on the same graduated rate schedule, with a maximum tax rate of 40 percent. In addition to the gift and estate taxes, a transfer tax may also be imposed on generation-skipping transfers. As a general rule, this tax is imposed on transfers in excess of $5.25 million to a beneficiary in more than one generation below that of the transferor at a flat rate of 40 percent.

**Employment Tax**

The Federal Insurance Contributions Act (FICA) imposes taxes on both employers and employees.[20] Under the act, employers are required to pay the following: "(1) the old, age survivors, and disability insurance ("OASDI") tax equal to 6.2 percent of covered wages up to the taxable wage base ($113,700 in 2013); and (2) the Medical hospital insurance ("HI") tax amount equal to 1.45 percent of covered wages."[21] In addition, employers are required to pay a federal unemployment insurance payroll tax of generally 0.6 percent of the total wages of each employee, up to $7,000, on covered employment.[22]

Employees are also subject to a federal withholding tax equal to the amount of FICA tax imposed on the employer. Note that the withholding tax does not include the employer's obligation to pay unemployment insurance tax. Lastly, the Self-Employment Contributions Act (SECA) requires that taxes be imposed on the net income derived from self-employment. The general rule is that the OASDI and HI tax rate portions will be paid by the self-employed individual at the combined employer and employee rates as required under FICA.[23]

**Fair Tax Act of 2013**

Below is a summary describing H.R. 25, The Fair Tax Act of 2013, prepared by the Congressional Research Service:

> This legislation proposes to repeal the individual income tax, the corporate income tax, all payroll taxes, the self-employment tax, and the estate and gift taxes. These taxes would effectively be replaced with a 23% (tax-inclusive, meaning that the rate is a proportion of the after-tax rather than the pre-tax value) national retail sales tax. The tax-inclusive retail sales tax would equal 23% of the sum of the sales price of an item and the amount of the retail sales tax. Every family would receive a rebate of the sales tax on spending amounts up to the federal poverty level (plus an extra amount to prevent any marriage penalty). The Social Security Administration would provide a monthly sales tax rebate to registered qualified families. The 23%national retail sales [tax] would not be levied on exports. The sales tax would be separately stated and charged. Social Security and Medicare benefits would remain the same with payroll tax revenue replaced by some

[20] *Id.* at 16.
[21] *Id.*
[22] The unemployment insurance payroll tax is 6 percent; however, most states receive a credit of 5.4 percent, making the effective tax rate 0.6 percent.
[23] *Id* at 16.

of the revenue from the retail sales tax. States could elect to collect the national retail sales tax on behalf of the federal government in exchange for a fee. Taxpayer rights provisions are incorporated into the act. The sales tax would sunset at the end of a seven-year period beginning on the enactment of this act if the Sixteenth Amendment is not repealed. This amendment provided Congress the 'power to lay and collect taxes on income.'[24]

## III. Effect of Proposed Changes:

**Resolution**: SM 118 urges Congress to enact H.R. 25, the Fair Tax Act of 2013, which imposes a national retail sales tax and eliminates the personal income tax, the alternative minimum tax, the estate tax, the gift tax, the capital gains tax, the corporate income tax, the self-employment tax, and the employee and employer payroll tax.

**Rationale for Resolution**: SM 118 stipulates that the current federal taxation regime retards economic growth and the country's international competiveness. It further states that the current system is inequitable and imposes unnecessary administrative and compliance costs on both individual and business taxpayers. As such, SM 118 recommends the repeal of the 16th Amendment to the federal constitution.

In the alternative, SM 118 calls for the imposition of a national sales tax. It provides that the imposition of such tax would promote fairness and reduce administrative burdens faced by American taxpayers. SM 118 recommends that Congress consider administering and collecting the national sales tax at the state level in return for a reasonable administration fee to the states.

**Circulation**: Copies of this memorial are to be dispatched to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress.

## IV. Constitutional Issues:

### A. Municipality/County Mandates Restrictions:

None.

### B. Public Records/Open Meetings Issues:

None.

### C. Trust Funds Restrictions:

None.

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[24] Sherlock, Molly F., Cong. Research Serv., R43060, Tax Reform in the 113th Congress: An Overview of Proposals (May 6, 2013), *available at* http://www.fas.org/sgp/crs/misc/R43060.pdf (last visited December 2, 2013).

## V. Fiscal Impact Statement:

### A. Tax/Fee Issues:

None.

### B. Private Sector Impact:

None.

### C. Government Sector Impact:

None.

## VI. Technical Deficiencies:

None.

## VII. Related Issues:

None.

## VIII. Statutes Affected:

None.

## IX. Additional Information:

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

None.

### B. Amendments:

None.

**By** Senator Hays

11-00161A-14 2014118__

Senate Memorial

A memorial to the Congress of the United States, urging Congress to repeal all taxes on income and enact a national retail sales tax as specified in H.R. 25, the Fair Tax Act of 2013.

WHEREAS, our Founding Fathers, being mindful that history has demonstrated that income taxes give government too much power over citizens, specifically forbade such taxes in the Constitution of the United States, and

WHEREAS, Alexander Hamilton wrote in The Federalist No. 21 that "it is a signal advantage of taxes on articles of consumption, that they contain in their own nature a security against excess," and

WHEREAS, the current income tax system requires individual taxpayers to prepare annual tax returns using many complicated forms, causing innocent errors that are heavily punished, and

WHEREAS, the current income tax system actually penalizes marriage, and

WHEREAS, the federal income tax:

(1) Retards economic growth and has reduced the standard of living of the American public;

(2) Impedes the international competiveness of United States industry;

(3) Reduces savings and investment in the United States by taxing income multiple times;

(4) Slows the capital formation necessary for real wages to steadily increase;

(5) Lowers productivity;







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(6) Imposes unacceptable and unnecessary administrative and compliance costs on individual and business taxpayers;

(7) Is unfair and inequitable;

(8) Unnecessarily intrudes upon the privacy and civil rights of United States citizens;

(9) Hides the true costs of government by embedding taxes in the costs of everything that Americans buy;

(10) Is not being complied with at satisfactory levels and, therefore, raises the tax burden on law-abiding citizens; and

(11) Impedes upward social mobility, and

WHEREAS, federal payroll taxes, including social security and Medicare payroll taxes and self-employment taxes:

(1) Raise the cost of employment;

(2) Destroy jobs and cause unemployment; and

(3) Have a disproportionately adverse impact on lower-income Americans, and

WHEREAS, the federal estate and gift taxes:

(1) Force family businesses and farms to be sold by the family in order to pay taxes;

(2) Discourage capital formation and entrepreneurship;

(3) Foster the continued dominance of large enterprises over small family-owned companies and farms; and

(4) Impose unacceptably high tax-planning costs on small businesses and farms, and

WHEREAS, a broad-based national sales tax on goods and services purchased for final consumption:

(1) Is similar in many respects to the sales and use taxes that are authorized in 45 of the 50 states;

(2) Will promote savings and investment;

(3) Will promote fairness;

(4) Will promote economic growth;

(5) Will raise the standard of living;

(6) Will enhance productivity and international competiveness;

(7) Will reduce administrative burdens on the American taxpayer;

(8) Will improve upward social mobility; and

(9) Will respect the privacy interests and civil rights of taxpayers, and

WHEREAS, Congress should consider when implementing the administration of a national sales tax that:

(1) Most of the practical experience in administering sales taxes is found at the state level;

(2) It is desirable to harmonize federal and state collection and enforcement efforts to the maximum extent possible;

(3) It is sound tax administration policy to foster administration and collection of the federal sales tax at the state level in return for a reasonable administration fee to the states; and

(4) A business that must collect and remit taxes should receive reasonable compensation for the cost of doing so, and

WHEREAS, the 16th Amendment to the United States Constitution should be repealed, NOW, THEREFORE,

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

That the Legislature of the State of Florida, with all due







respect, does hereby urge the United States Congress to enact H.R. 25, the Fair Tax Act of 2013, which eliminates the personal income tax, the alternative minimum tax, the inheritance tax, the gift tax, the capital gains tax, the corporate income tax, the self-employment tax, and the employee and employer payroll tax and replaces them with a national retail sales tax.

BE IT FURTHER RESOLVED that copies of this memorial be dispatched to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress.

# THE FLORIDA SENATE

# APPEARANCE RECORD

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

12.09.13
*Meeting Date*

Topic FairTax Memorial

Bill Number SM 118
*(if applicable)*

Name Mark Gupton

Amendment Barcode ______
*(if applicable)*

Job Title Managing Director, Florida FairTax Educational Association

Address 453 River Run Blvd
*Street*

Ponte Vedra FL 32281
*City* *State* *Zip*

Phone 904.829.1592

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

Representing ______

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

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

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

***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 Commerce and Tourism

BILL: SB 220

INTRODUCER: Senator Thompson

SUBJECT: Florida Civil Rights Act

DATE: December 6, 2013 REVISED:

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|---|---|---|---|---|
| 1. | Siples | Hrdlicka | CM | **Favorable** |
| 2. | | | JU | |
| 3. | | | CA | |

## I. Summary:

SB 220 amends ch. 760, F.S., also known as the Florida Civil Rights Act (FCRA), to protect individuals from unlawful discrimination on the basis of pregnancy in education, employment, housing, or public accommodation. This bill also amends s. 509.092, F.S., to prohibit discrimination based on pregnancy in public lodging and public food establishments. The bill defines "pregnancy" as a woman affected by pregnancy, childbirth, or a medical condition related to pregnancy or childbirth. Currently, state and federal courts are split on whether the Legislature intended to prohibit discrimination based on pregnancy.

## II. Present Situation:

### Title VII Civil Rights Act of 1964[1]

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

[1] 42 U.S.C. 2000e. et. seq.

