

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

COMMUNITY AFFAIRS
Senator Bennett, Chair
Senator Norman, Vice Chair

MEETING DATE: Thursday, January 12, 2012

TIME: 8:00 —10:00 a.m.

PLACE: Pat Thomas Committee Room, 412 Knott Building

MEMBERS: Senator Bennett, Chair; Senator Norman, Vice Chair; Senators Gibson, Richter, Ring, Storms, Thrasher, and Wise

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 488 Rich (Similar H 527)	Animal Control or Cruelty Ordinances; Requiring a county or municipality enacting an ordinance relating to animal control or cruelty to impose a specified surcharge on the civil penalty for violations of the ordinance; specifying use of the proceeds of the surcharge; prohibiting the governing body of a county or municipality from charging owners of animals more than a certain amount for the spaying or neutering of their animals in specified circumstances; authorizing the animal control authority to allocate certain excess funds to the program to spay and neuter cats and dogs; providing for construction, etc. CA 12/05/2011 Temporarily Postponed CA 01/12/2012 Fav/CS BC	Fav/CS Yeas 8 Nays 0
2	SB 514 Dean	Public Safety Telecommunicators; Providing for sworn state-certified law enforcement officers to serve as temporary 911 public safety telecommunicators; providing training requirements, etc. CA 01/12/2012 Fav/CS	Fav/CS Yeas 8 Nays 0
3	CS/SB 406 Transportation / Dean (Similar CS/H 11, S 372, Compare H 235, H 289, S 500, S 784)	Transportation Facility Designations; Providing honorary designations of certain transportation facilities in specified counties; directing the Department of Transportation to erect suitable markers, etc. TR 12/07/2011 Fav/CS CA 01/12/2012 Fav/CS	Fav/CS Yeas 8 Nays 0
4	SB 800 Negron (Compare H 1319)	County Boundary Lines; Incorporating a portion of St. Lucie County into Martin County; revising the legal description of Martin County; revising the legal description of St. Lucie County, to conform, etc. CA 01/12/2012 Favorable BC	Favorable Yeas 8 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Community Affairs

Thursday, January 12, 2012, 8:00 —10:00 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	SB 602 Storms (Identical H 373, Compare CS/H 503, S 716)	Environmental Permits; Providing for an entity created by special act, local ordinance, or interlocal agreement of a county or municipality to receive certain reduced or waived permit processing fees; requiring that the project for which such fee reduction or waiver is sought serves a public purpose; requiring that the Department of Environmental Protection initiate rulemaking to adopt a general permit for stormwater management systems serving airside activities at airports; providing for any water management district or delegated local government to administer the general permit; authorizing certain municipalities and counties to adopt stormwater management plans and obtain conceptual permits for urban redevelopment projects; requiring the Department of Environmental Protection and water management districts to establish conceptual permits for urban redevelopment projects; providing that certain urban redevelopment projects qualify for a general permit, etc. EP 12/06/2011 Favorable CA 01/12/2012 Fav/CS TR BC	Fav/CS Yeas 8 Nays 0
6	SB 734 Bogdanoff (Similar H 581)	Tax Deeds; Authorizing a tax collector to charge an additional processing fee for applications for a tax deed which are submitted through the Internet, etc. CA 01/12/2012 Fav/CS CM BC	Fav/CS Yeas 7 Nays 1
7	CS/SB 450 Health Regulation / Oelrich (Similar H 241, Compare S 1400)	Emergency Medical Services; Deleting the requirement for emergency medical technicians, paramedics, and 911 public safety telecommunicators to complete an educational course on the modes of transmission, infection control procedures, clinical management, and prevention of human immunodeficiency virus and acquired immune deficiency syndrome; redefining the term "basic life support" for purposes of the Raymond H. Alexander, M.D., Emergency Medical Transportation Services Act; revising the requirements for certification or recertification as an emergency medical technician or paramedic; revising requirements for an institution that conducts an approved program for the education of emergency medical technicians and paramedics, etc. HR 12/07/2011 Fav/CS CA 01/12/2012 Favorable BC	Favorable Yeas 8 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Community Affairs

Thursday, January 12, 2012, 8:00 —10:00 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	SB 452 Jones (Similar H 263)	Financial Responsibility for Medical Expenses of Pretrial Detainees and Sentenced Inmates; Providing that the responsibility for paying the expenses of medical care, treatment, hospitalization, and transportation for a person who is ill, wounded, or otherwise injured during or as a result of an arrest for a violation of a state law or a county or municipal ordinance is the responsibility of the person receiving the medical care, treatment, hospitalization, or transportation; setting forth the order of fiscal resources from which a third-party provider of medical services may seek reimbursement for the expenses the provider incurred in providing medical care; providing that certain charter counties are not obligated to reimburse a third-party provider of medical care, treatment, hospitalization, or transportation for an in-custody pretrial detainee or sentenced inmate of a county detention facility at a rate exceeding a particular rate for certain transportation or medical costs, etc. CA 01/12/2012 Fav/CS	Fav/CS Yeas 8 Nays 0
9	SB 698 Wise (Compare H 819)	Public Retirement Plans; Specifying applicability of ch. 185, F.S., to certain consolidated governments; providing that a municipality that has entered into an interlocal agreement to provide police protection services to another incorporated municipality, in its entirety, is eligible to receive the premium taxes reported for the other municipality under certain circumstances; authorizing the municipality receiving the police protection services to enact an ordinance levying a tax as provided by law, etc. CA 01/12/2012 Fav/CS GO BC	Fav/CS Yeas 8 Nays 0
10	SB 704 Bennett (Identical H 651, Compare CS/H 387, CS/S 600)	Building Construction and Inspection; Revising the authorized methods of sending notices to violators of local codes; authorizing a building code administrator or building official to approve the electronic filing of building plans and related documents; revising the definition of the term "demolish" for purposes of describing the scope of work of a contractor to include all buildings or residences, rather than buildings or residences of certain heights; allocating a portion of the funds derived from a surcharge on permit fees to the Florida Building Code Compliance and Mitigation Program; exempting certain buildings or structures used for hunting from the Florida Building Code, etc. CA 01/12/2012 Fav/CS BC	Fav/CS Yeas 8 Nays 0

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
11	SB 692 Bennett (Similar H 7001)	Municipalities; Deleting unused terms; revising the date that a feasibility study on a proposed incorporation of a municipality must be submitted to the Legislature, etc. CA 01/12/2012 Fav/CS	Fav/CS Yeas 8 Nays 0
12	SB 640 Bennett (Identical H 1463)	Local Government Energy Zones; Authorizing a local government to create an energy zone by ordinance; allowing a producer of renewable energy to produce and sell energy within the boundaries of the energy zone; requiring that the producer or new customer of renewable energy be offered an interruptible rate from the utility; authorizing retail sales by any producer of renewable energy within an energy zone; requiring the Public Service Commission to adopt rules to govern sales by producers of renewable energy within the local government energy zone; redefining the term "public utility" to exempt producers and sellers of renewable energy from economic regulation by the Public Service Commission, etc. CA 01/12/2012 Favorable CU BC	Favorable Yeas 8 Nays 0
13	SB 716 Bennett (Similar CS/H 503, Compare H 373, H 663, H 747, H 987, H 4123, S 602, CS/S 738, CS/S 758, S 994, S 1032)	Environmental Regulation; Prohibiting a county from requiring an applicant to obtain a permit or approval from any state or federal agency as a condition of processing a development permit under certain conditions; requiring that the Department of Environmental Protection review an application for certain permits under the Beach and Shore Preservation Act and request additional information within a specified time; requiring that certain counties or municipalities apply by a specified date to the department or water management district for authority to require certain permits; providing for issuance of general permits for the construction, alteration, and maintenance of certain surface water management systems without the action of the department or a water management district; revising the deadline for completion of the installation of fuel tank upgrades to secondary containment systems for specified properties, etc. CA 01/12/2012 Fav/CS EP BC	Fav/CS Yeas 8 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Community Affairs

Thursday, January 12, 2012, 8:00 —10:00 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
14	SB 292 Bennett	Effective Public Notices by Governmental Entities; Authorizing a local government to use its publicly accessible website for legally required advertisements and public notices; providing requirements for advertisements and public notices published on a publicly accessible website; providing that advertisements directed by law or order or decree of court to be made in a county in which no newspaper is published may be made by publication on a publicly accessible website; providing for advertisement on a publicly accessible website of a taxing authority's intent to adopt a millage rate and budget; prescribing procedures for fulfilling public disclosure system requirements with respect to the duty of a municipality to disclose costs for solid waste management, etc. CA 01/12/2012 Fav/CS JU BC	Fav/CS Yeas 8 Nays 0
15	SB 818 Bennett (Identical H 597)	Animal Shelters and Animal Control Agencies; Creating the "Animal Rescue Act"; requiring any animal control agency or animal shelter that euthanizes animals to maintain a registry of animal rescue groups that are willing to accept animals that would otherwise be subject to euthanization; providing eligibility criteria for rescue groups and persons desiring to be on the euthanization registry; providing criteria under which an animal control agency or animal shelter may reject an applicant for the euthanization registry or remove a participant from the registry; requiring that certain specified information concerning an animal rescue group be included in the group's application for inclusion on the euthanasia registry, etc. CA 01/12/2012 Temporarily Postponed AG	Temporarily Postponed
16	Florida Association of Counties 2012 Legislative Priorities		Not Considered
Other Related Meeting Documents			

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Community Affairs Committee

BILL: CS/SB 488

INTRODUCER: Committee on Community Affairs and Senators Rich and Gaetz

SUBJECT: Animal Control or Cruelty Ordinances

DATE: January 12, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiggins	Yeatman	CA	Fav/CS
2.			BC	
3.				
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	☒	Statement of Substantial Changes
B. AMENDMENTS.....	☐	Technical amendments were recommended
	☐	Amendments were recommended
	☐	Significant amendments were recommended

I. Summary:

CS/SB 488 allows counties or municipalities to increase the surcharge up to \$15 up for each violation of an ordinance relating to animal control or cruelty. The local clerk of the court may retain one dollar of the surcharge. Up to five dollars of the surcharge must be used for the training of animal control officers. Any remaining funds are to be used to subsidize the costs to spay or neuter dogs and cats.

The CS/SB 488 substantially amends s. 828.27, of the Florida Statutes.

II. Present Situation:

Section 823.15(1), F.S., states that uncontrolled breeding of dogs and cats in the state results in the production of many more puppies and kittens than are needed to replace pet animals which have died or become lost or to provide pet animals for new owners. This leads to many dogs, cats, puppies, and kittens being unwanted, becoming strays and suffering privation and death, being impounded and destroyed at great expense to the community, and constituting a public nuisance and public health hazard. It is therefore declared to be the public policy of the state that

every feasible means of reducing the production of unneeded and unwanted puppies and kittens be encouraged.

Section 823.15, F.S., requires dogs and cats adopted or sold from animal shelters, including those run by local governments or humane societies, to be spayed or neutered before the animal is released. As an alternative, an animal may be released without spaying or neutering if the adopter/purchaser enters into a written agreement that the animal will be sterilized within a certain time frame. The shelter must charge a deposit, which it may keep if the adopter/purchaser does not provide proof of sterilization.

Counties and municipalities allow animal control officers to issue a written notice/citation to a person when the officer has probable cause to believe that the person has committed a civil infraction of an ordinance. The following are some animal control ordinance citations that might be issued by animal control officers:

- Obstructing enforcement - Refusing to surrender an animal upon lawful demand by the director of animal control or any animal control officer.
- Running at large - It shall be unlawful for any animal to run or remain at large on any public street, road, alley, park, or other public place.
- Public nuisance - Any nuisance complaint shall be investigated by animal control or law enforcement. The owner shall first be given written notification by the county that the animal's behavior constitutes a public nuisance, that the owner is required to make reasonable effort to abate the nuisance within seven calendar days of the written notice of violation, and that subsequent violations may result in the issuance of a citation to the owner for allowing his or her animal to become a nuisance.¹

Counties and municipalities, which elect to enact an animal control or cruelty ordinance, may include a surcharge of up to \$5 for each civil penalty imposed in addition to any penalties, fees, or court costs. The surcharge is distributed based on the county or municipalities' agreed upon fee schedule and is used to pay for the cost of training animal control officers.²

III. Effect of Proposed Changes:

Section 1 amends s. 828.27, F.S., to allow counties or municipalities to collect a surcharge in addition to the penalties imposed by the county or court for the civil violation relating to an animal control or cruelty ordinance from up to \$5 to up to \$15. The CS/SB 488 specifies that one dollar of the surcharge may be retained by the clerk of the court and up to five dollars of the surcharge must be used for the training of animal control officers. Any remaining funds are to be used to subsidize the costs to spay or neuter dogs and cats in the possession of the animal control authority, whose owners have given permission to sterilize. The animal's owner may not be charged more than the cost of sterilization minus the subsidy provided by the surcharge. If the surcharge funds collected to pay the costs of training animal control officers exceed the amount needed to conduct training for the animal control officers, the animal control authority may apply any excess surcharge funds to spay and neuter dogs and cats.

¹ Leon County, Florida Code of Ordinances, Code of Laws, Chapter 4 Animals, Article II. Animal Control, Division 1., <http://www.leoncountyfl.gov/animal/ordinance.asp>.

² Section 828.27, F.S.

Section 2 sets an effective date of July 1, 2012.

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:

Counties and municipalities that elect to enact an animal control or cruelty ordinance may include a surcharge of up to \$15 for each civil penalty imposed in addition to any penalties, fees, or court costs. The clerk of the court may retain one dollar of the surcharge and up to the five dollars are to be used to pay the cost of training for animal control officers. The remaining funds from the surcharge are to be used to spay and neuter animals.

B. Private Sector Impact:

If a county or municipality elects to enact an animal control or cruelty ordinance and collects an increased surcharge that designates funds to sterilize cats and dogs, more animals will be sterilized which will decrease the animal population in that locality.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

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

CS by Community Affairs Committee on January 12, 2012:

The CS/SB 488 permits instead of requires counties or municipalities that enact an ordinance relating to animal control or cruelty to impose and collect a surcharge of up to \$15 upon each civil penalty. The CS specifies that the clerk of the court may retain one dollar of the surcharge and up to the next five dollars must be used to pay the cost of training for animal control officers. The remaining funds from the surcharge are to be used to spay and neuter animals.

- B. **Amendments:**

None.



845162

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/12/2012	.	
	.	
	.	
	.	

The Committee on Community Affairs (Ring) recommended the following:

Senate Amendment (with title amendment)

Delete lines 25 - 30
and insert:

(b) The governing body of a county or municipality enacting
an ordinance relating to animal control or cruelty may impose
and collect a surcharge of up to \$15 ~~\$5~~ upon each civil penalty
imposed for each violation of the ~~an~~ ordinance ~~relating to~~
~~animal control or cruelty~~. One dollar of the surcharge may be
retained by the clerk of the court, up to the next \$5 of the
surcharge proceeds



845162

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

And the title is amended as follows:

Delete line 3

and insert:

ordinances; amending s. 828.27, F.S.; authorizing a

By Senator Rich

34-00470-12

2012488

A bill to be entitled

An act relating to animal control or cruelty ordinances; amending s. 828.27, F.S.; requiring a county or municipality enacting an ordinance relating to animal control or cruelty to impose a specified surcharge on the civil penalty for violations of the ordinance; specifying use of the proceeds of the surcharge; prohibiting the governing body of a county or municipality from charging owners of animals more than a certain amount for the spaying or neutering of their animals in specified circumstances; authorizing the animal control authority to allocate certain excess funds to the program to spay and neuter cats and dogs; providing for construction; providing an effective date.

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

Section 1. Paragraph (b) of subsection (4) of section 828.27, Florida Statutes, is amended, and paragraphs (c) and (d) are added to that subsection, to read:

828.27 Local animal control or cruelty ordinances; penalty.—

(4)

(b) The governing body of a county or municipality enacting an ordinance relating to animal control or cruelty shall ~~may~~ impose and collect a surcharge of \$15 ~~up to \$5~~ upon each civil penalty imposed for each violation of the an ordinance ~~relating to animal control or cruelty~~. One dollar of the surcharge may be

Page 1 of 2

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

34-00470-12

2012488

retained by the clerk of the court, \$5 of the surcharge ~~proceeds from such surcharges~~ shall be used to pay the costs of training for animal control officers, and the remainder of the surcharge shall be used to subsidize the costs to spay or neuter dogs and cats in the possession of the animal control authority or whose owners voluntarily submit their animals for sterilization. An owner of an animal may not be charged more for the spaying or neutering than the cost of sterilization less the subsidy paid from the surcharge.

(c) If the surcharge funds collected to pay the costs of training animal control officers exceed the amount needed to conduct training for the animal control officers in a given locality, the animal control authority may apply the excess surcharge funds to the program to spay and neuter cats and dogs.

(d) This subsection does not require the governing body of a county or municipality to enact an animal control or cruelty ordinance.

Section 2. This act shall take effect July 1, 2012.

Page 2 of 2

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



The Florida Senate

Committee Agenda Request

To: Senator Michael S. "Mike" Bennett, Chair
Committee on Community Affairs

Subject: Committee Agenda Request

Date: November 7, 2011

I respectfully request that **Senate Bill #488**, relating to Animal Control & Cruelty Ordinances, be placed on the:

- ☐ committee agenda at your earliest possible convenience.
- ☒ next committee agenda.

Nan Rich

Senator Nan H. Rich
Florida Senate, District 34

✓ rec'd 11/7/11 apw

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/12/12
Meeting Date

Topic SPAY NEUTER

Bill Number 488
(if applicable)

Name ERIKA LECKINGTON

Amendment Barcode _____
(if applicable)

Job Title DIRECTOR

Address 1125 EASTERWOOD DR
Street

Phone 661 2431

TAL FL 32311
City State Zip

E-mail _____

Speaking: ☒ For ☒ Against ☐ Information

Representing TALLAHASSEE ANIMAL SERVICES

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1-17-12
Meeting Date

Topic Animal Control Bill Number SB 488
Name Richard Ziegler (if applicable)
Job Title Director of Leon County Animal Control Amendment Barcode _____ (if applicable)
Address ~~3256~~ 501 B Appleyard Dr Phone 850 606-5400
City Tall. State FL Zip 32306
E-mail _____

Speaking: ☒ For ☐ Against ☐ Information

Representing _____

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/12/12
Meeting Date

Topic SB 488

Bill Number 488
(if applicable)

Name Casey Cook

Amendment Barcode 845162
(if applicable)

Job Title Legislative Advocate

Address PO Box 1757
Street

Phone 850 701 3701

Tallahassee FL 32302
City State Zip

E-mail ccook@flcities.com

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida League of Cities

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/12/12

Meeting Date

Topic Spay Neuter Bill Number 488
Name Kate Macfall Amendment Barcode _____
Job Title President of Animal Shelter Foundation (if applicable)
Address 2144 Delta Way Phone 850 508 1001
Street Tallahassee FL 32303 E-mail KMacfall@comcast.net
City *State* *Zip*
Speaking: ☒ For ☐ Against ☐ Information
Representing Animal Shelter Foundation
Appearing at request of Chair: ☐ Yes ☐ No Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/12/11
Meeting Date

Topic SPAY/NEUTER

Bill Number 488
(if applicable)

Name JENNIFER HOBGOOD

Amendment Barcode _____
(if applicable)

Job Title STATE DIRECTOR

Address 1624 METROPOLITAN CIR STE B
Street
TALLAHASSEE FL 32308
City State Zip

Phone 850 386 3435

E-mail jhabgood@hsw.org

Speaking: ☒ For ☐ Against ☐ Information

Representing THE HUMANE SOCIETY OF THE UNITED STATES

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

01/12/12

Meeting Date

Topic Spay/neuter

Bill Number 488
(if applicable)

Name Gerry Phipps

Amendment Barcode _____
(if applicable)

Job Title President, Bethe Solution, Inc. (501(c)(3))

Address 3563 Clippys dr.
Street

Phone 850-545-5145

Tall. Fl. 32312
City State Zip

E-mail gavl@comcast.net

Speaking: ☒ For ☐ Against ☐ Information

Representing Bethe Solution, Inc. Spay + neuter today

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1-12-12

Meeting Date

Topic SPAY + NEUTER

Bill Number 488
(if applicable)

Name SONYA WHITE

Amendment Barcode _____
(if applicable)

Job Title EXECUTIVE DIRECTOR

Address 413 Timberlane Rd
Street

Phone 850-224-9193

Tallahassee FL 32312
City State Zip

E-mail SWHITE@LCHS.INFO

Speaking: ☒ For ☐ Against ☐ Information

Representing LEON County Humane Society

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1 / 12/2012

Meeting Date

Topic _____

Bill Number 488
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVENUE SOUTH

Phone 727/897-9291

Street

SAINT PETERSBURG FLORIDA 33705
City State Zip

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☒ For ☐ Against ☒ Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/12/12
Meeting Date

Topic Animal Cruelty Ordinances

Bill Number SB 488
(if applicable)

Name Vivian Sharton-Gotken

Amendment Barcode _____
(if applicable)

Job Title Marketing Consultant

Address 2113 Queenswood Dr

Phone 850 228 6870

Tally FL 32303
City State Zip

E-mail shargot@vivn8r.com

Speaking: ☒ For ☐ Against ☐ Information

Representing FL Florida taxpayer citizen

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1-12-12
Meeting Date

Topic Spay Neuter Bill Number 488
Name Dr. Rachel Reeves Amendment Barcode _____
Job Title Animal Services Veterinarian (if applicable)
Address 1125 Easterwood Drive Phone 850 891 2980
Street City State Zip E-mail _____
Tallahassee FL 32311

Speaking: ☒ For ☐ Against ☐ Information

Representing ~~Her~~ Myself

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1-12-12

Meeting Date

Topic spay / neuter Bill Number 488
(if applicable)

Name JEFF DOYLE Amendment Barcode _____
(if applicable)

Job Title ANIMAL CONTROL OFFICER

Address 1125 EASTERWOOD DR Phone _____
Street

TALL FL 32311 E-mail _____
City State Zip

Speaking: ☒ For ☐ Against ☐ Information

Representing TALLAHASSEE ANIMAL CONTROL

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

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard 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)

1/12/2012
Meeting Date

Topic Spay/Neuter

Bill Number 488
(if applicable)

Name Melissa Abernathy

Amendment Barcode _____
(if applicable)

Job Title Programs Director

Address 18841 Starhill Lane
Street
Tallahassee FL 32310
City State Zip

Phone 850-559-0223

E-mail fosterdirector@aol.com

Speaking: ☒ For ☐ Against ☐ Information

Representing Leon Co Humane Society

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard 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 Animal Control Bill Number 488
Name FRED DICKINSON (if applicable)
Job Title DUTOR Amendment Barcode _____ (if applicable)
Address College Phone _____
Street
Tallahassee E-mail _____
City State Zip

Speaking: ☒ For ☐ Against ☐ Information

Representing MIAMI-DODGE

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

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard 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 Community Affairs Committee

BILL: CS/SB 514

INTRODUCER: Community Affairs Committee and Senator Dean

SUBJECT: Public Safety

DATE: January 12, 2012

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	Fav/CS
2.				
3.				
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	☒	Statement of Substantial Changes
B. AMENDMENTS.....	☐	Technical amendments were recommended
	☐	Amendments were recommended
	☐	Significant amendments were recommended

I. Summary:

The CS authorizes a sworn state-certified law enforcement officer, upon passage of the 911 public safety telecommunicator certification exam, to perform on an occasional or limited basis as a public safety telecommunicator. An officer who fails the examination must complete a training program sponsored by either the Department of Law Enforcement or the Department of Health before retaking the exam.

This CS substantially amends section 401.465 of the Florida Statutes.

II. Present Situation:

Emergency Communications Number E911

Section 365.171, F.S., governs Florida's public policy on the emergency telephone number "911." This statute specifies that it is the intent of the Legislature:

to implement and continually update a cohesive statewide emergency communications number "E911" plan for enhanced 911 services which will provide citizens with rapid

direct access to public safety agencies by accessing “911” with the objective of reducing the response time to situations requiring law enforcement, fire, medical, rescue, and other emergency services.¹

The Department of Management Services (DMS) directs the statewide 911 system and is authorized to coordinate the activities of the system with state, county, local, and private agencies. The E911 Board receives and distributes fee revenues for the system and provides annual reports to the Governor and the Legislature regarding expenditures and the status of E911 service in Florida.²

All 67 Florida counties have enhanced 911 (E911) equipment, which allows an emergency dispatch center’s computers to automatically provide a caller’s name, address, and mapped location.³ The map also identifies the closest police, fire, and emergency medical services (EMS) agencies. Next Generation 911 (NG911) equipment will include video and data transmission capability.⁴

The E911 Board’s 2009-2010 fiscal year county funding survey identified 286 Public Safety Answering Points (PSAPs) statewide with each county having between one and forty of these facilities.⁵ There is no standard procedure defining which local agency operates these call centers, but many are managed by Sheriff’s Offices, Police Departments, Fire Rescue, or a variety of local administrative agencies.⁶ The FY 2009-2010 county survey found that 5,213 call takers received over 13.2 million 911 calls statewide.⁷

Public Safety Telecommunicators

Public safety telecommunicators (telecommunicators), also known as 911 operators or emergency dispatchers, are often the initial point of contact for the public when emergency assistance is required. Telecommunicators receive emergency calls requesting police, fire, medical, and other urgent situation services. These personnel determine the nature, location, and priority of the situation and communicate this information to emergency units as necessary and in accordance with established procedures. Telecommunicators answer and process 911 calls, maintain contact with all units on assignment, and coordinate status and location of emergency responders as necessary.

Public Safety Telecommunication Curriculum Framework and Standards

The Division of Workforce Education at the Department of Education (DOE) publishes curriculum frameworks and standards for both public safety telecommunication and law enforcement.

¹ Section 365.171(2), F.S.

² Section 365.172 (5)(a), F.S.

³ See s. 365.172(2)(i), F.S.

⁴ State of Florida E911 Board 2011 Annual Report, *available at* http://dms.myflorida.com/suncom/public_safety_bureau/florida_e911/e911_board (last visited Dec. 22, 2011).

⁵ *Id.* See appendix 2.

⁶ David Gulliver, Ed., *Florida 911: The State of Emergency*, Gulf Coast Community Foundation of Venice, <http://www.al911.org/sites/default/files/Florida-911-Report.pdf> (last visited Dec. 22, 2011).

⁷

The Public Safety Telecommunication framework is designed to prepare students for employment as police, fire, and ambulance dispatchers. The intended outcomes for the 232-hour Public Safety Telecommunication course include the ability of the dispatcher to do all of the following:

- Describe and demonstrate professional ethics and the role of telecommunicator.
- Describe Guidelines and Operational Standards of call classification and prioritization.
- Identify and explain communication equipment and resources.
- Demonstrate communication and interpersonal skills.
- Perform operational skills.
- Demonstrate understanding of fire department role and responses as well as hazardous materials awareness.
- Demonstrate understanding of emergency medical services role and responses.
- Demonstrate understanding of law enforcement role and responses.
- Understand the duties of a public safety telecommunicator.
- Comprehend stress management techniques.
- Demonstrate an understanding of Emergency Management practices.
- Demonstrate CPR proficiency.⁸

The Public Safety Telecommunication program curriculum is currently taught at various community colleges and vocational/technical centers across the state. Forty-eight public safety agencies have been certified to teach the curriculum since 2008, including thirty-seven local law enforcement agencies.⁹

Law Enforcement Officer Curriculum Framework and Standards

The Florida DOE curriculum framework for Law Enforcement Officers includes its own set of intended outcomes in its 770-hour course. Seven of the twelve Public Safety Telecommunication outcomes overlap with Law Enforcement Officer training. The five Public Safety Telecommunication outcomes which are not covered by the Law Enforcement Officer curriculum are the first three, relating to the role of telecommunicator, call classification and prioritization, and E911 equipment; the fifth, relating to operational skills; and the tenth, relating to understanding the duties of a public safety telecommunicator. No specific, formal public safety telecommunication training is presently known to be provided to law enforcement officers.¹⁰

Public Safety Telecommunicator Certification

In 2010, the Florida Legislature made several changes to the public safety telecommunication certification provisions of s. 401.465, F.S.¹¹ Among the changes were the replacement of “911

⁸ Florida Department of Education, *Curriculum Framework, Public Safety Telecommunication* (July 2010) available at http://www.fldoe.org/workforce/dwdframe/law_cluster_frame10.asp (last visited Dec. 22, 2011).

⁹ Florida Department of Health, *911 Public Safety Telecommunicator Program: Overview* (Oct. 4, 2011) available at <http://www.doh.state.fl.us/DEMO/EMS/dispatchers.html> (last visited Dec. 22, 2011).

¹⁰ See Florida Department of Education, *Curriculum Framework, Law Enforcement Officer*, (July 2010), http://www.fldoe.org/workforce/dwdframe/law_cluster_frame10.asp (last visited Dec. 23, 2011).

¹¹ Section 3, ch. 2010-188, L.O.F.

emergency dispatcher” with “public safety telecommunicator” throughout Florida law and the delineation of a public safety telecommunication training program. A training program is certified by the Department of Health (DOH) if it meets the DOE’s curriculum framework and consists of not less than 232 hours of coursework.

Another significant change to this section in 2010 was the transition of certification from a voluntary to a mandatory procedure. Effective October 1, 2012, all public safety telecommunicators must be certified by the DOH if they are employed at an “answering point,” defined as a “public safety agency that receives incoming 911 calls and dispatches appropriate public safety agencies to respond to the calls.”¹² To achieve certification, a person must complete an appropriate training program and pass an examination administered by the DOH which measures the applicant’s competency and proficiency.¹³ A certificate is good for two years and expires automatically if not renewed at the end of the two-year period.¹⁴ Twenty hours of training are required for the biennial renewal certification.¹⁵

Section 401.465(4), F.S., provides that this mandatory public safety telecommunicator certification may be temporarily waived by the DOH in a geographic area of Florida where a state of emergency has been declared by the Governor.

Existing Public Safety Telecommunicators, Law Enforcement Officers and Firefighters

Section 401.465(2)(j), F.S., addresses the certification of existing public safety telecommunicators, as well as existing state-certified law enforcement officers and firefighters. Persons who fit these descriptions prior to April 1, 2012, must still pass the examination for certification; however, upon passage of the examination, completion of the training program is waived. Newly employed telecommunicators, law enforcement officers, and firefighters who begin their employment on or after April 1, 2012, will be required to be certified by taking both a training course and passing the exam.

In a 2010 Advisory Legal Opinion, Florida Attorney General Bill McCollum addressed a question posed by the Chief of Police in Springfield, Florida, as to whether the law now required “all law enforcement officers who are likely to work in the city’s dispatch center and serve as a call-taker and dispatcher of 911 calls to be trained and certified?” The Attorney General opined that certification is the only requirement. McCollum stated:

... it is my opinion that pursuant to section 401.465(2)(a), Florida Statutes, any public agency employee whose duties and responsibilities include answering, receiving, transferring, and dispatching functions related to 911 calls or supervising or serving as the command officer to a person or persons having these duties and responsibilities at a public safety answering point is required to be certified by the Department of Health by

¹² Section 365.172(3)(a), F.S. A trainee may be employed for a period of less than 12 months if this person is working under the direct supervision of a certified telecommunicator and is also enrolled in a public safety telecommunication training program.

¹³ See s. 401.465(2)(d), F.S. An alternative process for initial certification of existing public safety telecommunicators will expire also on Oct. 1, 2012.

¹⁴ Section 401.465(2)(f), F.S.

¹⁵ Section 401.465(2)(e), F.S.

October 1, 2012. Training requirements are dependent upon personnel's length of employment as a 911 public safety telecommunicator.¹⁶

Florida Department of Law Enforcement E911 Training Efforts¹⁷

The Florida Department of Law Enforcement (FDLE) is working to develop a 40-hour training program in E911 Public Safety communication for sworn law enforcement officers for which approval as a specialized course will be sought from the criminal Justice Standards and Training Commission. The Training program will be a combination of hands-on and on-line training. The hands-on training portion could be delivered by public safety agency training departments, and the online segment would be made available by the FDLE via its current system for online training and delivery at no cost to officers of their agency.

III. Effect of Proposed Changes:

Section 1 amends the definition of a 911 public safety telecommunicator in s. 401.465(1)(a), F.S. Excluded from this definition is a sworn state-certified law enforcement officer --- selected by the chief executive of her or his agency --- who performs on an occasional or limited basis as a public safety telecommunicator.

Section 401.465, F.S., is further amended to provide that upon passage of the 911 public safety telecommunicator certification exam, a sworn state-certified law enforcement officer is not required to complete a public safety training program in order to perform on an occasional or limited basis as a public safety telecommunicator. The law enforcement officer is selected by the chief executive of her or his agency and the fees associated with the officer's testing do not apply. A law enforcement officer who fails the exam must complete the 40-hour public safety telecommunication training program sponsored by the Department of Law Enforcement or complete a public safety telecommunication training program approved by the DOH before retaking the exam.

Section 2 provides that the CS takes effect on July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹⁶ Op. Atty Gen. Fla. 10-27 (2010).

¹⁷ Florida Department of Law Enforcement, *Senate Bill 514 Analysis* (Nov. 15, 2011) (on file with the Senate Committee on Community Affairs).

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The CS will likely reduce costs for local governments by allowing them to occasionally utilize law enforcement officers as public safety telecommunicators if the officers have passed the statutorily-mandated certification exam. The waiver of examination fees for these officers will reduce the DOH's revenues for providing testing to these persons.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Community Affairs on January 12, 2012:**

- Deletes the original bill's definition and terms of service for temporary 911 public safety telecommunicators.
- Amends the definition of a 911 public safety telecommunicator in s. 401.465(1)(a), F.S. Excluded from this definition is a sworn state-certified law enforcement officer -- - selected by the chief executive of her or his agency --- who performs on an occasional or limited basis as a public safety telecommunicator.
- Amends s. 401.465, F.S., to provide that upon passage of the 911 public safety telecommunicator certification exam, a sworn state-certified law enforcement officer is not required to complete a public safety training program in order to perform on an occasional or limited basis as a public safety telecommunicator. The law enforcement officer is selected by the chief executive of her or his agency and the fees associated with the officer's testing do not apply. A law enforcement officer who fails the exam must complete the 40-hour public safety telecommunication training program sponsored by the Department of Law Enforcement or complete a public safety telecommunication training program approved by the DOH before retaking the exam.

B. Amendments:

None.

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



461056

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/12/2012	.	
	.	
	.	
	.	

The Committee on Community Affairs (Richter) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (a) of subsection (1) and paragraphs
(d) and (j) of subsection (2) of section 401.465, Florida
Statutes, are amended, present paragraph (k) of subsection (2)
of that section is redesignated as subsection (l), and a new
paragraph (k) is added to that subsection, to read:

401.465 911 public safety telecommunicator certification.—

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



461056

(a) "911 public safety telecommunicator" means a public safety dispatcher or 911 operator whose duties and responsibilities include the answering, receiving, transferring, and dispatching functions related to 911 calls; dispatching law enforcement officers, fire rescue services, emergency medical services, and other public safety services to the scene of an emergency; providing real-time information from federal, state, and local crime databases; or supervising or serving as the command officer to a person or persons having such duties and responsibilities. However, the term does not include:

1. Administrative support personnel, including, but not limited to, those whose primary duties and responsibilities are in accounting, purchasing, legal, and personnel; ~~or-~~

2. A sworn state-certified law enforcement officer who is selected by the chief executive officer of the law enforcement agency that employs the law enforcement officer and who performs on an occasional or limited basis as a public safety telecommunicator.