**Pregnancy Discrimination Act[2]**

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

**Americans with Disabilities Act[6]**

The Americans with Disabilities Act (ADA) prohibits discrimination on the basis of disability in the areas of employment, public accommodation, telecommunications, and requires public entities to comply with its provisions. The ADA defines disability as a physical or mental impairment that substantially limits one or more major life activities, a record of such impairment, or being regarding as having such an impairment. Although pregnancy is not generally considered a disability, complications arising out of the pregnancy may afford an individual the protections provided under the ADA.[7]

**Family and Medical Leave Act[8]**

The Family and Medical Leave Act (FMLA) provides that employees of certain covered employers are entitled to take up to 12 weeks of unpaid leave a year for a serious illness, injury, or other serious health condition that involves continuing treatment by a health care provider. The FMLA also provides that the employees are entitled to return to the same or an equivalent position upon their return from leave. The FMLA is only applicable for those employees who work for a covered employer and have met the eligibility requirements.[9] In addition to the protection for the birth or adoption of a child, the FMLA provides that the mother may take leave

[2] Pub. L. No. 95-555, 95th Cong. (Oct. 31, 1978).
[3] 429 U.S. 125, 145 (1976).
[4] The PDA defines the terms "because of sex" or "on the basis of sex" to include pregnancy, childbirth, or related conditions and women who are affected by pregnancy, childbirth, or related conditions. It further states that these individuals must be treated the same for employment purposes, including the receipt of benefits, as any other person who is not so infected but has similar ability or inability to work.
[5] For more information, see U.S. Equal Employment Opportunity Commission, *Facts about Pregnancy Discrimination*, http://www.eeoc.gov/facts/fs-preg.html (last visited Nov. 7, 2013).
[6] Pub. L. No. 101-336, 101st Cong. (July 26, 1990).
[7] Society of Human Resource Managers, *EEO: Disability: Is Pregnancy Covered under the Americans with Disabilities Act?*, (Jan. 28, 2013), *available at* http://www.shrm.org/TemplatesTools/hrqa/Pages/PregnancyandADA.aspx (last visited Dec. 2, 2013).
[8] Pub. L. No. 103-3, 103rd Cong. (Feb. 5, 1993).
[9] The FMLA applies to private employers with at least 50 employees and all public employers. To be eligible for FMLA leave, an individual must have worked for the employer for at least 12 months and must have worked at least 1,250 hours during the 12 months prior to the leave.

for prenatal care, incapacity related to the pregnancy, and any serious health condition following the birth of a child.[10]

**Florida Civil Rights Act of 1992**

The Florida Civil Rights Act of 1992 (FCRA) was enacted to "secure for all individuals within the state freedom from discrimination because of race, color, religion, sex, national origin, age, handicap, or marital status…"[11] FCRA provides protection from discrimination in the areas of education, employment, housing, and public accommodations.

Similar to Title VII, the FCRA specifically provides a number of actions that, if undertaken by an employer, would be considered unlawful employment practices.[12] For example, it is unlawful to discharge or fail to hire an individual, or otherwise discriminate against an individual with respect to compensation, terms, conditions, or privileges of employment based on an individual's race, color, religion, sex, national origin, age, handicap, or marital status. Unlike Title VII, the FCRA has not been amended to specifically include a prohibition against pregnancy discrimination.

**Pregnancy Discrimination in Florida**

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

The earliest case to address the issue of pregnancy discrimination under the FCRA was *O'Loughlin v. Pinchback*.[13] In this case, the plaintiff alleged that she was terminated from her position as a correctional officer based on pregnancy. The First District Court of Appeal held that the Florida Human Rights Act was preempted by Title VII, as amended, as it stood as "an obstacle to the accomplishment and execution of the full purposes and objectives of Congress by not recognizing that discrimination against pregnant employees is sex-based discrimination."[14] By preempting the Florida statute, the court did not reach the question of whether the Florida law prohibits pregnancy discrimination. However, the court did note that Florida law had not been amended to include a prohibition against pregnancy-based discrimination.

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[10] For more information, see U.S. Department of Labor, *FMLA Frequently Asked Questions*, http://www.dol.gov/whd/fmla/fmla-faqs.htm (last visited Dec. 2, 2013).
[11] Section 760.01, F.S.
[12] Section 760.10, F.S. Note that this section does not apply to a religious corporation, association, educational institution, or society which conditions employment opportunities or public accomodation to members of that religious corporation, association, educational institution, or society.
[13] 579 So.2d 788 (Fla. 1st DCA 1991). This case was brought under the Florida Human Rights Act of 1977, which was the predecessor to the Florida Civil Rights Act of 1992, and was also patterned after Title VII.
[14] *Id. at 792.*

The court in *Carsillo v. City of Lake Worth*[15] found that since the FCRA is patterned after Title VII, which considers pregnancy discrimination to be sex discrimination, the FCRA also bars such discrimination. The court recognized that the Florida statute had never been amended, but concluded that since Congress' original intent was to prohibit this type of discrimination, it was unnecessary for Florida to amend its statute to import the intent of the law after which it was patterned.

The court in *Delva v. Continental Group, Inc.*[16] held that FCRA does not prohibit pregnancy discrimination based on the *O'Loughlin* court's analysis that the FCRA had not been amended to include pregnancy status. The issue before the court was narrowly defined to whether the FCRA prohibited discrimination in employment on the basis of pregnancy; therefore, it did not address the preemption holding in *O'Loughlin*. The court certified the conflict with the *Carsillo* case to the Florida Supreme Court.[17]

Federal courts interpreting the FCRA have similarly wrestled with whether pregnancy status is covered by its provisions.[18] Like the state courts, the federal courts finding that the FCRA does provide a cause of action based on pregnancy discrimination did so because the FCRA is patterned after Title VII, which bars pregnancy discrimination. The courts finding that the FCRA does not prohibit pregnancy discrimination primarily did so because the Legislature has not amended the FCRA to specifically protect pregnancy status.

## III. Effect of Proposed Changes:

**Section 1** amends s. 509.092, F.S., to provide that a person may not be discriminated against in public lodging and public food service establishments on the basis of pregnancy.

**Section 2** amends s. 760.01, F.S., to expand the purpose of the FCRA to include protection from discrimination on the basis of pregnancy. This will clarify legislative intent on whether pregnancy discrimination is prohibited under the FCRA.

**Section 3** amends s. 760.02, F.S., to create a definition of "pregnancy" which means a woman who is affected by pregnancy, childbirth, or a medical condition related to pregnancy or childbirth.

**Sections 4, 5, and 6** amend ss. 760.05, 760.07, and 760.08, F.S., to include pregnancy as a status for which discrimination is prohibited.

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[15] 995 So.2d 1118 (Fla. 4th DCA 2008), *rev. denied*, 20 So.3d 848 (Fla. 2009).
[16] 96 So.3d 956 (Fla. 3d DCA 2012), *reh'g denied*.
[17] The case was filed with the Florida Supreme Court on October 16, 2012, and assigned case number SC12-2315. Oral arguments were held on November 7, 2013.
[18] Federal courts finding that the FCRA does not include a prohibition against pregnancy discrimination include: *Frazier v. T-Mobile USA, Inc.*, 495 F.Supp.2d 1185, (M.D. Fla. 2003), *Boone v. Total Renal Laboratories, Inc.*, 565 F.Supp.2d 1323 (M.D. Fla. 2008), and *DuChateau v. Camp Dresser & McKee, Inc.*, 822 F.Supp.2d 1325 (S.D. Fla. 2011). Federal courts finding that FCRA does provide protection against pregnancy discrimination include *Jolley v. Phillips Educ. Grp. of Cent. Fla., Inc.*, 1996 WL 529202 (M.D. Fla. 1996), *Terry v. Real Talent, Inc.*, 2009 WL 3494476 (M.D. Fla. 2009), *Constable v. Agilysys, Inc.*, 2011 WL 2446605 (M.D. Fla. 2011), and *Glass v. Captain Katanna's, Inc.*, 2013 WL 3017010 (M.D. Fla 2013).

**Section 7** amends s. 760.10, F.S., to provide that it is unlawful for persons to be discriminated against with respect to employment benefits and provides that it is unlawful for an employer, employment agency, or labor organization to discriminate against a person on the basis of pregnancy with respect to compensation, benefits, terms, conditions, or privileges of employment. Discrimination on the basis of pregnancy is also prohibited in licensing, certification, or any other credential a person may be required to obtain to engage in a profession, occupation, or trade.

**Section 8** reenacts s. 760.11(1), F.S., for the purpose of incorporating the amendments made by the bill to s. 760.10, F.S. (**Section 7**). Section 760.11(1), F.S., provides that any aggrieved person may file a complaint alleging a violation of ss. 760.01-760.10, F.S., or s. 590.092, F.S., with the Florida Commission on Human Rights or the Equal Employment Opportunity Commission. The complaint must contain a brief description of the alleged violation and the relief sought. The Florida Commission on Human Rights must notify the person against whom the complaint was filed within 5 days of receipt and the respondent must file an answer within 25 days of the date the complaint was filed.

**Section 9** 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:

SB 220 will resolve court conflicts and reduce the need to litigate whether pregnancy status is protected under the FCRA.

C. Government Sector Impact:

None.

## VI. Technical Deficiencies:

None.

## VII. Related Issues:

Individuals may bring claims for pregnancy discrimination under Title VII of the Civil Rights Act of 1964, in federal courts.

## VIII. Statutes Affected:

This bill substantially amends ss.509.092, 760.01, 760.02, 760.05, 760.07, 760.08, and 760.10, F.S. This bill reenacts s. 760.11(1), F.S., for the purpose of incorporating the amendments made to s. 760.10, F.S.

## IX. Additional Information:

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

None.

### B. Amendments:

None.