(2) PERSONNEL; STANDARDS AND CERTIFICATION.—

(d) The department shall determine whether the applicant meets the requirements specified in this section and in rules of the department and shall issue a certificate to any person who meets such requirements. Such requirements must include the following:

1. Completion of an appropriate 911 public safety telecommunication training program;

2. Certification under oath that the applicant is not addicted to alcohol or any controlled substance;

3. Certification under oath that the applicant is free from



461056

any physical or mental defect or disease that might impair the applicant's ability to perform his or her duties;

4. Submission of the application fee prescribed in subsection (3);

5. Submission of a completed application to the department which indicates compliance with subparagraphs 1., 2., and 3.; and

6. Effective October 1, 2012, passage of an examination approved ~~administered~~ by the department which measures the applicant's competency and proficiency in the subject material of the public safety telecommunication training program.

(j) If a person was employed as a 911 public safety telecommunicator, ~~a sworn state-certified law enforcement officer,~~ or a state-certified firefighter before April 1, 2012, he or she must pass the examination administered by the department which measures the competency and proficiency in the subject material of the public safety telecommunication program, as defined in paragraph (1)(c). Upon passage of the examination, the completion of the public safety telecommunication training program is ~~shall be~~ waived.

(k) Upon the passage of the examination approved by the department which measures the competency and proficiency in the subject material of the public safety telecommunication program, a person who is employed as a sworn state-certified law enforcement officer and selected by the chief executive officer of the law enforcement agency that employs the law enforcement officer is not required to complete a public safety telecommunication training program in order to perform on an occasional or limited basis as a public safety telecommunicator.



461056

The fees in subsection (3) do not apply to testing under this paragraph. A sworn state-certified law enforcement officer who fails the examination taken under this paragraph must complete the 40-hour public safety telecommunication training program sponsored by the Department of Law Enforcement or complete a public safety telecommunication training program approved by the department before retaking the examination.

Section 2. This act shall take effect July 1, 2012.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to public safety; amending s. 401.465, F.S.; providing that a sworn state-certified law enforcement officer under certain circumstances is not included in the definition of the term "911 public safety telecommunicator"; providing that a sworn state-certified law enforcement officers is not required to complete a public safety telecommunication training program under certain circumstances in order to occasionally perform as a public safety telecommunicator; providing that the application fee and examination fee to take the examination that measures the competency and proficiency in the subject material of a public safety telecommunication program do not apply to a sworn state-certified law enforcement officer who occasionally performs as a



461056

100 public safety telecommunicator; requiring that a sworn
101 state-certified law enforcement officer who fails the
102 examination complete a public safety telecommunication
103 training program before retaking the examination;
104 providing an effective date.

By Senator Dean

3-00268-12

2012514__

A bill to be entitled

An act relating to public safety telecommunicators;
amending s. 401.465, F.S.; providing for sworn state-
certified law enforcement officers to serve as
temporary 911 public safety telecommunicators;
providing training requirements; providing an
effective date.

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

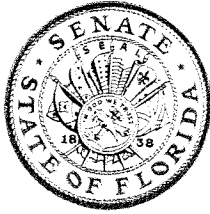
Section 1. Subsection (5) is added to section 401.465,
Florida Statutes, to read:

401.465 911 public safety telecommunicator certification.—

(5) TEMPORARY 911 PUBLIC SAFETY TELECOMMUNICATORS;

EXCEPTION.—Notwithstanding any provision of law to the contrary,
a public safety agency may use sworn law enforcement officers as
temporary 911 public safety telecommunicators. Any officer who
works as a temporary 911 public safety telecommunicator must,
within 12 months after first serving as such, successfully
complete a supplementary training program for temporary 911
public safety telecommunicators which provides a maximum of 40
hours of training and is distributed by the Criminal Justice
Standards and Training Commission.

Section 2. This act shall take effect July 1, 2012.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Environmental Preservation and Conservation,
Chair
Criminal Justice, *Vice Chair*
Budget - Subcommittee on Transportation, Tourism,
and Economic Development Appropriations
Governmental Oversight and Accountability
Reapportionment
Regulated Industries

SENATOR CHARLES S. DEAN, SR.

3rd District

November 2, 2011

The Honorable Mike Bennett
404 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Mr. Chairman:

I respectfully request you place Senate Bill 514, relating to Public Safety Telecommunicators, on your Community Affairs Committee agenda at your earliest convenience.

If you have any concerns, please do not hesitate to contact me personally.

Sincerely,

A handwritten signature in black ink that reads "Charles S. Dean".

Charles S. Dean
State Senator District 3

cc: Tom Yeatman, Staff Director

✓ Rec'd 11/2/11
apw

REPLY TO:

- ☐ 405 Tompkins Street, Inverness, Florida 34450 (352) 860-5175
- ☐ Post Office Box 2558, Ocala, Florida 34478-2558 (352) 873-6513
- ☐ 302 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5017

Senate's Website: www.flsenate.gov

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/12/12
Meeting Date

Topic _____

Bill Number 514
(if applicable)

Name Joel DeCoursey

Amendment Barcode _____
(if applicable)

Job Title Chief

Address P.O. Box 910
Street
Alachua, FL
City State Zip

Phone 386-462-1396

E-mail _____

Speaking: ☒ For ☐ Against ☐ Information

Representing FL Police Chiefs Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Topic SB 514

Bill Number SB 514
(if applicable)

Name Sheriff David Tatum

Amendment Barcode _____
(if applicable)

Job Title Sheriff

Address 20776 central Ave

Phone 850 674 5049

Street

Blountstown FL 32424

City

State

Zip

E-mail Sheriff.tatum@gmail.com

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida Sheriffs

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard 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)

1 / 12 / 2012

Meeting Date

Topic _____

Bill Number 514
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVENUE SOUTH
Street

Phone 727/897-9291

SAINT PETERSBURG FLORIDA 33705
City State Zip

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☐ For ☒ Against ☒ Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Topic SB 514

Bill Number 514
(if applicable)

Name Casey Cook

Amendment Barcode _____
(if applicable)

Job Title Legislative Advocate

Address PO Box 1757

Phone 850 701 3761

Street

Tallahassee FL 32302

City

State

Zip

E-mail ccook@flcities.com

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida League of Cities

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

The Florida Senate
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 Community Affairs Committee

BILL: CS/CS/SB 406

INTRODUCER: Community Affairs Committee; Transportation Committee; and Senators Dean and Thrasher

SUBJECT: Transportation Facility Designations

DATE: January 12, 2012

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Abrams	Buford	TR	Fav/CS
2.	Roam	Yeatman	CA	Fav/CS
3.				
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	☒	Statement of Substantial Changes
B. AMENDMENTS.....	☐	Technical amendments were recommended
	☐	Amendments were recommended
	☐	Significant amendments were recommended

I. Summary:

The bill creates a number of honorary designations of transportation facilities around the state. Designations are as follows:

- U.S. Highway 19/27A/98/State Road 55 between the Suwannee River Bridge and N.E. 592nd Street/Chavous Road/Kate Green Road in Dixie County is designated as “SP4 Thomas Berry Corbin Memorial Highway.”
- U.S. Highway 19/98/State Road 55 between N.E. 592nd Street/Chavous Road/Kate Green Road and N.E. 170th Street in Dixie County is designated as “U.S. Navy BMC Samuel Calhoun Chavous, Jr., Memorial Highway.”
- State Road 24 between County Road 347 and Bridge Number 340053 in Levy County is designated as “Marine Lance Corporal Brian R. Buesing Memorial Highway.”

- U.S. Highway 19/98/State Road 55/S. Main Street between N.W. 1st Avenue and S.E. 2nd Avenue in Levy County is designated as “United States Army Sergeant Karl A. Campbell Memorial Highway.”
- U.S. Highway 27A/State Road 500/Hathaway Avenue between State Road 24/Thrasher Drive and Town Court in Levy County is designated as “U.S. Army SPC James A. Page Memorial Highway.”
- The portion of State Road 101/Mayport Road between State Road A1A and Wonderwood Connector in Duval County is designated as “USS Stark Memorial Drive.”
- The portion of State Road 44 in Lake County between U.S. Highway 441 and State Road 44/East Orange Avenue near Eustis is designated as “Captain Jim Reynolds, Jr., USAF “Malibu” Road.”
- The portion of State Road 19 in Putnam County between U.S. 17/State Road 15 and Carriage Drive is designated as “Veterans Memorial Highway.”
- The portion of State Road 513 between Banana River Drive and Eau Gallie Boulevard in Brevard County is designated as “U.S. Army Sergeant Robert Daniel Sanchez Memorial Highway.”
- The portion of State Road A1A between Pinetree Drive and Eau Gallie Boulevard in Brevard County is designated as “U.S. Marine Corps Corporal Dustin Schrage Highway.”

II. Present Situation:

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

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

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

III. Effect of Proposed Changes:

The bill makes the following designations:

Section 1: Designates the portion of U.S. Highway 19/27A/98/State Road 55 between the Suwannee River Bridge and N.E. 592nd Street/Chavous Road/Kate Green Road in Dixie County as “SP4 Thomas Berry Corbin Memorial Highway.” The bill directs FDOT to erect suitable markers.

Thomas Corbin, born in Old Town Dixie, lived in Cross City, served in the United States Army as a Specialist Fourth Class and was killed in action during the Vietnam War during a mission against the Viet Cong. He was awarded the Silver Star due to his dedication and commitment.

Section 2: Designates the portion of U.S. Highway 19/98/State Road 55 between N.E. 592nd Street/Chavous Road/ Kate Green Road and N.E. 170th Street in Dixie County as “U.S. Navy BMC Samuel Calhoun Chavous, Jr., Memorial Highway.” The bill directs FDOT to erect suitable markers.

Samuel Chavous Jr. was born in Cross City and served in the U.S. Navy in the Vietnam War where he was killed in action. For his service, he was awarded the Purple Heart.

Section 3: Designates the portion of State Road 24 between County Road 374 and Bridge Number 340053 in Levy County as “Marine Lance Corporal Brian R. Buesing Memorial Highway.” The bill directs FDOT to erect suitable markers.

Lance Corporal Brian Buesing was born and raised in Cedar Key. He enlisted in the Marines and at the age of 21 during Operation Iraqi Freedom, he was killed in action while trying to protect two fellow Marines. For his bravery and dedication, he was awarded the Purple Heart.

Section 4: Designates the portion of U.S. Highway 19/98/State Road 55/S. Main Street between N.W. 1st Avenue and S.E. 2nd Avenue in Levy County as “United States Army Sergeant Karl A. Campbell Memorial Highway.” The bill directs FDOT to erect suitable markers.

Army Sergeant Karl Campbell of Chiefland enlisted in the Army in 1995 and served as an infantryman until 2003. He re-enlisted in November 2009. Sergeant Campbell died from wounds suffered when insurgents in Afghanistan attacked his unit with an improvised explosive device. He has been awarded the Bronze Star and the Purple Heart.

Section 5: Designates the portion of U.S. Highway 27A/State Road 500/Hathaway Avenue between State Road 24/Thrasher Drive and Town Court in Levy County as “U.S. Army SPC James A. Page Memorial Highway.” The bill directs FDOT to erect suitable markers.

Army Specialist James Page of Bronson died from an improvised explosive device at the age of 23 in Afghanistan on August 31, 2010. He has been awarded the Bronze Star and the Purple Heart.

Section 6: Designates the portion of State Road 101/Mayport Road between State Road A1A and Wonderwood Connector in Duval County as “USS Stark Memorial Drive.”

On May 17, 1987, an Iraqi jet fighter fired upon the USS Stark in the Persian Gulf, causing thirty-seven United States sailors to lose their lives and seriously injuring twenty-one others. The USS Stark, a ship deployed on a routine peace-keeping mission from the Mayport navy base in Jacksonville, only survived this unprovoked attack through the determination and heroic actions of its crew.

Section 7: Designates the portion of State Road 44 in Lake County between U.S. Highway 441 and State Road 44/East Orange Avenue as “Captain Jim Reynolds, Jr., USAF “Malibu” Road.”

Captain Jim Reynolds Jr., a decorated Air Force Academy graduate, was killed when his F-16 crashed at the Nellis Air Force Base Range on August 10, 1993. Captain Reynolds became a member of the 308th Tactical Fighter Squadron at Homestead AFB, FL, and was later selected to join the Adversary Tactics Division of Red Flag at Nellis AFB, NV. During his career, Captain Reynolds served as an instructor pilot, chief of Squadron Standardization/Evaluation, mission commander, and a member of the Weapons and Tactics Branch. He received many distinctions, including the ATC Commander’s Trophy, winning the low-angle strafe (LAS) and several Top Gun competitions, the Air Force Commendation Medal with one oak leaf cluster, a Combat Readiness Medal, and the National Defense Service Medal.

Section 8: Designates the portion of State Road 19 in Putnam County between U.S. 17/State Road 15 and Carriage Drive as “Veterans Memorial Highway” in recognition of military veterans.

Section 9: Designates the portion of State Road 513 between Banana River Drive and Eau Gallie Boulevard in Brevard County is designated as “U.S. Army Sergeant Robert Daniel Sanchez Memorial Highway.”

Section 10: Designates the portion of State Road A1A between Pinetree Drive and Eau Gallie Boulevard in Brevard County is designated as “U.S. Marine Corps Corporal Dustin Schrage Highway.”

Section 11: The bill will take effect on July 1, 2012, if passed by the Legislature.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Staff estimates the cost to erect road designation markers required under this bill to be at least \$10,000. This is based on the assumption that 20 markers will be erected for ten road designations at a cost of no less than \$500 each. This includes sign fabrication, installation, and maintenance over time. The estimate does not include any additional expenses related to maintenance of traffic, dedication event costs, or replacement necessitated by damage, vandalism, or storm events.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Community Affairs on January 12, 2012:**

The bill was amended to add the U.S. Army Sergeant Robert Daniel Sanchez Memorial Highway and the U.S. Marine Corps Corporal Dustin Schrage Highway designations.

CS by Transportation on December 7, 2011:

The bill was amended to add the USS Stark Memorial Drive, Captain Jim Reynolds, Jr., USAF “Malibu” Road and Veterans Memorial Highway road designations. The Nona and Papa road designation was removed from the bill. The fiscal was adjusted to reflect the new number of road designations.

B. Amendments:

None.



878408

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/12/2012	.	
	.	
	.	
	.	

The Committee on Community Affairs (Storms) recommended the following:

Senate Amendment

Between lines 85 and 86
insert:

Section 9. U.S. Army Sergeant Robert Daniel Sanchez Memorial Highway designated; Department of Transportation to erect suitable markers.-

(1) That portion of State Road 513 between Banana River Drive and Eau Gallie Boulevard in Brevard County is designated as "U.S. Army Sergeant Robert Daniel Sanchez Memorial Highway."

(2) The Department of Transportation is directed to erect suitable markers designating U.S. Army Sergeant Robert Daniel



878408

Sanchez Memorial Highway as described in subsection (1).

Section 10. U.S. Marine Corps Corporal Dustin Schrage Highway designated; Department of Transportation to erect suitable markers.-

(1) That portion of State Road A1A between Pinetree Drive and Eau Gallie Boulevard in Brevard County is designated as "U.S. Marine Corps Corporal Dustin Schrage Highway."

(2) The Department of Transportation is directed to erect suitable markers designating U.S. Marine Corps Corporal Dustin Schrage Highway as described in subsection (1).

By the Committee on Transportation; and Senator Dean

596-01558-12

2012406c1

A bill to be entitled

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

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

Section 1. SP4 Thomas Berry Corbin Memorial Highway designated; Department of Transportation to erect suitable markers.-

(1) That portion of U.S. Highway 19/27A/98/State Road 55 between the Suwannee River Bridge and N.E. 592nd Street/Chavous Road/Kate Green Road in Dixie County is designated as "SP4 Thomas Berry Corbin Memorial Highway."

(2) The Department of Transportation is directed to erect suitable markers designating SP4 Thomas Berry Corbin Memorial Highway as described in subsection (1).

Section 2. U.S. Navy BMC Samuel Calhoun Chavous, Jr., Memorial Highway designated; Department of Transportation to erect suitable markers.-

(1) That portion of U.S. Highway 19/98/State Road 55 between N.E. 592nd Street/Chavous Road/Kate Green Road and N.E. 170th Street in Dixie County is designated as "U.S. Navy BMC Samuel Calhoun Chavous, Jr., Memorial Highway."

(2) The Department of Transportation is directed to erect suitable markers designating U.S. Navy BMC Samuel Calhoun

596-01558-12

2012406c1

Chavous, Jr., Memorial Highway as described in subsection (1).

Section 3. Marine Lance Corporal Brian R. Buesing Memorial Highway designated; Department of Transportation to erect suitable markers.-

(1) That portion of State Road 24 between County Road 347 and Bridge Number 340053 in Levy County is designated as "Marine Lance Corporal Brian R. Buesing Memorial Highway."

(2) The Department of Transportation is directed to erect suitable markers designating Marine Lance Corporal Brian R. Buesing Memorial Highway as described in subsection (1).

Section 4. United States Army Sergeant Karl A. Campbell Memorial Highway designated; Department of Transportation to erect suitable markers.-

(1) That portion of U.S. Highway 19/98/State Road 55/S. Main Street between N.W. 1st Avenue and S.E. 2nd Avenue in Levy County is designated as "United States Army Sergeant Karl A. Campbell Memorial Highway."

(2) The Department of Transportation is directed to erect suitable markers designating United States Army Sergeant Karl A. Campbell Memorial Highway as described in subsection (1).

Section 5. U.S. Army SPC James A. Page Memorial Highway designated; Department of Transportation to erect suitable markers.-

(1) That portion of U.S. Highway 27A/State Road 500/Hathaway Avenue between State Road 24/Thrasher Drive and Town Court in Levy County is designated as "U.S. Army SPC James A. Page Memorial Highway."

(2) The Department of Transportation is directed to erect suitable markers designating U.S. Army SPC James A. Page

596-01558-12

2012406c1

Memorial Highway as described in subsection (1).

Section 6. USS Stark Memorial Drive designated; Department of Transportation to erect suitable markers.-

(1) That portion of State Road 101/Mayport Road between State Road A1A and Wonderwood Connector in Duval County is designated as "USS Stark Memorial Drive."

(2) The Department of Transportation is directed to erect suitable markers designating USS Stark Memorial Drive as described in subsection (1).

Section 7. Captain Jim Reynolds, Jr., USAF "Malibu" Road designated; Department of Transportation to erect suitable markers.-

(1) That portion of State Road 44 in Lake County between U.S. Highway 441 and State Road 44/East Orange Avenue near Eustis is designated as "Captain Jim Reynolds, Jr., USAF "Malibu" Road."

(2) The Department of Transportation is directed to erect suitable markers designating Captain Jim Reynolds, Jr., USAF "Malibu" Road as described in subsection (1).

Section 8. Veterans Memorial Highway designated; Department of Transportation to erect suitable markers.-

(1) That portion of State Road 19 in Putnam County between U.S. 17/State Road 15 and Carriage Drive is designated as "Veterans Memorial Highway."

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

Section 9. This act shall take effect July 1, 2012.

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 Community Affairs Committee

BILL: SB 800

INTRODUCER: Senator Negrón

SUBJECT: County Boundary Lines

DATE: December 8, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	Favorable
2.			BC	
3.				
4.				
5.				
6.				

I. Summary:

This bill moves a 129-acre area from the jurisdiction of St. Lucie County to Martin County. The bill substantially amends sections 7.43 and 7.59 of the Florida Statutes.

II. Present Situation:

History of Counties in Florida

While the provisional government and territorial councils provided for county forms of government in Florida, counties did not receive constitutional status until 1861. The Constitution of 1885 first recognized counties as legal subdivisions of the state. In addition, the Legislature was granted the power to create new counties and alter county boundaries.¹ Gilchrist County was created in 1925 as the last of Florida's current 67 counties.²

The revised State Constitution of 1968 amended the provision in the 1885 Constitution relating to county formation. Section 1(a), Art. VIII of the State Constitution of 1968, states:

¹ Economic Affairs Committee, The Florida House of Representatives, *Local Government Formation Manual, 2010-2011*, <http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=2605&Session=2011&DocumentType=General%20Publications&FileName=Local%20Government%20Formation%20Manual%202010%20-%20202011.pdf>.

² See *id.* citing Allen Morris, *The Florida Handbook 1993-1994*, (Tallahassee, Florida: The Peninsular Publishing Company, 1993), pp. 416-418.

The state shall be divided by law into political subdivisions called counties. Counties may be created, abolished or changed by law, with provision for payment and apportionment of the public debt.

Chapter 7, F.S., provides the boundary lines for Florida's 67 counties. Chapter 125, F.S., outlines the powers and duties of counties.

County boundary changes of the past 25 years include those involving:

- Franklin and Wakulla counties in 1986,³
- Escambia and Santa Rosa counties in 1991,⁴
- Citrus and Levy counties in 1994,⁵ and
- Broward and Palm Beach counties in 2007⁶

Beau Rivage

The 129 acres that are the subject of this bill are known as Beau Rivage which abuts the north fork of the St. Lucie River in St. Lucie County. The area currently features 223 single family homes and 27 vacant lots and is divided into six subdivisions.⁷ Although part of St. Lucie County physically, the area is not directly connected to the rest of the county by a county-owned or maintained right-of-way. Access is via Britt Road from U.S. 1 in Martin County. Beau Rivage's 550-plus residents all have Stuart, Florida, addresses.

By interlocal agreement between the St. Lucie County School Board and the Martin County School Board, students residing in Beau Rivage may attend schools located in Martin County. There is also a mutual aid agreement in place between the St. Lucie County Fire District and Martin County Fire Rescue. All properties within Beau Rivage are served by septic and well.

III. Effect of Proposed Changes:

Section 1 amends s. 7.43, F.S., to expand the boundary lines of Martin County to include an additional 129 acres.

Section 2 amends s. 7.59, F.S., to contract the boundary lines of St. Lucie County to remove 129 acres.

Section 3 provides that this act shall take effect July 1, 2012.

³ Chapter 86-288, Laws of Fla.

⁴ Chapter 91-310, Laws of Fla.

⁵ Chapter 94-313, Laws of Fla.

⁶ Chapter 2007-222, Laws of Fla.

⁷ E-mail from Audrey Jackson, Governmental Affairs Manager, St. Lucie County Property Appraiser's Office, (Dec. 20, 2011) (on file with the Senate Committee on Community Affairs). The six subdivisions are Bay Colony, Beau Rivage, Blair, Eventide, Howard Creek Estates, and The Plantations.

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:

Residents in the Beau Rivage area may experience changes in emergency response times. These residents would be subject to Martin County taxing authorities rather than St. Lucie County taxing authorities.

C. Government Sector Impact:

Martin County and St. Lucie County will experience corresponding increases or decreases to their tax bases. According to the St. Lucie County Property Appraiser's Office, the 2011 taxable value of the Beau Rivage area is \$59,549,039.⁸

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

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

None.

⁸ On file with the Senate Committee on Community Affairs.

B. Amendments:

None.

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

By Senator Negrón

28-00385C-12

2012800

A bill to be entitled

An act relating to county boundary lines; amending s. 7.43, F.S.; incorporating a portion of St. Lucie County into Martin County; revising the legal description of Martin County; amending s. 7.59, F.S.; revising the legal description of St. Lucie County, to conform; providing an effective date.

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

Section 1. Section 7.43, Florida Statutes, is amended to read:

7.43 Martin County.—The boundary lines of Martin County are as follows: Beginning at the northwest corner of township thirty-eight south, range thirty-seven east; thence east, concurrent with the south boundary line of St. Lucie County, to the southwest corner of section thirty-one, township thirty-seven south, range forty-one east; thence north on the west line of said section thirty-one and section thirty, township thirty-seven south, range forty-one east, 6,459 feet to a point lying within the water body of the north fork of the St. Lucie River; thence departing said line within the north fork of the St. Lucie River a bearing direction of 41 degrees north, 4 minutes west, a distance of 6,155 feet, more or less, to a point lying within the water body of the north fork of the St. Lucie River; thence departing said point a bearing direction of 45 degrees north, 16 minutes east, a distance of 2,355 feet, more or less, to a point intersecting with the south shore of the north fork of the St. Lucie River and the west edge of the Howard Creek as

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concurrent with the City of Port St. Lucie municipal boundary limits; thence departing said intersecting shore and edge lines following along the City of Port St. Lucie municipal boundary line north along the west edge of Howard Creek to the south line of the northeast quarter of section twenty-four, township thirty-seven south, range forty east; thence east along said south line of the northeast quarter to the intersection of the east 924.15 feet of section twenty-four, township thirty-seven south, range forty east; thence north along said east 924.15-foot line of section twenty-four, township thirty-seven south, range forty east, to the intersection of the north line of the south 508.15 feet of the northeast quarter of section twenty-four, township thirty-seven south, range forty east; thence east along said south 508.15-foot line of the northeast quarter of said section twenty-four, township thirty-seven south, range forty east, to an intersection with the west line of township thirty-seven south, range forty-one east, also being the existing Martin County boundary line; thence north concurrent with the Martin County boundary line, along the west line of sections nineteen and eighteen, township thirty-seven south, range forty-one east, ~~other sections~~ to the northwest corner of section eighteen, township thirty-seven south, range forty-one east; thence east on the north line of said section eighteen and other sections to the waters of the Atlantic Ocean; thence easterly to the eastern boundary of the State of Florida; thence southward along the coast, including the waters of the Atlantic Ocean within the jurisdiction of the State of Florida, to the south line of section twenty, township forty south, range forty-three east, produced easterly; thence west on the south line of

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2012800

said section twenty, and other sections, to the southwest corner of section twenty-two, township forty south, range forty-two east; thence south on the east line of section twenty-eight, township forty south, range forty-two east, to the southeast corner of said section twenty-eight; thence west on the south line of said section twenty-eight and other sections to the east shore of Lake Okeechobee; thence continue west in a straight course to the northeast corner of section thirty-six, township forty south, range thirty-four east, being the southwest corner of section thirty, township forty south, range thirty-five east; thence northeasterly in a straight course to the line of normal water level on the boundary of Lake Okeechobee at its intersection with the line dividing ranges thirty-six and thirty-seven east, township thirty-eight south; thence north on said range line to the place of beginning.

Section 2. Section 7.59, Florida Statutes, is amended to read:

7.59 St. Lucie County.—The boundary lines of St. Lucie County are as follows: Beginning on the eastern boundary of the State of Florida at a point where the north section line of section thirteen, township thirty-seven south, range forty-one east, produced easterly, would intersect the same; thence westerly on the north line of said section and other sections to the northwest corner of section eighteen, township thirty-seven south, range forty-one east; thence south along the range line between ranges forty east and forty-one east which is concurrent with the St. Lucie County and Martin County boundary lines to the intersection with the north line of the south 508.15 feet of the northeast quarter of section twenty-four, township thirty-

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2012800

seven south, range forty east; thence west along the south 508.15-foot line of the northeast quarter of section twenty-four, township thirty-seven south, range forty east and concurrent with the municipal boundary line of the City of Port St. Lucie to the intersection of the east 924.15-foot line of section twenty-four, township thirty-seven south, range forty east; thence south along the east 924.15-foot line of section twenty-four, township thirty-seven south, range forty east and continuing along the municipal boundary line of the City of Port St. Lucie, to the intersection of the south line of the northeast quarter of section twenty-four, township thirty-seven south, range forty east; thence west along the south line of the northeast quarter of section twenty-four, township thirty-seven south, range forty east to the intersection with the west edge of Howard Creek; thence southerly and along with the west edge of Howard Creek being concurrent with the municipal boundary line of the City of Port St. Lucie to the intersection of the south shore of the north fork of the St. Lucie River and the west edge of Howard Creek as concurrent with the City of Port St. Lucie municipal boundary; thence departing said south shore of the north fork of the St. Lucie River and the municipal boundary line of the City of Port St. Lucie, south 45 degrees, 16 minutes west, 2,355 feet more or less, to a point within the body of water of the north fork of the St. Lucie River; thence departing said point south 41 degrees, 4 minutes east, 6,155 feet more or less to a point located in the body of the north fork of the St. Lucie River which intersects with the west line of section thirty, township thirty-seven south, range forty-one east; thence south 6,459 feet along the west line of sections

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2012800

117 thirty and thirty-one, township thirty-seven south, range forty-
118 one east, to the intersection with ~~on the range line between~~
119 ~~ranges forty and forty-one east,~~ to the township line between
120 townships thirty-seven and thirty-eight south; also being the
121 southwest corner of section thirty-one, township thirty-seven,
122 range forty-one east; thence west on the said township line to
123 the range line dividing ranges thirty-six and thirty-seven east;
124 thence north on said range line, concurrent with the east
125 boundary of Okeechobee County, to the northwest corner of
126 township thirty-four south, range thirty-seven east; thence east
127 on the township line dividing townships thirty-three and thirty-
128 four south, to the Atlantic Ocean; thence continuing easterly to
129 the eastern boundary of the State of Florida; thence southerly
130 along said east boundary, including the waters of the Atlantic
131 Ocean within the jurisdiction of the State of Florida, to the
132 place of beginning.

133 Section 3. This act shall take effect July 1, 2012.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Budget - Subcommittee on Health and Human Services
Appropriations, *Chair*
Budget, *Vice Chair*
Banking and Insurance
Communications, Energy, and Public Utilities
Higher Education
Reapportionment
Rules

SELECT COMMITTEE:

Protecting Florida's Children, *Chair*

JOINT COMMITTEE:

Legislative Budget Commission

SENATOR JOE NEGRON

28th District

November 17, 2011

The Honorable Mike Bennett, Chair
Committee on Community Affairs
315 Knott Building
404 S Monroe Street
Tallahassee, FL 32399-1100

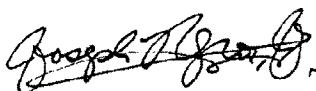
Re: Senate Bill 800

Dear Chairman Bennett:

I would like to request Senate Bill 800 relating to county boundary lines be placed on the agenda for the next scheduled committee meeting.

Thank you, in advance, for your consideration of this request.

Sincerely yours,



Joe Negron
State Senator
District 28

✓ 11/17/11 apw

JN/hd

c: Tom Yeatman, Staff Director

REPLY TO:

- ☐ 3500 SW Corporate Parkway, Suite 204, Palm City, Florida 34990 (772) 219-1665
- ☐ 306 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5088

Senate's Website: www.flsenate.gov

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Community Affairs Committee

BILL: CS/SB 602

INTRODUCER: Community Affairs Committee and Senator Storms

SUBJECT: Stormwater Managment Permits

DATE: January 13, 2012

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Uchino</u>	<u>Yeatman</u>	<u>EP</u>	Favorable
2.	<u>Uchino</u>	<u>Yeatman</u>	<u>CA</u>	Fav/CS
3.	_____	_____	<u>TR</u>	_____
4.	_____	_____	<u>BC</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	☒	Statement of Substantial Changes
B. AMENDMENTS.....	☐	Technical amendments were recommended
	☐	Amendments were recommended
	☐	Significant amendments were recommended

I. Summary:

The CS expands eligibility for entities created by special act, local ordinance, or interlocal agreement of counties or municipalities that are entitled to a permit processing fee waiver or reduction. It directs the Department of Environmental Protection (DEP) to initiate rulemaking to adopt a general permit for stormwater management systems serving airside activities at airports. The CS requires the water management districts (WMDs), in consultation with the DEP, to establish an urban redevelopment conceptual permitting program and specifies that urban redevelopment projects may qualify for a noticed general permit. Finally, the CS requires areas covered by a conceptual permit to adhere to federally delegated pollution abatement programs administered by the state.

This CS substantially amends sections 218.075 and 373.118 and creates section 373.4131 of the Florida Statutes.

II. Present Situation:

Waiver or Reduction of Permit Fees

DEP and the WMDs shall reduce or waive permit processing fees for certain specified small counties and municipalities with a population of 25,000 or less, or any county or municipality not included within a metropolitan statistical area.¹ Fee reductions or waivers are approved on the basis of fiscal hardship or environmental need for a particular project or activity. The governing body must certify that the cost of the permit processing fee is a fiscal hardship due to one of the following factors:

- Per capita taxable value is less than the statewide average for the current fiscal year;
- Percentage of assessed property value that is exempt from ad valorem taxation is higher than the statewide average for the current fiscal year;
- Any condition specified in s. 218.503(1), F.S., which results in the county or municipality being in a state of financial emergency;
- Ad valorem operating millage rate for the current fiscal year is greater than 8 mills; or
- A financial condition that is documented in annual financial statements at the end of the current fiscal year and indicates an inability to pay the permit processing fee during that fiscal year.

The permit applicant must be the governing body of a county or municipality or a third party under contract with a county or municipality and the project for which the fee reduction or waiver is sought must serve a public purpose. If a permit processing fee is reduced, the total fee shall not exceed \$100.

Airside Stormwater Management

The Federal Aviation Authority (FAA) provides grants to the Florida Department of Transportation (DOT) Aviation Office for airport airside improvements. The grants have 18-month time frames making it difficult to permit and complete a stormwater project within the required time to take advantage of the grant. A solution to the abbreviated time frame would be for the DEP to create a general environmental resource permit for stormwater systems serving airside activities at Florida's airports.

In 1977, the FAA set limitations on stormwater designs on airports to limit wildlife strikes in an advisory circular.² The FAA found that stormwater management systems known as "wet ponds" attracted birds and posed a threat to airline safety. In 1998, the DOT, the DEP and three WMDs outlined a study to evaluate airport runway, taxiway and apron stormwater quality. Another joint study by the DEP and the FAA has evaluated chemical loading characteristics of airside runoff and how best management practices can help airports meet federal and state water quality standards.

¹ See U.S. Census Bureau, *Metropolitan and Micropolitan*, <http://www.census.gov/population/www/metroareas/metrodef.html> (last visited Nov. 30, 2011).

² U.S. Dep't of Transportation Federal Aviation Administration, Advisory Circular 150/5200-33, *Hazardous Wildlife Attractants On or Near Airports* (May 1997), available at [http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgAdvisoryCircular.nsf/0/53bdf1c5aa1083986256c690074ebab/\\$FILE/150-5200-33.pdf](http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgAdvisoryCircular.nsf/0/53bdf1c5aa1083986256c690074ebab/$FILE/150-5200-33.pdf) (last visited Nov. 11, 2011).

A secondary phase of the study will be funded by the FAA once a general permit for these stormwater systems is developed and adopted. This phase will convert the wet pond at Orlando International Airport into a wet detention system that complies with the 1997 advisory circular. The system will be monitored for pollutant loading and remediation, including nutrients. About 30 percent of Florida's airports have soil and water table considerations that prevent the use of wet detention systems.³

The Community Redevelopment Act of 1969⁴

The Community Redevelopment Act of 1969 was developed to revitalize economically distressed areas in order to improve public welfare and increase the local tax base. The act provides a funding mechanism by which counties and municipalities may undertake community redevelopment.⁵ It allows counties or municipalities to retain tax increment revenues from certain community taxing districts to fund redevelopment within a designated Community Redevelopment Area (CRA). To obtain this revenue, a local government must create a community redevelopment agency, designate an area or areas to be a CRA, create a community redevelopment plan, and establish a trust fund to receive the tax increment revenues.⁶

The Growth Policy Act of 1999

The Growth Policy Act authorizes local governments to designate urban infill and redevelopment areas for the purpose of stimulating investment in distressed urban areas and strengthening urban centers.⁷ The Act defines "urban infill and redevelopment area" as an area or areas where:

- Public services such as water and wastewater, transportation, schools, and recreation are already available or are scheduled to be provided within five years.
- The area, or one or more neighborhoods within the area, suffers from pervasive poverty, unemployment, and general distress.
- The proportion of properties that are substandard, overcrowded, dilapidated, vacant or abandoned, or functionally obsolete is higher than the average for the local government.
- More than 50 percent of the area is within a quarter of a mile of a transit stop, or a sufficient number of such transit stops will be made available concurrent with the designation.
- The area includes or is adjacent to community redevelopment areas, brownfields, enterprise zones, or Main Street programs, or has been designated by the state or federal government as an urban redevelopment area or similar designation.⁸

Pursuant to s. 163.2517, F.S., local governments that want to designate urban infill and redevelopment areas must develop plans describing redevelopment objectives and strategies or amend existing plans. Local governments must also adopt urban infill and redevelopment plans

³ See generally, Email from Eric H. Livingston, Program Administrator, NPDES Stormwater Section, Dep't of Environmental Protection, to analyst (Mar. 21, 2011) (on file with the Senate Committee on Environmental Preservation and Conservation).

⁴ See ch. 163, Part III, F.S.

⁵ Section 163.353, F.S.

⁶ See *supra* note 4.

⁷ See ss. 163.2511 through 163.2523, F.S.

⁸ Section 163.2514(2), F.S.

by ordinance and amend their comprehensive plans to delineate urban infill and redevelopment area boundaries.

Urban Stormwater Management

Unmanaged urban stormwater creates a wide variety of effects on Florida's surface and ground waters. Urbanization leads to:

- Compaction of soil,
- Addition of impervious surfaces such as roads and parking lots,
- Alteration of natural landscape features such as natural depressional areas that hold water, floodplains and wetlands,
- Construction of highly efficient drainage systems that alter the ability of the land to assimilate precipitation, and
- Pollutant loading of receiving water bodies from stormwater discharge.⁹

Urbanization within a watershed decreases the amount of rainwater that seeps into the soil. Rainwater is critical for recharging aquifers, maintaining water levels in lakes and wetlands, and maintaining spring and stream flows. The increased volume, speed, and pollutant loading in stormwater discharged from developed areas leads to flooding, water quality problems and loss of habitat.¹⁰

In 1982, to manage urban stormwater and minimize impacts to our natural systems, Florida adopted a technology-based rule requiring the treatment of stormwater to a specified level of pollutant load reduction for all new development. The rule included a performance standard for the minimum level of treatment and design criteria for best management practices (BMPs) that will achieve the performance standard. It also included a rebuttable presumption that discharges from a stormwater management system designed in accordance with the BMP design criteria would meet water quality standards.¹¹ The performance standard was to reduce postdevelopment stormwater pollutant loading of Total Suspended Solids ¹² by 80 percent, or by 95 percent for Outstanding Florida Waters (OFWs).¹³

In 1990 the DEP developed and implemented the State Water Resource Implementation Rule (originally known as the State Water Policy rule).¹⁴ This rule sets forth the broad guidelines for the implementation of Florida's stormwater program and describes the roles of the DEP, the WMDs and local governments. One of the primary goals of the program is to maintain the predevelopment stormwater characteristics of a site. The rule sets a minimum performance standard for stormwater treatment systems to remove 80 percent of the postdevelopment

⁹ Florida Dep't of Environmental Protection, *State Stormwater Treatment Rule Development Background*, <http://www.dep.state.fl.us/water/wetlands/erp/rules/stormwater/background.htm> (last visited Nov. 30, 2011).

¹⁰ *Id.*

¹¹ *Id.*

¹² Total Suspended Solid is listed as a conventional pollutant under s. 304(a)(4) of the federal Clean Water Act. A conventional pollutant is a water pollutant that is amenable to treatment by a municipal sewage treatment plant.

¹³ Rule 62-302.700, F.A.C., provides that an OFW is a water body designated worthy of special protection because of its natural attributes. This special designation is applied to certain water bodies, and is intended to protect and preserve their existing states.

¹⁴ See *supra* note 9. See also ch. 62-40, F.A.C.

stormwater pollutant loading of pollutants “that cause or contribute to violations of water quality standards.”¹⁵

The DEP and the WMDs jointly administer the environmental resource permit (ERP) program for activities that alter surface water flows.¹⁶ Alteration or construction of new stormwater management systems in urban redevelopment areas is regulated by the ERP program pursuant to s. 373.413, F.S., and must comply with all other relevant sections of part IV of ch. 373, F.S.

Delegated Federal Permitting Programs in Florida

The total maximum daily load (TMDL) program is administered by the DEP under a delegated authority by the U.S. Environmental Protection Agency (EPA) contained in the federal Clean Water Act (CWA) and pursuant to s. 403.067(7), F.S.¹⁷ A TMDL is the maximum allowable pollutant a water body can absorb and still maintain its intended purpose, e.g., fishable/swimmable. Under the CWA, TMDLs must be developed for all water bodies that are not meeting their classification standards and are deemed impaired. There can be multiple TMDLs for one water body if there are multiple pollutants contributing to water quality standards violations.¹⁸

Once a TMDL is established for an impaired water body, the DEP creates a basin management action plan (BMAP) in cooperation with local stakeholders.¹⁹ BMAPs are the blueprints used to create restoration and recovery strategies for an impaired water body. Activities, permitted and otherwise, contributing to pollutant loading of an impaired water body are assessed in order to develop strategies to reduce loading. These strategies may include reducing permit limits, developing BMPs and creating or revising conservation programs. Local stakeholder input and commitment to the BMAP are crucial to ensure recovery of an impaired water body.²⁰

In addition to the TMDL and BMAP programs, the DEP also administers the National Pollutant Discharge Elimination System (NPDES) permitting program under delegated authority from the EPA and pursuant to s. 403.0885, F.S. The NPDES permitting program regulates point source discharges of stormwater into surface waters of the state from certain municipal, industrial and construction activities.²¹

¹⁵ See *supra* note 9.

¹⁶ See ch. 373, Part IV, F.S. See also Florida Dep’t of Environmental Protection, *Environmental Resource Permitting (ERP) Program*, <http://www.dep.state.fl.us/water/wetlands/erp/index.htm> (last visited Nov. 30, 2011).

¹⁷ 33 U.S.C. s. 1342. See also s. 303(d) of the federal Clean Water Act.

¹⁸ Florida Dep’t of Environmental Protection, *The Total Maximum Daily Load Program – Overview* (Jan. 20, 2003), available at http://www.dep.state.fl.us/water/tmdl/docs/TMDL_Program_Overview.pdf (last visited Dec. 1, 2011).

¹⁹ Florida Dep’t of Environmental Protection, *Total Maximum Daily Loads*, <http://www.dep.state.fl.us/water/tmdl/> (last visited Dec. 1, 2011).

²⁰ Florida Dep’t of Environmental Protection, *Watershed Management*, <http://www.dep.state.fl.us/water/watersheds/bmap.htm> (last visited Dec. 1, 2011).

²¹ Florida Dep’t of Environmental Protection, *NPDES Stormwater Program*, <http://www.dep.state.fl.us/water/stormwater/npdes/> (last visited Jan. 13, 2012).

III. Effect of Proposed Changes:

Section 1 amends s. 218.075, F.S., allowing an entity created by special act, local ordinance or interlocal agreement of counties or municipalities that are entitled to a permit processing fee waiver or reduction to also receive a waiver or reduction.

Section 2 amends s. 373.118, F.S., directing the DEP to initiate rulemaking to adopt a general permit for stormwater management systems serving airports. The permit applies statewide and may be administered by any WMD or delegated local government. The CS specifies that no additional rulemaking is required and the rules are not subject to any special rulemaking requirements related to small business.

Section 3 creates s. 373.4131, F.S., addressing conceptual permits for urban redevelopment projects. The CS allows counties and municipalities creating urban redevelopment areas or urban infill and redevelopment areas to adopt stormwater adaptive management plans that address stormwater quality and quantity discharging from those areas. A local government that adopts a plan may obtain a conceptual permit from a WMD or the DEP on the basis of its stormwater adaptive management plan.

The CS directs the WMDs, in consultation with the DEP, to establish the conceptual permit. The conceptual permit:

- Allows discharges from an urban redevelopment area created under ch. 163, F.S., or an urban infill and redevelopment area designated under s. 163.2517, F.S., to continue up to the maximum rate and volume in that area as of the date a stormwater adaptive management plan was adopted.
- Presumes that stormwater discharges from an urban redevelopment area that result in a net improvement of discharge quality as compared to discharges that existed at the time the stormwater adaptive management plan was adopted do not cause or contribute to violations of water quality criteria.
- Cannot contain additional or more stringent limitations on stormwater discharges than those in this section of the CS.
- May be issued for 20 years unless an applicant requests a shorter duration.

The CS directs that urban redevelopment projects that meet all requirements qualify for a noticed general permit for construction and operation of the permitted system.

Finally, the CS requires areas covered by a conceptual permit to adhere to federally delegated pollution abatement programs administered by the state pursuant to ss. 403.0885 and 403.067(7), F.S. These sections address the NPDES permitting program, and the total maximum daily loads and basin management action plan programs, respectively.

Section 4 provides an effective date of July 1, 2012.

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

An entity created by special act, local ordinance or interlocal agreement of a county or municipality may receive a reduction or waiver of permit processing fees. The DEP's fee revenues from such permits may be reduced; however, the impact is indeterminate.

The DOT may more fully take advantage of the FAA's grants to address stormwater management systems for airside activities. Since rulemaking has not yet taken place, the impact is indeterminate.

The DEP and WMDs will be required to expend funds to create and implement the permitting program created by this CS. It is expected that the DEP and WMDs can absorb these costs with existing staff and resources. Additionally, local governments may have to expend funds to modify plans for stormwater management plans in urban redevelopment areas. It is also expected that local governments can absorb these costs with existing staff and resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

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

CS by Community Affairs on January 12, 2012:

- Allows a county or municipality that has created a community redevelopment area or an urban infill and redevelopment area to adopt a stormwater adaptive management plan;
- Authorizes the WMDs, in consultation with the DEP, to establish a conceptual permit;
- Deletes the definition for “stormwater management plan”;
- Removes the renewal option for a 20-year conceptual permit;
- Specifies that areas meeting the criteria in the conceptual permit qualify for a noticed general permit;
- Clarifies that the noticed general permit authorizes construction and operation for the duration of the conceptual permit; and
- Requires areas covered by a conceptual permit adhere to NPDES, TMDL and BMAP programs.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/12/2012	.	
	.	
	.	
	.	

The Committee on Community Affairs (Storms) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 218.075, Florida Statutes, is amended to
read:

218.075 Reduction or waiver of permit processing fees.—
Notwithstanding any other provision of law, the Department of
Environmental Protection and the water management districts
shall reduce or waive permit processing fees for counties with a
population of 50,000 or fewer ~~less~~ on April 1, 1994, until such
counties exceed a population of 75,000 and municipalities with a



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population of 25,000 or fewer; an entity created by special act,
local ordinance, or interlocal agreement of such counties or
municipalities; ~~less,~~ or any county or municipality not included
within a metropolitan statistical area. Fee reductions or
waivers shall be approved on the basis of fiscal hardship or
environmental need for a particular project or activity. The
governing body must certify that the cost of the permit
processing fee is a fiscal hardship due to one of the following
factors:

(1) Per capita taxable value is less than the statewide
average for the current fiscal year;

(2) Percentage of assessed property value that is exempt
from ad valorem taxation is higher than the statewide average
for the current fiscal year;

(3) Any condition specified in s. 218.503(1) which results
in the county or municipality being in a state of financial
emergency;

(4) Ad valorem operating millage rate for the current
fiscal year is greater than 8 mills; or

(5) A financial condition that is documented in annual
financial statements at the end of the current fiscal year and
indicates an inability to pay the permit processing fee during
that fiscal year.

The permit applicant must be the governing body of a county
or municipality, ~~or~~ a third party under contract with a county
or municipality, or an entity created by special act, local
ordinance, or interlocal agreement and the project for which the
fee reduction or waiver is sought must serve a public purpose.



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If a permit processing fee is reduced, the total fee may ~~shall~~ not exceed \$100.

Section 2. Subsection (6) is added to section 373.118, Florida Statutes, to read:

373.118 General permits; delegation.—

(6) By July 1, 2012, the department shall initiate rulemaking to adopt a general permit for stormwater management systems serving airside activities at airports. The general permit applies statewide and shall be administered by any water management district or any delegated local government pursuant to the operating agreements applicable to part IV of this chapter, with no additional rulemaking required. These rules are not subject to any special rulemaking requirements related to small business.

Section 3. Section 373.4131, Florida Statutes, is created to read:

373.4131 Conceptual permits for urban redevelopment projects.—

(1) A municipality or county that has created a community redevelopment area or an urban infill and redevelopment area pursuant to chapter 163 may adopt a stormwater adaptive management plan that addresses the quantity and quality of stormwater discharges for the area and may obtain a conceptual permit from the water management district or the Department of Environmental Protection.

(2) The conceptual permit shall be established by a water management district in consultation with the department and:

(a) Must allow for the rate and volume of stormwater discharges for stormwater management systems of urban



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71 redevelopment projects located within a community redevelopment
72 area created under part III of chapter 163 or an urban infill
73 and redevelopment area designated under s. 163.2517 to continue
74 up to the maximum rate and volume of stormwater discharges
75 within the area as of the date the stormwater adaptive
76 management plan was adopted.

77 (b) Must presume that stormwater discharges for stormwater
78 management systems of urban redevelopment projects located
79 within a community redevelopment area created under part III of
80 chapter 163 or an urban infill and redevelopment area designated
81 under s. 163.2517 which demonstrate a net improvement of the
82 quality of the discharged water that existed as of the date the
83 stormwater adaptive management plan was adopted for any
84 applicable pollutants of concern in the receiving water body do
85 not cause or contribute to violations of water quality criteria.

86 (c) May not prescribe additional or more stringent
87 limitations concerning the quantity and quality of stormwater
88 discharges from stormwater management systems than provided in
89 this section.

90 (d) Shall be issued for a duration of 20 years, unless a
91 shorter duration is requested by the applicant.

92 (3) Urban redevelopment projects that meet the criteria
93 established in the conceptual permit pursuant to this section
94 qualify for a noticed general permit that authorizes
95 construction and operation for the duration of the conceptual
96 permit.

97 (4) Notwithstanding subsections (1) through (3), permits
98 issued pursuant to this section may not conflict with the
99 requirements of a federally approved program pursuant to s.



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403.0885 or with the implementation of s. 403.067(7) regarding
total maximum daily loads and basin management plans.

Section 4. This act shall take effect July 1, 2012.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to stormwater management permits; amending
s. 218.075, F.S.; allowing an entity created by special act,
local ordinance, or interlocal agreement of a county or
municipality to receive certain reduced or waived permit
processing fees; amending s. 373.118, F.S.; requiring that the
Department of Environmental Protection initiate rulemaking to
adopt a general permit for stormwater management systems serving
airside activities at airports; providing for statewide
application of the general permit; providing for any water
management district or delegated local government to administer
the general permit; providing that the rules are not subject to
any special rulemaking requirements relating to small business;
creating s. 373.4131, F.S.; authorizing certain municipalities
and counties to adopt stormwater adaptive management plans and
obtain conceptual permits for urban redevelopment projects;
providing requirements for establishment of such permits by
water management districts in consultation with the Department
of Environmental Protection; providing that certain urban
redevelopment projects qualify for a noticed general permit;
providing that provisions may not conflict with existing
federally delegated pollution reduction programs; providing an



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129 | effective date.

By Senator Storms

10-00623A-12

2012602__

1 A bill to be entitled
 2 An act relating to environmental permits; amending s.
 3 218.075, F.S.; providing for an entity created by
 4 special act, local ordinance, or interlocal agreement
 5 of a county or municipality to receive certain reduced
 6 or waived permit processing fees; requiring that the
 7 project for which such fee reduction or waiver is
 8 sought serves a public purpose; amending s. 373.118,
 9 F.S.; requiring that the Department of Environmental
 10 Protection initiate rulemaking to adopt a general
 11 permit for stormwater management systems serving
 12 airside activities at airports; providing for
 13 statewide application of the general permit; providing
 14 for any water management district or delegated local
 15 government to administer the general permit; providing
 16 that the rules are not subject to any special
 17 rulemaking requirements relating to small business;
 18 creating s. 373.4131, F.S.; authorizing certain
 19 municipalities and counties to adopt stormwater
 20 management plans and obtain conceptual permits for
 21 urban redevelopment projects; defining the term
 22 "stormwater management plan"; requiring the Department
 23 of Environmental Protection and water management
 24 districts to establish conceptual permits for urban
 25 redevelopment projects; providing permit requirements;
 26 providing that certain urban redevelopment projects
 27 qualify for a general permit; providing an effective
 28 date.
 29

Page 1 of 5

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

10-00623A-12

2012602__

30 Be It Enacted by the Legislature of the State of Florida:
 31
 32 Section 1. Section 218.075, Florida Statutes, is amended to
 33 read:
 34 218.075 Reduction or waiver of permit processing fees.—
 35 Notwithstanding any other provision of law, the Department of
 36 Environmental Protection and the water management districts
 37 shall reduce or waive permit processing fees for counties with a
 38 population of 50,000 or fewer ~~less~~ on April 1, 1994, until such
 39 counties exceed a population of 75,000 and municipalities with a
 40 population of 25,000 or fewer; an entity created by special act,
 41 local ordinance, or interlocal agreement of such counties or
 42 municipalities; ~~less~~, or any county or municipality not included
 43 within a metropolitan statistical area. Fee reductions or
 44 waivers shall be approved on the basis of fiscal hardship or
 45 environmental need for a particular project or activity. The
 46 governing body must certify that the cost of the permit
 47 processing fee is a fiscal hardship due to one of the following
 48 factors:
 49 (1) Per capita taxable value is less than the statewide
 50 average for the current fiscal year;
 51 (2) Percentage of assessed property value that is exempt
 52 from ad valorem taxation is higher than the statewide average
 53 for the current fiscal year;
 54 (3) Any condition specified in s. 218.503(1) which results
 55 in the county or municipality being in a state of financial
 56 emergency;
 57 (4) Ad valorem operating millage rate for the current
 58 fiscal year is greater than 8 mills; or

Page 2 of 5

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

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2012602

(5) A financial condition that is documented in annual financial statements at the end of the current fiscal year and indicates an inability to pay the permit processing fee during that fiscal year.

The permit applicant must be the governing body of a county or municipality, ~~or~~ a third party under contract with a county or municipality, or an entity created by special act, local ordinance, or interlocal agreement, and the project for which the fee reduction or waiver is sought must serve a public purpose. If a permit processing fee is reduced, the total fee may ~~shall~~ not exceed \$100.

Section 2. Subsection (6) is added to section 373.118, Florida Statutes, to read:

373.118 General permits; delegation.—

(6) By July 1, 2012, the department shall initiate rulemaking to adopt a general permit for stormwater management systems serving airside activities at airports. The general permit applies statewide and shall be administered by any water management district or any delegated local government pursuant to the operating agreements applicable to part IV of this chapter, with no additional rulemaking required. These rules are not subject to any special rulemaking requirements related to small business.

Section 3. Section 373.4131, Florida Statutes, is created to read:

373.4131 Conceptual permits for urban redevelopment projects.—

(1) A municipality or county that has created a community

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2012602

redevelopment area or an urban infill and redevelopment area pursuant to chapter 163 may adopt a stormwater management plan that addresses the quantity and quality of stormwater discharges for the redevelopment or infill area and may obtain a conceptual permit from the water management district or the Department of Environmental Protection.

(2) For purposes of this section, the term "stormwater management plan" means a master drainage plan that, to the extent feasible:

(a) Improves the quality of stormwater runoff discharged from the project area.

(b) Controls the rate and volume of stormwater discharges to the extent that offsite flooding or other adverse water quantity impacts are not exacerbated by the proposed redevelopment project.

(c) Is designed based on a feasibility assessment of stormwater best management practices, including low impact development techniques and regional stormwater treatment systems, that consider the size and physical site characteristics of the project area.

(3) The department and water management districts shall establish conceptual permits for urban redevelopment projects created under part III of chapter 163 or an urban infill and redevelopment area designated under s. 163.2517. The conceptual permits:

(a) Must allow for the rate and volume of stormwater discharges for stormwater management systems of urban redevelopment projects located within a community redevelopment area created under part III of chapter 163 or an urban infill

10-00623A-12 2012602

117 and redevelopment area designated under s. 163.2517 to continue
118 up to the maximum rate and volume of stormwater discharges
119 within the area as of the date the stormwater management plan
120 was adopted.

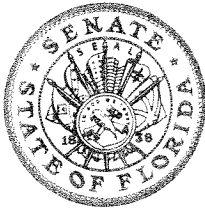
121 (b) Must presume that stormwater discharges for stormwater
122 management systems of urban redevelopment projects located
123 within a community redevelopment area created under part III of
124 chapter 163 or an urban infill and redevelopment area designated
125 under s. 163.2517 that demonstrate a net improvement of the
126 quality of the discharged water that existed as of the date the
127 stormwater management plan was adopted for any applicable
128 pollutants of concern in the receiving water body do not cause
129 or contribute to violations of water quality criteria.

130 (c) May not prescribe additional or more stringent
131 limitations concerning the quantity and quality of stormwater
132 discharges from stormwater management systems than provided in
133 this section.

134 (d) Shall be issued for a duration of at least 20 years,
135 and may be renewed, unless a shorter duration is requested by
136 the applicant.

137 (4) Urban redevelopment projects that meet the criteria
138 established in the conceptual permit pursuant to this section
139 qualify for a general permit that authorizes construction and
140 operation of the permitted system.

141 Section 4. This act shall take effect July 1, 2012.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Children, Families, and Elder Affairs, *Chair*
Budget - Subcommittee on Criminal and Civil Justice
Appropriations
Community Affairs
Military Affairs, Space, and Domestic Security
Reapportionment
Transportation

SENATOR RONDA STORMS

10th District

December 7, 2011

Senator Michael S. "Mike" Bennett, Chair
Senate Committee on Community Affairs
404 Senate Office Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Bennett:

Senate Bill 602, relating to *Environmental Permits*, has been referred to your committee for its second committee of reference.

I would greatly appreciate you placing SB 602 on the Community Affairs committee's agenda at your earliest convenience. Please do not hesitate to contact me should you have any questions.

Thank you for your consideration of this request.

Sincerely,

A handwritten signature in black ink, appearing to read "Ronda Storms".

Senator Ronda Storms
Florida State Senate
10th District

rec'd
12/8/11 apw

Cc: Mr. Tom Yeatman, Staff Director
310 Knott Building

REPLY TO:

- ☐ Lithia Oaks Business Center, 421 Lithia Pinecrest Road, Brandon, Florida 33511 (813) 651-2189 FAX: (813) 651-2188
 - ☐ 413 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5072
- Internet Address: storms.ronda.web@flsenate.gov

Senate's Website: www.flsenate.gov

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/12/12

Meeting Date

Topic _____ → Bill Number 602
(if applicable)
Name DANNY FOSTER Amendment Barcode _____
(if applicable)
Job Title DIRECTOR, GOVERNMENT AFFAIRS
Address P.O. Box 22287 Phone 813-927-8346
Street
TAMPA FL 33622 E-mail DFOSTER@TAMPAAIRPORT.COM
City State Zip
Speaking: ☒ For ☐ Against ☐ Information

Representing HILSBOROUGH COUNTY AVIATION AUTHORITY

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

01-12-2012

Meeting Date

Topic _____

Bill Number SB602
(if applicable)

Name JOHN JOHNSTON

Amendment Barcode _____
(if applicable)

Job Title _____

Address 403 E. Park Ave

Phone _____

WALLAHAM, FL 32301
City State Zip

E-mail _____

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida Airport Council

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Topic SB 602

Bill Number 602
(if applicable)

Name Ryan Matthews

Amendment Barcode _____
(if applicable)

Job Title Leg Advocate

Address _____
Street

Phone 222-9684

City _____ State _____ Zip _____

E-mail _____

Speaking: ☒ For ☐ Against ☐ Information

Representing FL League of Cities

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Community Affairs Committee

BILL: CS/SB 734

INTRODUCER: Committee on Community Affairs and Senator Bogdanoff

SUBJECT: Tax Deeds

DATE: January 12, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Anderson	Yeatman	CA	Fav/CS
2.			CM	
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	☒	Statement of Substantial Changes
B. AMENDMENTS.....	☐	Technical amendments were recommended
	☐	Amendments were recommended
	☐	Significant amendments were recommended

I. Summary:

This CS authorizes tax collector reimbursement for the cost of electronic deed application services.

This CS substantially amends section 197.502, of the Florida Statutes.

II. Present Situation:

Tax Collections, Sales and Liens

Chapter 197, Florida Statutes, governs tax collections, sales, and liens. Pursuant to s. 197.322, F.S., the tax collector will send a tax notice to each taxpayer within 20 days of receipt of the certified ad valorem tax roll and the non-ad valorem assessment rolls. The notice states the amount due and advises the taxpayer of discounts provided for early payment.¹ This normally occurs around November 1. Taxes that are not paid by April 1 following the year in which they were assessed are considered delinquent.² An additional tax notice is sent, electronically or by

¹ Section 197.322 (1), F.S. See also s. 197.222, F.S., for taxpayers who elect to prepay their taxes by installment "based upon the estimated tax equal to the actual taxes levied upon the subject property in the prior year."

² Section 197.333, F.S.

postal mail, by April 30 to each taxpayer whose payment has not been received, notifying these taxpayers that a tax certificate on the property will be sold for delinquent taxes that are not paid in full.³

On or before June 1 or 60 days after the date of delinquency, tax collectors are required to hold tax certificate auctions to sell tax certificates on properties with delinquent taxes which “shall be awarded to the person who will pay the taxes, interest, costs, and charges and will demand the lowest rate of interest, not in excess of the maximum rate of interest allowed by this chapter.”⁴ A tax certificate that has not been sold on property for which a tax deed application is pending shall be struck to the county.⁵ Tax certificates that are not sold are issued to the county at the maximum interest rate (18%). A tax certificate is a first lien on property which is superior to all other liens. A person who purchases a tax certificate does not acquire any property rights to the property on which the certificate applies.⁶

In 2003, s. 197.432, F.S., was amended to permit tax collectors to conduct tax certificate sales through electronic means.⁷ Since that time, many tax collectors have begun conducting tax certificate sales “online” through Internet websites. To participate in an online tax certificate sale, bidders merely register with the county tax collector. At the time the sale begins, the bidder can use the Internet website to bid on available tax certificates.⁸

Any person may redeem a tax certificate at any time after the certificate is issued and before a tax deed is issued or the property is placed on the list of lands available for sale. The person redeeming a tax certificate shall pay the tax collector the face amount plus all interest, costs, and charges as well as a fee of \$6.25 for each tax certificate redeemed.⁹

The holder of a tax certificate at any time after 2 years have elapsed since April 1 of the year of issuance of the tax certificate and before the cancellation of the certificate may file the certificate and an application for a tax deed with the tax collector of the county where the property described in the certificate is located. The tax collector may charge a tax deed application fee of \$75.¹⁰

If the property is not sold at the public tax deed auction held by the clerk of the circuit court, then it will be placed on a list entitled “lands available for taxes.”¹¹ Property that is placed on the list of lands available for sale, and is not sold three years after the public auction, escheats to the county in which the property is located, free and clear of all liens.¹² A tax certificate that is not

³ Section 197.343, F.S.

⁴ Section 197.432 (6), F.S.

⁵ Section 197.432 (5), F.S.

⁶ Section 197.122, F.S., see also s. 197.432, F.S.

⁷ Chapter 2003-22, L.O.F.; HB 267 (2003)

⁸ Although a bidder can log on from any computer with Internet access, section 197.432(16), F.S., requires that the tax collector provide computer terminals for use by the public.

⁹ Section 197.472, F.S.

¹⁰ Section 197.502, F.S.

¹¹ Section 197.502 (7), F.S.

¹² Section 197.502(8), F.S.

redeemed or for which a tax deed has not been applied for after a period of seven years is considered to be null and void.¹³

III. Effect of Proposed Changes:

Section 1 amends s. 197.502, F.S., to allow tax collectors to charge for the cost of providing electronic tax deed application services, if applicable.

Section 2 provides that this CS shall take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Tax certificate holders that are applying for a tax deed with the county tax collector may be required to pay reimbursement charges for fees paid by the tax collector to vendors providing electronic tax deed application services.

Tax certificate holders that are applying for a tax deed with a county tax collector that offers electronic tax deed applications may be required to use such electronic tax deed application services.

¹³ Section 197.482, F.S.

C. **Government Sector Impact:**

County tax collectors that offer electronic tax deed application services will be able to charge applicants to recover reimbursement for fees paid to vendors providing electronic tax deed application services, and can require tax deed applicants to utilize the electronic tax deed application services that they provide.

The Department of Revenue (DOR) indicated that the original bill does not have a significant fiscal impact on their operations. The passage of this legislation may require the Department to amend Administrative Rule 12D-13.060.¹⁴

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Additional Information:**

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

CS by Community Affairs on January 12, 2012

The CS makes technical changes to the language of the bill.

- B. **Amendments:**

None.

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

¹⁴¹⁴ Department of Revenue, Senate Bill 734 Fiscal Analysis (Nov. 18, 2011) (on file with the Senate Committee on Community Affairs).



845978

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
01/12/2012	.	
	.	
	.	
	.	

The Committee on Community Affairs (Thrasher) recommended the following:

Senate Amendment (with title amendment)

Delete lines 20 - 23
and insert:
deed application fee of \$75 and for the costs of providing
electronic tax deed application services, if applicable.

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

And the title is amended as follows:

Delete lines 4 - 5
and insert:
additional fee for the costs of providing electronic



845978

13

tax deed application services;



590250

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/12/2012	.	
	.	
	.	
	.	

The Committee on Community Affairs (Thrasher) recommended the following:

Senate Amendment (with title amendment)

Delete lines 20 - 23
and insert:
deed application fee of \$75 and for the cost of providing
electronic tax deed application services, if applicable.

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

And the title is amended as follows:

Delete lines 3 - 5
and insert:
F.S.; authorizing tax collector reimbursement for the



590250

13

cost of electronic deed application services;

By Senator Bogdanoff

25-00679-12

2012734__

A bill to be entitled

An act relating to tax deeds; amending s. 197.502, F.S.; authorizing a tax collector to charge an additional processing fee for applications for a tax deed which are submitted through the Internet; providing an effective date.

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

Section 1. Subsection (1) of section 197.502, Florida Statutes, is amended to read:

197.502 Application for obtaining tax deed by holder of tax sale certificate; fees.—

(1) The holder of a tax certificate at any time after 2 years have elapsed since April 1 of the year of issuance of the tax certificate and before the cancellation of the certificate, may file the certificate and an application for a tax deed with the tax collector of the county where the property described in the certificate is located. The tax collector may charge a tax deed application fee of \$75. If the application is submitted through the Internet, the tax collector may charge an additional processing fee equal to the tax collector's additional costs of providing tax deed application services online.

Section 2. This act shall take effect upon becoming a law.

WHITTAKER.ANN

From: NEVINS.AARON.S25
Sent: Friday, December 09, 2011 8:39 AM
To: WHITTAKER.ANN; YEATMAN.TOM; ENNIS.CHERYL.S21
Subject: S734, RT Tax Deeds

Chair Bennett:

I am writing to request that you place **SB 734, Relating to Tax Deeds** on the agenda of your Committee on Community Affairs at your earliest convenience.

Feel free to contact me with any questions or concerns about this legislation.

Sincerely,

<ellyn>

Senator Ellyn Setnor Bogdanoff
Florida Senate –District 25

cc: Tom Yeatman, Staff Director

*rec'd 12/9/11
epw*

THE FLORIDA SENATE
APPEARANCE RECORD

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

1 / 12 / 2012
Meeting Date

Topic _____

Bill Number 734
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVENUE SOUTH
Street

Phone 727/897-9291

SAINT PETERSBURG FLORIDA 33705
City State Zip

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☒ ^{IN part} For ☐ Against ☒ Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Community Affairs Committee

BILL: CS/SB 450

INTRODUCER: Health Regulation Committee and Senator Oelrich

SUBJECT: Emergency Medical Services

DATE: December 13, 2011 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Steele	Stovall	HR	Fav/CS
2.	Hinton	Yeatman	CA	Favorable
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	☒	Statement of Substantial Changes
B. AMENDMENTS.....	☐	Technical amendments were recommended
	☐	Amendments were recommended
	☐	Significant amendments were recommended

I. Summary:

This bill deletes the requirement for emergency medical technicians (EMTs), paramedics, and 911 public safety telecommunicators, certified under ch. 401, F.S., to complete a course approved by the Department of Health (DOH), regarding the human immunodeficiency virus (HIV) and acquired immune deficiency syndrome (AIDS) as a condition of certification and recertification. The bill updates Florida's EMT and paramedic training requirements to reflect the 2009 national training standards.

The bill redefines "basic life support" to include the name of the new National EMS Education Standards and changes the timetable for revision of the comprehensive state plan for emergency medical services and programs from biennially to every 5 years.

This bill substantially amends the following sections of the Florida Statutes: 381.0034, 401.23, 401.24, 401.27, and 401.2701.

II. Present Situation:

Acquired Immune Deficiency Syndrome is a physical disorder that results in the loss of immunity in affected persons. It is caused by a retrovirus known as the Human Immunodeficiency Virus. The HIV infection and AIDS remain leading causes of illness and death in the United States. The Centers for Disease Control and Prevention (CDC) estimated that at the end of 2006 over 1 million persons in the United States were living with HIV/AIDS.¹ According to the CDC, the annual number of AIDS cases and deaths declined substantially after 1994, but stabilized during the period 1999-2004.² The number of HIV/AIDS cases among racial/ethnic minority populations and persons exposed to HIV through heterosexual contact has increased since 1994.³ Florida ranks third⁴ among the states in the cumulative number of reported AIDS cases, with 123,112 cases reported through August 2011.⁵

The HIV infection can be transmitted through certain body fluids (blood, semen, vaginal secretions, and breast milk) from an HIV-infected person. These specific fluids must come in contact with a mucous membrane or damaged tissue or be directly injected into the blood-stream (from a needle or syringe) for transmission to possibly occur. In the United States, HIV is most commonly transmitted through specific sexual behaviors (anal or vaginal sex) or sharing needles with an infected person.⁶

EMTs and paramedics can be exposed to blood because they treat trauma victims and perform advanced life support procedures using needles and other sharp instruments. They often work under unpredictable, adverse conditions where patients may be experiencing uncontrolled bleeding or disorientation. Exposure to blood can occur from a sharps injury, such as a needlestick after use on a patient or a cut from a contaminated sharp object. Exposure can also occur from a splash to the eyes, nose, or mouth; contact on non-intact (broken or cracked) skin; or a human bite.

According to the CDC, implementation of *Standard Precautions* constitutes the primary strategy for the prevention of health care-associated transmission of infectious agents among patients and health care personnel. Standard Precautions are based on the principle that all blood, body fluids, secretions, excretions except sweat, nonintact skin, and mucous membranes may contain transmissible infectious agents. Standard Precautions include a group of infection prevention practices that apply to all patients, regardless of suspected or confirmed infection status, in any setting in which health care is delivered. These include: hand hygiene; use of gloves, gown,

¹ *HIV in the United States: An Overview*, Revised July 2010, CDC. Found at:

<http://www.cdc.gov/hiv/topics/surveillance/resources/factsheets/pdf/us_overview.pdf> (Last visited on December 5, 2011).

² CDC Revised Recommendations for HIV Testing of Adults, Adolescents, and Pregnant Women in Health Care Settings.

MMWR (Morbidity and Mortality Weekly Report), September 22, 2006; 55(RR 14):1-17. Found at:

<<http://www.cdc.gov/mmwr/preview/mmwrhtml/rr5514a1.htm>> (Last visited on December 5, 2011).

³ *Id.*

⁴ Florida – 2010 Profile. Found at: <http://www.cdc.gov/nchhstp/stateprofiles/pdf/florida_profile.pdf> (Last visited on December 5, 2011).

⁵ The Florida Department of Health, Division of Disease Control, *Monthly Surveillance Report* (Hepatitis, HIV/AIDS, STD and TB), September 2011, p. 16. Found at: <http://www.doh.state.fl.us/disease_ctrl/aids/trends/msr/2011/MSR0911b.pdf> (Last visited on December 5, 2011).