**By** Senator Thompson



A bill to be entitled

An act relating to the Florida Civil Rights Act; amending s. 509.092, F.S.; prohibiting discrimination on the basis of pregnancy in public lodging and food service establishments; amending s. 760.01, F.S.; revising the general purpose of the Florida Civil Rights Act of 1992; amending s. 760.02, F.S.; providing a definition for the term “pregnancy”; amending s. 760.05, F.S.; revising the function of the Florida Commission on Human Relations; amending s. 760.07, F.S.; providing civil and administrative remedies for discrimination on the basis of pregnancy; amending s. 760.08, F.S.; prohibiting discrimination on the basis of pregnancy in places of public accommodation; amending s. 760.10, F.S.; prohibiting discrimination with regard to employment benefits; prohibiting employment discrimination on the basis of pregnancy; prohibiting discrimination on the basis of pregnancy by labor organizations, joint labor-management committees, and employment agencies; prohibiting discrimination on the basis of pregnancy in occupational licensing, certification, and membership organizations; providing an exception to unlawful employment practices based on pregnancy; reenacting s. 760.11(1), F.S., relating to administrative and civil remedies for violations of the Florida Civil Rights Act of 1992, to incorporate the amendments made to s. 760.10(5), F.S., in a reference thereto; providing an effective date.





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

Section 1. Section 509.092, Florida Statutes, is amended to read:

509.092 Public lodging establishments and public food service establishments; rights as private enterprises.—Public lodging establishments and public food service establishments are private enterprises, and the operator has the right to refuse accommodations or service to any person who is objectionable or undesirable to the operator, but such refusal may not be based upon race, creed, color, sex, pregnancy, physical disability, or national origin. A person aggrieved by a violation of this section or a violation of a rule adopted under this section has a right of action pursuant to s. 760.11.

Section 2. Subsection (2) of section 760.01, Florida Statutes, is amended to read:

760.01 Purposes; construction; title.—

(2) The general purposes of the Florida Civil Rights Act of 1992 are to secure for all individuals within the state freedom from discrimination because of race, color, religion, sex, pregnancy, national origin, age, handicap, or marital status and thereby to protect their interest in personal dignity, to make available to the state their full productive capacities, to secure the state against domestic strife and unrest, to preserve the public safety, health, and general welfare, and to promote the interests, rights, and privileges of individuals within the state.

Section 3. Subsection (12) is added to section 760.02, Florida Statutes, to read:

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

(12) “Pregnancy” means a woman affected by pregnancy, childbirth, or a medical condition related to pregnancy or childbirth.

Section 4. Section 760.05, Florida Statutes, is amended to read:

760.05 Functions of the commission.—The commission shall promote and encourage fair treatment and equal opportunity for all persons regardless of race, color, religion, sex, pregnancy, national origin, age, handicap, or marital status and mutual understanding and respect among all members of all economic, social, racial, religious, and ethnic groups; and shall endeavor to eliminate discrimination against, and antagonism between, religious, racial, and ethnic groups and their members.

Section 5. Section 760.07, Florida Statutes, is amended to read:

760.07 Remedies for unlawful discrimination.—Any violation of any Florida statute making unlawful discrimination because of race, color, religion, gender, pregnancy, national origin, age, handicap, or marital status in the areas of education, employment, housing, or public accommodations gives rise to a cause of action for all relief and damages described in s. 760.11(5), unless greater damages are expressly provided for. If the statute prohibiting unlawful discrimination provides an administrative remedy, the action for equitable relief and damages provided for in this section may be initiated only after the plaintiff has exhausted his or her administrative remedy.





The term “public accommodations” does not include lodge halls or other similar facilities of private organizations which are made available for public use occasionally or periodically. The right to trial by jury is preserved in any case in which the plaintiff is seeking actual or punitive damages.

Section 6. Section 760.08, Florida Statutes, is amended to read:

760.08 Discrimination in places of public accommodation.—All persons are ~~shall be~~ entitled to the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodation~~, as defined in this chapter,~~ without discrimination or segregation on the ground of race, color, national origin, sex, pregnancy, handicap, familial status, or religion.

Section 7. Subsections (1) and (2), paragraphs (a) and (b) of subsection (3), subsections (4) through (6), and paragraph (a) of subsection (8) of section 760.10, Florida Statutes, are amended to read:

760.10 Unlawful employment practices.—

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

(a) To discharge or to fail or refuse to hire any individual, or otherwise to discriminate against any individual with respect to compensation, benefits, terms, conditions, or privileges of employment, because of such individual’s race, color, religion, sex, pregnancy, national origin, age, handicap, or marital status.

(b) To limit, segregate, or classify employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities, or adversely affect any individual’s status as an employee, because of such individual’s race, color, religion, sex, pregnancy, national origin, age, handicap, or marital status.

(2) It is an unlawful employment practice for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of race, color, religion, sex, pregnancy, national origin, age, handicap, or marital status or to classify or refer for employment any individual on the basis of race, color, religion, sex, pregnancy, national origin, age, handicap, or marital status.

(3) It is an unlawful employment practice for a labor organization:

(a) To exclude or to expel from its membership, or otherwise to discriminate against, any individual because of race, color, religion, sex, pregnancy, national origin, age, handicap, or marital status.

(b) To limit, segregate, or classify its membership or applicants for membership, or to classify or fail or refuse to refer for employment any individual, in any way which would deprive or tend to deprive any individual of employment opportunities, or adversely affect any individual’s status as an employee or as an applicant for employment, because of such individual’s race, color, religion, sex, pregnancy, national origin, age, handicap, or marital status.

(4) It is an unlawful employment practice for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, to discriminate against





any individual because of race, color, religion, sex, pregnancy, national origin, age, handicap, or marital status in admission to, or employment in, any program established to provide apprenticeship or other training.

(5) Whenever, in order to engage in a profession, occupation, or trade, it is required that a person receive a license, certification, or other credential, become a member or an associate of any club, association, or other organization, or pass any examination, it is an unlawful employment practice for any person to discriminate against any other person seeking such license, certification, or other credential, seeking to become a member or associate of such club, association, or other organization, or seeking to take or pass such examination, because of such other person’s race, color, religion, sex, pregnancy, national origin, age, handicap, or marital status.

(6) It is an unlawful employment practice for an employer, labor organization, employment agency, or joint labor-management committee to print, or cause to be printed or published, any notice or advertisement relating to employment, membership, classification, referral for employment, or apprenticeship or other training, indicating any preference, limitation, specification, or discrimination, based on race, color, religion, sex, pregnancy, national origin, age, absence of handicap, or marital status.

(8) Notwithstanding any other provision of this section, it is not an unlawful employment practice under ss. 760.01-760.10 for an employer, employment agency, labor organization, or joint labor-management committee to:

(a) Take or fail to take any action on the basis of religion, sex, pregnancy, national origin, age, handicap, or marital status in those certain instances in which religion, sex, condition of pregnancy, national origin, age, absence of a particular handicap, or marital status is a bona fide occupational qualification reasonably necessary for the performance of the particular employment to which such action or inaction is related.

Section 8. For the purpose of incorporating the amendment made by this act to section 760.10(5), Florida Statutes, in a reference thereto, subsection (1) of section 760.11, Florida Statutes, is reenacted to read:

760.11 Administrative and civil remedies; construction.—

(1) Any person aggrieved by a violation of ss. 760.01-760.10 may file a complaint with the commission within 365 days of the alleged violation, naming the employer, employment agency, labor organization, or joint labor-management committee, or, in the case of an alleged violation of s. 760.10(5), the person responsible for the violation and describing the violation. Any person aggrieved by a violation of s. 509.092 may file a complaint with the commission within 365 days of the alleged violation naming the person responsible for the violation and describing the violation. The commission, a commissioner, or the Attorney General may in like manner file such a complaint. On the same day the complaint is filed with the commission, the commission shall clearly stamp on the face of the complaint the date the complaint was filed with the commission. In lieu of filing the complaint with the commission, a complaint under this section may be filed with the federal Equal Employment Opportunity Commission or with any unit of





government of the state which is a fair-employment-practice agency under 29 C.F.R. ss. 1601.70-1601.80. If the date the complaint is filed is clearly stamped on the face of the complaint, that date is the date of filing. The date the complaint is filed with the commission for purposes of this section is the earliest date of filing with the Equal Employment Opportunity Commission, the fair-employment-practice agency, or the commission. The complaint shall contain a short and plain statement of the facts describing the violation and the relief sought. The commission may require additional information to be in the complaint. The commission, within 5 days of the complaint being filed, shall by registered mail send a copy of the complaint to the person who allegedly committed the violation. The person who allegedly committed the violation may file an answer to the complaint within 25 days of the date the complaint was filed with the commission. Any answer filed shall be mailed to the aggrieved person by the person filing the answer. Both the complaint and the answer shall be verified.

Section 9. This act shall take effect July 1, 2014.

# THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**SENATOR GERALDINE F. THOMPSON**
12th District

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

**JOINT COMMITTEE:**
Joint Administrative Procedures Committee

December 4, 2013

The Honorable Nancy Detert
416 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chair Detert:

I respectfully request that my legislative assistant, Dan Rogers, be allowed to present SB 220—Florida Civil Rights Act to the Committee on Commerce and Tourism on Monday, December 9th.

I will be unable to attend the meeting.