⁶ CDC, HIV Transmission, *How is HIV passed from one person to another?* Found at:

<<http://www.cdc.gov/hiv/resources/qa/transmission.htm>> (Last visited on December 5, 2011).

mask, eye protection, or face shield, depending on the anticipated exposure; and safe injection practices. Also, equipment or items in the patient environment likely to have been contaminated with infectious body fluids must be handled in a manner to prevent transmission of infectious agents (e.g. wear gloves for direct contact, contain heavily soiled equipment, properly clean and disinfect or sterilize reusable equipment before use on another patient).⁷

The CDC and state health departments have been investigating cases of HIV infection in health care personnel without identified risk factors since the early days of the AIDS epidemic. Of those health care personnel for whom case investigations were completed from 1981 to 2010, 57 had documented seroconversion to HIV following occupational exposures. In addition, 143 possible cases of HIV infection have been reported among health care personnel.⁸ According to the CDC, there were no documented cases of emergency medical technicians or paramedics having acquired an HIV infection through occupational exposure. However, there were 12 EMTs/paramedics for whom occupational acquisition of an HIV infection might have been possible.⁹

Emergency Medical Technicians/Paramedics, Standards and Certification

The Department of Health, Division of Emergency Operations regulates EMTs and paramedics. “Emergency Medical Technician” is defined under s. 401.23, F.S., to mean a person who is certified by the DOH to perform basic life support, which is the treatment of medical emergencies through the use of techniques described in the Emergency Medical Technician Basic Training Course Curriculum of the U.S. Department of Transportation. “Paramedic” means a person who is certified by the DOH to perform basic *and* advanced life support.

The DOH must establish, by rule, educational and training criteria and examinations for the certification and recertification of EMTs and paramedics.¹⁰ An applicant for certification or recertification as an EMT or paramedic must have completed an appropriate training course as follows:

- For an EMT, an emergency medical technician training course equivalent to the most recent emergency medical technician basic training course of the U.S. Department of Transportation as approved by the DOH.
- For a paramedic, a paramedic training program equivalent to the most recent paramedic course of the U.S. Department of Transportation as approved by the DOH.

The DOH must also establish by rule, a procedure for biennial renewal of certification of EMTs and paramedics. Such rules for EMTs must require a U.S. Department of Transportation refresher training program of at least 30 hours as approved by the DOH every 2 years. Rules for

⁷ Jane D. Siegel, MD; Emily Rhinehart, RN MPH CIC; Marguerite Jackson, PhD; Linda Chiarello, RN MS; the Healthcare Infection Control Practices Advisory Committee, CDC, 2007 *Guideline for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings*, p. 66. Found at: <<http://www.cdc.gov/hicpac/pdf/isolation/Isolation2007.pdf>> (Last visited on December 5, 2011).

⁸ CDC, *Surveillance of Occupationally Acquired HIV/AIDS in Healthcare Personnel, as of December 2010*, updated May, 2011. Available at: <<http://www.cdc.gov/HAI/organisms/hiv/Surveillance-Occupationally-Acquired-HIV-AIDS.html>> (Last visited on December 5, 2011).

⁹ *Id.*

¹⁰ Section 401.27, F.S.

paramedics must require candidates for renewal to have taken at least 30 hours of continuing education units during the 2-year period.

911 Public Safety Telecommunicator¹¹

“911 public safety telecommunicator” means a public safety dispatch or 911 operator whose duties include, among other things, answering, receiving, transferring, and dispatching functions related to 911 calls and dispatching law enforcement officers, fire rescue services, emergency medical services, and other public safety services to the scene of an emergency. Certain 911 public safety telecommunicators are required to be certified pursuant to s. 401.465, F.S. The DOH is to establish, by rule, educational and training criteria for the certification and recertification of 911 public safety telecommunicators.

Requirement for Instruction on HIV/AIDS

In 2006, the Legislature revised the requirements for the HIV/AIDS continuing education instruction in the general licensing provisions for health practitioners regulated by s. 456.033, F.S.¹² These practitioners are no longer required to take a course on HIV/AIDS as a condition of initial licensure. They are required to complete a continuing education course on HIV/AIDS for their first licensure renewal.

Under s. 381.0034(3), F.S., the DOH must require applicants for initial licensure or certification as EMTs, paramedics, 911 public safety telecommunicators, midwives, radiologic technologists, or clinical laboratory personnel to complete an educational course on HIV and AIDS. These professions must complete a department-approved course on HIV/AIDS at the time of initial licensure or certification, or do so within 6 months of licensure or certification upon an affidavit showing good cause.

The course must cover modes of transmission, infection control procedures, clinical management, and prevention of HIV/AIDS. The course must also include information on current Florida law on AIDS and its impact on testing, confidentiality of test results, treatment of patients, and any protocols and procedures applicable to HIV counseling and testing, reporting, the offering of HIV testing to pregnant women, and partner notification. Failure to comply with the educational requirement is grounds for disciplinary action.¹³

Section 381.0034(1), F.S., also provides that the DOH must require, as a condition of biennial relicensure, persons certified or licensed as EMTs, paramedics, 911 public safety telecommunicators, midwives, radiologic technologists, and clinical laboratory personnel to complete an educational course approved by the DOH on HIV/AIDS. Each licensee or certificate holder is to submit confirmation of having completed the course when submitting fees or an application for each biennial renewal.

¹¹ Section 401.465, F.S.

¹² See Chapter 2006-251, L.O.F.

¹³ Section 381.0034(2), F.S.

Emergency Medical Services Training Programs¹⁴

Any private or public institution in Florida desiring to conduct an approved program for the education of EMTs and paramedics must submit a completed application, which must include documentation verifying that the curriculum:

- Meets the course guides and instructor's lesson plans in the most recent Emergency Medical Technician-Basic: National Standard Curricula for emergency medical technician programs and Emergency Medical Technician-Paramedic: National Standard Curricula for paramedic programs;
- Includes 2 hours of instruction on the trauma scorecard methodologies for assessment of adult trauma patients and pediatric trauma patients as specified by the DOH by rule; and
- Includes 4 hours of instruction on HIV/AIDS training consistent with the requirements of ch. 381, F.S.

EMT and Paramedic National Standard Curricula

The National Highway Traffic Safety Administration (NHTSA) has assumed responsibility for the development of training courses that are responsive to the standards established by the Highway Safety Act of 1966 (amended). These courses are designed to provide national guidelines for training.

In 1994, the NHTSA completed an extensive revision of the national standard Emergency Medical Technician-Basic Curriculum.¹⁵ The EMT-Basic: National Standard Curriculum is a core curriculum of minimum required information, to be presented within a 110-hour training program, intended to prepare a medically competent EMT-Basic to operate in the field. The 110-hour time constraint of the program, as recommended by the national emergency medical services community during the 1990 NHTSA *Consensus Workshop on Emergency Medical Services Training Programs*, necessitates the need for enrichment and continuing education in order to bring a student to full competency.¹⁶

The topic of HIV/AIDS is not specifically addressed in the EMT-Basic: National Standard Curriculum. The topic is most likely to be covered in the module of the curriculum that addresses the well-being of the EMT-Basic. This module covers body substance isolation, personal protection from airborne and blood borne pathogens, personal protection equipment, and safety precautions.

The 1994 EMT-Basic: National Standard Curriculum Instructor's Course Guide specifically mentions that: "It is important to understand that this curriculum does not provide students with extensive knowledge in hazardous materials, blood-borne pathogens, emergency vehicle operations or rescue practices in unusual environments. These areas are not core elements of education and practice as identified in the *National EMS Education and Practice Blueprint*. Identified areas of competency not specifically designed within the EMT-Basic: National

¹⁴ Section 401.2701, F.S.

¹⁵ National Standard Curriculum. Found at: <<http://www.nhtsa.gov/people/injury/ems/pub/emtbnsnc.pdf>> (Last visited on December 5, 2011).

¹⁶ *Id.*, p. 25.

Standard Curriculum should be taught in conjunction with this program as a local or state option.”¹⁷

The EMT-Paramedic: National Standard Curriculum represents the minimum required information to be presented within a course leading to certification as a paramedic. It is recognized that there is additional specific education that will be required of paramedics who operate in the field, i.e., ambulance driving, heavy and light rescue, basic extrication, special needs, and so on. It is also recognized that this information might differ from locality to locality, and that each training program or system should identify and provide special instruction for these training requirements.¹⁸

The EMT-Basic certification is a prerequisite for the more advanced paramedic education, so the topic of HIV/AIDS would most likely have already been covered by the EMT-Basic: National Standard Curriculum.

The 1998 EMT-Paramedic: National Standard Curriculum Introduction also specifically mentions that: “It is important to recognize that this curriculum does not provide students with extensive knowledge in hazardous materials, blood-borne pathogens, emergency vehicle operations or rescue practices in unusual environments. These areas are not core elements of education and practice as identified in the *National EMS Education and Practice Blueprint*. Identified areas of competency not specifically designed within the EMT-Paramedic: National Standard Curriculum should be taught in conjunction with this program as a local or state option.”¹⁹

The National EMS Education Standards²⁰

The National EMS Education Standards (Standards), led by the National Association of EMS Educators, replace the NHTSA National Standard Curricula at all licensure levels. The Standards define the competencies, clinical behaviors, and judgments that must be met by entry-level EMS personnel to meet practice guidelines defined in the National EMS Scope of Practice Model. Content and concepts defined in the National EMS Core Content are also integrated within the Standards.

The Standards are comprised of four components:

- Competency - This statement represents the minimum competency required for entry-level personnel at each licensure level.
- Knowledge Required to Achieve Competency - This represents an elaboration of the knowledge within each competency (when appropriate) that entry-level personnel would need to master in order to achieve competency.
- Clinical Behaviors/Judgments - This section describes the clinical behaviors and judgments essential for entry-level EMS personnel at each licensure level.

¹⁷ *Id.*, p. 25.

¹⁸ EMT: Paramedic National Standard Curriculum, *Preface*. Found at: <http://www.nhtsa.gov/people/injury/ems/EMT-P/disk_1%5B1%5D/Intro.pdf> (Last visited on December 5, 2011).

¹⁹ *Id.*, p. 19-20.

²⁰ National Emergency Medical Services Education Standards. Found at: <<http://www.ems.gov/pdf/811077a.pdf>> (Last visited on December 5, 2011).

- **Educational Infrastructure** - This section describes the support standards necessary for conducting EMS training programs at each licensure level.

Each statement in the Standards presumes that the expected knowledge and behaviors are within the scope of practice for that EMS licensure level, as defined by the National EMS Scope of Practice Model. Each competency applies to patients of all ages, unless a specific age group is identified.

The Standards also assume there is a progression in practice from the Emergency Medical Responder level to the Paramedic level. That is, licensed personnel at each level are responsible for all knowledge, judgments, and behaviors at their level and at all levels preceding their level. For example, a Paramedic is responsible for knowing and doing everything identified in that specific area, as well as knowing and doing all tasks in the three preceding levels.

The National EMS Education Standards do not specifically address the topic of HIV/AIDS. Like the National Standard Curricula mentioned above, the Standards cover adherence to Standard Precautions, blood borne pathogens, and disease transmission prevention.

Emergency Medical Services State Plan²¹

The DOH is responsible for the improvement and regulation of basic and advanced life support programs and is required to biennially develop and revise a comprehensive state plan for basic and advanced life support services.

III. Effect of Proposed Changes:

Section 1 amends s. 381.0034, F.S., to remove the requirement for each person certified under ch. 401, F.S., Medical Telecommunications and Transportation, to complete an educational course about HIV and AIDS as a condition of initial certification and renewal of certification. It also makes technical changes.

Section 2 amends s. 401.23, F.S., to define “basic life support” as treatment of medical emergencies by a qualified person through the use of techniques described in the Emergency Medical Technician Basic Training Course Curriculum or the National EMS Education Standards of the United States Department of Transportation as approved by the DOH. The bill removes a list of techniques that are examples of the techniques of basic life support.

Section 3 amends s. 401.24, F.S., relating to the emergency medical services state plan, to require the DOH to develop and revise the comprehensive state plan every 5 years rather than every 2 years.

Section 4 amends s. 401.27, F.S., relating to ambulance personnel standards and certification, to require the completion of a training course equivalent to the most recent National EMS Education Standards, as approved by the DOH, in order for a person to apply for certification or

²¹ Section 401.24, F.S.

recertification as an EMT or paramedic. The bill extends the timeframe to pass the examination to become certified as an EMT or paramedic from 1 to 2 years following successful course completion.

Section 5 amends s. 401.2701, F.S., relating to emergency medical services training programs, to include the National EMS Education Standards as a curriculum option for EMT and paramedic training programs. It also makes technical changes.

Section 6 provides an effective date of July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

The provisions of the bill have no impact on public records or open meetings issues under the requirements of Article I, Section 24(a) and (b) of the Florida Constitution.

D. Other Constitutional Issues:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The DOH indicated that the bill would require the department to promulgate rules to remove the HIV/AIDS requirement in 64J-1.008 and 64J-1.009, F.A.C. In addition, the DOH will need to revise a form, publish notice of the rule changes and hold a public hearing with associated overhead costs. The DOH indicated that the fiscal impact will be

minimal and can be absorbed within the department's Emergency Medical Services Trust Fund.²²

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

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

CS by Health Regulation Committee on December, 7, 2011:

The title was revised to include 911 public safety telecommunicators, which is included in Chapter 401. Grammatical changes were made to clarify that the training courses must be approved by the DOH and language that had been inadvertently struck concerning the training curricula for paramedics was reinstated.

- B. Amendments:

None.

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

²² Department of Health, *Senate Bill 450 Bill Analysis, Economic Statement and Fiscal Note* (October 27, 2011) (on file with the Senate Committee on Community Affairs)

By the Committee on Health Regulation; and Senator Oelrich

588-01570-12

2012450c1

1 A bill to be entitled
 2 An act relating to emergency medical services;
 3 amending s. 381.0034, F.S.; deleting the requirement
 4 for emergency medical technicians, paramedics, and 911
 5 public safety telecommunicators to complete an
 6 educational course on the modes of transmission,
 7 infection control procedures, clinical management, and
 8 prevention of human immunodeficiency virus and
 9 acquired immune deficiency syndrome; amending s.
 10 401.23, F.S.; redefining the term "basic life support"
 11 for purposes of the Raymond H. Alexander, M.D.,
 12 Emergency Medical Transportation Services Act;
 13 amending s. 401.24, F.S.; revising the period for
 14 review of the comprehensive state plan for emergency
 15 medical services and programs; amending s. 401.27,
 16 F.S.; revising the requirements for certification or
 17 recertification as an emergency medical technician or
 18 paramedic; revising the requirements for certification
 19 for an out-of-state trained emergency medical
 20 technician or paramedic; amending s. 401.2701, F.S.;
 21 revising requirements for an institution that conducts
 22 an approved program for the education of emergency
 23 medical technicians and paramedics; revising the
 24 requirements that students must meet in order to
 25 receive a certificate of completion from an approved
 26 program; providing an effective date.

28 Be It Enacted by the Legislature of the State of Florida:
 29

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30 Section 1. Subsection (1) of section 381.0034, Florida
 31 Statutes, is amended to read:

32 381.0034 Requirement for instruction on HIV and AIDS.—
 33 (1) As of July 1, 1991, the Department of Health shall require
 34 each person licensed or certified under ~~chapter 401~~, chapter
 35 467, part IV of chapter 468, or chapter 483, as a condition of
 36 biennial relicensure, to complete an educational course approved
 37 by the department on the modes of transmission, infection
 38 control procedures, clinical management, and prevention of human
 39 immunodeficiency virus and acquired immune deficiency syndrome.
 40 Such course shall include information on current state Florida
 41 law on acquired immune deficiency syndrome and its impact on
 42 testing, confidentiality of test results, and treatment of
 43 patients. Each such licensee or certificateholder shall submit
 44 confirmation of having completed the said ~~the said~~ course, on a form
 45 provided by the department, when submitting fees or application
 46 for each biennial renewal.

47 Section 2. Subsection (7) of section 401.23, Florida
 48 Statutes, is amended to read:

49 401.23 Definitions.—As used in this part, the term:

50 (7) "Basic life support" means treatment of medical
 51 emergencies by a qualified person through the use of techniques
 52 ~~such as patient assessment, cardiopulmonary resuscitation (CPR),~~
 53 ~~splinting, obstetrical assistance, bandaging, administration of~~
 54 ~~oxygen, application of medical antishock trousers,~~
 55 ~~administration of a subcutaneous injection using a premeasured~~
 56 ~~autoinjector of epinephrine to a person suffering an~~
 57 ~~anaphylactic reaction, and other techniques~~ described in the
 58 Emergency Medical Technician Basic Training Course Curriculum or

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the National EMS Education Standards of the United States Department of Transportation, and as approved by the department. The term ~~"basic life support"~~ also includes other techniques ~~that which~~ have been approved and are performed under conditions specified by rules of the department.

Section 3. Section 401.24, Florida Statutes, is amended to read:

401.24 Emergency medical services state plan.—The department is responsible, at a minimum, for the improvement and regulation of basic and advanced life support programs. The department shall develop, and biennially revise every 5 years, a comprehensive state plan for basic and advanced life support services, the emergency medical services grants program, trauma centers, the injury control program, and medical disaster preparedness. The state plan shall include, but need not be limited to:

(1) Emergency medical systems planning, including the prehospital and hospital phases of patient care, and injury control effort and unification of such services into a total delivery system to include air, water, and land services.

(2) Requirements for the operation, coordination, and ongoing development of emergency medical services, which includes: basic life support or advanced life support vehicles, equipment, and supplies; communications; personnel; training; public education; state trauma system; injury control; and other medical care components.

(3) The definition of areas of responsibility for regulating and planning the ongoing and developing delivery service requirements.

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Section 4. Subsections (4) and (12) of section 401.27, Florida Statutes, are amended to read:

401.27 Personnel; standards and certification.—

(4) An applicant for certification or recertification as an emergency medical technician or paramedic must:

(a) Have completed an appropriate training course as follows:

1. For an emergency medical technician, an emergency medical technician training course equivalent to the most recent national standard curriculum or National EMS Education Standards ~~emergency medical technician basic training course~~ of the United States Department of Transportation, and as approved by the department;

2. For a paramedic, a paramedic training program equivalent to the most recent national standard curriculum or National EMS Education Standards ~~paramedic course~~ of the United States Department of Transportation, and as approved by the department;

(b) Certify under oath that he or she is not addicted to alcohol or any controlled substance;

(c) Certify under oath that he or she is free from any physical or mental defect or disease that might impair the applicant's ability to perform his or her duties;

(d) Within 2 years ~~1 year~~ after course completion have passed an examination developed or required by the department;

(e) 1. For an emergency medical technician, hold ~~either~~ a current American Heart Association cardiopulmonary resuscitation course card or an American Red Cross cardiopulmonary resuscitation course card or its equivalent as defined by department rule;

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2. For a paramedic, hold a certificate of successful course completion in advanced cardiac life support from the American Heart Association or its equivalent as defined by department rule;

(f) Submit the certification fee and the nonrefundable examination fee prescribed in s. 401.34, which examination fee will be required for each examination administered to an applicant; and

(g) Submit a completed application to the department, which application documents compliance with paragraphs (a), (b), (c), (e), (f), (g), and, if applicable, (d). The application must be submitted so as to be received by the department at least 30 calendar days before the next regularly scheduled examination for which the applicant desires to be scheduled.

(12) An applicant for certification who is an out-of-state trained emergency medical technician or paramedic must provide proof of current emergency medical technician or paramedic certification or registration based upon successful completion of the United States Department of Transportation emergency medical technician or paramedic training curriculum or the National EMS Education Standards, and as approved by the department, and hold a current certificate of successful course completion in cardiopulmonary resuscitation (CPR) or advanced cardiac life support for emergency medical technicians or paramedics, respectively, to be eligible for the certification examination. The applicant must successfully complete the certification examination within 1 year after the date of the receipt of his or her application by the department. After 1 year, the applicant must submit a new application, meet all

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eligibility requirements, and submit all fees to reestablish eligibility to take the certification examination.

Section 5. Paragraph (a) of subsection (1) and subsection (5) of section 401.2701, Florida Statutes, are amended to read:
401.2701 Emergency medical services training programs.—

(1) Any private or public institution in Florida desiring to conduct an approved program for the education of emergency medical technicians and paramedics shall:

(a) Submit a completed application on a form provided by the department, which must include:

1. Evidence that the institution is in compliance with all applicable requirements of the Department of Education.

2. Evidence of an affiliation agreement with a hospital that has an emergency department staffed by at least one physician and one registered nurse.

3. Evidence of an affiliation agreement with a current ~~Florida-licensed~~ emergency medical services provider that is licensed in this state. Such agreement shall include, at a minimum, a commitment by the provider to conduct the field experience portion of the education program.

4. Documentation verifying faculty, including:

a. A medical director who is a licensed physician meeting the applicable requirements for emergency medical services medical directors as outlined in this chapter and rules of the department. The medical director shall have the duty and responsibility of certifying that graduates have successfully completed all phases of the education program and are proficient in basic or advanced life support techniques, as applicable.

b. A program director responsible for the operation,

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organization, periodic review, administration, development, and approval of the program.

5. Documentation verifying that the curriculum:

a. Meets the ~~course guides and instructor's lesson plans in~~ the most recent Emergency Medical Technician-Basic National Standard Curricula or the National EMS Education Standards for emergency medical technician programs and Emergency Medical Technician-Paramedic National Standard Curricula or the National EMS Education Standards for paramedic programs, and as approved by the department.

b. Includes 2 hours of instruction on the trauma scorecard methodologies for assessment of adult trauma patients and pediatric trauma patients as specified by the department by rule.

~~c. Includes 4 hours of instruction on HIV/AIDS training consistent with the requirements of chapter 381.~~

6. Evidence of sufficient medical and educational equipment to meet emergency medical services training program needs.

(5) Each approved program must notify the department within 30 days ~~after~~ of any change in the professional or employment status of faculty. Each approved program must require its students to pass a comprehensive final written and practical examination evaluating the skills described in the current United States Department of Transportation EMT-Basic or EMT-Paramedic, National Standard Curriculum or the National EMS Education Standards, and as approved by the department. Each approved program must issue a certificate of completion to program graduates within 14 days ~~after~~ of completion.

Section 6. This act shall take effect July 1, 2012.



The Florida Senate
Committee Agenda Request

To: Senator Michael S. "Mike" Bennett, Chair
Committee on Community Affairs

Subject: Committee Agenda Request

Date: December 8, 2011

I respectfully request that **Senate Bill # 450**, relating to Emergency Medical Services, be placed on the:

- ☒ committee agenda at your earliest possible convenience.
- ☐ next committee agenda.

A handwritten signature in cursive script that reads "Steve Oelrich".

Senator Steve Oelrich
Florida Senate, District 14

rec'd 12/8/11 apw



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Higher Education, *Chair*
Environmental Preservation and Conservation,
Vice Chair
Banking and Insurance
Budget - Subcommittee on Health and Human Services
Appropriations
Budget - Subcommittee on Higher Education
Appropriations
Rules - Subcommittee on Ethics and Elections

SENATOR STEVE OELRICH

14th District

January 9, 2012

Chairman Bennett,

Please allow my legislative aide, Daniel Bruno, to present Senate Bill 450, a bill relating to emergency medical services, in your Community Affairs committee this coming Thursday, January 12th.

I will be unable to personally present the bill, but I feel that Daniel will do an excellent job in relaying the necessary information about the bill to you and your committee. Please don't hesitate to contact me if you have further questions or wish to speak to me further.

Thank you,

A handwritten signature in cursive script that reads "Steve Oelrich".

Senator Steve Oelrich

rec'd 1/9/12 afw

REPLY TO:

- ☐ 4131 Northwest 28th Lane, Suite 7, Gainesville, Florida 32606 (352) 375-3555
- ☐ 418 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5020

Senate's Website: www.flsenate.gov

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Topic EMS Education

Bill Number 452
(if applicable)

Name Daniel Griffin

Amendment Barcode _____
(if applicable)

Job Title PAST PRESIDENT

Address 4621 NW 46 CT
Street
Gainesville
City State Zip

Phone _____

E-mail _____

Speaking: ☒ For ☐ Against ☐ Information

Representing EMS EDUCATORS

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard 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 Community Affairs Committee

BILL: CS/SB 452

INTRODUCER: Community Affairs Committee and Senator Jones

SUBJECT: Financial Responsibility for Medical Expenses of Pretrial Detainees and Sentenced Inmates

DATE: January 12, 2012

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	Fav/CS
2.				
3.				
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	☒	Statement of Substantial Changes
B. AMENDMENTS.....	☐	Technical amendments were recommended
	☐	Amendments were recommended
	☐	Significant amendments were recommended

I. Summary:

This CS limits county or municipal medical costs of an in-custody pretrial detainee or sentenced inmate to 110 percent of the Medicare allowable rate if no formal written agreement exists between the governmental entity and the third-party medical care provider. However, if the provider reports a negative operating margin to the Agency for Health Care Administration, it would be paid at a rate not to exceed 125 percent of the Medicare rate. The CS also limits remuneration for emergency room services to 75 percent of the hospitals' billed charges.

The CS requires that before a third-party provider can seek reimbursement from a county or municipal general fund, it must show that a "good faith effort" was made to collect payment for medical care expenses from an in-custody pretrial detainee or sentenced inmate.

In addition, the CS specifies responsibility of the governmental body for payment of any in-custody medical costs ceases upon release of the in-custody pretrial detainee or sentenced inmate.

The CS also changes language to state that the responsibility of paying for an injury that occurred “as a result of arrest” is on the person receiving care (current law uses the language “at the time of arrest”).

The CS defines the term “in-custody pretrial detainee or sentenced inmate” and specifies that law enforcement or the county or municipal detention facility is responsible for restricting the personal freedom of these persons receiving medical treatment or services from third-party providers.

The CS exempts certain charter counties from the provisions and specified reimbursement rate obligations of the act.

This CS substantially amends sections 901.35 and 951.032 of the Florida Statutes and creates an undesignated section of law.

II. Present Situation:

Financial Responsibility for Medical Expenses

Pre-trial detainees have a constitutional right to “reasonable and adequate nourishment and medical care,”¹ but the cost of the medical care is the primary responsibility of the person receiving the medical care.² A medical services provider shall recover the expenses of medical care, treatment, hospitalization, and transportation (hereinafter referred to simply as “medical care”) for a person ill, wounded, or otherwise injured during or at the time of arrest for any violation of state law or a county or municipal ordinance from the following sources in the following order:

- (1) Insurance of the person receiving the medical care;
- (2) The person receiving medical care;
- (3) A financial settlement for the medical care.³

When reimbursement from these sources is unavailable, the cost of medical care shall be paid from the general fund of the county in which the person was arrested. If the arrest was for violation of a municipal ordinance then the municipality shall pay the medical service provider.⁴ Section 951.032, F.S., articulates the local government’s rights to reimbursement from the person seeking medical attention.⁵

The injury or illness need not be caused by the arrest.⁶ The responsibility for payment of medical costs exists until the arrested person is released from the custody of the arresting agency. The

¹ *Williams v. Ergle*, 698 So. 2d 1294 (Fla. 5th DCA 1997).

² Section 901.35, F.S.

³ *Id.*

⁴ *Id.*

⁵ See *Williams v. Ergle*, 698 So. 2d 1294 (Fla. 5th DCA 1997) (stating that pretrial detainees are prisoners for the purposes of state statutes allowing recovery of certain medical expenses from prisoners).

⁶ See *North Brevard County Hospital District v. Brevard County Bd. of County Commissioners*, 899 So. 2d 1200, 1202-03 (Fla. 5th DCA 2005) (“One cannot fault Brevard County or the trial court in its attempt to circumvent s. 901.35, F.S. The implications of the statute can be financially devastating to a local government in view of the ever increasing cost of medical

rates medical service providers can charge local governments are not capped.⁷ At least one Florida appellate court has held that the costs of medical services are not among the costs covered by the constitutional provision that prohibits compelling persons charged with a crime to pay costs before a judgment of conviction has become final.⁸

A county detention facility or municipal detention facility incurring expenses for providing medical care may seek reimbursement for the expenses incurred in the following order:

- From the prisoner or person receiving care, including authorizing a lien against a prisoner's cash account for medical care by deducting the cost from the prisoner's cash account; and
- From an insurance company, health care corporation, or other source if the prisoner or person is covered by an insurance policy or subscribes to a health care corporation or other source for those expenses.⁹

Section 951.23, F.S., provides the following relevant definitions:

- “County prisoner” means a person who is detained in a county detention facility by reason of being charged with or convicted of either a felony or misdemeanor¹⁰;
- “Municipal prisoner” means a person who is detained in a municipal detention facility by reason of being charged with or convicted of violation of municipal law or ordinance;
- “County detention facility” means a county jail, a county stockade, a county work camp, a county residential probation center, and any other place except a municipal detention facility used by a county or county officer for the detention of persons charged with or convicted of either a felony or misdemeanor; and
- “Municipal detention facility” means a city jail, a city stockade, a city prison camp, and any other place except a county detention facility used by a municipality or municipal officer for the detention of persons charged with or convicted of violation of municipal laws or ordinances.

Medicare Rates

The Social Security Act, 42 U.S.C. § 1395, addresses Medicare. Medicare is federal health insurance for people age 65 or older, people under age 65 with certain disabilities, and people of any age with End-Stage Renal Disease (ESRD) (permanent kidney failure requiring dialysis or a kidney transplant). Medicare consists of Part A (hospital insurance), Part B (medical insurance), and Part D (prescription drug coverage).

Medicare reimburses providers based on the type of service they provide. The Federal Centers for Medicare and Medicaid Services (CMS) develops annual fee schedules for physicians, ambulance services, clinical laboratory services, and durable medical equipment, prosthetics,

care, especially when the Legislature has not placed a cap on the liability of government.”) (citing Joseph G. Jarret, *The High Cost of Arrestee Medical Treatment: The Effects of F.S. § 901.35 on Local Government Coffers*, 78 FLA. B.J. 46 (Nov. 2004)); Fla. Atty. Gen. Op. 85-6, (Feb. 4, 1985).

⁷ Joseph G. Jarret, *The High Cost of Arrestee Medical Treatment: The Effects of F.S. § 901.35 on Local Government Coffers*, 78 FLA. B.J. 46 (Nov. 2004).

⁸ *Williams v. Ergle*, 698 So. 2d 1294 (Fla. 5th DCA 1997) (citing Art. I, s. 19, Fla. Const.).

⁹ See s. 951.032, F.S.

¹⁰ Note that case law has held that pretrial detainees are “prisoners” for purposes of state statutes allowing recovery of subsistence costs and certain medical expenses from prisoners. *Williams v. Ergle*, 698 So. 2d 1294 (Fla. 5th DCA 1997).

orthotics, and supplies. Other Medicare providers are paid via a prospective payment system (PPS). The PPS is a method of reimbursement in which Medicare payment is made based on a predetermined, fixed amount. The payment amount for a particular service is derived based on the classification system of that service (for example, diagnosis-related groups for inpatient hospital services). The CMS uses separate PPSs for reimbursement to acute inpatient hospitals, home health agencies, hospices, hospital outpatient departments, inpatient psychiatric facilities, inpatient rehabilitation facilities, long-term care hospitals, and skilled nursing facilities.

Medicare rates are generally higher than Medicaid rates, but could be lower than rates charged by a medical services provider. In 2008, the General Appropriations Implementing Bill, chapter 2008-153, Laws of Florida, capped medical payment rates the Department of Corrections (DOC) could pay to a hospital, or a health care provider providing services at a hospital. Payments were capped at 110 percent of the Medicare allowable rate for inmate medical care when no contract existed between the department and a hospital, or a health care provider providing services at a hospital. However, the DOC was allowed to pay a hospital up to 125 percent of the Medicare allowable rate if the hospital had reported a negative operating margin to the Agency for Health Care Administration for the previous year.

In 2009, s. 945.6041, F.S., created by chapter 2009-63, Laws of Florida, codified the payment caps. Section 945.6041, F.S., also made other medical service providers, defined in s. 766.105, F.S., and medical transportation services subject to the medical payment cap. The DOC saved \$20 million in the year after payment caps were implemented.¹¹ The DOC expenditures from the Inmate Health Services appropriation category, from which hospital and physician services are paid, totaled \$170 million in FY 2008-09.

Indigent Health Care

Federal¹² and state law, as well as hospital collection policies, manage the way that medical care providers handle indigent patients. The Florida Health Care Responsibility Act¹³ places the ultimate financial obligation for the out-of-county hospital care of qualified indigent patients on the county in which the indigent patient resides.¹⁴ This part of ch. 154, F.S., defines “qualified indigent person” or “qualified indigent patient” as:

a person who has been determined pursuant to s. 154.308 to have an average family income, for the 12 months preceding the determination, which is below 100 percent of the federal nonfarm poverty level; who is not eligible to participate in any other government program that provides hospital care; who has no private insurance or has inadequate private insurance; and who does not reside in a public institution as defined under the medical assistance program for the needy under Title XIX of the Social Security Act, as amended.¹⁵

¹¹ Senate Policy and Steering Committee on Ways and Means, *CS/CS/CS/SB 218 Bill Analysis* (April 8, 2010).

¹² Title XIX of the Social Security Act, 42 U.S.C §§ 1396 et seq.

¹³ Sections 154.301-154.331, F.S.

¹⁴ Section 154.302, F.S.

¹⁵ Section 154.304, F.S.

Charter County Hospitals

There are currently 20 charter counties in Florida, two of which, Broward County and Miami-Dade County, have populations over 1.7 million persons. Broward County, Brevard County, and Volusia County are the charter counties that have two hospital districts within their geographical boundaries.¹⁶ Miami-Dade County is the sole charter county with a county public hospital.¹⁷

III. Effect of Proposed Changes:

Section 1 of the CS amends s. 901.35(1), F.S., to specify that except as provided in s. 951.032, F.S., a person is responsible for paying any medical care expenses if he or she is ill, wounded, or otherwise injured during or “as a result of an arrest” for any state law or county or municipal ordinance. This specification, “as a result of an arrest,” replaces current language, “at the time of an arrest.” The CS removes all language regarding how a medical care provider can recover medical care expenses from arrestees from s. 901.35(2), F.S., and adds it to s. 951.032, F.S., (which relates to how county and municipal detention facilities recover medical costs from prisoners).

Section 2 of the CS amends s. 951.032, F.S., by replacing each use of the term “prisoner” with the term “in-custody pretrial detainee or sentenced inmate.” However, the process by which county and municipal facilities recover medical care expenses from such persons remains unchanged.

The CS defines an “in-custody pretrial detainee or sentenced inmate” as a person whose physical freedom is restricted by a certified law enforcement officer or certified correctional officer pending disposition of an arrest or completion of a county court sentence. The term also includes a person who is furloughed by a criminal court for the express purpose of receiving medical treatment if a condition of the furlough is the immediate return to the custody of a county or municipal detention facility following completion of such treatment.

The CS moves language regarding how a medical care service provider can recover medical care expenses from s. 901.35, F.S., to s. 951.032, F.S. This language specifies that a third-party provider shall recover the expenses of medical care from an in-custody pretrial detainee or sentenced inmate from the following sources in the following order:

- (1) Insurance of the person receiving the medical care;
- (2) The person receiving medical care;
- (3) A financial settlement for the medical care;
- (4) The general fund of the county or municipality.

The CS requires the third-party provider to make a “good faith effort” to recover the payment before it can seek reimbursement from the general fund of a county or municipality in which a

¹⁶ According to the Department of Economic Opportunity’s Special District Information Program website, there are 32 special hospital districts of which 30 are currently active. Available at <http://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/criteria.cfm> (last visited Jan. 6, 2012).

¹⁷ E-mail from Ashley James, Legislative Affairs Office, Agency for Health Care Administration (Jan. 6, 2012) (on file with the Senate Committee on Community Affairs).

person was arrested. A “good faith effort” is described as one that is consistent with that provider’s usual policies and procedures related to the collection of fees from indigent patients who are not in the custody of a county or municipal detention facility.

The CS requires that, in the absence of a written agreement, remuneration for hospital services, excluding emergency room services, made from county or municipal general funds for an in-custody pretrial detainee or sentenced inmate’s medical care, must be paid at a rate not to exceed 110 percent of the Medicare allowable rate. Emergency room services and care must be paid at a rate not to exceed more than 75 percent of the hospital’s billed charges. In addition, the CS provides that compensation may not exceed 125 percent of the Medicare allowable rate if the third-party provider has reported a negative operating margin for the previous year to the Agency of Health Care Administration through hospital-audited financial data. However, the CS does not apply the maximum limits to amounts billed and paid for medical physicians, osteopathic physicians, or dentists licensed under ch. 458, F.S., ch. 459, F.S., or ch. 466, F.S., respectively, for emergency services provided within a hospital emergency department.

The CS specifies that the responsibility of a governmental body (a county or municipality) for payment of medical costs ceases upon release of the in-custody pretrial detainee or sentenced inmate.¹⁸

The CS requires an in-custody pretrial detainee or sentenced inmate who has health insurance, subscribes to a health care corporation, or receives health care benefits from any other source to assign such benefits to the health care provider.

The CS specifies that law enforcement or the county or municipal detention facility is responsible for restricting the personal freedom of in-custody pretrial detainees or sentenced inmates receiving medical treatment or services from third-party providers.

Section 3 of the CS creates an undesignated section of law providing that this act does not apply to a charter county that has a population of more than 1.7 million. A charter county that has two hospital districts within its boundaries is not obligated to reimburse third-party providers for an in-custody pretrial detainee or sentenced inmate of a county detention facility at a rate exceeding the rate paid, as of July 1, 2012, to the hospital districts located within its boundaries for similar medical costs, regardless of whether such reimbursement rate has been established through policy, practice, or contract. In addition, a charter county that has a county public hospital is not obligated to reimburse third party providers for like detainee and inmate care at a rate exceeding the rate paid as July 1, 2012, to a private or not-for-profit hospital located within the charter county regardless of an existing, established reimbursement rate.

Section 4 of the CS provides an effective date of July 1, 2012.

¹⁸ This applies even if those costs were incurred while the pretrial detainee or sentenced inmate was in custody. See *Jones v. Jenne*, 2008 WL 2323890 (S.D. Fla. 2008) (interpreting similar language in s. 901.35, F.S.).

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

With the exception of certain physician services provided within hospital emergency departments, providers of medical care will be limited regarding the rates they are allowed to charge for services provided to arrested parties when: (1) the person receiving the services cannot provide for payment of the costs and (2) the provider does not have a formal written agreement with the county or municipality in which the person was arrested. To the extent such providers are currently charging and being paid more than 75 percent of hospital billed emergency room services, 110 percent of Medicare rates or more than 125 percent of Medicare rates under certain conditions, the CS could result in decreased revenue for providers.

C. Government Sector Impact:

To the extent counties and municipalities are currently paying more than 75 percent of hospital billed charges for emergency room services; 110 percent of Medicare rates; or more than 125 percent of Medicare rates under certain conditions for medical services, not including certain physician services provided within hospital emergency departments, that are provided to persons ill, wounded, or otherwise injured during or at the time of arrest, the CS could result in cost savings for counties and municipalities.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

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

CS by Community Affairs on January 12, 2012:

The committee substitute adds dentists licensed under chapter 466, Florida Statutes, to the list of physicians not affected by the emergency service remuneration limits of the bill.

- B. **Amendments:**

None.

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



559176

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
01/12/2012	.	
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	.	
	.	

The Committee on Community Affairs (Richter) recommended the following:

Senate Amendment

Delete lines 191 - 194
and insert:

(6) Subsection (5) does not apply to amounts billed and paid for physicians licensed under chapter 458, chapter 459, or chapter 466 for emergency services provided within a hospital emergency department.



605628

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/12/2012	.	
	.	
	.	
	.	

The Committee on Community Affairs (Richter) recommended the following:

Senate Amendment

Delete lines 191 - 194
and insert:

(6) Subsection (5) does not apply to amounts billed and paid for physicians licensed under chapter 458 or chapter 459, and dentists licensed under chapter 466 for emergency services provided within a hospital emergency department.

By Senator Jones

13-00457A-12

2012452__

1 A bill to be entitled
 2 An act relating to financial responsibility for
 3 medical expenses of pretrial detainees and sentenced
 4 inmates; amending s. 901.35, F.S.; providing that the
 5 responsibility for paying the expenses of medical
 6 care, treatment, hospitalization, and transportation
 7 for a person who is ill, wounded, or otherwise injured
 8 during or as a result of an arrest for a violation of
 9 a state law or a county or municipal ordinance is the
 10 responsibility of the person receiving the medical
 11 care, treatment, hospitalization, or transportation;
 12 removing provisions establishing the order by which
 13 medical providers receive reimbursement for the
 14 expenses incurred in providing the medical services or
 15 transportation; amending s. 951.032, F.S.; setting
 16 forth the order by which a county or municipal
 17 detention facility may seek reimbursement for the
 18 expenses incurred during the course of treating or
 19 transporting in-custody pretrial detainees or
 20 sentenced inmates; requiring that each in-custody
 21 pretrial detainee or sentenced inmate who receives
 22 medical care or other services cooperate with the
 23 county or municipal detention facility in seeking
 24 reimbursement for the expenses incurred by the
 25 facility; setting forth the order of fiscal resources
 26 from which a third-party provider of medical services
 27 may seek reimbursement for the expenses the provider
 28 incurred in providing medical care; requiring that the
 29 county or municipality pay the costs of medical

Page 1 of 9

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

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30 services provided by a third-party provider at
 31 specified rates, under certain circumstances;
 32 requiring that each in-custody pretrial detainee or
 33 sentenced inmate who has health insurance, subscribes
 34 to a health care corporation, or receives health care
 35 benefits from any other source assign such benefits to
 36 the health care provider; defining the term "in-
 37 custody pretrial detainee or sentenced inmate";
 38 providing that law enforcement personnel or county or
 39 municipal detention facility personnel are responsible
 40 for restricting the personal freedom of certain in-
 41 custody pretrial detainees or sentenced inmates;
 42 providing that the act does not apply to certain
 43 counties; providing that certain charter counties are
 44 not obligated to reimburse a third-party provider of
 45 medical care, treatment, hospitalization, or
 46 transportation for an in-custody pretrial detainee or
 47 sentenced inmate of a county detention facility at a
 48 rate exceeding a particular rate for certain
 49 transportation or medical costs; providing an
 50 effective date.

51
 52 Be It Enacted by the Legislature of the State of Florida:

53
 54 Section 1. Section 901.35, Florida Statutes, is amended to
 55 read:

56 901.35 Financial responsibility for medical expenses.—
 57 ~~(1) Except as provided in s. 951.032 Notwithstanding any~~
 58 ~~other provision of law,~~ the responsibility for paying the

Page 2 of 9

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

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 59 expenses of medical care, treatment, hospitalization, and
 60 transportation for any person ill, wounded, or otherwise injured
 61 during or as a result at the time of an arrest for any violation
 62 of a state law or a county or municipal ordinance is the
 63 responsibility of the person receiving such care, treatment,
 64 hospitalization, and transportation. ~~The provider of such~~
 65 ~~services shall seek reimbursement for the expenses incurred in~~
 66 ~~providing medical care, treatment, hospitalization, and~~
 67 ~~transportation from the following sources in the following~~
 68 ~~order:~~

69 ~~(a) From an insurance company, health care corporation, or~~
 70 ~~other source, if the prisoner is covered by an insurance policy~~
 71 ~~or subscribes to a health care corporation or other source for~~
 72 ~~those expenses.~~

73 ~~(b) From the person receiving the medical care, treatment,~~
 74 ~~hospitalization, or transportation.~~

75 ~~(c) From a financial settlement for the medical care,~~
 76 ~~treatment, hospitalization, or transportation payable or~~
 77 ~~accruing to the injured party.~~

78 ~~(2) Upon a showing that reimbursement from the sources~~
 79 ~~listed in subsection (1) is not available, the costs of medical~~
 80 ~~care, treatment, hospitalization, and transportation shall be~~
 81 ~~paid:~~

82 ~~(a) From the general fund of the county in which the person~~
 83 ~~was arrested, if the arrest was for violation of a state law or~~
 84 ~~county ordinance; or~~

85 ~~(b) From the municipal general fund, if the arrest was for~~
 86 ~~violation of a municipal ordinance.~~

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 88 ~~The responsibility for payment of such medical costs shall exist~~
 89 ~~until such time as an arrested person is released from the~~
 90 ~~custody of the arresting agency.~~

91 ~~(3) An arrested person who has health insurance, subscribes~~
 92 ~~to a health care corporation, or receives health care benefits~~
 93 ~~from any other source shall assign such benefits to the health~~
 94 ~~care provider.~~

95 Section 2. Section 951.032, Florida Statutes, is amended to
 96 read:

97 951.032 Financial responsibility for medical expenses.—

98 (1) A county detention facility or municipal detention
 99 facility incurring expenses for providing medical care,
 100 treatment, hospitalization, or transportation provided by the
 101 county or municipal detention facility may seek reimbursement
 102 for the expenses incurred during the course of treatment of an
 103 in-custody pretrial detainee or sentenced inmate in the
 104 following order:

105 (a) From the in-custody pretrial detainee or sentenced
 106 inmate prisoner or person receiving medical care, treatment,
 107 hospitalization, or transportation by deducting the cost from
 108 the in-custody pretrial detainee's or sentenced inmate's
 109 prisoner's cash account on deposit with the detention facility.
 110 If the in-custody pretrial detainee's or sentenced inmate's
 111 prisoner's cash account does not contain sufficient funds to
 112 cover medical care, treatment, hospitalization, or
 113 transportation, ~~then~~ the detention facility may place a lien
 114 against the in-custody pretrial detainee's or sentenced inmate's
 115 prisoner's cash account or other personal property, to provide
 116 payment in the event sufficient funds become available at a

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later time. Any existing lien may be carried over to future incarceration of the same ~~detainee or inmate prisoner~~ as long as the future incarceration takes place within the county originating the lien and the future incarceration takes place within 3 years ~~after~~ of the date the lien was placed against the in-custody pretrial detainee's or sentenced inmate's ~~prisoner's~~ account or other personal property.

(b) From an insurance company, health care corporation, or other source if the in-custody pretrial detainee or sentenced inmate ~~prisoner or person~~ is covered by an insurance policy or subscribes to a health care corporation or other source for those expenses.

(2) An in-custody pretrial detainee or sentenced inmate ~~A prisoner~~ who receives medical care, treatment, hospitalization, or transportation by a county or municipal detention facility shall cooperate with that ~~the county detention facility or municipal detention facility~~ in seeking reimbursement under paragraphs (1)(a) and (b) for expenses incurred by the facility for the in-custody pretrial detainee or sentenced inmate ~~prisoner~~. An in-custody pretrial detainee or sentenced inmate ~~A prisoner~~ who willfully refuses to cooperate with the reimbursement efforts of the detention facility may have a lien placed against his or her ~~the prisoner's~~ cash account or other personal property and may not receive gain-time as provided by s. 951.21.

(3) A third-party provider of medical care, treatment, hospitalization, or transportation for an in-custody pretrial detainee or sentenced inmate of a county or municipal detention facility shall seek reimbursement for the expenses incurred in

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providing medical care, treatment, hospitalization, and transportation to the in-custody pretrial detainee or sentenced inmate from the following sources in the following order:

(a) From an insurance company, health care corporation, or other source, if the pretrial detainee or sentenced inmate is covered by an insurance policy or subscribes to a health care corporation or other source for those expenses.

(b) From the pretrial detainee or sentenced inmate receiving the medical care, treatment, hospitalization, or transportation.

(c) From a financial settlement for the medical care, treatment, hospitalization, or transportation payable or accruing to the injured pretrial detainee or sentenced inmate.

(4) Upon a showing by the third-party provider that a good faith effort was made, consistent with that provider's usual policies and procedures related to the collection of fees from patients outside the custody of a county or municipal detention facility, to obtain reimbursement from the sources listed in subsection (3), but that such reimbursement is not available, the costs of medical care, treatment, hospitalization, and transportation shall be paid:

(a) From the general fund of the county in which the person was arrested, if the arrest was for violation of a state law or county ordinance; or

(b) From the municipal general fund, if the arrest was for violation of a municipal ordinance.

(5) Absent a written agreement between the third-party provider and the governmental body, the remuneration made pursuant to subsection (4) must be paid by the governmental body

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at a rate not to exceed the following:

(a) For emergency services and care resulting in a discharge from the emergency room, and unrelated to an admission, provided by a hospital licensed under chapter 395, 75 percent of the hospital's billed charges;

(b) For hospital inpatient services, 110 percent of the Medicare Part A prospective payment applicable to the specific hospital providing the inpatient services;

(c) For all other outpatient services, 110 percent of the Medicare Part A Ambulatory Payment Classification or Part B for the specific provider of the outpatient services; and

(d) For hospitals reporting a negative operating margin for the previous year to the Agency for Health Care Administration through hospital-audited financial data, the payments in paragraphs (b) and (c) shall be 125 percent of the applicable Medicare prospective payment.

(6) Subsection (5) does not apply to amounts billed and paid for physicians licensed under chapter 458 or chapter 459 for emergency services provided within a hospital emergency department.

(7) The responsibility of the governmental body for payment of any in-custody medical cost ceases upon release of the in-custody pretrial detainee or sentenced inmate.

(8) An in-custody pretrial detainee or sentenced inmate who has health insurance, subscribes to a health care corporation, or receives health care benefits from any other source shall assign such benefits to the health care provider.

(9) As used in this section, the term "in-custody pretrial detainee or sentenced inmate" means a person whose physical

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freedom is restricted by a certified law enforcement officer or certified correctional officer pending disposition of an arrest or completion of a county court sentence. The term also includes a person who is furloughed by a criminal court for the express purpose of receiving medical treatment if a condition of the furlough is the immediate return to the custody of a county or municipal detention facility following completion of such treatment.

(10) Law enforcement personnel or personnel of the county or municipal detention facility are responsible for restricting the personal freedom of an in-custody pretrial detainee or sentenced inmate receiving treatment or services under this section.

Section 3. This act does not apply to a charter county that has a population of more than 1.7 million as of the most recent decennial census. A charter county that has two hospital districts within its geographical boundaries is not obligated to reimburse any third-party provider of medical care, treatment, hospitalization, or transportation for an in-custody pretrial detainee or sentenced inmate of a county detention facility at a rate exceeding the rate paid, as of July 1, 2012, to the hospital districts located within its boundaries for similar medical costs, regardless of whether such reimbursement rate has been established and implemented by policy or practice or through a contractual arrangement. A charter county that has a county public hospital is not obligated to reimburse any third-party provider of medical care, treatment, hospitalization, or transportation for an in-custody pretrial detainee or sentenced inmate of a county detention facility at a rate exceeding the

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233 rate paid, as of July 1, 2012, to a private or not-for-profit
234 hospital located within the charter county for similar medical
235 cost, regardless of whether such reimbursement rate has been
236 established and implemented by policy or practice or through a
237 contractual arrangement.

238 Section 4. This act shall take effect July 1, 2012.



The Florida Senate
Committee Agenda Request

To: Senator Michael S. "Mike" Bennett, Chair
Committee on Community Affairs

Subject: Committee Agenda Request

Date: December 7, 2011

I respectfully request that **Senate Bill #452**, relating to inmate medical, be placed on the:

- ☐ committee agenda at your earliest possible convenience.
- ☒ next committee agenda.

Senator Dennis L. Jones, D.C.
Florida Senate, District 13

rec'd 12/7/11 apw

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Topic INMATE HEALTH CARE COST

Bill Number SB 452
(if applicable)

Name JIM COATS

Amendment Barcode _____
(if applicable)

Job Title LEGISLATIVE AID

Address PINELLAS COUNTY
Street

Phone 727-420-7280

AL 33767
City State Zip

E-mail _____

Speaking: ☒ For ☐ Against ☐ Information

Representing PINELLAS COUNTY SHERIFF + FSA

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard 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)

1/12/2012
Meeting Date

Topic Inmate Medical

Bill Number 452
(if applicable)

Name Sarah Carroll

Amendment Barcode _____
(if applicable)

Job Title Asst. Director of Operations

Address 2617 Mahan Drive
Street
TLH FL 32309
City State Zip

Phone 877-2168

E-mail Scarroll@flshuiffs.org

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida Sheriffs Association

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

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)

1/12/12
Meeting Date

Topic Medical Expenses of Pretrial Detainees & Inmates

Bill Number 452
(if applicable)

Name Mary Edenfield

Amendment Barcode 605628
(if applicable)

Job Title Lobbyist

Address 118 E Jefferson St

Phone 224-1089

Tallahassee FL 32301
City State Zip

E-mail Medenfield@floridadental.org

Speaking: ☒ For ☐ Against ☐ Information Wave in Support

Representing Florida Dental Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1 / 12 / 2012

Meeting Date

Topic _____

Bill Number 452
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVENUE SOUTH
Street

Phone 727/897-9291

SAINT PETERSBURG FLORIDA 33705
City State Zip

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☐ For ☒ Against ☒ Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

The Florida Senate
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 Community Affairs Committee

BILL: CS/SB 698

INTRODUCER: Committee on Community Affairs and Senators Wise and Gibson

SUBJECT: Public Retirement Plans

DATE: January 12, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Anderson	Yeatman	CA	Fav/CS
2.			GO	
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	☒	Statement of Substantial Changes
B. AMENDMENTS.....	☐	Technical amendments were recommended
	☐	Amendments were recommended
	☐	Significant amendments were recommended

I. Summary:

This CS provides that a consolidated government that has entered into an interlocal agreement to provide police protection services to another incorporated municipality, in its entirety, is eligible to receive the premium taxes reported for the other municipality under certain circumstances. The CS also authorizes the municipality receiving the police protection services to enact an ordinance levying the premium tax as provided by law.

This CS substantially amends ss. 185.03, 185.08 of the Florida Statutes.

II. Present Situation:

State Excise Tax on Casualty Insurance Premiums

Chapter 185, F.S., provides funding for municipal police officers' pension plans. It provides for a "uniform retirement system" with defined benefit retirement plans for municipal police officers and sets standards for the operation and funding of these pension systems.¹ Each municipality with a municipal police officers' retirement trust fund is authorized to assess an excise tax of

¹ Section 185.01, F.S.

.85 percent of the gross amount of receipts of premiums from policyholders on casualty insurance policies covering property within its corporate limits.² Revenues from this excise tax are one of the funding sources for police officers' pension plans. Currently, a municipality is eligible to receive state premium taxes (or excise taxes) only on those premiums for casualty insurance policies covering property within its municipal limits even if providing police protection services outside of its municipal limits.³

In order to qualify for the premium taxes, a police officers' pension plan must meet certain requirements in ch. 185, F.S.⁴ The Department of Management Services (DMS) oversees and monitors these pension plans; however, day-to-day operational control rests with local boards of trustees.⁵ Any premium taxes collected by and distributed to a municipality for funding police officers' pension plans have a negative impact on the General Revenue Fund because those premium taxes paid by an insurance company under ch. 185, F.S., to a municipality are allowed as a credit against premium taxes the insurance company must pay to the state under s. 624.509, F.S.

Under current law, a municipality may receive another municipality's premium tax revenues when there is an interlocal agreement in place to provide fire protection services.⁶ The municipality receiving fire services must levy the tax authorized by ch. 175, F.S., and copies of the interlocal agreement and the municipal ordinance levying the tax must be provided to the Division of Retirement within DMS.

III. Effect of Proposed Changes:

Section 1 adds subsection (4) to section 185.03, F.S., which provides that a single consolidated government consisting of a former county and one or more municipalities, consolidated pursuant to s. 3 or s. 6(e), Art. VIII of the State Constitution, would be eligible to participate with respect to the distribution of premium taxes. The consolidated government must notify the Division of Retirement of the Department of Management Services (division) when it has entered into an interlocal agreement to provide police services to a municipality within its boundaries. The municipality may enact an ordinance levying the tax as provided in s. 185.08, F.S. Upon being provided copies of the interlocal agreement and the municipal ordinance levying the tax, the division may distribute any premium taxes reported for the municipality to the consolidated government as long as the interlocal agreement is in effect.

This chapter applies only to municipalities organized and established pursuant to the laws of the state, and does not apply to the unincorporated areas of any county or counties or to any governmental entity whose police officers are eligible to participate in the Florida Retirement System.

Section 2 adds subsection (b) to section 185.08(1), F.S., which provides that a single consolidated government consisting of a former county and one or more municipalities,

² Section 185.08, F.S.

³ *Id.*

⁴ See ss. 185.10, 185.085, F.S.

⁵ Section 185.05, F.S.

⁶ Section 175.041, F.S.

consolidated pursuant to s. 3 or s. 6(e), Art. VIII of the State Constitution, would be eligible to participate with respect to the distribution of premium taxes. The consolidated government must notify the Division of Retirement of the Department of Management Services (division) when it has entered into an interlocal agreement to provide police services to a municipality within its boundaries. The municipality may enact an ordinance levying the tax as provided in s. 185.08, F.S. Upon being provided copies of the interlocal agreement and the municipal ordinance levying the tax, the division may distribute any premium taxes reported for the municipality to the consolidated government as long as the interlocal agreement is in effect.

Section 3 provides an effective date of July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Department of Revenue (DOR) would be notified by the Division of Retirement (within the Department of Management Services) of additional taxing jurisdiction as a result of the language of this CS. DOR would need to add those jurisdictions to the insurance premium tax form in the annual form process. The form would be adopted in a rule in the annual form adoption process. Additionally, this would require changes to the Insurance Premium Database to provide situs of premiums for allocation purposes.⁷

B. Private Sector Impact:

None.

⁷ Department of Revenue, Senate Bill 698 Fiscal Analysis (November 8, 2011) (on file with the Senate Committee on Community Affairs).

C. Government Sector Impact:

This CS will have a negative impact on the General Revenue Funds because state premium taxes paid by a casualty insurer to fund a municipal police officers' retirement plan are counted as a credit against the premium taxes paid to the state by the insurance company. The fiscal impact is indeterminate, but likely minimal.⁸

Under this CS, an eligible police officers' pension plan sponsored by a municipality providing police protection services pursuant to an interlocal agreement may benefit from the receipt of premium tax revenues collected by the municipality receiving police protection services.

Duval County is the only consolidated government in the State of Florida at this time. This may change in the future and this CS would have a larger cumulative effect at that time.

VI. Technical Deficiencies:

None.

VII. Related Issues:

In 2005, the Legislature made similar changes to ch. 175, F.S., relating to the Firefighters' Pension Trust Fund. Sections 175.041 and 175.101, F.S., allow a municipality to receive excise tax monies for firefighter pension plans from another municipality if there is an interlocal agreement in place to provide fire protection services.

VIII. Additional Information:

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

CS by Community Affairs on January 12, 2012

The CS states the intent of the legislation, not only in s. 185.03, F.S., but also in s. 185.08, F.S. There is little substantive difference between the language changes; the CS reaffirms the intent of the bill in both sections as deemed necessary.

B. Amendments:

None.

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

⁸ *Id.*



254336

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/12/2012	.	
	.	
	.	
	.	

The Committee on Community Affairs (Wise) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (2) of section 185.03, Florida
Statutes, is amended to read:

185.03 Municipal police officers' retirement trust funds;
creation; applicability of provisions; participation by public
safety officers.—For any municipality, chapter plan, local law
municipality, or local law plan under this chapter:

(2) (a) ~~The provisions of This chapter applies shall apply~~
only to municipalities organized and established pursuant to the



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laws of the state, ~~and does said provisions shall~~ not apply to the unincorporated areas of any county or counties ~~or nor shall the provisions hereof apply~~ to any governmental entity whose police officers are eligible to participate in the Florida Retirement System.

(b) With respect to the distribution of premium taxes, a single consolidated government consisting of a former county and one or more municipalities, consolidated pursuant to s. 3 or s. 6(e), Art. VIII of the State Constitution, is also eligible to participate under this chapter. The consolidated government shall notify the division when it has entered into an interlocal agreement to provide police services to a municipality within its boundaries. The municipality may enact an ordinance levying the tax as provided in s. 185.08. Upon being provided copies of the interlocal agreement and the municipal ordinance levying the tax, the division may distribute any premium taxes reported for the municipality to the consolidated government as long as the interlocal agreement is in effect.

Section 2. Subsection (1) of section 185.08, Florida Statutes, is amended to read:

185.08 State excise tax on casualty insurance premiums authorized; procedure.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter:

(1)(a) Each incorporated municipality in this state described and classified in s. 185.03, as well as each other city or town of this state which on July 31, 1953, had a lawfully established municipal police officers' retirement trust fund or city fund, by whatever name known, providing pension or relief benefits to police officers as provided under this



254336

chapter, may assess and impose on every insurance company, corporation, or other insurer now engaged in or carrying on, or who shall hereafter engage in or carry on, the business of casualty insurance as shown by records of the Office of Insurance Regulation of the Financial Services Commission, an excise tax in addition to any lawful license or excise tax now levied by each of the ~~said~~ municipalities, respectively, amounting to .85 percent of the gross amount of receipts of premiums from policyholders on all premiums collected on casualty insurance policies covering property within the corporate limits of such municipalities, respectively.

(b) With respect to the distribution of premium taxes, a single consolidated government consisting of a former county and one or more municipalities, consolidated pursuant to s. 3 or s. 6(e), Art. VIII of the State Constitution, is also eligible to participate under this chapter. The consolidated government shall notify the division when it has entered into an interlocal agreement to provide police services to a municipality within its boundaries. The municipality may enact an ordinance levying the tax as provided in this section. Upon being provided copies of the interlocal agreement and the municipal ordinance levying the tax, the division may distribute any premium taxes reported for the municipality to the consolidated government as long as the interlocal agreement is in effect.

Section 3. This act shall take effect July 1, 2012.

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

And the title is amended as follows:

Delete everything before the enacting clause



254336

and insert:

A bill to be entitled

An act relating to public retirement plans; amending
ss. 185.03 and 185.08, F.S.; specifying applicability
of ch. 185, F.S., to certain consolidated governments;
providing that a consolidated government that has
entered into an interlocal agreement to provide police
protection services to a municipality within its
boundaries is eligible to receive the premium taxes
reported for the municipality under certain
circumstances; authorizing the municipality receiving
the police protection services to enact an ordinance
levying the tax as provided by law; providing an
effective date.

By Senator Wise

5-00733-12

2012698

A bill to be entitled

An act relating to public retirement plans; amending s. 185.03, F.S.; specifying applicability of ch. 185, F.S., to certain consolidated governments; providing that a municipality that has entered into an interlocal agreement to provide police protection services to another incorporated municipality, in its entirety, is eligible to receive the premium taxes reported for the other municipality under certain circumstances; authorizing the municipality receiving the police protection services to enact an ordinance levying a tax as provided by law; providing an effective date.

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

Section 1. Subsection (4) is added to section 185.03, Florida Statutes, to read:

185.03 Municipal police officers' retirement trust funds; creation; applicability of provisions; participation by public safety officers.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter:

(4)(a) The provisions of this chapter shall apply only to municipalities organized and established pursuant to the laws of the state, and said provisions shall not apply to the unincorporated areas of any county or counties nor shall the provisions hereof apply to any governmental entity whose police officers are eligible to participate in the Florida Retirement System.

Page 1 of 2

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

5-00733-12

2012698

(b) With respect to the distribution of premium taxes, a single consolidated government consisting of a former county and one or more municipalities, consolidated pursuant to s. 3 or s. 6(e), Art. VIII of the State Constitution, is also eligible to participate under this chapter. The consolidated government shall notify the division when it has entered into an interlocal agreement to provide police services to a municipality within its boundaries. The municipality may enact an ordinance levying the tax as provided in s. 185.08. Upon being provided copies of the interlocal agreement and the municipal ordinance levying the tax, the division shall distribute any premium taxes reported for the municipality to the consolidated government as long as the interlocal agreement is in effect.

Section 2. This act shall take effect July 1, 2012.

Page 2 of 2

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



The Florida Senate
Committee Agenda Request

To: Senator Michael S. "Mike" Bennett, Chair
Committee on Community Affairs

Subject: Committee Agenda Request

Date: November 17, 2011

I respectfully request that **Senate Bill # 698**, relating to Public Retirement Plans, be placed on the:

- ☒ committee agenda at your earliest possible convenience.
☐ next committee agenda.

A handwritten signature in cursive script, reading "Stephen R. Wise".

Senator Stephen R. Wise
Florida Senate, District 5

✓ 11/17/11 apw

THE FLORIDA SENATE
APPEARANCE RECORD

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

1 / 12/2012

Meeting Date

Topic _____

Bill Number 698
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVENUE SOUTH
Street

Phone 727/897-9291

SAINT PETERSBURG FLORIDA 33705
City State Zip

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☒ For ☐ Against ☒ Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/12/12
Meeting Date

Topic Public Retirement Plans Bill Number 698
Name Jim Tolley Amendment Barcode _____
Job Title Governmental Relations Director (if applicable)
Address 345 West Madison St Phone 850 224 7333
City Tallahassee State FL Zip 32301 E-mail tolley@mindspring.com
Speaking: ☐ For ☐ Against ☐ Information
Representing Florida Professional Firefighters
Appearing at request of Chair: ☐ Yes ☒ No Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/12/12
Meeting Date

Topic Police Fire Pension Bill Number 698
(if applicable)
Name Paige Carter-Smith Amendment Barcode _____
(if applicable)
Job Title Consultant for Jacksonville Police Fire Pension
Address 502 North Adams Phone 850 222-6050
Street
Tall FL E-mail Paige@govservllc.net
City State Zip
Speaking: ☒ For ☐ Against ☒ Information
Representing Jacksonville Police Fire Pension
Appearing at request of Chair: ☐ Yes ☐ No Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard 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)

1-12-12
Meeting Date

Topic Police Fire Pension

Bill Number 698
(if applicable)

Name Gabe Landry

Amendment Barcode _____
(if applicable)

Job Title Consultant Taxs Police Fire

Address 502 N Adams

Phone 850-222-6050

Tallahassee FL
City State Zip

E-mail gabe@govservllc.net

Speaking: ☒ For ☐ Against ☒ Information

Representing Taxs Police Fire

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard 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 Community Affairs Committee

BILL: CS/SB 704

INTRODUCER: Community Affairs Committee and Senator Bennett

SUBJECT: Building Construction and Inspection

DATE: January 12, 2012

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	Fav/CS
2.			BC	
3.				
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	☒	Statement of Substantial Changes
B. AMENDMENTS.....	☐	Technical amendments were recommended
	☐	Amendments were recommended
	☐	Significant amendments were recommended

I. Summary:

This CS amends a number of provisions related to building construction and inspection in Florida. The CS:

- modifies how local government code enforcement boards serve notices on property owners;
- revises definitions, outlines permitting measures, establishes title transfer procedures and provides for the applicability of rules governing on-site sewage treatment and disposal systems;
- authorizes building code administrators or building officials to accept electronically transmitted construction plans and related documents for permit approval purposes;
- includes certain fire safety inspectors among those eligible to take the building code inspector or plans examiner certification exam and shortens the time length of a provisional certificate for newly employed or promoted inspectors or examiners;
- expands the meaning of 'demolish' as it is used to define licensed contractors;
- clarifies the remedial nature and retroactive application of contracts related to the sale of manufactured or factory-built buildings;
- increases the maximum civil penalty a local governing body may levy against an unlicensed contractor;

- changes how certain Florida Building Code permit fee surcharges are allocated;
- exempts specified hunting structures from the Florida Building Code; and
- directs the Florida Building Commission to adopt a rule outlining an alternative method of screen enclosure design.

The CS substantially amends sections 162.12, 381.0065, 468.604, 468.609, 489.105, 489.127, 489.531, 553.721, and 553.73 of the Florida Statutes and creates an undesignated section of law.

II. Present Situation:

Local Government Code Enforcement Board Notices

Code Enforcement Boards and Procedures

Chapter 162, Part I of the Florida Statutes governs local government code enforcement boards. These county and municipality administrative boards are authorized to impose fines and other noncriminal penalties to enforce local government code and ordinance violations.¹

The boards consist of five or seven members appointed by the local governing body.² An authorized agent or employee of the local government serves as a code inspector to assure code compliance and to initiate any enforcement proceedings.³ If a violation of the codes is found, the code inspector notifies the violator and gives the person a reasonable time to correct the transgression. If the violation persists beyond the time specified for correction, a hearing is requested and scheduled, and the code enforcement board provides notice pursuant to s. 162.12, F.S.⁴

At the conclusion of a hearing, the enforcement board issues findings of fact and an order affording proper relief. The order may include a notice for compliance by a specified date and that a fine may be imposed.⁵ Fines may not exceed \$250 per day for a first violation and shall not exceed \$500 per day for a repeat violation.⁶

Code Enforcement Notices

Notices to alleged violators of local government codes and ordinances are governed by s. 162.12, F.S. There are four options cited in s. 162.12(1), F.S., by which notices are provided, including by:

certified mail, return receipt requested, provided if such notice is sent under this paragraph to the owner of the property in question at the address listed in the tax collector's office for tax notices, *and* at any other address provided to the local government by such owner and is returned as unclaimed or refused, notice may be provided by posting as described in subparagraphs (2)(b)1. and 2. *and* by first class mail

¹ See sections 162.02 and 162.03, F.S. An alternative enforcement system utilizing special magistrates is also an option.

² Section 162.05, F.S. If the local governing body has a population of less than 5,000 persons, the code enforcement board may consist of five or seven members. If the population is 5,000 or more persons, the board must be seven members.

³ Section 162.04(2), F.S.

⁴ See section 162.06, F.S.

⁵ See section 162.07, F.S.

⁶ See section 162.09, F.S.

directed to the addresses furnished to the local government with a properly executed proof of mailing or affidavit confirming the first class mailing.⁷

The other options for serving notices in s. 162.12(1), F.S., are:

- hand delivery by the sheriff, code inspector, or other designated person;
- leaving at the violator's residence with any person residing there above the age of 15; or
- for commercial premises, leaving the notice with the manager or other person in charge.⁸

There is currently no specific guidance in s. 162.12(1), F.S., for serving notices on property owned by a corporation.

In addition to providing notice as set forth in subsection (1) of s. 162.12, F.S., subsection (2) provides optional noticing by publication or posting as follows:

- published once during each week for four consecutive weeks in a newspaper of general circulation in the county where the code enforcement board is located;
- posted at least 10 days prior to the hearing, or prior to the expiration of any deadline contained in the notice, in at least two locations, one of which is at the property of the alleged violation and the other at the primary municipal or county government office.

Proof of posting is by affidavit of the person posting the notice. Notice by publication or posting may run concurrently with, or may follow, an attempt or attempts to provide notice by hand delivery or by mail.⁹ Evidence that an attempt has been made to hand deliver or mail a notice together with proof of publication or posting satisfies the notice requirements regardless of whether or not the alleged violator actually received such notice.¹⁰

The Department of Health's Regulation of Septic Tanks

The DOH oversees an environmental health program as part of fulfilling the state's public health mission. The purpose of this program is to detect and prevent disease caused by natural and manmade factors in the environment. One component of the program is administration of septic systems.¹¹

An "onsite sewage treatment and disposal system" is a system that contains a standard subsurface, filled, or mound drainfield system; an aerobic treatment unit; a graywater system tank; a laundry wastewater system tank; a septic tank; a grease interceptor; a pump tank; a solid or effluent pump; a waterless, incinerating, or organic waste-composting toilet; or a sanitary pit privy that is installed or proposed to be installed beyond the building sewer on land of the owner or on other land to which the owner has the legal right to install a system. The term includes any item placed within, or intended to be used as a part of or in conjunction with, the system. The term does not include package sewage treatment facilities and other treatment works regulated under ch. 403, F.S.¹²

⁷ Section 162.12(1)(a), F.S. *Italics* added.