Sincerely,

Geraldine F. Thompson

Senator Geraldine F. Thompson, D-12

cc: Jennifer Hrdlicka

GT:dr

THE FLORIDA SENATE

# APPEARANCE RECORD

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

12-9-13
Meeting Date

Topic Pregnancy Discrimination

Bill Number SB 220 (if applicable)

Name Barbara R DeVane

Amendment Barcode ______ (if applicable)

Job Title Independent Contractor

Address 625 E. Brevard St
Street

Tallahassee FL 32308
City State Zip

Phone 850-222-3969

E-mail barbaradevane1@yahoo.com

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

Representing FL NOW and FL BPW

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

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

# APPEARANCE RECORD

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

_______________
*Meeting Date*

Topic Senate Bill 220/FL Civil Right Act

Bill Number 220 *(if applicable)*

Name Michelle Wilson

Amendment Barcode _______________ *(if applicable)*

Job Title Executive Director

Address 2009 Apalachee Pkwy Ste. 100
*Street*

Tallahassee FL 32301
*City* *State* *Zip*

Phone (850) 488-7082

E-mail michelle.wilson@fchr.myflorida.com

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

Representing Florida Commission on Human Relations

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

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

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

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

S-001 (10/20/11)

**THE FLORIDA SENATE**

# APPEARANCE RECORD

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

12/09/13
*Meeting Date*

Topic Civil Rights Act

Bill Number 0220 *(if applicable)*

Name Rich Templin

Amendment Barcode ______ *(if applicable)*

Job Title ______

Address 135 S. Monroe
*Street*

Phone 850-224-6926

Tallahassee FL 32301
*City* *State* *Zip*

E-mail ______

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

Representing Florida AFL-CIO

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

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

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

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

S-001 (10/20/11)

**THE FLORIDA SENATE**

# APPEARANCE RECORD

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

12/9/13
Meeting Date

Topic: CIVIL RIGHTS

Bill Number: 220 (if applicable)

Name: GAIL MARIE PERRY

Amendment Barcode: ______ (if applicable)

Job Title: CHAIR

Address: PO BOX 1766
Street

POMPANO BCH FLA 33061
City State Zip

Phone: 954 850 4055

E-mail: workingfolk@hotmail.com

Speaking: ☒ For ☐ Against ☐ Information

Representing: COMMUNICATIONS WORKERS of AMERICA

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

# APPEARANCE RECORD

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

12/9/13
Meeting Date

Topic: Pregnancy Discrimination

Bill Number: SB 220 (if applicable)

Name: Jessica Gordon

Amendment Barcode: ______ (if applicable)

Job Title: Pediatrics of Tampa Bay, Nurse Practitioner

Address: 10232 Meadow Crossing Drive
Street

Tampa, Fl 33647
City, State, Zip

Phone: 813-969-3109

E-mail: jessie.79@verizon.net

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

Representing: ______

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

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

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

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

S-001 (10/20/11)

**The Florida Senate**

# 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 Commerce and Tourism

| | |
|---|---|
| BILL: | CS/SB 324 |
| INTRODUCER: | Commerce and Tourism Committee and Senator Detert |
| SUBJECT: | Employment Practices |
| DATE: | December 10, 2013 REVISED: |

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|---|---|---|---|---|
| 1. | Siples | Hrdlicka | CM | **Fav/CS** |
| 2. | | | JU | |
| 3. | | | GO | |
| 4. | | | RC | |

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

## I. Summary:

CS/SB 324 prohibits the use of an applicant's credit report or credit history for employment purposes except as provided by law. The employer may request and consider an applicant's credit report or history if the employer has a bona fide purpose for requesting the information that is substantially related to the job, notifies the applicant of the employer's ability to request the information, and obtains permission from the applicant to request the information. The bill defines positions for which an employer has a bona fide purpose to request an applicant's credit history or report.

The provisions of the bill do not apply to those employers who are expressly permitted or required to perform credit history background checks by state or federal law, certain financial institutions, and certain investment advisors, brokers, or dealers.

The bill creates a private right of action for an aggrieved person to seek declaratory relief that a practice violates the provisions of the bill and enjoin such practice. The prevailing party may recover actual damages, plus court costs. The bill provides that, upon a motion by a defendant that an action is frivolous or without merit, a court may require a plaintiff to post a bond to indemnify the defendant for any damages it may incur.

## II. Present Situation:

### Employment Practices

Under current law, employers are prohibited from discriminating against applicants or employees on the basis of disabilities, race or color, gender, national origin, religion, age, or genetic information.[1] These prohibitions can be found in the Americans with Disabilities Act,[2] the Civil Rights Act of 1964,[3] the Age Discrimination in Employment Act of 1967,[4] and the Genetic Information Nondiscrimination Act of 2008.[5]

Employers may not ask job applicants about the existence, nature, or severity of a disability. Applicants may be asked about their ability to perform specific job functions. In some cases a job offer may be conditioned on the results of a medical examination, but only if the examination is required for all entering employees in similar jobs. Medical examinations of employees must be job related and consistent with the employer's business needs.

Employers are not specifically prohibited from asking an employee or applicant his or her age or date of birth, race, national origin, gender, or status of pregnancy. In fact, it can be necessary for employers to track information about race for affirmative action purposes or applicant flow; the U.S. Equal Employment Opportunity Commission (EEOC) suggests the use of separate forms to keep information about race separate from the application. However, in general, with regard to interview questions, requests for certain information will be closely scrutinized to ensure that the inquiry was made for a lawful purpose, rather than for a purpose prohibited by a federal law. If the information is used in the selection decision and members of particular groups are excluded from employment, the inquiries can constitute evidence of discrimination. For example, unless the information is for such a legitimate purpose, pre-employment questions about race can suggest that race will be used as a basis for making selection decisions.

Additionally, the federal bankruptcy law makes it illegal for an employer to discriminate against an individual based on bankruptcy.[6]

### Fair Credit Reporting Act – Employment

Under the Fair Credit Reporting Act (FCRA), employers are permitted to obtain consumer reports for employment purposes.[7] The uses may include employment, promotion, reassignment,

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[1] More information is available on the U.S. Equal Employment Opportunity Commission website, "Discrimination by Type," *available at*: http://www.eeoc.gov/laws/types/index.cfm (last visited Dec. 2, 2013). Gender discrimination also includes issues related to pregnancy, childbirth, related medical conditions, sexual harassment, and equal pay.
[2] 42 U.S.C. s. 12101 et. seq.
[3] 42 U.S.C. s. 2000e et. seq.
[4] 29 U.S.C. s. 621 et. seq.
[5] Pub. L. No. 110-233, 110th Cong. (May 21, 2008).
[6] 11 U.S.C. s. 525.
[7] A consumer report is any written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living which is issued or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer's eligibility for credit or insurance, employment, or any other authorized purpose. 15 U.S.C. s. 1681a(d)(1). An employment purpose is defined as "a report used for the purpose of evaluating a consumer for employment, promotion, reassignment or retention as an employee." 15 U.S.C. s. 1681a(h).

or retention as an employee. The FCRA places a number of requirements on the employer regarding notification and disclosure about the use of the consumer reports and only applies to those reports obtained from a third party that are utilized to make an employment decision. Prior to obtaining a consumer report, the employer must inform the applicant or employee that a consumer report may be used to make employment-related decisions. The notice must be written and conspicuous and cannot be part of the employment application.[8] The employer must also receive written consent from the applicant or employee authorizing the employer to obtain a consumer report. Prior to providing a consumer report to an employer, the employer must certify to the consumer-reporting agency[9] that:

- The report will be used for the stated, permissible purpose under the FCRA and it will not be used for any other purpose;
- It has provided the initial notice and disclosure to the employee or applicant;
- It will provide a copy of the summary of consumer rights if adverse action is to be taken based on information contained in the consumer report; and
- It will not violate any federal or state equal employment opportunity laws.

Employment consumer reports differ from those provided to lenders and other entities because they provide less information. Employment credit reports do not include a credit score, account numbers (but does include the lender and type of credit), or the individual's age and year of birth.[10] The employment inquiry is also not included in the calculation of the individual's credit score.[11]

Prior to taking an adverse action[12] against the employee or applicant based on information obtained from the consumer report, the employer must provide the applicant or employee a copy of the consumer report and a copy of "A Summary of Your Rights Under the Fair Credit Reporting Act."

When the employer takes an adverse action against an applicant or employee that is based on information obtained from the consumer report, the employer must provide the individual with a notice of adverse action that includes:

- An explanation of the adverse action;
- The name, address, and telephone number of the consumer reporting agency that supplied the report;

---

[8] If the applicant has applied by mail, telephone, computer or other similar means, the applicant must be advised by oral, written, or electronic means that a consumer report may be obtained for employment purposes and the applicant must consent orally, in writing, or electronically.

[9] A consumer reporting agency is defined as "any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports." 15 U.S.C. s. 1681a(f).

[10] LexisNexis, *White Paper: The Use of Credit Reports in Employment Background Screening, an Overview for Job Applicants* (2010), *available at* http://www.napbs.com/files/public/Consumer_Education/Credit_Reports_for_Background_Screening(1).pdf (last visited Dec. 3, 2013).

[11] *Id.* at 2. Employment credit reports are regarded as a special type of inquiry and may not be visible on a consumer report requested by other organizations.

[12] Adverse action is defined as "a denial of employment or any other decision for employment purposes that adversely affects any current or prospective employee." 15 U.S.C. s. 1681a(k)(1)(B)(ii).

- A statement that the consumer reporting agency is unable to provide the individual with specific reasons for the adverse action;
- A statement that the individual may request a free copy of the report from the consumer reporting agency within 60 days of receipt of the notice; and
- A statement that the individual has the right to dispute, with the consumer-reporting agency, the accuracy or completeness of the information provided in the report.

**Other States**

Eight states have enacted legislation limiting employers' use of credit report information and nineteen states have proposed legislation to restrict the use of credit reports in employment decisions.[13] The laws of these states generally prohibit the use of credit reports in employment decisions unless such inquiry is required by state or federal law, is a bona fide occupational qualification, is for a managerial or supervisory position, is for a law enforcement position, or the position is located at a financial institution.

**Society for Human Resource Management**

The Society for Human Resource Management conducted research in 2012 regarding the use of credit background checks. Of those surveyed, it found that slightly less than half (47 percent) conducted credit checks as part of their employment practices. The number of organizations conducting credit checks on potential employees has declined due to employers' increased awareness of scrutiny of this practice by both state and federal governments.[14]

Of those surveyed, the top reason for conducting credit checks, was to decrease or prevent theft and embezzlement and to reduce legal liability for negligent hiring. The majority of credit checks are requested after an offer for employment has been extended (58 percent) or after the interview has been conducted (33 percent). Most employers allow the applicant to provide an explanation of items contained in the credit history prior to making a hiring decision.

Although many organizations obtain credit histories as a part of the hiring process, only 14 percent of those surveyed viewed it as an important factor in making a final hiring decision. The most important factors include such attributes as previous work experience, possession of specific skills or expertise, and being perceived as a good fit with the job and organization.

**Equal Employment Opportunity Commission**

In October 2010, the Equal Employment Opportunity Commission (EEOC) invited public testimony regarding the use of credit histories in employment decisions. Consumer advocates indicated that use of credit histories might have a disparate impact on people of color, women,

[13] Washington enacted legislation in 2007, Hawaii enacted legislation in 2009, Illinois and Oregon enacted legislation in 2010. California, Connecticut and Maryland enacted legislation in 2011. Vermont enacted its legislation in 2012. Colorado and Nevada enacted legislation in 2013. See National Conference of State Legislatures "Use of Credit Information in Employment 2013 Legislation," last updated June 20, 2013, *available at*: http://www.ncsl.org/research/financial-services-and-commerce/use-of-credit-info-in-employ-2013-legis.aspx (last visited Dec. 3, 2013).

[14] For full survey results, please see: http://www.shrm.org/Research/SurveyFindings/Articles/Pages/CreditBackgroundChecks.aspx (last visited Dec. 2, 2013).

and individuals with disabilities. There was also testimony that credit reports may obtain incomplete information or errors and are poor predictors of job performance.

Employers expressed that although a credit history may be used in the hiring process, it is only one element of the employee selection process.[15] The credit report is not usually an automatic bar to employment but opens the door to discussion of issues discovered. Testimony also indicated that it is used as a way to collect additional information about a prospective employee that would be relevant to the position being sought.

The EEOC advises that, unless the information is essential to the job in question, inquiries regarding an employee or applicant’s credit rating or economic status should generally be avoided due to the adverse effect it may have on females and minorities.[16]

## III. Effect of Proposed Changes:

**Section 1** prohibits an employer from using a credit history or credit report to deny employment or determine compensation or the terms, conditions, or privileges of employment. The bill also provides the circumstances under which an applicant’s credit report or credit history may be used. The employer may request and consider an applicant’s credit report or history if the employer has a bona fide purpose for requesting the information that is substantially related to the job, notifies the applicant of the ability to request the information, and obtains permission from the applicant to request the information.

The bill provides that a position, for which an employer has a bona fide purpose for requesting a credit report or credit history, include a position that:

- Is supervisory, defined as a position in which an individual has the authority to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees or has the responsibility to direct employees, adjust their grievances, or recommend action in a manner that requires use of independent judgment;
- Is managerial, defined as a position in which the employee formulates and implements management policies;
- Accesses personal information of customers, employees, and employers, except personal information customarily provided in a retail transaction;
- Has a fiduciary responsibility to the employer, including the authority to issue payments, collect debts, transfer money, or enter into contracts;
- Involves the use of an expense account or a corporate debit or credit card;
- Has access to non-public corporate information, including trade secrets or other information which is not generally known or ascertainable and from which other persons can obtain economic value; or
- Involves public safety, such as law enforcement or other positions involving enforcement of state or federal criminal laws.

[15] See Meeting of October 20, 2010 – Employer Use of Credit History as a Screening Tool: http://www.eeoc.gov/eeoc/meetings/10-20-10/index.cfm (last visited Dec. 2, 2013).
[16] For more information, please see: http://www.eeoc.gov/laws/practices/inquiries_credit.cfm (last visited Dec. 2, 2013).

The bill does not apply to employers that are expressly permitted or required, by state or federal law, to perform an inquiry into a person's credit history, as well as to financial institutions and their affiliates or subsidiaries that accept federally insured deposits, credit unions or state-chartered banks registered with the Office of Financial Regulation, or entities that are registered with the U.S. Security and Exchange Commission, the Office of Financial Regulation, or the Financial Industry Regulatory Authority as investment advisors, brokers, dealers, or their affiliates.

The bill provides that an aggrieved individual may seek declaratory relief that an act or practice violates the protections provided in this bill and to enjoin the continuance of such practice. The bill also provides that a person who has suffered a loss under these provisions may recover actual damages and attorney fees and costs if the individual prevails in court. If the defendant alleges such suit is frivolous or without merit, the court may require the plaintiff to post a bond in an amount to indemnify the defendant for any damages incurred, upon finding a reasonable necessity. However, this provision does not apply to an enforcement agency.

The relief provided under the provisions of this bill is in addition to any other remedy provided by law.

**Section 2** provides that 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:

Indeterminate.

C. Government Sector Impact:

Indeterminate.

## VI. Technical Deficiencies:

None.

## VII. Related Issues:

Employers may become subject to the provisions of the Fair Credit Reporting Act if they obtain credit history or credit reports under the provisions of this bill.

## VIII. Statutes Affected:

This bill creates s. 448.071, F.S.

## IX. Additional Information:

### A. Committee Substitute – Statement of Changes:

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

**CS by Commerce and Tourism on December 9, 2013:**
The committee substitute provides that the provisions of the bill do not apply to an investment advisor, broker, or dealer that is registered with the U.S. Securities Exchange Commission, the Office of Financial Regulation, or the Financial Industry Regulatory Authority.

### B. Amendments:

None.

760772

LEGISLATIVE ACTION

| Senate | . | House |
|---|---|---|
| Comm: RCS | . | |
| 12/09/2013 | . | |
| | . | |
| | . | |
| | . | |

The Committee on Commerce and Tourism (Detert) recommended the following:

**Senate Amendment**

Delete lines 83 - 84
and insert:
(d) An entity that is registered as an investment advisor, broker, or dealer with the United States Securities and Exchange Commission, the Office of Financial Regulation, or the Financial Industry Regulatory Authority, or an

**By** Senator Detert



A bill to be entitled

An act relating to employment practices; creating s. 448.071, F.S.; providing definitions; prohibiting an employer from using a job applicant's credit report or credit history to make certain hiring, compensation, or other employment decisions; providing specific situations in which an employer may use such information; providing exemptions for certain types of employers; providing remedies for an aggrieved person; providing for the award of actual damages and court costs; providing for a plaintiff to post a bond to indemnify the defendant for damages, including attorney fees, in certain situations; providing an effective date.

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

Section 1. Section 448.071, Florida Statutes, is created to read:

448.071 Use of a job applicant's credit report or credit history.—

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

(a) "Managerial" means a position that requires an employee to formulate and carry out management policies by expressing and making operative the decisions of the employer.

(b) "Supervisory" means a position in which an employee has the authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or the responsibility to





direct them, adjust their grievances, or recommend such action where such authority or responsibility is not merely routine or clerical, but requires the use of independent judgment.

(2) An employer may not use an applicant's credit report or credit history to deny employment to the applicant or to determine the applicant's compensation or the terms, conditions, or privileges of employment.

(3) Notwithstanding subsection (2), an employer may request or use an applicant's credit report or credit history if all of the following conditions are met:

(a) The information in the credit report or credit history will be used for a purpose other than one prohibited under subsection (2).

(b) The employer notifies the applicant of the employer's ability to request or use the applicant's credit report or credit history, and the employer obtains permission from the applicant to request such information.

(c) The employer has a bona fide purpose for requesting or using information in the credit report or credit history which is substantially related to the position.

(4) For purposes of this section, a position for which an employer has a bona fide purpose includes a position that:

(a) Is managerial or supervisory;

(b) Involves access to personal information of a customer, employee, or employer, other than personal information customarily provided in a retail transaction;

(c) Involves a fiduciary responsibility to the employer, including the authority to issue payments, collect debts, transfer money, or enter into contracts;

(d) Involves the use of an expense account or a corporate debit or credit card;

(e) Authorizes the employee to have access to information, including a trade secret, formula, pattern, compilation, program, device, method, technique, or process, which derives actual or potential independent economic value from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from the disclosure or use of the information and which is the subject of efforts that are reasonable under the circumstances to maintain its secrecy; or

(f) Involves public safety, such as a law enforcement officer, peace officer, or other position involving enforcement of state or federal criminal laws.

(5) This section does not apply to an employer that is any of the following:

(a) An entity that is expressly authorized or required to inquire into an applicant’s credit report or credit history for employment purposes pursuant to a federal or state law.

(b) A financial institution that accepts deposits that are insured by a federal agency or an affiliate or subsidiary of the financial institution.

(c) A credit union or a state-chartered bank that is registered with the Office of Financial Regulation.

(d) An entity that is registered as an investment advisor with the United States Securities and Exchange Commission or an affiliate of the entity.

(6) In addition to any other remedy provided by law, a person aggrieved by a violation of this section may bring an





action to obtain a declaratory judgment that an act or practice violates this section and to enjoin the violator from continuing such act or practice.

(7) A person who has suffered a loss as a result of a violation of this section and prevails may recover actual damages plus court costs.

(8) In an action brought under this section, upon motion of the defendant alleging that the action is frivolous, without legal or factual merit, or brought for the purpose of harassment, the court may, after hearing evidence as to the necessity of the action, require the plaintiff to post bond in an amount that the court finds reasonable to indemnify the defendant for any damages incurred, including reasonable attorney fees. This subsection does not apply to an action initiated by an enforcing authority.