⁸ See ss 162.12(b)-(d), F.S.

⁹ Section 162.12(2), F.S.

¹⁰ *Id.*

¹¹ See s. 381.006, F.S.

¹² Section 381.0065(2)(j), F.S.

The DOH estimates there are approximately 2.67 million septic tanks in use statewide.¹³ The DOH's Bureau of Onsite Sewage (bureau) develops statewide rules and provides training and standardization for county health department employees responsible for permitting the installation and repair of septic systems within the state. The bureau also licenses septic system contractors, approves continuing education courses and courses provided for septic system contractors, funds a hands-on training center, and mediates septic system contracting complaints. The bureau manages a state-funded research program, prepares research grants, and reviews and approves innovative products and septic system designs.¹⁴

In 2008, the Legislature directed the DOH to submit a report to the Executive Office of the Governor, the President of the Senate, and the Speaker of the House of Representatives by no later than October 1, 2008, which identifies the range of costs to implement a mandatory statewide five-year septic tank inspection program to be phased in over 10 years pursuant to the DOH's procedure for voluntary inspection, including use of fees to offset costs.¹⁵ This resulted in the "Report on Range of Costs to Implement a Mandatory Statewide 5-Year Septic Tank Inspection Program" (report).¹⁶ According to the report, three Florida counties, Charlotte, Escambia and Santa Rosa, have implemented mandatory septic tank inspections at a cost of \$83.93 to \$215 per inspection.

The report stated that 99 percent of septic tanks in Florida are not under any management or maintenance requirements. Also, the report found that while these systems were designed and installed in accordance with the regulations at the time of construction and installation, many are aging and may be under-designed by today's standards. The DOH's statistics indicate that approximately 2 million septic systems are 20 years or older, which is the average lifespan of a septic system in Florida.¹⁷ Because repairs of septic systems were not regulated or permitted by the DOH until March 1992, some septic systems may have been unlawfully repaired, modified or replaced. Furthermore, 1.3 million septic systems were installed prior to 1983. Pre-1983 septic systems were required to have a 6-inch separation from the bottom of the drainfield to the estimated seasonal high water table. The standard since 1983 for drainfield separation is 24 inches and is based on the 1982 Water Quality Assurance Act and on research findings compiled by the DOH that indicate for septic tank effluent, the presence of at least 24 inches of unsaturated fine sandy soil is needed to provide a relatively high degree of treatment for pathogens and most other septic system effluent constituents.¹⁸ Therefore, Florida's pre-1983 septic systems and any

¹³ Florida Dep't of Health, Bureau of Onsite Sewage, *Home*, <http://www.myfloridaeh.com/ostds/index.html> (last visited Dec. 19, 2011).

¹⁴ Florida Dep't of Health, Bureau of Onsite Sewage, *OSTDS Description*, <http://www.myfloridaeh.com/ostds/OSTDSdescription.html> (last visited Dec. 19, 2011).

¹⁵ See ch. 2008-152, Laws of Fla.

¹⁶ Florida Dep't of Health, Bureau of Onsite Sewage, *Report on Range of Costs to Implement a Mandatory Statewide 5-Year Septic Tank Inspection Program*, October 1, 2008, available at <http://www.doh.state.fl.us/environment/ostds/pdfs/forms/MSIP.pdf> (last visited Dec. 19, 2011).

¹⁷ Florida Dep't of Health, Bureau of Onsite Sewage, *Onsite Sewage Treatment and Disposal Systems in Florida (2010)*, available at <http://www.doh.state.fl.us/Environment/ostds/statistics/newInstallations.pdf> (last visited Dec. 22, 2011). See also Florida Dep't of Health, Bureau of Onsite Sewage, *What's New?*, available at <http://www.doh.state.fl.us/environment/ostds/New.htm> (last visited on Dec. 22, 2011).

¹⁸ Florida Dep't of Health, Bureau of Onsite Sewage, *Bureau of Onsite Sewage Programs Introduction*, available at <http://www.doh.state.fl.us/Environment/learning/hses-intro-transcript.htm> (last visited Jan. 3, 2012).

illegally repaired, modified or installed septic systems may not provide the same level of protection expected from systems permitted and installed under current construction standards.¹⁹

Flow and Septic System Design Determinations

For residences, domestic sewage flows are calculated using the number of bedrooms and the building area as criteria for consideration, including existing structures and any proposed additions.²⁰ Depending on the estimated sewage flow, the septic system may or may not be approved by the DOH. For example, a current three bedroom, 1,300 square foot home is able to add building area to have a total of 2,250 square feet of building area with no change in their approved system, provided no additional bedrooms are added.²¹

Minimum required treatment capacities for septic systems serving any structure, building or group of buildings are based on estimated daily sewage flows as determined below.²²

TABLE OF AEROBIC SYSTEMS PLANT SIZING RESIDENTIAL		
Number of Bedrooms	Building Area (ft ²)	Minimum Required Treatment Capacity(gallons per day)
1 or 2	Up to 1200	400
3	1201-2250	500
4	2251-3300	600

Minimum design flows for septic systems serving any structure, building or group of buildings are based on the estimated daily sewage flow. For residences, the flows are based on the number of bedrooms and square footage of building area. For a single- or multiple-family dwelling unit, the estimated sewage flows are: for 1 bedroom with 750 square feet or less building area, 100 gallons; for two bedrooms with 751-1,200 square feet, 200 gallons; for three bedrooms with 1,201-2,250 square feet, 300 gallons; and for four bedrooms with 2,251-3,300 square feet, 400 gallons. For each additional bedroom or each additional 750 square feet of building area or fraction thereof in a dwelling unit, system sizing is to be increased by 100 gallons.²³

Electronically Transmitted Construction Documents

Building Code Administrators and the Permitting Process

The Legislature deems it necessary in the interest of public health and safety to regulate the practice of building code administration and inspection in this state.²⁴ “Building code administrators” or “building officials” are the local government employees charged with building construction regulation responsibilities. These responsibilities are linked to the permitting process and include plan review, enforcement, and the inspection of building construction,

¹⁹ *Id.*

²⁰ Rule 64E-6.001, F.A.C.

²¹ *Id.*

²² Table adapted from Rule 64E-6.012, F.A.C.

²³ Rule 64E-6.008, F.A.C.

²⁴ Section 468.601, F.S.

remodeling, and demolition. Officials verify compliance with construction codes as required by state law or municipal or county ordinance relating to plumbing, mechanical, electrical, gas, fire prevention, energy, and accessibility.²⁵

Section 468.604 (1), F.S., requires that construction plans be reviewed by a building code administrator or building official before the issuance of any building, system installation, or other construction permit. In addition, the administrator or official must also inspect each phase of construction where a building or other construction permit has been issued.²⁶

To obtain a permit, the Florida Building Code provides that an applicant shall first file an application in writing on a form furnished by the appropriate building department for the intended purpose.²⁷ Permit application forms shall be in a format prescribed by a local administrative board, if applicable, and must comply with the requirements of s. 713.135(5) and (6), F.S.

Section 713.135(5), F.S., requires building permit applications to include the names and addresses of property owners and contractors and a description sufficient to identify the property. Section 713.135(6), F.S., delineates the format for building permit applications which include owner and contractor signatures as well as notarization.²⁸ The section also provides that an authority responsible for issuing building permits may accept a building permit application in an electronic format, as prescribed by the authority. Electronically submitted permits must contain an additional “owner’s electronic submission statement.”²⁹

Construction documents outlining floor, site, and foundation plans, as well as other data, are submitted in one or more sets with each application for a permit. Electronic media versions of these documents are allowed to be submitted when approved by the building official.³⁰

Electronic Signatures

The intent of the “Electronic Signature Act of 1996,” is to facilitate economic development and efficient delivery of government services through electronic messages.³¹ The act also aims to foster the development of electronic commerce through the use of electronic signatures. Unless otherwise provided by law, an electronic signature may be used to sign a writing and shall have the same force and effect as a written signature.³²

Part II, ch. 668, F.S., contains the “Uniform Electronic Transaction Act” which sets forth requirements for the validation and effect of electronic records and electronic signatures. It also

²⁵ Section 468.603(1), F.S.

²⁶ Section 468.604(1), F.S.

²⁷ Section 105.3, Chap. 1, 2007 Florida Building Code: Building (including 2009 Supplement).

²⁸ Section 117.021(1), F.S., provides that “any document requiring notarization may be notarized electronically.”

²⁹ Section 713.135(6)b, F.S.

³⁰ Sections 106.1.1 and 106.3.5, Chap. 1, 2007 Florida Building Code: Building (including 2009 Supplement).

³¹ See s. 668.002, F.S.

³² Section 668.004, F.S.

provides for agreement variation in order to facilitate, but not require, the use of electronic means in conducting transactions.³³

Statutorily Authorized Electronic Submission of Documents and Seals

Certain professions regulated by the state have statutory authority to electronically submit documents and to utilize electronic seals. These include:

- architects,³⁴
- engineers,³⁵
- interior designers,³⁶
- landscape architects,³⁷ and
- land surveyors and mappers.³⁸

In addition, in 2009, the Legislature required each clerk of court to implement an electronic filing process in an effort to reduce judicial costs, increase timeliness in the processing of cases, and improve judicial case management.³⁹

Certification Standards for Building Code Administration Personnel

A person 18 years of age and of good moral character may meet one of five eligibility requirements to take the building code inspector or plans examiner certification exam.⁴⁰ The eligibility requirement in s. 468.609(2)(c)(4), F.S., is to hold a standard certificate from the Florida Building Code Administrators and Inspectors Board (board) and complete an inspector or examiner training program.

Section 468.609(7)(a), F.S., allows the board to issue provisional building code inspector or plans examiner certificates to newly employed or promoted inspectors or examiners. These provisional certificates are valid for not less than three years nor more than five years.

Construction Contracting and Licensure to Demolish

The legislature deems it necessary in the interest of public health, safety and welfare to regulate the construction industry.⁴¹ Chapter 489, part I of the Florida Statutes governs construction contracting in the state and establishes the Construction Industry Licensing Board (CILB) within the Department of Business and Professional Regulation (DBPR) to carry out chapter provisions.⁴²

³³ See Comm. on Commerce and Economic Opportunities, The Florida Senate, *CS/CS/SB 1334 Electronic Commerce*, Florida Senate 2000 Session Summary, available at

<http://archive.flsenate.gov/publications/2000/senate/reports/summaries/pdf/Comm.pdf>.

³⁴ Section 481.221(2), F.S.

³⁵ Section 471.025(1), F.S.

³⁶ Section 481.221(3), F.S.

³⁷ Section 481.321(1), F.S.

³⁸ Section 472.025(1), F.S.

³⁹ Section 28.22205, F.S.

⁴⁰ See s. 468.609, F.S.

⁴¹ Section 489.101, F.S.

⁴² Section 489.107(1), F.S.

The CILB meets regularly to consider applications for licensure, to review disciplinary cases, and to conduct informal hearings relating to licensure and discipline. The board engages in rulemaking to implement the provisions set forth in statutes and conducts other general business, as necessary.⁴³

Section 489.105(3), F.S., defines “contractor” as

a person, who for compensation undertakes to, submits a bid to, or does himself or herself or by others construct, repair, alter, remodel, add to, *demolish*, subtract from, or improve any building or structure, including related improvements to real estate, for others or for resale to others ⁴⁴

Of the defined contractor activities, demolish is the sole act that receives additional clarification in the statute.

For the purposes of regulation under this part, “demolish” applies only to demolition of steel tanks over 50 feet in height; towers over 50 feet in height; other structures over 50 feet in height, other than buildings or residences over three stories tall; and buildings or residences over three stories tall.⁴⁵

Given the above qualifying language, demolition of buildings or residences that are *three stories in height or less* as well as steel tanks, towers and other structures *50 feet in height or less* do not require licensure pursuant to Chapter 489, Florida Statutes.⁴⁶ According to the DBPR, the number of unlicensed persons currently demolishing residences and buildings three stories or less or tanks and towers 50 feet or less is unknown.⁴⁷

Construction Contracting

Contracting is defined in the context of the regulation of construction contracting under ch. 489, F.S. Section 489.105(6) defines “contracting” with the following exemption:

. . . the term “contracting” shall not extend to an individual, partnership, corporation, trust, or other legal entity that offers to sell or sells completed residences on property on which the individual or business entity has any legal or equitable interest, or to the individual or business entity that offers to sell or sells manufactured or factory-built buildings that will be completed on site on property on which either party to a contract has any legal or equitable interest, if the services of a qualified contractor certified or registered pursuant to the requirements of this chapter have been or will be retained for the purpose of constructing or completing such residences.

⁴³ Florida Department of Business and Professional Regulation, *Construction Industry Licensing Board*, <http://www.myfloridalicense.com/dbpr/pro/cilb/> (last visited Dec. 14, 2011).

⁴⁴ *Italics added.*

⁴⁵ Section 489.105(3), F.S.

⁴⁶ See Florida Department of Business and Professional Regulation, *Senate Bill 704 Analysis* (Nov. 2, 2011) (on file with the Senate Committee on Community Affairs).

⁴⁷ *Id.*

Penalties for Unlicensed Contracting

Prohibitions and penalties for construction contracting and electrical and alarm system contracting are found in Part I, ch. 489, F.S., and Part II, ch. 489, F.S., respectively.

The local governing body of a county or municipality is authorized to enforce codes and ordinances against unlicensed contractors. The local governing board may enact an ordinance establishing procedures for implementing codes, including a schedule of penalties to be assessed by the code enforcement officer.⁴⁸ The maximum civil penalty which may be levied shall not exceed \$500.⁴⁹

Florida Building Code Permit Fee Surcharge

Florida Building Code and Building Commission

In 2000, the Florida Legislature enacted ch 2000-141, Laws of Florida, to provide for the adoption of the Florida Building Code (Code), a unified building code for the state. The Code consists of a single set of documents that apply to the design, construction, erection, alteration, modification, repair or demolition of public and private buildings or structures.⁵⁰ It is adopted and maintained by the Florida Building Commission (Commission) which is located within the DBPR. The Code is enforced by authorized state and local government enforcement agencies.⁵¹ The Commission, by rule adopted pursuant to ss. 120.536(1) and 120.54, F.S., updates the Code every three years.⁵²

Building Code Permit Fee Surcharges

The governing bodies of local governments may provide a schedule of fees to administer their responsibilities enforcing the Code.⁵³ In order for the DBPR to administer and carry out the purposes of the Code and related activities, a surcharge is assessed at the rate of 1.5 percent of the permit fees associated with enforcement of the Code.⁵⁴ The minimum amount collected on any permit issued is \$2. Surcharge funds are electronically remitted to the DBPR on a quarterly calendar basis.

The unit of government collecting and remitting these funds retains 10 percent of the surcharge collected to fund the participation of building departments in the national and state building code adoption processes and to provide education related to enforcement of the Florida Building Code. All funds remitted to DBPR are deposited in the Professional Regulation Trust Fund.⁵⁵ Funds collected from surcharges are used exclusively for the duties of the Florida Building

⁴⁸ See s. 489.127(5)(c) and s. 489.531(4)(c), F.S.

⁴⁹ *Id.*

⁵⁰ Section 553.72(1), F.S.

⁵¹ Section 553.72(3), F.S. The Commission is composed of 25 members appointed by the Governor subject to confirmation by the Senate.

⁵² Section 553.73(7)(a), F.S.

⁵³ See s. 553.80, F.S.

⁵⁴ See s. 553.721, F.S., for this and the remaining information provided in this subsection of the analysis. A similar 1.5% surcharge of permit fees is assessed pursuant to s. 468.631, F.S., to fund the Florida Homeowners' Construction Recovery Fund established by s. 489.140, F.S., and to fund the functions of the Building Code Administrators and Inspectors Board.

⁵⁵ Pursuant to s. 215.37, F.S., the Professional Regulation Trust Fund consists of fees, licenses, and other charges assessed to practitioners of professions, as defined in ch. 455, F.S. by the DBPR. Separate accounts are maintained for each profession.

Commission and the DBPR. Funds used by the DBPR as well as funds to be transferred to the Department of Health are prescribed in the annual General Appropriations Act.

Building Code Compliance and Mitigation Program

Created by Chapter 98-287, s. 52, Laws of Fla. as the Building Code Training Program, s. 553.841, F.S., governs what is now known as the Florida Building Code Compliance and Mitigation Program (Program). Administered by the DBPR, the Program develops, coordinates, and maintains education and outreach to persons required to comply with the Florida Building Code including methods for mitigation of hurricane and storm-related damage. All services and materials of the Program are provided by a private, nonprofit corporation under contract with the DBPR.⁵⁶ Program funding is provided by the Construction Industry Licensing Board and the Electrical Contractors' Licensing Board pursuant to ss. 489.109(3) and 489.509(3), F.S.⁵⁷

Florida Building Code Amendments and Exemptions

Section 553.72(1), F.S., provides that the Florida Building Code (Code) is to be “applied, administered, and enforced uniformly and consistently from jurisdiction to jurisdiction.” Among the purposes of the Code is the intent to “establish minimum standards primarily for public health and lifesafety, and, secondarily, for protection of property as appropriate.”

While the Code is uniform in nature, s. 553.72(3)(d), F.S., states that the Florida Building Commission shall incorporate within sections of the Code provisions which address regional and local concerns and variations. In addition, local governments may adopt amendments to the technical provisions of the Florida Building Code which apply solely within the jurisdiction of such government and which provide for more stringent requirements than those specified in the Florida Building Code.⁵⁸

Permissive Exemptions for Single-Family Residences

Local governments and Code enforcement districts may adopt rules granting Code exemptions to owners of single-family residences.⁵⁹ These exemptions relate to:

- additions or repairs performed by the property owner which do not exceed 1,000 square feet or the square footage of the primary structure, whichever is less;
- additions or repairs by a non-owner within a specific cost limitation set by rule, provided the total cost does not exceed \$5,000 within any 12-month period;
- building and inspections fees.⁶⁰

Outright Exemptions for Buildings, Structures, and Facilities

⁵⁶ According to the DBPR, Building a Safer Florida, Inc., is the nonprofit corporation currently providing services and materials for the Program. Their website is available at <http://buildingasaferflorida.com/index.cfm?key=1>.

⁵⁷ Section 553.841(5), F.S. According to the DBPR *Senate Bill 704 Analysis*, the Program has historically received funds from the Florida Building Commission appropriation or one-time appropriations from the Residential Construction Mitigation Program.

⁵⁸ Section 553.73(4)(a).

⁵⁹ Section 553.80(3)(b)1., F.S.

⁶⁰ Section 553.80(3)(b)1.a.-c., F.S.

The following buildings, structures, and facilities are exempt from the Florida Building Code as provided by law, and any further exemptions shall be as determined by the Legislature and provided by law:⁶¹

- Buildings and structures specifically regulated and preempted by the Federal Government.
- Railroads and ancillary facilities associated with the railroad.
- Nonresidential farm buildings on farms.
- Temporary buildings or sheds used exclusively for construction purposes.
- Mobile or modular structures used as temporary offices.⁶²
- Structures or facilities of electric utilities which are directly involved in the generation, transmission, or distribution of electricity.
- Temporary sets, assemblies, or structures used in motion picture or television production.
- Storage sheds that are not designed for human habitation.⁶³
- Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida.⁶⁴
- Family mausoleums not exceeding 250 square feet in area which are prefabricated and assembled on site or preassembled and delivered on site.⁶⁵

The Florida Building Commission may recommend to the Legislature additional categories of buildings, structures, or facilities which should be exempted from the Florida Building Code, to be provided by law.⁶⁶

Thermal Efficiency Standards for certain Hunting and Recreational Buildings

Section 553.901, F.S., requires the DBPR to prepare a thermal efficiency code which provides a statewide uniform standard for energy efficiency in the thermal design and operation of all buildings consistent with energy conservation goals. Buildings exempted from thermal efficiency provisions include those with a minimal peak rate of energy usage, those neither heated nor cooled by a mechanical system, buildings where federal standards preempt state codes, and certain historical buildings.⁶⁷ The thermal efficiency standards for new residential buildings outlined in s. 553.905, F.S., do not apply to a building of less than 1,000 square feet which is not primarily used as a principal residence and which is constructed and owned by a natural person for hunting or similar recreational purposes.⁶⁸

Federal Emergency Management Agency Flood Insurance Rate Maps

The Flood Insurance and Mitigation Administration (FIMA), a component of the Federal Emergency Management Agency (FEMA), manages the National Flood Insurance Program

⁶¹ See s. 553.73(10)(a)-(j), F.S.

⁶² Provisions relating to accessibility by persons with disabilities apply to such structures.

⁶³ Sheds of 720 square feet or less are not required to comply with wind-borne-debris-impact standards. Sheds 400 square feet or less are not subject to door height and width requirements.

⁶⁴ “Chickee” means an open-sided wooden hut that has a thatched roof made of traditional materials that does not incorporate any electrical, plumbing, or other non-wood features.

⁶⁵ These mausoleums have walls, roofs, and a floor constructed of granite, marble, or reinforced concrete.

⁶⁶ Section 553.72(10)(j), F.S.

⁶⁷ See s. 553.902, F.S.

⁶⁸ These standards relate to heating, ventilating, and air conditioning as well as insulation. Persons may not construct more than one exempt hunting or recreational building in any 12-month period.

(NFIP). Nearly 20,000 communities across the United States and its territories participate in the NFIP by adopting and enforcing floodplain management ordinances to reduce future flood damage. In exchange, the NFIP makes federally backed flood insurance available to homeowners, renters, and business owners in these communities. Community participation in the NFIP is voluntary.⁶⁹

In addition to providing flood insurance and reducing flood damages through floodplain management regulations, the NFIP identifies and maps the Nation's floodplains. The official map of a community on which FEMA has delineated special hazard areas and the risk premium zones applicable to a community is known as a Flood Insurance Rate Map (FIRM).⁷⁰ Special flood hazard areas are defined as areas that will be inundated by a flood event having a one-percent chance of being equaled or exceeded in any given year. The one-percent annual chance flood is also referred to as the base flood or 100-year flood.⁷¹

Screen Enclosures

A screen enclosure is defined in the Florida Building Code as:

a building or part thereof, in whole or in part self-supporting, and having walls of insect screening with or without removable vinyl or acrylic wind break panels and a roof of insect screening, plastic, aluminum or similar lightweight material.⁷²

Removable vinyl and acrylic panels shall be identified as removable by a decal. The identification decal shall essentially state "Removable panel SHALL be removed when wind speeds exceed 75 mph (34 m/s)." Decals shall be placed such that the decal is visible when the panel is installed.⁷³

III. Effect of Proposed Changes:

Section 1 amends s. 162.12, F.S., to modify how local government code enforcement boards serve notices to alleged violators of local codes and ordinances. The CS allows for mail notices to be sent by certified mail *either* to an address listed in the tax collector's office *or* to any other address provided by the property owner. Currently, if mailing notices, local governments are required to send to the tax collector address *and* any other addresses.

In addition, this section of the CS establishes a corporation's registered agent as the recipient of certified mail notices for property owned by a corporation.

The CS also amends s. 162.12, F.S., to permit local government code enforcement boards to proceed with service by publication or posting pursuant to s. 162.12(2)(b), F.S., if a notice sent

⁶⁹ Federal Emergency Management Agency, United States Department of Homeland Security, *National Flood Insurance Program*, <http://www.fema.gov/about/programs/nfip/index.shtm> (last visited Dec. 14, 2011).

⁷⁰ FEMA provides map servicing information at <https://msc.fema.gov/webapp/wcs/stores/servlet/FemaWelcomeView?storeId=10001&catalogId=10001&langId=-1>.

⁷¹ Federal Emergency Management Agency, United States Department of Homeland Security, *Flood Zones*, http://www.fema.gov/plan/prevent/floodplain/nfipkeywords/flood_zones.shtm (last visited Dec. 14, 2011).

⁷² Section 202, 2007 Florida Building Code: Building (First Printing), Includes 2009 Supplement.

⁷³ Section 2002.3.3, 2007 Florida Building Code: Building (First Printing), Includes 2009 Supplement.

by certified mail is not signed as received within 30 days of mailing. Enforcement boards would no longer be required to wait until the return receipt is returned as undeliverable or refused by the United States Postal Service.

Finally, the CS eliminates a requirement to provide notices by first class mail when exercising the publishing or posting options and removes a return receipt requested provision of notices sent via certified mail.

Section 2 amends definitions as used in ss. 381.0065-381.0067, F.S., related to onsite sewage and treatment disposal systems. The CS defines “bedroom” as a room that can be used for sleeping that, for site-built dwellings, has a minimum 70 square feet of conditioned space; or for manufactured homes, constructed to HUD standards having a minimum of 50 square feet of floor area. The room must be located along an exterior wall, have a closet and a door or an entrance where a door could be reasonably installed. It also must have an emergency means of escape and rescue opening to the outside. A room may not be considered a bedroom if it is used to access another room, unless the room that is accessed is a bathroom or closet. The term does not include a hallway, bathroom, kitchen, living room, family room, dining room, den, breakfast nook, pantry, laundry room, sunroom, recreation room, media/video room, or exercise room.

The CS provides that a permit issued and approved by the DOH for the installation, modification, or repair of a septic system transfers with the title to the property. A title is not encumbered when transferred by new permit requirements that differ from the original permit requirements in effect when the septic system was permitted, modified or repaired.

The CS specifies a septic system serving a foreclosed property is not considered abandoned. It also specifies a septic system is not considered “abandoned” if it was properly functioning when disconnected from a structure made unusable or destroyed following a disaster, and the septic system was not adversely affected by the disaster. The septic system may be reconnected to a rebuilt structure if:

- reconnection of the septic system is to the same type of structure that existed prior to the disaster;
- has the same number of bedrooms or less than the structure that existed prior to the disaster;
- is within 110 percent of the size of the structure that existed prior to the disaster;
- the septic system is not a sanitary nuisance; and
- the septic system has not been altered without prior authorization.

The CS provides that the rules applicable and in effect at the time of approval for construction apply at the time of the final approval of the septic system if fundamental site conditions have not changed between the time of construction approval and final approval.

The CS provides that a modification, replacement, or upgrade of a septic system is not required for a remodeling addition to a single-family home if a bedroom is not added.

Section 3 creates subsection (4) of s. 468.604, F.S., specifying that should a building code administrator or building official provide for electronic filing, then construction plans, drawings, specifications, reports, final documents, or documents prepared or issued by a licensee may be dated and electronically signed and sealed by the licensee in accordance with ss. 668.001-

668.006 and transmitted electronically to the building code administrator or building official for approval.

Section 4 amends s. 468.609(2)(c) and 468.609(7)(a), F.S., on certification of building code administration and inspection personnel. The CS adds provisions for existing fire safety inspectors among the eligibility requirements persons can meet to take the building code inspector or plans examiner certification exam. Currently, the requirement in s. 468.609(2)(c)(4), F.S., is to hold a standard certificate from the Florida Building Code Administrators and Inspectors Board and complete an inspector or examiner training program. The CS would allow a standard certificate *or* a fire safety inspector license issued pursuant to chapter 633 and two years of verifiable experience in inspection or plan review along with the training program.

The CS also shortens the time length of a building code inspector or plans examiner provisional certificate issued to newly employed or promoted inspectors or examiners to one year. Provisional licenses may be renewed by the Florida Building Code Administrators and Inspectors Board for just cause though for not more than three years.

Section 5 amends s. 489.105, F.S., to expand the definition of “contractor” to include those persons or businesses that contract to demolish any residence or building. Currently, contractor licensure to demolish buildings and residences only applies when these particular structures are over three stories tall.

Section 6 creates an undesignated section of law to delineate that the amendments to s. 489.105(6), F.S., as enacted by s. 30 of chapter 2008-240, Laws of Florida, were intended to protect the sanctity of contracts for the sale of manufactured or factory-built buildings that will be completed on site and to ensure that those contracts are legal and enforceable contracts under state law. The CS further provides that the amendments were intended to be remedial in nature, clarify existing law, and apply retroactively to any contract for the sale of manufactured or factory-built buildings that will be completed on site and otherwise comply with state law.

Section 7 amends prohibitions and penalties in Part I of Chapter 489, F.S., on construction contracting. The maximum civil penalty a local governing body may levy against an unlicensed contractor in s. 489.127(5)(c), F.S., rises from the \$500 to \$2,000.

Section 8 amends prohibitions and penalties in Part II of Chapter 489, F.S., on electrical and alarm systems contracting. The maximum civil penalty a local governing body may levy against an unlicensed contractor in s. 489.531(4)(c), F.S., rises from the \$500 to \$2,000.

Section 9 amends s. 553.721, F.S., to change how certain building code permit fee surcharges are allocated. Currently, funds collected from these surcharges are used exclusively for the duties of the Florida Building Commission and the Department of Business and Professional Regulation. This section of the CS amends this allocation system to divide the surcharges between the Florida Building Commission and the Florida Building Code Compliance and Mitigation Program. Funds allocated to the Florida Building Code Compliance and Mitigation Program shall be \$925,000 each fiscal year.

Section 10 amends s. 553.73, F.S., to exempt specified hunting structures from the Florida Building Code. Buildings or structures less than 1,000 square feet, constructed and owned by a natural person for hunting, and repaired or constructed to the same dimension and condition as existed on January 1, 2011, are eligible for the exemption if:

- the buildings or structures are not rented or leased or used as principal residences;
- they are not located within the 100-year floodplain; and
- they are not connected to an off-site electric power or water supply.

The CS also creates subsection (18) of s. 553.73, F.S., instructing the Florida Building Commission to adopt by rule an alternative screen enclosure design that requires the removal of a section of the screen to accommodate wind resistance and keep the screen enclosure intact. The rules must require the contractor to notify the homeowner and local building department on panel removal procedures when wind speeds are expected to exceed 75 miles per hour. In addition, the contractor will provide a replacement screen at the initial point of sale to repair the screen enclosure for designs that require cutting. The Florida Building Commission shall adopt the method before October 1, 2012, and incorporate the requirements into the next version of the Florida Building Code.

Section 11 provides an effective date of July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Section 6 of the CS may raise an impairment of contract constitutional issue. Both the Federal and Florida State Constitutions contain limitations on the State's right to alter or impair existing contracts.⁷⁴ Article I, Section 10 of the State Constitution and the Contract Clause of the United States Constitution prohibit laws impairing contractual obligations. Retrospective operation is not favored by courts, and a law is not construed as retroactive unless the act clearly, by express language or necessary implication,

⁷⁴ See U.S. Const., Art. I, Sec. 10, clause 1; Fla. Const., Art. I, Sec. 10.

indicates that the Legislature intended a retroactive application.⁷⁵ These provisions allow courts to strike laws which retroactively burden or alter contractual obligations.⁷⁶

The framework courts use to determine whether a law has impaired a contract is similar to a rational basis review. The United States Supreme Court set forth a three part test for whether a law violates a private contract under the Contract Clause in *Energy Reserves Group v. Kansas Power & Light*.⁷⁷ First, the state regulation must substantially impair a contractual relationship. If it doesn't substantially impair a contractual obligation then the inquiry ends, as the Contract Clause applies only to laws which *substantially* impair contract rights. Second, the State "must have a significant and legitimate purpose behind the regulation, such as the remedying of a broad and general social or economic problem."⁷⁸ Third, the law must be reasonable and appropriate for its intended purpose.

Florida's Contract Clause interpretations have generally mirrored the United States Supreme Court's interpretation of the Contract Clause of the Constitution of the United States.⁷⁹

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Persons or businesses engaged in various phases of building construction, repair, remodeling or demolition may experience cost savings as a result of efficiencies accruing from electronic filing. Costs associated with the production and delivery of hard copy documents could be reduced.

Unlicensed persons currently demolishing residences and buildings three stories or less in height will be required to obtain a contractor license from the DBPR.

Unlicensed contractors will be subject to higher civil penalties.

Specified buildings designed for hunting purposes will be exempt from the Florida Building Code. Persons who own these buildings will encounter fewer building code regulation fees and requirements.

⁷⁵ See *Heberle v. P.R.O. Liquidating Co.*, 186 So. 2d 280, 282 (1st DCA 1966) ("A strict rule of statutory construction indulged in by the courts is the presumption that the legislature, in the absence of a positive expression, intended statutes or amendments enacted by it to operate prospectively only, not retroactively.").

⁷⁶ See *In re Advisory Opinion to the Governor*, 509 So. 2d 292 (Fla. 1987); *Daytona Beach Racing & Recreational Facilities District v. Volusia County*, 372 So. 2d 419 (Fla. 1979).

⁷⁷ 459 U.S. 400 (1983).

⁷⁸ *Id.* at 411-13.

⁷⁹ See generally *Pomponio v. Cladridge of Pompano Condominium, Inc.*, 378 So. 2d 774 (Fla. 1980); *Brevard County v. Florida Power and Light*, 693 So. 2d 77 (Fla. 5th DCA 1997).

C. Government Sector Impact:

Local government code enforcement boards may realize postage cost savings as a result of the optional noticing provisions.

Local authorities that provide for and accept electronic transmissions of various construction documents may realize procedural and document storage efficiencies and improve the timeliness of permit processing. The CS does not require electronic filing; therefore, any expenditures to facilitate this option would be discretionary.

There may be an increase in the number of contractor licenses issued due to the new requirement for persons demolishing residences or buildings. According to the DBPR, the number of unlicensed persons currently demolishing residences and buildings three stories or less is unknown.⁸⁰

Local governing bodies may issue higher civil penalties against unlicensed contractors.

The Florida Building Code Compliance and Mitigation Program will have a new funding stream that would generate \$925,000 annually.

VI. Technical Deficiencies:

None.

VII. Related Issues:

According to the DBPR, section 5 of the CS indicates that certain buildings used for hunting will not be required to meet minimum construction standards necessary to ensure such structures are structurally stable with adequate means of egress, light and ventilation providing a minimum acceptable level of protection to life and property from fire.⁸¹ However, the DBPR states that this impact will be minimal due to the occasional use of such facilities and the specific safeguards outlined in the CS.⁸²

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

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

CS by Community Affairs on January 12, 2012:

- Revises definitions, outlines permitting procedures, establishes title transfer procedures and provides for the applicability of rules governing on-site sewage treatment and disposal systems.

⁸⁰ Florida Department of Business and Professional Regulation, *Senate Bill 704 Analysis* (Nov. 2, 2011) (on file with the Senate Committee on Community Affairs).

⁸¹ *Id.*

⁸² *Id.*

- Adds provisions for existing fire safety inspectors to take the building code inspector or plans examiner certification exam and shortens the time length of certain provisional certificates for inspectors and examiners.
- Clarifies the remedial nature and retroactive application of contracts related to the sale of manufactured or factory-built buildings.
- Increases the maximum civil penalty a local governing body may levy against an unlicensed contractor.
- Directs the Florida Building Commission to adopt a rule outlining an alternative method of screen enclosure design.
- Makes other technical and clarifying changes.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/12/2012	.	
	.	
	.	
	.	

The Committee on Community Affairs (Bennett) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (1) of section 162.12, Florida
Statutes, is amended to read:

162.12 Notices.—

(1) All notices required by this part must ~~shall~~ be
provided to the alleged violator by:

(a) Certified mail to, ~~return receipt requested, provided~~
~~if such notice is sent under this paragraph to the owner of the~~
~~property in question at~~ the address listed in the tax



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collector's office for tax notices, or to and at any other
address provided by the property owner in writing to the local
government for the purpose of receiving notices. For property
owned by a corporation, notices may be provided by certified
mail, return receipt requested, to the registered agent of the
corporation. If any notice sent by certified mail is not signed
as received within 30 days after the date of mailing by such
~~owner and is returned as unclaimed or refused,~~ notice may be
provided by posting as described in subparagraphs (2)(b)1. and
2. ~~and by first class mail directed to the addresses furnished~~
~~to the local government with a properly executed proof of~~
~~mailing or affidavit confirming the first class mailing;~~

(b) Hand delivery by the sheriff or other law enforcement
officer, code inspector, or other person designated by the local
governing body;

(c) Leaving the notice at the violator's usual place of
residence with any person residing therein who is above 15 years
of age and informing such person of the contents of the notice;
or

(d) In the case of commercial premises, leaving the notice
with the manager or other person in charge.