Section 2. 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)

12/9/13
Meeting Date

Topic EMPLOYMENT PRACTICES

Bill Number 324 (if applicable)

Name GAIL MARIE PERRY

Amendment Barcode ______ (if applicable)

Job Title CHAIR

Address PO BOX 1766
Street

POMPANO BEACH FL 33061
City State Zip

Phone 954 850 4055

E-mail ______

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

Representing COMMUNICATIONS WORKERS of AMERICA

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

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

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

***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)

12/05/13
*Meeting Date*

Topic Employment Practices

Bill Number 324 *(if applicable)*

Name Rich Templin

Amendment Barcode ____ *(if applicable)*

Job Title ____

Address 135 S. Monroe
*Street*

Tallahassee FL 32301
*City* *State* *Zip*

Phone 850-224-6926

E-mail ____

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

Representing Florida AFL-CIO

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

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

# APPEARANCE RECORD

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

12/9/13
Meeting Date

Topic: Employment Practices

Bill Number: 324 (if applicable)

Name: Warren Husband

Amendment Barcode: 760772 (if applicable)

Job Title:

Address: PO Box 10909
Street

Tallahassee, FL 32302
City, State, Zip

Phone: 8502059000

E-mail:

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

Representing: Securities Industry and Financial Markets Assoc.

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

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

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

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

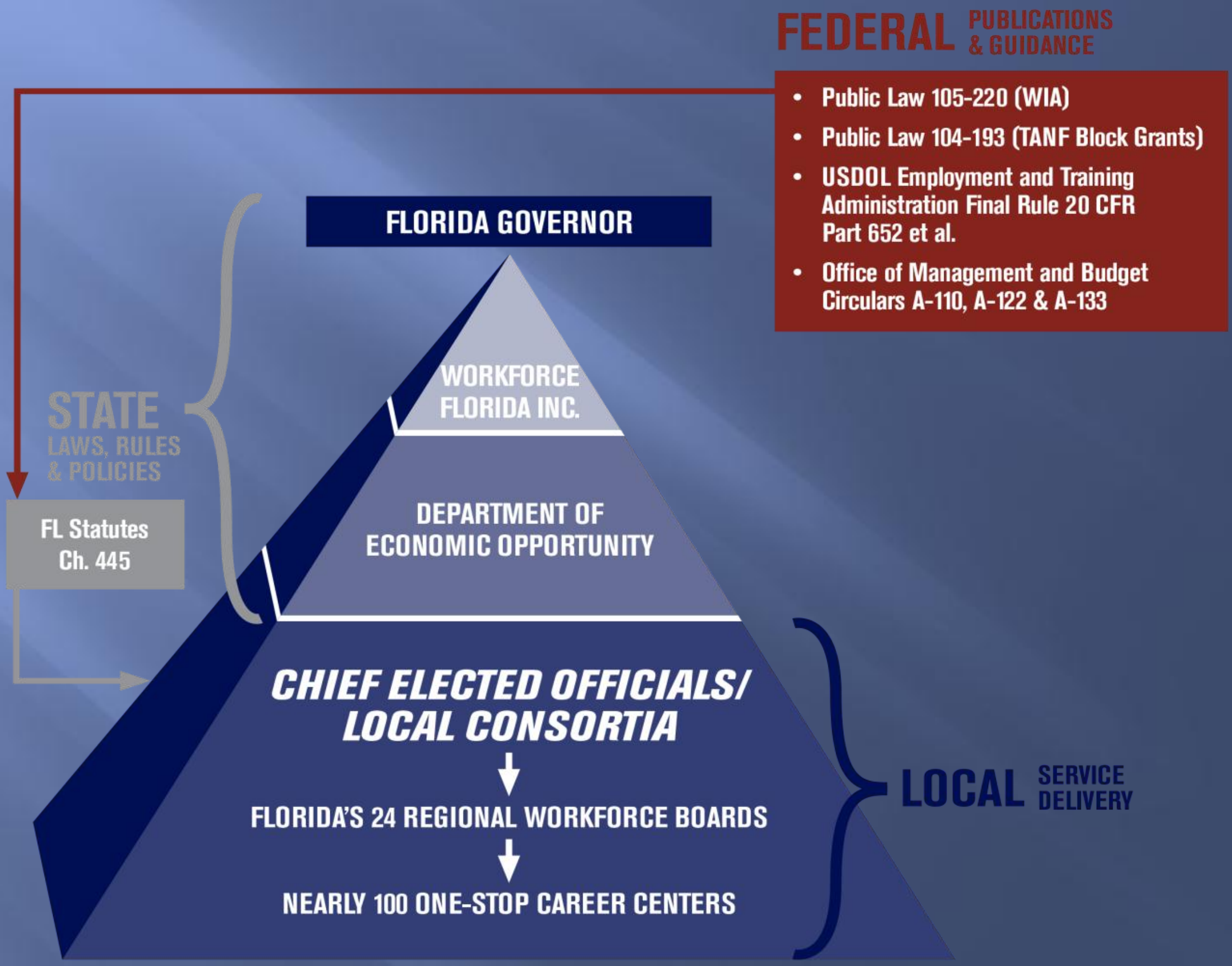
S-001 (10/20/11)

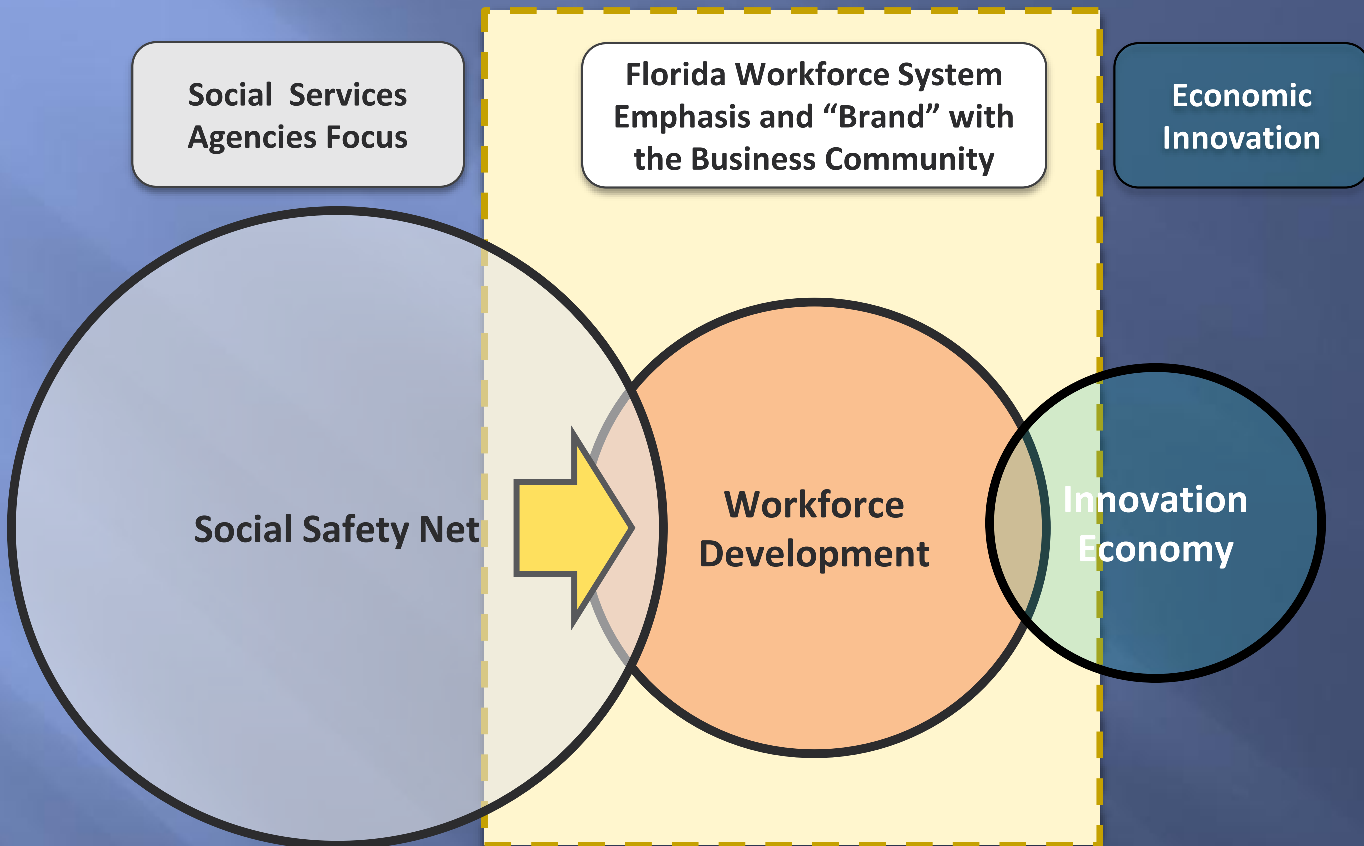
Workforce Florida, inc.

# Senate Commerce and Tourism Committee

December 9, 2013

# Federal and State Governance




Social Services Agencies Focus
Florida Workforce System Emphasis and “Brand” with the Business Community
Economic Innovation
Social Safety Net
Workforce Development
Innovation Economy

# Key Outcomes

- 471,960 Job Placements FY 2012-13
  - 134,270 Reemployment Assistance Placements
- 212,572 Job Placements July 2013-November 2013
  - 203,879 Job Placements July 2012-November 2012
  - 61,342 Reemployment Assistance Placements July 2013-November 2013
- 25,459 Veteran Placements January 2013-November 2013
- Met 10 of 12 federal common measures
- Exceeded 2 of 12 federal common measures

# Services to Florida Businesses and Job Seekers

Businesses

- Customized and skills upgrade training
- On-the-Job Training
- Labor market assessments
- Job descriptions and job order fulfillment
- Resume screenings and interview assistance

Job Seekers

- Job Referrals/Placement
- Job Readiness Preparation
- Labor Market Information
- Career counseling
- Job skills assessments
- Short-term training

# Quick Response Training

23,709 individuals trained between 2007-2011

FY 2012-2013 $6 million appropriation

- Entire appropriation under contract by June 30, 2013
- 6,522 expected trainees

FY 2013-2014 $12 million appropriation

- $6.7 million under contract as of November 30
- $5.8 million in applications awaiting approval (requests exceed appropriation amount)
- 4,252 expected trainees

Trainees' wages increased nearly 30%, on average, one year after completing training (FY 2010-11 FETPIP Data)

# Incumbent Worker Training

35,362 individuals trained between 2008-2012

FY 2012-2013 $5 million appropriation

- Entire appropriation under contract by June 30, 2013
- 10,094 expected trainees

FY 2013-2014 $3 million appropriation

- $1.3 million under contract as of October 31
- $1.1 million obligated/applications received
- 6,159 expected trainees

Trainees' wages increased 19%, on average, one year after completing training (FY 2010-11 FETPIP Data)

# Improving Services to Florida Businesses

**Doubling business outreach**

- Regional Workforce Boards are currently on track to meet this challenge

**Target Industry Cluster Task Force Teams**

- Consistent with Enterprise Florida Target Industries

**Expanding Business Engagement Initiative**

- Funded by the US Department of Labor; Florida is one of 13 states taking part in the program
- Explore employers' challenges to entry into the workforce system
- Develop a statewide business development process

# Training for Demand Jobs

**Right Skills, Right Time**

November 2013 – Workforce Florida, Inc. Board Action:

- Promotes regional alignment and economic growth
- Eliminates inefficiencies in the current process
- Creates regional and local flexibility in occupational targeting
- Incorporates business and industry feedback in "real time" to complement traditional labor market information at the state and local level

# Branding Initiative

WHERE WE ARE GOING:

**ONE** unified brand identity for Florida's workforce system

Easier **identification** of & **access** to workforce services for businesses

Better **service** to **job seekers** and **businesses** at state and local levels

Launch: February 2014

# How We Did It

http://careersourceflbrand.com/

# Thank You!

**THE FLORIDA SENATE**

# APPEARANCE RECORD

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

12/9/13
*Meeting Date*

Topic Workforce Florida

Bill Number ______ *(if applicable)*

Name Chris Hart, IV

Amendment Barcode ______ *(if applicable)*

Job Title President/CEO

Address 1580 Waldo Palmer Lane, Suite 1
*Street*

Phone 850-921-3645

Tallahassee FL 32308
*City* *State* *Zip*

E-mail chart@workforceflorida.com

Speaking: ☐ For ☐ Against ☑ Information

Representing Workforce Florida, 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)

# INTERNATIONAL TRADE ASSISTANCE PROGRAM

*Manny Mencia*
*Senior Vice President, International Trade & Development*
*Enterprise Florida, Inc.*

Enterprise Florida

# Florida’s Export Sector

- 58,000 Florida companies export
- The number of Florida exporters has grown by 76% since 2003
- SME companies account for 68% of Florida exports
- International trade jobs in Florida pay 30 percent higher wages
- Companies that export grow 15% faster

Enterprise Florida

# Florida's Export Scorecard

- Florida exports reached an estimated $101 billion
- Florida is number one in the U.S. in manufacturing export-intensity (44% higher)
- Florida is the 3rd largest exporter of high-tech goods in the U.S. ($16.1 billion)
- Florida's services exports $36.1 billion

# Enterprise Florida Priorities

- Expand market share in Latin America
- Assist small/mid-size producers to diversify exports to emerging markets in Asia, Africa and Middle East
- Grow Florida manufactured and high-tech exports worldwide
- Help Florida SME manufacturers and high-tech companies to enter the export business
- Capitalize on expansion of the Panama Canal

Enterprise Florida

# How we do it…

- **Statewide Trade Offices** in Jacksonville, Orlando, Pensacola, Tallahassee, Tampa, West Palm Beach and Miami.
- **International Office Network** in Brazil, Canada, China, Czech Republic, France, Germany, Israel, Japan, Mexico, South Africa, Spain, Taiwan and the U.K.
- **Export Counseling** includes a *FREE* evaluation of a company's market readiness, selecting target markets, trade statistics, research and problem solving assistance.
- **Export Finance** in collaboration with the Florida Export Finance Corporation.
- **The Florida Export Directory** is an online platform to promote your products around the world. Register your company for free at [www.FloridaExportDirectory.com](http://www.FloridaExportDirectory.com)
- **Educational Events** are conducted throughout the state on export fundamentals, opportunities, developing an export strategy and more.

Enterprise Florida

# How we do it…

- **Trade shows:** EFI organizes Florida Pavilions in major target sector trade shows overseas, so that Florida companies can showcase and demonstrate their latest products and services, and find new clients and opportunities.


- **Trade missions** are business development delegations that target markets of high opportunity, to help Florida companies identify new clients and develop strategic relationships through business matchmaking events.

***Top photo:*** *Florida Pavilion at the MEDICA 2012 trade show in Düsseldorf, Germany.*
***Bottom photo:*** *Governor Scott meeting with a Florida company during one-on-one appointments during EFI's Team Florida Trade Mission to Colombia in December 2012.*

Enterprise Florida

FLORIDA
The Perfect Climate For Business

# Enterprise Florida Trade Events

## Trade Events

| Events | # of Participants | Total Sales |
| --- | --- | --- |
| Farnborough International Air Show – July 2012* | 36 | $ 41,050,000 |
| MEDICA 2012 – November 2012 | 21 | $ 107,839,300 |
| Team Florida Trade Mission to Colombia – December 2012* | 123 | $ 48,555,000 |
| Team Florida Trade Mission to Chile – May 2013* | 72 | $ 39,075,000 |
| Team Florida Mission to France/Paris Air Show – June 2013* | 45 | $ 172,930,000 |
| Cannes International Boat Show – September 2013 | 8 | $ 5,009,500 |

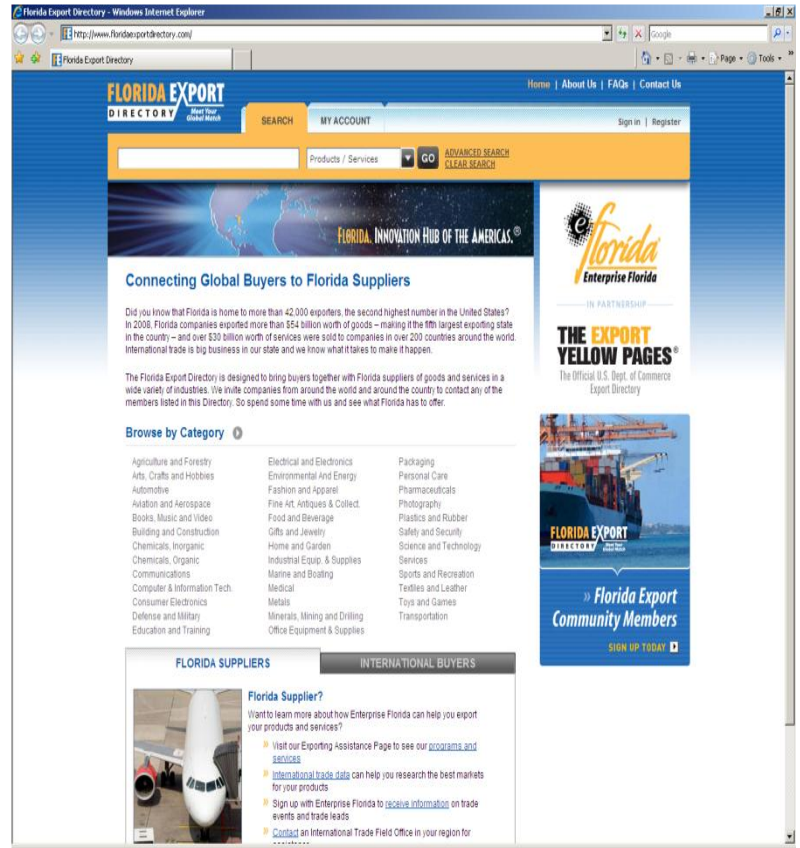
*** Governor-led missions.**

Enterprise Florida

# How we do it…

- **Target Sector Trade Grants*** provides event-specific export diversification grants on a reimbursable basis to eligible small and medium-sized companies.

- **Export Marketing Plans*** are designed to provide a road map to Florida SME manufacturers to enter the export business.