Evidence that an attempt has been made to hand deliver or mail
notice as provided in subsection (1), together with proof of
publication or posting as provided in subsection (2), shall be
sufficient to show that the notice requirements of this part
have been met, without regard to whether or not the alleged
violator actually received such notice.

Section 2. Present paragraphs (b) through (p) of subsection



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(2) of section 381.0065, Florida Statutes, are redesignated as paragraphs (c) through (q), respectively, a new paragraph (b) is added to that subsection, and paragraphs (w) through (z) are added to subsection (4) of that section, to read:

381.0065 Onsite sewage treatment and disposal systems; regulation.—

(2) DEFINITIONS.—As used in ss. 381.0065-381.0067, the term:

(b)1. "Bedroom" means a room that can be used for sleeping and that:

a. For site-built dwellings, has a minimum of 70 square feet of conditioned space;

b. For manufactured homes, is constructed according to the standards of the United States Department of Housing and Urban Development and has a minimum of 50 square feet of floor area;

c. Is located along an exterior wall;

d. Has a closet and a door or an entrance where a door could be reasonably installed; and

e. Has an emergency means of escape and rescue opening to the outside.

2. A room may not be considered a bedroom if it is used to access another room except a bathroom or closet.

3. "Bedroom" does not include a hallway, bathroom, kitchen, living room, family room, dining room, den, breakfast nook, pantry, laundry room, sunroom, recreation room, media/video room, or exercise room.

(4) PERMITS; INSTALLATION; AND CONDITIONS.—A person may not construct, repair, modify, abandon, or operate an onsite sewage treatment and disposal system without first obtaining a permit



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71 approved by the department. The department may issue permits to
72 carry out this section, but shall not make the issuance of such
73 permits contingent upon prior approval by the Department of
74 Environmental Protection, except that the issuance of a permit
75 for work seaward of the coastal construction control line
76 established under s. 161.053 shall be contingent upon receipt of
77 any required coastal construction control line permit from the
78 Department of Environmental Protection. A construction permit is
79 valid for 18 months from the issuance date and may be extended
80 by the department for one 90-day period under rules adopted by
81 the department. A repair permit is valid for 90 days from the
82 date of issuance. An operating permit must be obtained prior to
83 the use of any aerobic treatment unit or if the establishment
84 generates commercial waste. Buildings or establishments that use
85 an aerobic treatment unit or generate commercial waste shall be
86 inspected by the department at least annually to assure
87 compliance with the terms of the operating permit. The operating
88 permit for a commercial wastewater system is valid for 1 year
89 from the date of issuance and must be renewed annually. The
90 operating permit for an aerobic treatment unit is valid for 2
91 years from the date of issuance and must be renewed every 2
92 years. If all information pertaining to the siting, location,
93 and installation conditions or repair of an onsite sewage
94 treatment and disposal system remains the same, a construction
95 or repair permit for the onsite sewage treatment and disposal
96 system may be transferred to another person, if the transferee
97 files, within 60 days after the transfer of ownership, an
98 amended application providing all corrected information and
99 proof of ownership of the property. There is no fee associated



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with the processing of this supplemental information. A person may not contract to construct, modify, alter, repair, service, abandon, or maintain any portion of an onsite sewage treatment and disposal system without being registered under part III of chapter 489. A property owner who personally performs construction, maintenance, or repairs to a system serving his or her own owner-occupied single-family residence is exempt from registration requirements for performing such construction, maintenance, or repairs on that residence, but is subject to all permitting requirements. A municipality or political subdivision of the state may not issue a building or plumbing permit for any building that requires the use of an onsite sewage treatment and disposal system unless the owner or builder has received a construction permit for such system from the department. A building or structure may not be occupied and a municipality, political subdivision, or any state or federal agency may not authorize occupancy until the department approves the final installation of the onsite sewage treatment and disposal system. A municipality or political subdivision of the state may not approve any change in occupancy or tenancy of a building that uses an onsite sewage treatment and disposal system until the department has reviewed the use of the system with the proposed change, approved the change, and amended the operating permit.

(n) Evaluations for determining the seasonal high-water table elevations or the suitability of soils for the use of a new onsite sewage treatment and disposal system shall be performed by department personnel, professional engineers registered in the state, or such other persons with expertise, as defined by rule, in making such evaluations. Evaluations for



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determining mean annual flood lines shall be performed by those persons identified in paragraph (2)(j) ~~(2)(i)~~. The department shall accept evaluations submitted by professional engineers and such other persons as meet the expertise established by this section or by rule unless the department has a reasonable scientific basis for questioning the accuracy or completeness of the evaluation.

(w) A permit that is approved by the department and issued for the installation, modification, or repair of an onsite sewage treatment and disposal system shall be transferred along with the title to the property in a real estate transaction. A title may not be encumbered at the time of transfer by new permit requirements by a governmental entity for an onsite sewage treatment and disposal system which differ from the permitting requirements in effect at the time the system was permitted, modified, or repaired.

(x)1. An onsite sewage treatment and disposal system is not considered abandoned if the system is disconnected from a structure that was made unusable or destroyed following a disaster and was properly functioning at the time of disconnection and was not adversely affected by the disaster. The onsite sewage treatment and disposal system may be reconnected to a rebuilt structure if:

a. The reconnection of the system is to the same type of structure which contains the same number of bedrooms or fewer, provided that the square footage of the structure is less than or equal to 110 percent of the original square footage of the structure that existed before the disaster;

b. The system is not a sanitary nuisance; and



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158 c. The system has not been altered without prior
159 authorization.

160 2. An onsite sewage treatment and disposal system that
161 serves a property that is foreclosed upon is not considered
162 abandoned.

163 (y) If an onsite sewage treatment and disposal system
164 permittee receives, relies upon, and undertakes construction of
165 a system based upon a validly issued construction permit under
166 rules applicable at the time of construction but a change to a
167 rule occurs after the approval of the system for construction
168 but before the final approval of the system, the rules
169 applicable and in effect at the time of construction approval
170 apply at the time of final approval if fundamental site
171 conditions have not changed between the time of construction
172 approval and final approval.

173 (z) A modification, replacement, or upgrade of an onsite
174 sewage treatment and disposal system is not required for a
175 remodeling addition to a single-family home if a bedroom is not
176 added.

177 Section 3. Section 468.604, Florida Statutes, is amended to
178 read:

179 468.604 Responsibilities of building code administrators,
180 plans examiners, and inspectors.—

181 (1) It is the responsibility of the building code
182 administrator or building official to administrate, supervise,
183 direct, enforce, or perform the permitting and inspection of
184 construction, alteration, repair, remodeling, or demolition of
185 structures and the installation of building systems within the
186 boundaries of their governmental jurisdiction, when permitting



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is required, to ensure compliance with the Florida Building Code and any applicable local technical amendment to the Florida Building Code. The building code administrator or building official shall faithfully perform these responsibilities without interference from any person. These responsibilities include:

(a) The review of construction plans to ensure compliance with all applicable sections of the code. The construction plans must be reviewed before the issuance of any building, system installation, or other construction permit. The review of construction plans must be done by the building code administrator or building official or by a person having the appropriate plans examiner license issued under this chapter.

(b) The inspection of each phase of construction where a building or other construction permit has been issued. The building code administrator or building official, or a person having the appropriate building code inspector license issued under this chapter, shall inspect the construction or installation to ensure that the work is performed in accordance with applicable sections of the code.

(2) It is the responsibility of the building code inspector to conduct inspections of construction, alteration, repair, remodeling, or demolition of structures and the installation of building systems, when permitting is required, to ensure compliance with the Florida Building Code and any applicable local technical amendment to the Florida Building Code. Each building code inspector must be licensed in the appropriate category as defined in s. 468.603. The building code inspector's responsibilities must be performed under the direction of the building code administrator or building official without



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interference from any unlicensed person.

(3) It is the responsibility of the plans examiner to conduct review of construction plans submitted in the permit application to assure compliance with the Florida Building Code and any applicable local technical amendment to the Florida Building Code. The review of construction plans must be done by the building code administrator or building official or by a person licensed in the appropriate plans examiner category as defined in s. 468.603. The plans examiner's responsibilities must be performed under the supervision and authority of the building code administrator or building official without interference from any unlicensed person.

(4) The Legislature finds that the electronic filing of construction plans will increase government efficiency, reduce costs, and increase timeliness of processing permits. If the building code administrator or building official provides for electronic filing, the construction plans, drawings, specifications, reports, final documents, or documents prepared or issued by a licensee may be dated and electronically signed and sealed by the licensee in accordance with ss. 668.001-668.006 and may be transmitted electronically to the building code administrator or building official for approval.

Section 4. Paragraph (c) of subsection (2) and paragraph (a) of subsection (7) of section 468.609, Florida Statutes, are amended to read:

468.609 Administration of this part; standards for certification; additional categories of certification.—

(2) A person may take the examination for certification as a building code inspector or plans examiner pursuant to this



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part if the person:

(c) Meets eligibility requirements according to one of the following criteria:

1. Demonstrates 5 years' combined experience in the field of construction or a related field, building code inspection, or plans review corresponding to the certification category sought;

2. Demonstrates a combination of postsecondary education in the field of construction or a related field and experience which totals 4 years, with at least 1 year of such total being experience in construction, building code inspection, or plans review;

3. Demonstrates a combination of technical education in the field of construction or a related field and experience which totals 4 years, with at least 1 year of such total being experience in construction, building code inspection, or plans review;

4. Currently holds a standard certificate as issued by the board, or a fire safety inspector license issued pursuant to chapter 633, and has a minimum of 2 years' verifiable full-time experience in inspection or plan review and satisfactorily completes a building code inspector or plans examiner training program of not less than 200 hours in the certification category sought. The board shall establish by rule criteria for the development and implementation of the training programs; or

5. Demonstrates a combination of the completion of an approved training program in the field of building code inspection or plan review and a minimum of 2 years' experience in the field of building code inspection, plan review, fire code inspections and fire plans review of new buildings as a



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firesafety inspector certified under s. 633.081(2), or construction. The approved training portion of this requirement shall include proof of satisfactory completion of a training program of not less than 300 hours which is approved by the board in the chosen category of building code inspection or plan review in the certification category sought with not less than 20 hours of instruction in state laws, rules, and ethics relating to professional standards of practice, duties, and responsibilities of a certificateholder. The board shall coordinate with the Building Officials Association of Florida, Inc., to establish by rule the development and implementation of the training program.

(7)(a) The board may provide for the issuance of provisional certificates valid for 1 year ~~such period, not less than 3 years nor more than 5 years~~, as specified by board rule, to any newly employed or promoted building code inspector or plans examiner who meets the eligibility requirements described in subsection (2) and any newly employed or promoted building code administrator who meets the eligibility requirements described in subsection (3). The provisional license may be renewed by the board for just cause; however, a provisional license is not valid for a period longer than 3 years.

Section 5. Subsection (3) of section 489.105, Florida Statutes, is amended, and subsection (6) of that section is reenacted, to read:

489.105 Definitions.—As used in this part:

(3) "Contractor" means the person who is qualified for, and is only responsible for, the project contracted for and means, except as exempted in this part, the person who, for



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compensation, undertakes to, submits a bid to, or does himself or herself or by others construct, repair, alter, remodel, add to, demolish, subtract from, or improve any building or structure, including related improvements to real estate, for others or for resale to others; and whose job scope is substantially similar to the job scope described in one of the ~~subsequent~~ paragraphs of this subsection. For the purposes of regulation under this part, the term "demolish" applies only to demolition of steel tanks more than ~~over~~ 50 feet in height; towers more than ~~over~~ 50 feet in height; other structures more than ~~over~~ 50 feet in height; and all, ~~other than~~ buildings or residences ~~over three stories tall; and buildings or residences over three stories tall.~~ Contractors are subdivided into two divisions, Division I, consisting of those contractors defined in paragraphs (a)-(c), and Division II, consisting of those contractors defined in paragraphs (d)-(r):

(a) "General contractor" means a contractor whose services are unlimited as to the type of work which he or she may do, who may contract for any activity requiring licensure under this part, and who may perform any work requiring licensure under this part, except as otherwise expressly provided in s. 489.113.

(b) "Building contractor" means a contractor whose services are limited to construction of commercial buildings and single-dwelling or multiple-dwelling residential buildings, which do not exceed three stories in height, and accessory use structures in connection therewith or a contractor whose services are limited to remodeling, repair, or improvement of any size building if the services do not affect the structural members of the building.



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(c) "Residential contractor" means a contractor whose services are limited to construction, remodeling, repair, or improvement of one-family, two-family, or three-family residences not exceeding two habitable stories above no more than one uninhabitable story and accessory use structures in connection therewith.

(d) "Sheet metal contractor" means a contractor whose services are unlimited in the sheet metal trade and who has the experience, knowledge, and skill necessary for the manufacture, fabrication, assembling, handling, erection, installation, dismantling, conditioning, adjustment, insulation, alteration, repair, servicing, or design, if not prohibited by law, of ferrous or nonferrous metal work of U.S. No. 10 gauge or its equivalent or lighter gauge and of other materials, including, but not limited to, fiberglass, used in lieu thereof and of air-handling systems, including the setting of air-handling equipment and reinforcement of same, the balancing of air-handling systems, and any duct cleaning and equipment sanitizing that requires at least a partial disassembling of the system.

(e) "Roofing contractor" means a contractor whose services are unlimited in the roofing trade and who has the experience, knowledge, and skill to install, maintain, repair, alter, extend, or design, if not prohibited by law, and use materials and items used in the installation, maintenance, extension, and alteration of all kinds of roofing, waterproofing, and coating, except when coating is not represented to protect, repair, waterproof, stop leaks, or extend the life of the roof. The scope of work of a roofing contractor also includes required roof-deck attachments and any repair or replacement of wood roof



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sheathing or fascia as needed during roof repair or replacement.

(f) "Class A air-conditioning contractor" means a contractor whose services are unlimited in the execution of contracts requiring the experience, knowledge, and skill to install, maintain, repair, fabricate, alter, extend, or design, if not prohibited by law, central air-conditioning, refrigeration, heating, and ventilating systems, including duct work in connection with a complete system if such duct work is performed by the contractor as necessary to complete an air-distribution system, boiler and unfired pressure vessel systems, and all appurtenances, apparatus, or equipment used in connection therewith, and any duct cleaning and equipment sanitizing that requires at least a partial disassembling of the system; to install, maintain, repair, fabricate, alter, extend, or design, if not prohibited by law, piping, insulation of pipes, vessels and ducts, pressure and process piping, and pneumatic control piping; to replace, disconnect, or reconnect power wiring on the load side of the dedicated existing electrical disconnect switch; to install, disconnect, and reconnect low voltage heating, ventilating, and air-conditioning control wiring; and to install a condensate drain from an air-conditioning unit to an existing safe waste or other approved disposal other than a direct connection to a sanitary system. The scope of work for such contractor also includes any excavation work incidental thereto, but does not include any work such as liquefied petroleum or natural gas fuel lines within buildings, except for disconnecting or reconnecting changeouts of liquefied petroleum or natural gas appliances within buildings; potable water lines or connections thereto;



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sanitary sewer lines; swimming pool piping and filters; or
electrical power wiring.

(g) "Class B air-conditioning contractor" means a contractor whose services are limited to 25 tons of cooling and 500,000 Btu of heating in any one system in the execution of contracts requiring the experience, knowledge, and skill to install, maintain, repair, fabricate, alter, extend, or design, if not prohibited by law, central air-conditioning, refrigeration, heating, and ventilating systems, including duct work in connection with a complete system only to the extent such duct work is performed by the contractor as necessary to complete an air-distribution system being installed under this classification, and any duct cleaning and equipment sanitizing that requires at least a partial disassembling of the system; to install, maintain, repair, fabricate, alter, extend, or design, if not prohibited by law, piping and insulation of pipes, vessels, and ducts; to replace, disconnect, or reconnect power wiring on the load side of the dedicated existing electrical disconnect switch; to install, disconnect, and reconnect low voltage heating, ventilating, and air-conditioning control wiring; and to install a condensate drain from an air-conditioning unit to an existing safe waste or other approved disposal other than a direct connection to a sanitary system. The scope of work for such contractor also includes any excavation work incidental thereto, but does not include any work such as liquefied petroleum or natural gas fuel lines within buildings, except for disconnecting or reconnecting changeouts of liquefied petroleum or natural gas appliances within buildings; potable water lines or connections thereto;



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sanitary sewer lines; swimming pool piping and filters; or electrical power wiring.

(h) "Class C air-conditioning contractor" means a contractor whose business is limited to the servicing of air-conditioning, heating, or refrigeration systems, including any duct cleaning and equipment sanitizing that requires at least a partial disassembling of the system, and whose certification or registration, issued pursuant to this part, was valid on October 1, 1988. Only a person who was registered or certified as a Class C air-conditioning contractor as of October 1, 1988, shall be so registered or certified after October 1, 1988. However, the board shall continue to license and regulate those Class C air-conditioning contractors who held Class C licenses before October 1, 1988.

(i) "Mechanical contractor" means a contractor whose services are unlimited in the execution of contracts requiring the experience, knowledge, and skill to install, maintain, repair, fabricate, alter, extend, or design, if not prohibited by law, central air-conditioning, refrigeration, heating, and ventilating systems, including duct work in connection with a complete system if such duct work is performed by the contractor as necessary to complete an air-distribution system, boiler and unfired pressure vessel systems, lift station equipment and piping, and all appurtenances, apparatus, or equipment used in connection therewith, and any duct cleaning and equipment sanitizing that requires at least a partial disassembling of the system; to install, maintain, repair, fabricate, alter, extend, or design, if not prohibited by law, piping, insulation of pipes, vessels and ducts, pressure and process piping, pneumatic



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control piping, gasoline tanks and pump installations and piping for same, standpipes, air piping, vacuum line piping, oxygen lines, nitrous oxide piping, ink and chemical lines, fuel transmission lines, liquefied petroleum gas lines within buildings, and natural gas fuel lines within buildings; to replace, disconnect, or reconnect power wiring on the load side of the dedicated existing electrical disconnect switch; to install, disconnect, and reconnect low voltage heating, ventilating, and air-conditioning control wiring; and to install a condensate drain from an air-conditioning unit to an existing safe waste or other approved disposal other than a direct connection to a sanitary system. The scope of work for such contractor also includes any excavation work incidental thereto, but does not include any work such as potable water lines or connections thereto, sanitary sewer lines, swimming pool piping and filters, or electrical power wiring.

(j) "Commercial pool/spa contractor" means a contractor whose scope of work involves, but is not limited to, the construction, repair, and servicing of any swimming pool, or hot tub or spa, whether public, private, or otherwise, regardless of use. The scope of work includes the installation, repair, or replacement of existing equipment, any cleaning or equipment sanitizing that requires at least a partial disassembling, excluding filter changes, and the installation of new pool/spa equipment, interior finishes, the installation of package pool heaters, the installation of all perimeter piping and filter piping, and the construction of equipment rooms or housing for pool/spa equipment, and also includes the scope of work of a swimming pool/spa servicing contractor. The scope of such work



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does not include direct connections to a sanitary sewer system or to potable water lines. The installation, construction, modification, or replacement of equipment permanently attached to and associated with the pool or spa for the purpose of water treatment or cleaning of the pool or spa requires licensure; however, the usage of such equipment for the purposes of water treatment or cleaning does not require licensure unless the usage involves construction, modification, or replacement of such equipment. Water treatment that does not require such equipment does not require a license. In addition, a license is not required for the cleaning of the pool or spa in a way that does not affect the structural integrity of the pool or spa or its associated equipment.

(k) "Residential pool/spa contractor" means a contractor whose scope of work involves, but is not limited to, the construction, repair, and servicing of a residential swimming pool, or hot tub or spa, regardless of use. The scope of work includes the installation, repair, or replacement of existing equipment, any cleaning or equipment sanitizing that requires at least a partial disassembling, excluding filter changes, and the installation of new pool/spa equipment, interior finishes, the installation of package pool heaters, the installation of all perimeter piping and filter piping, and the construction of equipment rooms or housing for pool/spa equipment, and also includes the scope of work of a swimming pool/spa servicing contractor. The scope of such work does not include direct connections to a sanitary sewer system or to potable water lines. The installation, construction, modification, or replacement of equipment permanently attached to and associated



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with the pool or spa for the purpose of water treatment or cleaning of the pool or spa requires licensure; however, the usage of such equipment for the purposes of water treatment or cleaning does not require licensure unless the usage involves construction, modification, or replacement of such equipment. Water treatment that does not require such equipment does not require a license. In addition, a license is not required for the cleaning of the pool or spa in a way that does not affect the structural integrity of the pool or spa or its associated equipment.

(1) "Swimming pool/spa servicing contractor" means a contractor whose scope of work involves, but is not limited to, the repair and servicing of a swimming pool, or hot tub or spa, whether public or private, or otherwise, regardless of use. The scope of work includes the repair or replacement of existing equipment, any cleaning or equipment sanitizing that requires at least a partial disassembling, excluding filter changes, and the installation of new pool/spa equipment, interior refinishing, the reinstallation or addition of pool heaters, the repair or replacement of all perimeter piping and filter piping, the repair of equipment rooms or housing for pool/spa equipment, and the substantial or complete draining of a swimming pool, or hot tub or spa, for the purpose of repair or renovation. The scope of such work does not include direct connections to a sanitary sewer system or to potable water lines. The installation, construction, modification, substantial or complete disassembly, or replacement of equipment permanently attached to and associated with the pool or spa for the purpose of water treatment or cleaning of the pool or spa requires licensure;



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however, the usage of such equipment for the purposes of water treatment or cleaning does not require licensure unless the usage involves construction, modification, substantial or complete disassembly, or replacement of such equipment. Water treatment that does not require such equipment does not require a license. In addition, a license is not required for the cleaning of the pool or spa in a way that does not affect the structural integrity of the pool or spa or its associated equipment.

(m) "Plumbing contractor" means a contractor whose contracting business consists of the execution of contracts requiring the experience, financial means, knowledge, and skill to install, maintain, repair, alter, extend, or, if not prohibited by law, design plumbing. A plumbing contractor may install, maintain, repair, alter, extend, or, if not prohibited by law, design the following without obtaining an additional local regulatory license, certificate, or registration: sanitary drainage or storm drainage facilities; venting systems; public or private water supply systems; septic tanks; drainage and supply wells; swimming pool piping; irrigation systems; or solar heating water systems and all appurtenances, apparatus, or equipment used in connection therewith, including boilers and pressure process piping and including the installation of water, natural gas, liquefied petroleum gas and related venting, and storm and sanitary sewer lines; and water and sewer plants and substations. The scope of work of the plumbing contractor also includes the design, if not prohibited by law, and installation, maintenance, repair, alteration, or extension of air-piping, vacuum line piping, oxygen line piping, nitrous oxide piping,



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and all related medical gas systems; fire line standpipes and fire sprinklers if authorized by law; ink and chemical lines; fuel oil and gasoline piping and tank and pump installation, except bulk storage plants; and pneumatic control piping systems, all in a manner that complies with all plans, specifications, codes, laws, and regulations applicable. The scope of work of the plumbing contractor applies to private property and public property, including any excavation work incidental thereto, and includes the work of the specialty plumbing contractor. Such contractor shall subcontract, with a qualified contractor in the field concerned, all other work incidental to the work but which is specified as being the work of a trade other than that of a plumbing contractor. This definition does not limit the scope of work of any specialty contractor certified pursuant to s. 489.113(6), and does not require certification or registration under this part of any authorized employee of a public natural gas utility or of a private natural gas utility regulated by the Public Service Commission when disconnecting and reconnecting water lines in the servicing or replacement of an existing water heater.

(n) "Underground utility and excavation contractor" means a contractor whose services are limited to the construction, installation, and repair, on public or private property, whether accomplished through open excavations or through other means, including, but not limited to, directional drilling, auger boring, jacking and boring, trenchless technologies, wet and dry taps, grouting, and slip lining, of main sanitary sewer collection systems, main water distribution systems, storm sewer collection systems, and the continuation of utility lines from



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the main systems to a point of termination up to and including the meter location for the individual occupancy, sewer collection systems at property line on residential or single-occupancy commercial properties, or on multioccupancy properties at manhole or wye lateral extended to an invert elevation as engineered to accommodate future building sewers, water distribution systems, or storm sewer collection systems at storm sewer structures. However, an underground utility and excavation contractor may install empty underground conduits in rights-of-way, easements, platted rights-of-way in new site development, and sleeves for parking lot crossings no smaller than 2 inches in diameter if each conduit system installed is designed by a licensed professional engineer or an authorized employee of a municipality, county, or public utility and the installation of such conduit does not include installation of any conductor wiring or connection to an energized electrical system. An underground utility and excavation contractor may not install piping that is an integral part of a fire protection system as defined in s. 633.021 beginning at the point where the piping is used exclusively for such system.

(o) "Solar contractor" means a contractor whose services consist of the installation, alteration, repair, maintenance, relocation, or replacement of solar panels for potable solar water heating systems, swimming pool solar heating systems, and photovoltaic systems and any appurtenances, apparatus, or equipment used in connection therewith, whether public, private, or otherwise, regardless of use. A contractor, certified or registered pursuant to this chapter, is not required to become a certified or registered solar contractor or to contract with a



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solar contractor in order to provide services enumerated in this paragraph that are within the scope of the services such contractors may render under this part.

(p) "Pollutant storage systems contractor" means a contractor whose services are limited to, and who has the experience, knowledge, and skill to install, maintain, repair, alter, extend, or design, if not prohibited by law, and use materials and items used in the installation, maintenance, extension, and alteration of, pollutant storage tanks. Any person installing a pollutant storage tank shall perform such installation in accordance with the standards adopted pursuant to s. 376.303.

(q) "Glass and glazing contractor" means a contractor whose services are unlimited in the execution of contracts requiring the experience, knowledge, and skill to install, attach, maintain, repair, fabricate, alter, extend, or design, in residential and commercial applications without any height restrictions, all types of windows, glass, and mirrors, whether fixed or movable; swinging or sliding glass doors attached to existing walls, floors, columns, or other structural members of the building; glass holding or supporting mullions or horizontal bars; structurally anchored impact-resistant opening protection attached to existing building walls, floors, columns, or other structural members of the building; prefabricated glass, metal, or plastic curtain walls; storefront frames or panels; shower and tub enclosures; metal fascias; and caulking incidental to such work and assembly.

(r) "Specialty contractor" means a contractor whose scope of work and responsibility is limited to a particular phase of



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construction established in a category adopted by board rule and whose scope is limited to a subset of the activities described in one of the paragraphs of this subsection.

(6) "Contracting" means, except as exempted in this part, engaging in business as a contractor and includes, but is not limited to, performance of any of the acts as set forth in subsection (3) which define types of contractors. The attempted sale of contracting services and the negotiation or bid for a contract on these services also constitutes contracting. If the services offered require licensure or agent qualification, the offering, negotiation for a bid, or attempted sale of these services requires the corresponding licensure. However, the term "contracting" shall not extend to an individual, partnership, corporation, trust, or other legal entity that offers to sell or sells completed residences on property on which the individual or business entity has any legal or equitable interest, or to the individual or business entity that offers to sell or sells manufactured or factory-built buildings that will be completed on site on property on which either party to a contract has any legal or equitable interest, if the services of a qualified contractor certified or registered pursuant to the requirements of this chapter have been or will be retained for the purpose of constructing or completing such residences.

Section 6. The amendments to s. 489.105(6), Florida Statutes, as enacted by s. 30 of chapter 2008-240, Laws of Florida, were intended to protect the sanctity of contracts for the sale of manufactured or factory-built buildings that will be completed on site and to ensure that those contracts are legal and enforceable contracts under state law. The amendments were



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intended to be remedial in nature, clarify existing law, and
apply retroactively to any contract for the sale of manufactured
or factory-built buildings that will be completed on site and
otherwise comply with state law.

Section 7. Paragraph (c) of subsection (5) of section
489.127, Florida Statutes, is amended to read:

489.127 Prohibitions; penalties.—

(5) Each county or municipality may, at its option,
designate one or more of its code enforcement officers, as
defined in chapter 162, to enforce, as set out in this
subsection, the provisions of subsection (1) and s. 489.132(1)
against persons who engage in activity for which a county or
municipal certificate of competency or license or state
certification or registration is required.

(c) The local governing body of the county or municipality
is authorized to enforce codes and ordinances against unlicensed
contractors under the provisions of this subsection and may
enact an ordinance establishing procedures for implementing this
subsection, including a schedule of penalties to be assessed by
the code enforcement officer. The maximum civil penalty which
may be levied shall not exceed \$2,000 ~~\$500~~. Moneys collected
pursuant to this subsection shall be retained locally, as
provided for by local ordinance, and may be set aside in a
specific fund to support future enforcement activities against
unlicensed contractors.

Section 8. Paragraph (c) of subsection (4) of section
489.531, Florida Statutes, is amended to read:

489.531 Prohibitions; penalties.—

(4) Each county or municipality may, at its option,



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designate one or more of its code enforcement officers, as defined in chapter 162, to enforce, as set out in this subsection, the provisions of subsection (1) against persons who engage in activity for which county or municipal certification is required.

(c) The local governing body of the county or municipality is authorized to enforce codes and ordinances against unlicensed contractors under the provisions of this section and may enact an ordinance establishing procedures for implementing this section, including a schedule of penalties to be assessed by the code enforcement officers. The maximum civil penalty which may be levied shall not exceed \$2,000 ~~\$500~~. Moneys collected pursuant to this section shall be retained locally as provided for by local ordinance and may be set aside in a specific fund to support future enforcement activities against unlicensed contractors.

Section 9. Section 553.721, Florida Statutes, is amended to read:

553.721 Surcharge.—In order for the Department of Business and Professional Regulation to administer and carry out the purposes of this part and related activities, there is ~~hereby~~ created a surcharge, to be assessed at the rate of 1.5 percent of the permit fees associated with enforcement of the Florida Building Code as defined by the uniform account criteria and specifically the uniform account code for building permits adopted for local government financial reporting pursuant to s. 218.32. The minimum amount collected on any permit issued shall be \$2. The unit of government responsible for collecting a permit fee pursuant to s. 125.56(4) or s. 166.201 shall collect



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the ~~such~~ surcharge and electronically remit the funds collected to the department on a quarterly calendar basis ~~beginning not later than December 31, 2010,~~ for the preceding quarter, and continuing each third month thereafter. ~~The, and such~~ unit of government shall retain 10 percent of the surcharge collected to fund the participation of building departments in the national and state building code adoption processes and to provide education related to enforcement of the Florida Building Code. All funds remitted to the department pursuant to this section shall be deposited in the Professional Regulation Trust Fund. Funds collected from the ~~such~~ surcharge shall be allocated to fund ~~used exclusively for the duties of~~ the Florida Building Commission and the Florida Building Code Compliance and Mitigation Program under s. 553.841. Funds allocated to the Florida Building Code Compliance and Mitigation Program shall be \$925,000 each fiscal year. The funds collected from the surcharge may ~~and the Department of Business and Professional Regulation under this chapter and shall~~ not be used to fund research on techniques for mitigation of radon in existing buildings. Funds used by the department as well as funds to be transferred to the Department of Health shall be as prescribed in the annual General Appropriations Act. The department shall adopt rules governing the collection and remittance of surcharges pursuant to ~~in accordance with~~ chapter 120.

Section 10. Subsection (10) of section 553.73, Florida Statutes, is amended, and subsection (18) is added to that section, to read:

553.73 Florida Building Code.—

(10) The following buildings, structures, and facilities



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are exempt from the Florida Building Code as provided by law,
and any further exemptions shall be as determined by the
Legislature and provided by law:

(a) Buildings and structures specifically regulated and
preempted by the Federal Government.

(b) Railroads and ancillary facilities associated with the
railroad.

(c) Nonresidential farm buildings on farms.

(d) Temporary buildings or sheds used exclusively for
construction purposes.

(e) Mobile or modular structures used as temporary offices,
except that the provisions of part II relating to accessibility
by persons with disabilities ~~shall~~ apply to such mobile or
modular structures.

(f) Those structures or facilities of electric utilities,
as defined in s. 366.02, which are directly involved in the
generation, transmission, or distribution of electricity.

(g) Temporary sets, assemblies, or structures used in
commercial motion picture or television production, or any
sound-recording equipment used in such production, on or off the
premises.

(h) Storage sheds that are not designed for human
habitation and that have a floor area of 720 square feet or less
are not required to comply with the mandatory wind-borne-debris-
impact standards of the Florida Building Code. In addition, such
buildings that are 400 square feet or less and that are intended
for use in conjunction with one- and two-family residences are
not subject to the door height and width requirements of the
Florida Building Code.



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(i) Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida. As used in this paragraph, the term "chickee" means an open-sided wooden hut that has a thatched roof of palm or palmetto or other traditional materials, and that does not incorporate any electrical, plumbing, or other nonwood features.

(j) Family mausoleums not exceeding 250 square feet in area which are prefabricated and assembled on site or preassembled and delivered on site and have walls, roofs, and a floor constructed of granite, marble, or reinforced concrete.

(k) A building or structure having less than 1,000 square feet which is constructed and owned by a natural person for hunting and which is repaired or reconstructed to the same dimension and condition as existed on January 1, 2011, if the building or structure:

1. Is not rented or leased or used as a principal residence;

2. Is not located within the 100-year floodplain according to the Federal Emergency Management Agency's current Flood Insurance Rate Map; and

3. Is not connected to an off-site electric power or water supply.

With the exception of paragraphs (a), (b), (c), and (f), in order to preserve the health, safety, and welfare of the public, the Florida Building Commission may, by rule adopted pursuant to chapter 120, provide for exceptions to the broad categories of buildings exempted in this section, including exceptions for application of specific sections of the code or standards



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adopted therein. The Department of Agriculture and Consumer Services shall have exclusive authority to adopt by rule, pursuant to chapter 120, exceptions to nonresidential farm buildings exempted in paragraph (c) when reasonably necessary to preserve public health, safety, and welfare. The exceptions must be based upon specific criteria, such as under-roof floor area, aggregate electrical service capacity, HVAC system capacity, or other building requirements. Further, the commission may recommend to the Legislature additional categories of buildings, structures, or facilities which should be exempted from the Florida Building Code, to be provided by law. The Florida Building Code does not apply to temporary housing provided by the Department of Corrections to any prisoner in the state correctional system.

(18) The Florida Building Commission shall adopt by rule a method of alternative screen enclosure design that requires the removal of a section of the screen in order to accommodate wind resistance and keep the screen enclosure intact. The rules for an alternative screen enclosure design must require that the contractor provide notice to the homeowner and local building department that the homeowner must cut, retract, or remove a panel of the screen from the enclosure in accordance with engineering instructions when wind speeds are expected to exceed 75 miles per hour and that the contractor will provide a replacement screen at the initial point of sale to repair the screen enclosure for designs that require cutting. The Florida Building Commission shall adopt the method before October 1, 2012, and incorporate the requirements into the next version of the Florida Building Code. This subsection expires upon adoption



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and implementation of the requirements of this subsection into
the Florida Building Code.