*Funded in part through a grant award with the U.S. Small Business Administration*

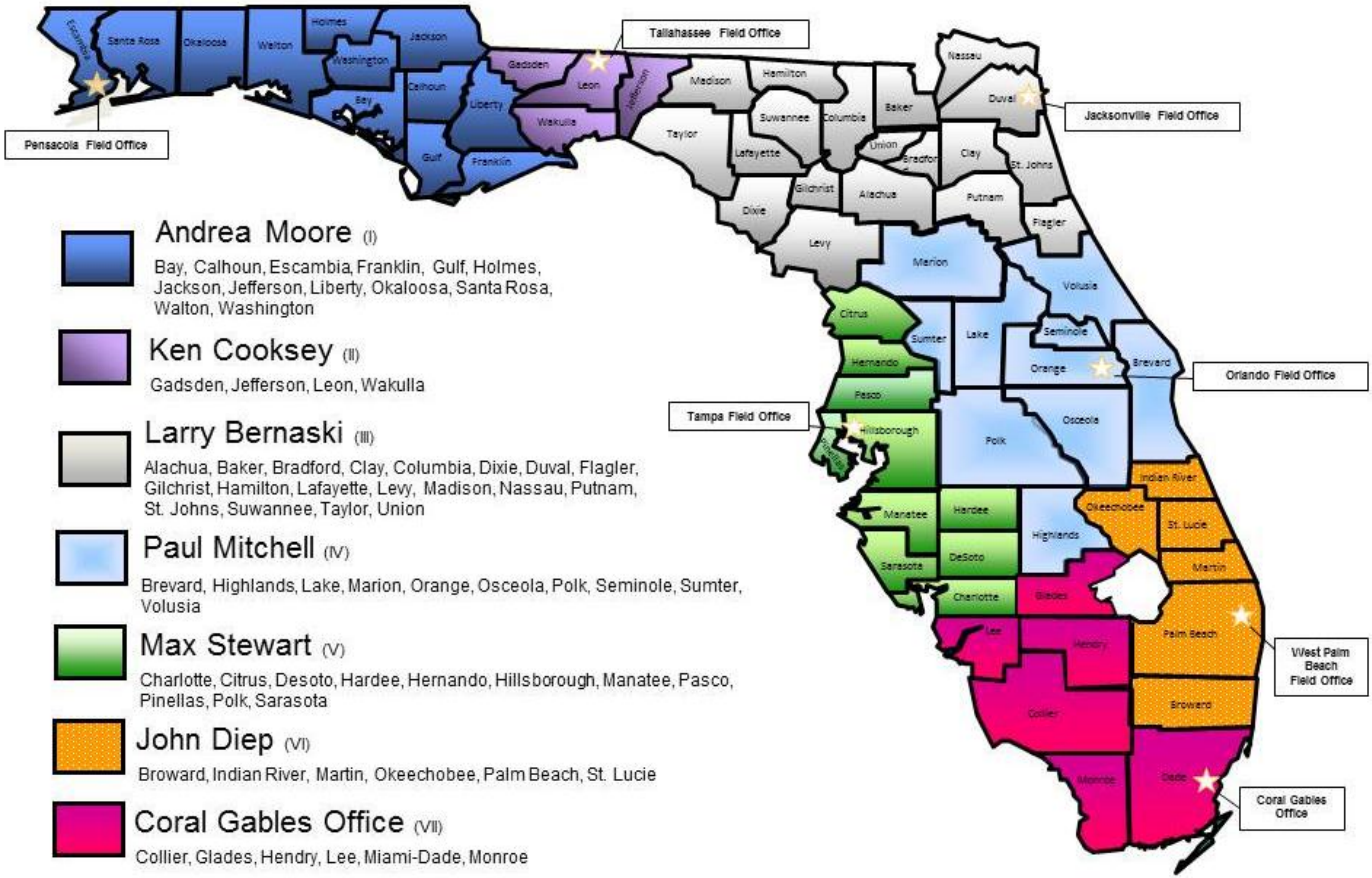
# STEP Grants - Paid/Completed and Approved

## STEP Grants – 2012-2013

| Grant Program | Record Count | Export Sales |
|---|---|---|
| Export Marketing Plan | 35 | |
| Gold Key for Export Marketing Plan | 4 | $ 7,696,000 |
| Target Sector Trade Grant | 115 | $ 200,880,495 |
| Team Florida Mission to Chile | 12 | $ 18,530,000 |
| Team Florida Mission to Colombia | 24 | $ 17,365,000 |
| Team Florida Mission to the Dominican Republic | 22 | |
| **TOTAL** | **243** | **$ 244,471,495** |

Enterprise Florida

# Florida Field Offices




**Andrea Moore** (I)
Bay, Calhoun, Escambia, Franklin, Gulf, Holmes, Jackson, Jefferson, Liberty, Okaloosa, Santa Rosa, Walton, Washington

**Ken Cooksey** (II)
Gadsden, Jefferson, Leon, Wakulla

**Larry Bernaski** (III)
Alachua, Baker, Bradford, Clay, Columbia, Dixie, Duval, Flagler, Gilchrist, Hamilton, Lafayette, Levy, Madison, Nassau, Putnam, St. Johns, Suwannee, Taylor, Union

**Paul Mitchell** (IV)
Brevard, Highlands, Lake, Marion, Orange, Osceola, Polk, Seminole, Sumter, Volusia

**Max Stewart** (V)
Charlotte, Citrus, Desoto, Hardee, Hernando, Hillsborough, Manatee, Pasco, Pinellas, Polk, Sarasota

**John Diep** (VI)
Broward, Indian River, Martin, Okeechobee, Palm Beach, St. Lucie

**Coral Gables Office** (VII)
Collier, Glades, Hendry, Lee, Miami-Dade, Monroe

## *Contact Enterprise Florida at:*

***Enterprise Florida, Inc.***
*International Trade & Development Division*
*201 Alhambra Circle, Suite 610*
*Coral Gables, Florida 33134*

*Phone: 305-808-3660*

***www.eflorida.com***

## HRDLICKA.JENNIFER

**From:** THOMPSON.GERALDINE
**Sent:** Tuesday, December 03, 2013 4:35 PM
**To:** DETERT.NANCY
**Cc:** HRDLICKA.JENNIFER
**Subject:** Meeting next week

**Follow Up Flag:** Follow up
**Flag Status:** Flagged

Chair Detert,
Please excuse me from the Commerce and Tourism meeting next week. I will be out of town and unable to travel to Tallahassee. My aide, Dan Rogers, will present the bill on my behalf.

Sincerely,
Senator Geraldine Thompson

# THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**COMMITTEES:**
Commerce and Tourism, *Vice Chair*
Environmental Preservation and
Conservation, *Vice Chair*
Appropriations Subcommittee on Education
Appropriations Subcommittee on Finance and Tax
Communications, Energy, and Public Utilities
Military Affairs, Space, and Domestic Security

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

**SENATOR JOSEPH ABRUZZO**
25th District

December 9th, 2013

The Honorable Nancy Detert
The Florida Senate
416 Senate Office Building
404 S. Monroe Street
Tallahassee, FL 32399

Dear Chair Detert:

Please accept this letter as my formal request to excuse myself from the Commerce and Tourism committee meeting on Monday, December 9th, 2013.

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

Sincerely,

Joseph Abruzzo
Florida State Senator
District 25

Cc: Jennifer Hrdlicka, Staff Director

# CourtSmart Tag Report

| | | |
|---|---|---|
| **Room:** EL 110 | **Case:** | **Type:** |
| **Caption:** Senate Commerce & Tourism | **Judge:** | |

**Started:** **12/9/2013 4:08:10 PM**
**Ends:** **12/9/2013 5:29:53 PM** **Length: 01:21:44**

| | |
|---|---|
| **4:08:22 PM** | Call to Order |
| **4:08:36 PM** | Attendance |
| **4:08:43 PM** | Quorum present. |
| **4:09:02 PM** | SB 220 |
| **4:09:54 PM** | Barbara DeVane,FL NOW and FL BPW |
| **4:10:05 PM** | Michelle Wilson, Executive Director, Florida Commission on Human Relations |
| **4:10:13 PM** | Rich Templin, FL AFL-CIO |
| **4:10:17 PM** | Gail Perry, Communications Workers of America |
| **4:10:26 PM** | Jessica Gordon, Nurse Practitioner, Pediatrics of Tampa Bay |
| **4:10:41 PM** | Roll call vote |
| **4:11:01 PM** | Bill passes. |
| **4:11:17 PM** | Tab 1 - SM 118 - Senator Hays - National Retail Sales Tax |
| **4:15:54 PM** | Senator Margolis |
| **4:16:56 PM** | Mark Gupton, Managing Director, Florida Fair Tax Educational Association |
| **4:19:01 PM** | Roll call vote |
| **4:19:23 PM** | SM 118 passes. |
| **4:19:40 PM** | Senator Bean assumes Chair. |
| **4:19:52 PM** | SB 324 - Senator Detert - Employment Practices |
| **4:22:31 PM** | Senator Richter for a question |
| **4:23:27 PM** | Senator Detert responds. |
| **4:23:54 PM** | Senator Richter followup. |
| **4:24:05 PM** | Senator Detert response. |
| **4:25:38 PM** | Senator Ring question. |
| **4:27:12 PM** | Amendmen Barcode 760772. |
| **4:27:39 PM** | Warren Husband, Securities Industry and Financial Markets Association |
| **4:28:23 PM** | Amendment adopted |
| **4:28:31 PM** | Rich Templin, FL AFL-CIO |
| **4:28:51 PM** | Gail Perry, Communications Workers of America |
| **4:29:18 PM** | Debate on the bill. |
| **4:29:25 PM** | Senator Ring |
| **4:30:05 PM** | Senator Simpson |
| **4:30:42 PM** | Senator Stargel. |
| **4:31:21 PM** | Senator Richter. |
| **4:32:44 PM** | Senator Detert closes. |
| **4:34:18 PM** | Move CS. |
| **4:34:21 PM** | Roll call vote. |
| **4:34:38 PM** | CS/SB 324 passes. |
| **4:34:56 PM** | Senator Detert resumes Chair. |
| **4:35:21 PM** | Chris Hart, President/CEO Workforce Florida - presentation |
| **4:36:19 PM** | |
| **4:41:12 PM** | Senator Bean |
| **4:42:52 PM** | Mr. Hart |
| **5:03:02 PM** | Senator Ring for a comment. |
| **5:05:37 PM** | Mr. Hart closes. |
| **5:10:12 PM** | Manny Mencia, Senior Vice President, International Trade & Development at EFI |
| **5:27:41 PM** | Senator Margolis comment. |
| **5:29:33 PM** | Adjourn. |