Section 11. This act shall take effect July 1, 2012.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to building construction and
inspection; amending s. 162.12, F.S.; revising the
authorized methods of sending notices to violators of
local codes; amending s. 381.0065, F.S.; revising the
definition of the term "bedroom" for purposes of
requirements governing onsite sewage treatment and
disposal systems; conforming cross-references;
providing that a permit for the installation,
modification, or repair of an onsite sewage treatment
and disposal system approved by the Department of
Health transfers along with the title to the property
in a real estate transaction; prohibiting the
transferred title from being encumbered by new permit
requirements; providing criteria for an abandoned
onsite sewage treatment and disposal system; providing
guidelines for the reconnection of an abandoned
system; providing for the applicability of rules to
the construction of an onsite sewage treatment and
disposal system; providing certain exemptions for a
remodeled single-family home; amending s. 468.604,



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F.S.; authorizing a building code administrator or building official to approve the electronic filing of building plans and related documents; amending s. 468.609, F.S.; revising the criteria for eligibility requirements of a building code inspector or plans examiner; revising criteria for the issuance of provisional certificates; amending s. 489.105, F.S.; revising the definition of the term "demolish" for purposes of describing the scope of work of a contractor to include all buildings or residences, rather than buildings or residences of certain heights; reenacting s. 489.105(6), F.S., relating to the definition of the term "contracting"; clarifying the intent of the Legislature in the adoption of certain amendments to s. 489.105(6), F.S., and specifying that the amendments were intended to be remedial in nature, clarify existing law, and apply retroactively to any contract for the sale of manufactured or factory-built buildings that will be completed on site and otherwise comply with the requirements under state law; amending ss. 489.127 and 489.531, F.S.; increasing the maximum civil penalties that may be assessed against unlicensed contractors; amending s. 553.721, F.S.; allocating a portion of the funds derived from a surcharge on permit fees to the Florida Building Code Compliance and Mitigation Program; making technical and grammatical changes; amending s. 553.73, F.S.; exempting certain buildings or structures used for hunting from the Florida



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912 Building Code; requiring the Florida Building
913 Commission to adopt by rule a method of alternative
914 screen enclosure design to accommodate wind resistance
915 and to keep the screen enclosure intact; requiring the
916 contractor to provide certain notice to the homeowner
917 and the local building department; requiring the rules
918 to be incorporated into the Florida Building Code;
919 providing for expiration of the requirement upon
920 incorporation into the Florida Building Code;
921 providing an effective date.

By Senator Bennett

21-00202D-12

2012704

1 A bill to be entitled
 2 An act relating to building construction and
 3 inspection; amending s. 162.12, F.S.; revising the
 4 authorized methods of sending notices to violators of
 5 local codes; amending s. 468.604, F.S.; authorizing a
 6 building code administrator or building official to
 7 approve the electronic filing of building plans and
 8 related documents; amending s. 489.105, F.S.; revising
 9 the definition of the term "demolish" for purposes of
 10 describing the scope of work of a contractor to
 11 include all buildings or residences, rather than
 12 buildings or residences of certain heights; amending
 13 s. 553.721, F.S.; allocating a portion of the funds
 14 derived from a surcharge on permit fees to the Florida
 15 Building Code Compliance and Mitigation Program;
 16 making technical and grammatical changes; amending s.
 17 553.73, F.S.; exempting certain buildings or
 18 structures used for hunting from the Florida Building
 19 Code; providing an effective date.

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

22
 23 Section 1. Subsection (1) of section 162.12, Florida
 24 Statutes, is amended to read:

25 162.12 Notices.—

26 (1) All notices required by this part must ~~shall~~ be
 27 provided to the alleged violator by:

28 (a) Certified mail, return receipt requested, to provided
 29 ~~if such notice is sent under this paragraph to the owner of the~~

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

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30 ~~property in question at~~ the address listed in the tax
 31 collector's office for tax notices, or to and at ~~and at~~ any other
 32 address provided by the property owner in writing to the local
 33 government for the purpose of receiving notices. For property
 34 owned by a corporation, notices may be provided by certified
 35 mail, return receipt requested, to the registered agent of the
 36 corporation. If any notice sent by certified mail is not signed
 37 as received within 30 days after the date of mailing by such
 38 ~~owner and is returned as unclaimed or refused~~, notice may be
 39 provided by posting as described in subparagraphs (2)(b)1. and
 40 2. ~~and by first class mail directed to the addresses furnished~~
 41 ~~to the local government with a properly executed proof of~~
 42 ~~mailing or affidavit confirming the first class mailing;~~

43 (b) Hand delivery by the sheriff or other law enforcement
 44 officer, code inspector, or other person designated by the local
 45 governing body;

46 (c) Leaving the notice at the violator's usual place of
 47 residence with any person residing therein who is above 15 years
 48 of age and informing such person of the contents of the notice;
 49 or

50 (d) In the case of commercial premises, leaving the notice
 51 with the manager or other person in charge.

52
 53 Evidence that an attempt has been made to hand deliver or mail
 54 notice as provided in subsection (1), together with proof of
 55 publication or posting as provided in subsection (2), shall be
 56 sufficient to show that the notice requirements of this part
 57 have been met, without regard to whether or not the alleged
 58 violator actually received such notice.

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

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Section 2. Section 468.604, Florida Statutes, is amended to read:

468.604 Responsibilities of building code administrators, plans examiners, and inspectors.—

(1) It is the responsibility of the building code administrator or building official to administrate, supervise, direct, enforce, or perform the permitting and inspection of construction, alteration, repair, remodeling, or demolition of structures and the installation of building systems within the boundaries of their governmental jurisdiction, when permitting is required, to ensure compliance with the Florida Building Code and any applicable local technical amendment to the Florida Building Code. The building code administrator or building official shall faithfully perform these responsibilities without interference from any person. These responsibilities include:

(a) The review of construction plans to ensure compliance with all applicable sections of the code. The construction plans must be reviewed before the issuance of any building, system installation, or other construction permit. The review of construction plans must be done by the building code administrator or building official or by a person having the appropriate plans examiner license issued under this chapter.

(b) The inspection of each phase of construction where a building or other construction permit has been issued. The building code administrator or building official, or a person having the appropriate building code inspector license issued under this chapter, shall inspect the construction or installation to ensure that the work is performed in accordance with applicable sections of the code.

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(2) It is the responsibility of the building code inspector to conduct inspections of construction, alteration, repair, remodeling, or demolition of structures and the installation of building systems, when permitting is required, to ensure compliance with the Florida Building Code and any applicable local technical amendment to the Florida Building Code. Each building code inspector must be licensed in the appropriate category as defined in s. 468.603. The building code inspector's responsibilities must be performed under the direction of the building code administrator or building official without interference from any unlicensed person.

(3) It is the responsibility of the plans examiner to conduct review of construction plans submitted in the permit application to assure compliance with the Florida Building Code and any applicable local technical amendment to the Florida Building Code. The review of construction plans must be done by the building code administrator or building official or by a person licensed in the appropriate plans examiner category as defined in s. 468.603. The plans examiner's responsibilities must be performed under the supervision and authority of the building code administrator or building official without interference from any unlicensed person.

(4) The Legislature finds that the electronic filing of construction plans will increase government efficiency, reduce costs, and increase the timeliness of processing permits. Upon approval by the building code administrator or building official, construction plans, drawings, specifications, reports, final documents, or documents prepared or issued by a licensee for review by the building code administrator, building

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117 official, or plans examiner may be transmitted electronically
 118 and may be signed by the licensee and dated and sealed
 119 electronically pursuant to ss. 668.001-668.006.

120 Section 3. Subsection (3) of section 489.105, Florida
 121 Statutes, is amended to read:

122 489.105 Definitions.—As used in this part:

123 (3) "Contractor" means the person who is qualified for, and
 124 is only responsible for, the project contracted for and means,
 125 except as exempted in this part, the person who, for
 126 compensation, undertakes to, submits a bid to, or does himself
 127 or herself or by others construct, repair, alter, remodel, add
 128 to, demolish, subtract from, or improve any building or
 129 structure, including related improvements to real estate, for
 130 others or for resale to others; and whose job scope is
 131 substantially similar to the job scope described in one of the
 132 ~~subsequent~~ paragraphs of this subsection. For the purposes of
 133 regulation under this part, the term "demolish" applies only to
 134 demolition of steel tanks more than ~~over~~ 50 feet in height;
 135 towers more than ~~over~~ 50 feet in height; other structures more
 136 than ~~over~~ 50 feet in height; and all, other than buildings or
 137 ~~residences over three stories tall, and buildings or residences~~
 138 ~~over three stories tall.~~ Contractors are subdivided into two
 139 divisions, Division I, consisting of those contractors defined
 140 in paragraphs (a)-(c), and Division II, consisting of those
 141 contractors defined in paragraphs (d)-(r):

142 (a) "General contractor" means a contractor whose services
 143 are unlimited as to the type of work which he or she may do, who
 144 may contract for any activity requiring licensure under this
 145 part, and who may perform any work requiring licensure under

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146 this part, except as otherwise expressly provided in s. 489.113.

147 (b) "Building contractor" means a contractor whose services
 148 are limited to construction of commercial buildings and single-
 149 dwelling or multiple-dwelling residential buildings, which do
 150 not exceed three stories in height, and accessory use structures
 151 in connection therewith or a contractor whose services are
 152 limited to remodeling, repair, or improvement of any size
 153 building if the services do not affect the structural members of
 154 the building.

155 (c) "Residential contractor" means a contractor whose
 156 services are limited to construction, remodeling, repair, or
 157 improvement of one-family, two-family, or three-family
 158 residences not exceeding two habitable stories above no more
 159 than one uninhabitable story and accessory use structures in
 160 connection therewith.

161 (d) "Sheet metal contractor" means a contractor whose
 162 services are unlimited in the sheet metal trade and who has the
 163 experience, knowledge, and skill necessary for the manufacture,
 164 fabrication, assembling, handling, erection, installation,
 165 dismantling, conditioning, adjustment, insulation, alteration,
 166 repair, servicing, or design, if not prohibited by law, of
 167 ferrous or nonferrous metal work of U.S. No. 10 gauge or its
 168 equivalent or lighter gauge and of other materials, including,
 169 but not limited to, fiberglass, used in lieu thereof and of air-
 170 handling systems, including the setting of air-handling
 171 equipment and reinforcement of same, the balancing of air-
 172 handling systems, and any duct cleaning and equipment sanitizing
 173 that requires at least a partial disassembling of the system.

174 (e) "Roofing contractor" means a contractor whose services

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are unlimited in the roofing trade and who has the experience, knowledge, and skill to install, maintain, repair, alter, extend, or design, if not prohibited by law, and use materials and items used in the installation, maintenance, extension, and alteration of all kinds of roofing, waterproofing, and coating, except when coating is not represented to protect, repair, waterproof, stop leaks, or extend the life of the roof. The scope of work of a roofing contractor also includes required roof-deck attachments and any repair or replacement of wood roof sheathing or fascia as needed during roof repair or replacement.

(f) "Class A air-conditioning contractor" means a contractor whose services are unlimited in the execution of contracts requiring the experience, knowledge, and skill to install, maintain, repair, fabricate, alter, extend, or design, if not prohibited by law, central air-conditioning, refrigeration, heating, and ventilating systems, including duct work in connection with a complete system if such duct work is performed by the contractor as necessary to complete an air-distribution system, boiler and unfired pressure vessel systems, and all appurtenances, apparatus, or equipment used in connection therewith, and any duct cleaning and equipment sanitizing that requires at least a partial disassembling of the system; to install, maintain, repair, fabricate, alter, extend, or design, if not prohibited by law, piping, insulation of pipes, vessels and ducts, pressure and process piping, and pneumatic control piping; to replace, disconnect, or reconnect power wiring on the load side of the dedicated existing electrical disconnect switch; to install, disconnect, and reconnect low voltage heating, ventilating, and air-conditioning

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control wiring; and to install a condensate drain from an air-conditioning unit to an existing safe waste or other approved disposal other than a direct connection to a sanitary system. The scope of work for such contractor also includes any excavation work incidental thereto, but does not include any work such as liquefied petroleum or natural gas fuel lines within buildings, except for disconnecting or reconnecting changeouts of liquefied petroleum or natural gas appliances within buildings; potable water lines or connections thereto; sanitary sewer lines; swimming pool piping and filters; or electrical power wiring.

(g) "Class B air-conditioning contractor" means a contractor whose services are limited to 25 tons of cooling and 500,000 Btu of heating in any one system in the execution of contracts requiring the experience, knowledge, and skill to install, maintain, repair, fabricate, alter, extend, or design, if not prohibited by law, central air-conditioning, refrigeration, heating, and ventilating systems, including duct work in connection with a complete system only to the extent such duct work is performed by the contractor as necessary to complete an air-distribution system being installed under this classification, and any duct cleaning and equipment sanitizing that requires at least a partial disassembling of the system; to install, maintain, repair, fabricate, alter, extend, or design, if not prohibited by law, piping and insulation of pipes, vessels, and ducts; to replace, disconnect, or reconnect power wiring on the load side of the dedicated existing electrical disconnect switch; to install, disconnect, and reconnect low voltage heating, ventilating, and air-conditioning control

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wiring; and to install a condensate drain from an air-conditioning unit to an existing safe waste or other approved disposal other than a direct connection to a sanitary system. The scope of work for such contractor also includes any excavation work incidental thereto, but does not include any work such as liquefied petroleum or natural gas fuel lines within buildings, except for disconnecting or reconnecting changeouts of liquefied petroleum or natural gas appliances within buildings; potable water lines or connections thereto; sanitary sewer lines; swimming pool piping and filters; or electrical power wiring.

(h) "Class C air-conditioning contractor" means a contractor whose business is limited to the servicing of air-conditioning, heating, or refrigeration systems, including any duct cleaning and equipment sanitizing that requires at least a partial disassembling of the system, and whose certification or registration, issued pursuant to this part, was valid on October 1, 1988. Only a person who was registered or certified as a Class C air-conditioning contractor as of October 1, 1988, shall be so registered or certified after October 1, 1988. However, the board shall continue to license and regulate those Class C air-conditioning contractors who held Class C licenses before October 1, 1988.

(i) "Mechanical contractor" means a contractor whose services are unlimited in the execution of contracts requiring the experience, knowledge, and skill to install, maintain, repair, fabricate, alter, extend, or design, if not prohibited by law, central air-conditioning, refrigeration, heating, and ventilating systems, including duct work in connection with a

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complete system if such duct work is performed by the contractor as necessary to complete an air-distribution system, boiler and unfired pressure vessel systems, lift station equipment and piping, and all appurtenances, apparatus, or equipment used in connection therewith, and any duct cleaning and equipment sanitizing that requires at least a partial disassembling of the system; to install, maintain, repair, fabricate, alter, extend, or design, if not prohibited by law, piping, insulation of pipes, vessels and ducts, pressure and process piping, pneumatic control piping, gasoline tanks and pump installations and piping for same, standpipes, air piping, vacuum line piping, oxygen lines, nitrous oxide piping, ink and chemical lines, fuel transmission lines, liquefied petroleum gas lines within buildings, and natural gas fuel lines within buildings; to replace, disconnect, or reconnect power wiring on the load side of the dedicated existing electrical disconnect switch; to install, disconnect, and reconnect low voltage heating, ventilating, and air-conditioning control wiring; and to install a condensate drain from an air-conditioning unit to an existing safe waste or other approved disposal other than a direct connection to a sanitary system. The scope of work for such contractor also includes any excavation work incidental thereto, but does not include any work such as potable water lines or connections thereto, sanitary sewer lines, swimming pool piping and filters, or electrical power wiring.

(j) "Commercial pool/spa contractor" means a contractor whose scope of work involves, but is not limited to, the construction, repair, and servicing of any swimming pool, or hot tub or spa, whether public, private, or otherwise, regardless of

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291 use. The scope of work includes the installation, repair, or
 292 replacement of existing equipment, any cleaning or equipment
 293 sanitizing that requires at least a partial disassembling,
 294 excluding filter changes, and the installation of new pool/spa
 295 equipment, interior finishes, the installation of package pool
 296 heaters, the installation of all perimeter piping and filter
 297 piping, and the construction of equipment rooms or housing for
 298 pool/spa equipment, and also includes the scope of work of a
 299 swimming pool/spa servicing contractor. The scope of such work
 300 does not include direct connections to a sanitary sewer system
 301 or to potable water lines. The installation, construction,
 302 modification, or replacement of equipment permanently attached
 303 to and associated with the pool or spa for the purpose of water
 304 treatment or cleaning of the pool or spa requires licensure;
 305 however, the usage of such equipment for the purposes of water
 306 treatment or cleaning does not require licensure unless the
 307 usage involves construction, modification, or replacement of
 308 such equipment. Water treatment that does not require such
 309 equipment does not require a license. In addition, a license is
 310 not required for the cleaning of the pool or spa in a way that
 311 does not affect the structural integrity of the pool or spa or
 312 its associated equipment.

313 (k) "Residential pool/spa contractor" means a contractor
 314 whose scope of work involves, but is not limited to, the
 315 construction, repair, and servicing of a residential swimming
 316 pool, or hot tub or spa, regardless of use. The scope of work
 317 includes the installation, repair, or replacement of existing
 318 equipment, any cleaning or equipment sanitizing that requires at
 319 least a partial disassembling, excluding filter changes, and the

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320 installation of new pool/spa equipment, interior finishes, the
 321 installation of package pool heaters, the installation of all
 322 perimeter piping and filter piping, and the construction of
 323 equipment rooms or housing for pool/spa equipment, and also
 324 includes the scope of work of a swimming pool/spa servicing
 325 contractor. The scope of such work does not include direct
 326 connections to a sanitary sewer system or to potable water
 327 lines. The installation, construction, modification, or
 328 replacement of equipment permanently attached to and associated
 329 with the pool or spa for the purpose of water treatment or
 330 cleaning of the pool or spa requires licensure; however, the
 331 usage of such equipment for the purposes of water treatment or
 332 cleaning does not require licensure unless the usage involves
 333 construction, modification, or replacement of such equipment.
 334 Water treatment that does not require such equipment does not
 335 require a license. In addition, a license is not required for
 336 the cleaning of the pool or spa in a way that does not affect
 337 the structural integrity of the pool or spa or its associated
 338 equipment.

339 (l) "Swimming pool/spa servicing contractor" means a
 340 contractor whose scope of work involves, but is not limited to,
 341 the repair and servicing of a swimming pool, or hot tub or spa,
 342 whether public or private, or otherwise, regardless of use. The
 343 scope of work includes the repair or replacement of existing
 344 equipment, any cleaning or equipment sanitizing that requires at
 345 least a partial disassembling, excluding filter changes, and the
 346 installation of new pool/spa equipment, interior refinishing,
 347 the reinstallation or addition of pool heaters, the repair or
 348 replacement of all perimeter piping and filter piping, the

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349 repair of equipment rooms or housing for pool/spa equipment, and
 350 the substantial or complete draining of a swimming pool, or hot
 351 tub or spa, for the purpose of repair or renovation. The scope
 352 of such work does not include direct connections to a sanitary
 353 sewer system or to potable water lines. The installation,
 354 construction, modification, substantial or complete disassembly,
 355 or replacement of equipment permanently attached to and
 356 associated with the pool or spa for the purpose of water
 357 treatment or cleaning of the pool or spa requires licensure;
 358 however, the usage of such equipment for the purposes of water
 359 treatment or cleaning does not require licensure unless the
 360 usage involves construction, modification, substantial or
 361 complete disassembly, or replacement of such equipment. Water
 362 treatment that does not require such equipment does not require
 363 a license. In addition, a license is not required for the
 364 cleaning of the pool or spa in a way that does not affect the
 365 structural integrity of the pool or spa or its associated
 366 equipment.

367 (m) "Plumbing contractor" means a contractor whose
 368 contracting business consists of the execution of contracts
 369 requiring the experience, financial means, knowledge, and skill
 370 to install, maintain, repair, alter, extend, or, if not
 371 prohibited by law, design plumbing. A plumbing contractor may
 372 install, maintain, repair, alter, extend, or, if not prohibited
 373 by law, design the following without obtaining an additional
 374 local regulatory license, certificate, or registration: sanitary
 375 drainage or storm drainage facilities; venting systems; public
 376 or private water supply systems; septic tanks; drainage and
 377 supply wells; swimming pool piping; irrigation systems; or solar

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378 heating water systems and all appurtenances, apparatus, or
 379 equipment used in connection therewith, including boilers and
 380 pressure process piping and including the installation of water,
 381 natural gas, liquefied petroleum gas and related venting, and
 382 storm and sanitary sewer lines; and water and sewer plants and
 383 substations. The scope of work of the plumbing contractor also
 384 includes the design, if not prohibited by law, and installation,
 385 maintenance, repair, alteration, or extension of air-piping,
 386 vacuum line piping, oxygen line piping, nitrous oxide piping,
 387 and all related medical gas systems; fire line standpipes and
 388 fire sprinklers if authorized by law; ink and chemical lines;
 389 fuel oil and gasoline piping and tank and pump installation,
 390 except bulk storage plants; and pneumatic control piping
 391 systems, all in a manner that complies with all plans,
 392 specifications, codes, laws, and regulations applicable. The
 393 scope of work of the plumbing contractor applies to private
 394 property and public property, including any excavation work
 395 incidental thereto, and includes the work of the specialty
 396 plumbing contractor. Such contractor shall subcontract, with a
 397 qualified contractor in the field concerned, all other work
 398 incidental to the work but which is specified as being the work
 399 of a trade other than that of a plumbing contractor. This
 400 definition does not limit the scope of work of any specialty
 401 contractor certified pursuant to s. 489.113(6), and does not
 402 require certification or registration under this part of any
 403 authorized employee of a public natural gas utility or of a
 404 private natural gas utility regulated by the Public Service
 405 Commission when disconnecting and reconnecting water lines in
 406 the servicing or replacement of an existing water heater.

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407 (n) "Underground utility and excavation contractor" means a
 408 contractor whose services are limited to the construction,
 409 installation, and repair, on public or private property, whether
 410 accomplished through open excavations or through other means,
 411 including, but not limited to, directional drilling, auger
 412 boring, jacking and boring, trenchless technologies, wet and dry
 413 taps, grouting, and slip lining, of main sanitary sewer
 414 collection systems, main water distribution systems, storm sewer
 415 collection systems, and the continuation of utility lines from
 416 the main systems to a point of termination up to and including
 417 the meter location for the individual occupancy, sewer
 418 collection systems at property line on residential or single-
 419 occupancy commercial properties, or on multioccupancy properties
 420 at manhole or wye lateral extended to an invert elevation as
 421 engineered to accommodate future building sewers, water
 422 distribution systems, or storm sewer collection systems at storm
 423 sewer structures. However, an underground utility and excavation
 424 contractor may install empty underground conduits in rights-of-
 425 way, easements, platted rights-of-way in new site development,
 426 and sleeves for parking lot crossings no smaller than 2 inches
 427 in diameter if each conduit system installed is designed by a
 428 licensed professional engineer or an authorized employee of a
 429 municipality, county, or public utility and the installation of
 430 such conduit does not include installation of any conductor
 431 wiring or connection to an energized electrical system. An
 432 underground utility and excavation contractor may not install
 433 piping that is an integral part of a fire protection system as
 434 defined in s. 633.021 beginning at the point where the piping is
 435 used exclusively for such system.

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

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436 (o) "Solar contractor" means a contractor whose services
 437 consist of the installation, alteration, repair, maintenance,
 438 relocation, or replacement of solar panels for potable solar
 439 water heating systems, swimming pool solar heating systems, and
 440 photovoltaic systems and any appurtenances, apparatus, or
 441 equipment used in connection therewith, whether public, private,
 442 or otherwise, regardless of use. A contractor, certified or
 443 registered pursuant to this chapter, is not required to become a
 444 certified or registered solar contractor or to contract with a
 445 solar contractor in order to provide services enumerated in this
 446 paragraph that are within the scope of the services such
 447 contractors may render under this part.

448 (p) "Pollutant storage systems contractor" means a
 449 contractor whose services are limited to, and who has the
 450 experience, knowledge, and skill to install, maintain, repair,
 451 alter, extend, or design, if not prohibited by law, and use
 452 materials and items used in the installation, maintenance,
 453 extension, and alteration of, pollutant storage tanks. Any
 454 person installing a pollutant storage tank shall perform such
 455 installation in accordance with the standards adopted pursuant
 456 to s. 376.303.

457 (q) "Glass and glazing contractor" means a contractor whose
 458 services are unlimited in the execution of contracts requiring
 459 the experience, knowledge, and skill to install, attach,
 460 maintain, repair, fabricate, alter, extend, or design, in
 461 residential and commercial applications without any height
 462 restrictions, all types of windows, glass, and mirrors, whether
 463 fixed or movable; swinging or sliding glass doors attached to
 464 existing walls, floors, columns, or other structural members of

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the building; glass holding or supporting mullions or horizontal bars; structurally anchored impact-resistant opening protection attached to existing building walls, floors, columns, or other structural members of the building; prefabricated glass, metal, or plastic curtain walls; storefront frames or panels; shower and tub enclosures; metal fascias; and caulking incidental to such work and assembly.

(r) "Specialty contractor" means a contractor whose scope of work and responsibility is limited to a particular phase of construction established in a category adopted by board rule and whose scope is limited to a subset of the activities described in one of the paragraphs of this subsection.

Section 4. Section 553.721, Florida Statutes, is amended to read:

553.721 Surcharge.—In order for the Department of Business and Professional Regulation to administer and carry out the purposes of this part and related activities, there is ~~hereby~~ created a surcharge, to be assessed at the rate of 1.5 percent of the permit fees associated with enforcement of the Florida Building Code as defined by the uniform account criteria and specifically the uniform account code for building permits adopted for local government financial reporting pursuant to s. 218.32. The minimum amount collected on any permit issued shall be \$2. The unit of government responsible for collecting a permit fee pursuant to s. 125.56(4) or s. 166.201 shall collect the such surcharge and electronically remit the funds collected to the department on a quarterly calendar basis ~~beginning not later than December 31, 2010,~~ for the preceding quarter, and continuing each third month thereafter. ~~The, and such~~ unit of

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government shall retain 10 percent of the surcharge collected to fund the participation of building departments in the national and state building code adoption processes and to provide education related to enforcement of the Florida Building Code. All funds remitted to the department pursuant to this section shall be deposited in the Professional Regulation Trust Fund. Funds collected from the such surcharge shall be allocated equally to fund ~~used exclusively for the duties of~~ the Florida Building Commission and the Florida Building Code Compliance and Mitigation Program under s. 553.841. However, funds allocated to the Florida Building Code Compliance and Mitigation Program may not exceed \$925,000 in a fiscal year. The funds collected from the surcharge may ~~and the Department of Business and Professional Regulation under this chapter and shall~~ not be used to fund research on techniques for mitigation of radon in existing buildings. Funds used by the department as well as funds to be transferred to the Department of Health shall be as prescribed in the annual General Appropriations Act. The department shall adopt rules governing the collection and remittance of surcharges pursuant to ~~in accordance with~~ chapter 120.

Section 5. Subsection (10) of section 553.73, Florida Statutes, is amended to read:

553.73 Florida Building Code.—

(10) The following buildings, structures, and facilities are exempt from the Florida Building Code as provided by law, and any further exemptions shall be as determined by the Legislature and provided by law:

(a) Buildings and structures specifically regulated and

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preempted by the Federal Government.

(b) Railroads and ancillary facilities associated with the railroad.

(c) Nonresidential farm buildings on farms.

(d) Temporary buildings or sheds used exclusively for construction purposes.

(e) Mobile or modular structures used as temporary offices, except that the provisions of part II relating to accessibility by persons with disabilities ~~shall~~ apply to such mobile or modular structures.

(f) Those structures or facilities of electric utilities, as defined in s. 366.02, which are directly involved in the generation, transmission, or distribution of electricity.

(g) Temporary sets, assemblies, or structures used in commercial motion picture or television production, or any sound-recording equipment used in such production, on or off the premises.

(h) Storage sheds that are not designed for human habitation and that have a floor area of 720 square feet or less are not required to comply with the mandatory wind-borne-debris-impact standards of the Florida Building Code. In addition, such buildings that are 400 square feet or less and that are intended for use in conjunction with one- and two-family residences are not subject to the door height and width requirements of the Florida Building Code.

(i) Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida. As used in this paragraph, the term "chickee" means an open-sided wooden hut that has a thatched roof of palm or palmetto or other

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traditional materials, and that does not incorporate any electrical, plumbing, or other nonwood features.

(j) Family mausoleums not exceeding 250 square feet in area which are prefabricated and assembled on site or preassembled and delivered on site and have walls, roofs, and a floor constructed of granite, marble, or reinforced concrete.

(k) A building or structure having less than 1,000 square feet which is constructed and owned by a natural person for hunting and which is repaired or reconstructed to the same dimension and condition as existed on January 1, 2011, if the building or structure:

1. Is not rented or leased or used as a principal residence;

2. Is not located within the 100-year floodplain according to Federal Emergency Management Agency's current Flood Insurance Rate Map; and

3. Is not connected to an off-site electric power or water supply.

With the exception of paragraphs (a), (b), (c), and (f), in order to preserve the health, safety, and welfare of the public, the Florida Building Commission may, by rule adopted pursuant to chapter 120, provide for exceptions to the broad categories of buildings exempted in this section, including exceptions for application of specific sections of the code or standards adopted therein. The Department of Agriculture and Consumer Services shall have exclusive authority to adopt by rule, pursuant to chapter 120, exceptions to nonresidential farm buildings exempted in paragraph (c) when reasonably necessary to

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581 preserve public health, safety, and welfare. The exceptions must
582 be based upon specific criteria, such as under-roof floor area,
583 aggregate electrical service capacity, HVAC system capacity, or
584 other building requirements. Further, the commission may
585 recommend to the Legislature additional categories of buildings,
586 structures, or facilities which should be exempted from the
587 Florida Building Code, to be provided by law. The Florida
588 Building Code does not apply to temporary housing provided by
589 the Department of Corrections to any prisoner in the state
590 correctional system.

591 Section 6. This act shall take effect July 1, 2012.

THE FLORIDA SENATE
APPEARANCE RECORD

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

1-12-11
Meeting Date

Topic Building Codes

Bill Number SB 704
(if applicable)

Name Kari Hebrank

Amendment Barcode _____
(if applicable)

Job Title _____

Address 7711 Deepwood Trail
Street
Tallahassee, FL 32317
City State Zip

Phone 562-1824

E-mail _____

Speaking: ☒ For ☐ Against ☐ Information

Representing Building Officials Assoc. of FL

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/12/12
Meeting Date

Topic SB 704

Bill Number 704
(if applicable)

Name Casey Cook

Amendment Barcode _____
(if applicable)

Job Title Legislative Advocate

Address PO Box 1757
Street

Phone 850 701 3701

Tallahassee FL 32302
City State Zip

E-mail ccook@flcities.com

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida League of Cities

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Topic Building Code

Bill Number HB 704
(if applicable)

Name Doug Buck

Amendment Barcode _____
(if applicable)

Job Title _____

Address 201 E Park Ave
Street

Phone 224-4316

32301
City State Zip

E-mail dbuck@fhba.com

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida Home Builders Assn

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1-12-12
Meeting Date

Topic Bldg Code

Bill Number SB 704
(if applicable)

Name RICHARD GENTRY

Amendment Barcode _____
(if applicable)

Job Title _____

Address 2305 BRAEBURN CIR
Street

Phone 251-1837

TLH FL 32309
City State Zip

E-mail RGENTRY@COMCAST.NET

Speaking: ☒ For ☐ Against ☐ Information

Representing AIF

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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

S-001 (10/20/11)

The Florida Senate
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 Community Affairs Committee

BILL: CS/SB 692

INTRODUCER: Committee on Community Affairs and Senator Bennett

SUBJECT: Formation of Local Governments

DATE: January 12, 2012

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	Fav/CS
2.				
3.				
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	☒	Statement of Substantial Changes
B. AMENDMENTS.....	☐	Technical amendments were recommended
	☐	Amendments were recommended
	☐	Significant amendments were recommended

I. Summary:

This CS amends the “Formation of Municipalities Act,” to require an earlier submission of a proposed municipality incorporation feasibility study. The CS also deletes definitions and cross references that are no longer applicable.

This CS amends sections 165.031, 165.041, and 257.171 of the Florida Statutes.

II. Present Situation:

History and Purpose of the “Formation of Municipalities Act”

Chapter 165, F.S., the “Formation of Local Governments Act” was created pursuant to ch. 74-192, Laws of Florida. This legislation provided general law standards and direction and procedures for the formation and dissolution of municipalities and special districts.

The Legislature subsequently enacted the “Uniform Special District Accountability Act of 1989,” ch. 189, F.S., to provide general provisions for the definition, creation, and operation of special districts specifically. This legislation, ch. 89-169, Laws of Florida, changed the title for

ch. 165, F.S., to the “Formation of Municipalities Act,” (Act) and simultaneously removed provisions for special districts from this law. The chapter is currently limited to procedures for municipal incorporation.

The stated purpose of the Act is to provide standards, direction, and procedures for the formation of municipalities in this state and the provision of municipal services so as to:

- allow orderly patterns of urban growth and land use;
- assure adequate quality and quantity of local public services;
- ensure financial integrity of municipalities;
- eliminate or reduce avoidable and undesirable differentials in fiscal capacity among neighboring local governmental jurisdictions; and
- promote equity in the financing of municipal services.¹

The Process for Establishing a City Government

Under ch. 165, F.S., there is only one way to establish a city government where no such government exists: the Legislature must pass a special act creating the city's charter, upon determination that the standards provided in that chapter have been met.² Section 165.081, F.S., provides that any special law enacted pursuant to ch. 165, F.S., is reviewable by certiorari if the appeal is brought before the effective date of the incorporation.

Pursuant to s. 165.041(1)(b), F.S., a feasibility study must be completed and submitted to the Legislature 90 days before the first day of the regular session during which the bill proposing the incorporation would be enacted. The study enables the Legislature to determine if the proposed area meets the statutory requirements for incorporation, and if incorporation is financially feasible. Interested parties commission and pay for the effort.

Incorporation Feasibility Study

An incorporation feasibility study requires the following elements:

- The general location of territory subject to a boundary change and a map of the area that identifies the proposed change.
- The major reasons for proposing the boundary change.
- The following characteristics of the area:
 - a list of the current land use designations applied to the subject area in the county comprehensive plan;
 - a list of the current county zoning designations applied to the subject area;
 - a general statement of present land use characteristics of the area; and

¹ Section 165.021, F.S.

² Section 165.041(1)(a), F.S. An exception to this rule exists in Miami-Dade County where the county has been granted the exclusive power to create cities through the State Constitution and its home rule powers. See s. 165.022, F.S., and s. 6(e), Art. VIII of the State Constitution. Adopted in 1957, the Miami-Dade Home Rule Charter provides for the creation of new municipalities at section 5.05.

- a description of development being proposed for the territory, if any, and a statement of when actual development is expected to begin, if known.
- A list of all public agencies, such as local governments, school districts and special districts, whose current boundaries fall within the boundary of the territory proposed for the change or reorganization.
- A list of current services being provided within the proposed incorporation area, including, but not limited to, water, sewer, solid waste, transportation, public works, law enforcement, fire and rescue, zoning, street lighting, parks and recreation, and library and cultural facilities, and the estimated costs for each service.
- A list of proposed services to be provided within the proposed incorporation area, and the estimated cost of such services.
- The names and addresses of three officers or persons submitting the proposal.
- Evidence of fiscal capacity and an organizational plan that, at a minimum, includes:
 - existing tax bases, including ad valorem taxable value, utility taxes, sales and use taxes, franchise taxes, license and permit fees, charges for services, fines and forfeitures, and other revenue sources, as appropriate; and
 - a five-year operational plan that, at a minimum, includes proposed staffing, building acquisition and construction, debt issuance, and budgets.
- Data and analysis to support the conclusion that incorporation is necessary and financially feasible, including population projections and population density calculations, and an explanation concerning methodologies used for such analysis.
- Evaluation of the alternatives available to the area to address its policy concerns.
- Evidence that the proposed municipality meets the standards for incorporation of s.165.061, F.S.³

Standards for Incorporation

Section 165.061, F.S., requires a new municipality to meet the following conditions in the area proposed for incorporation:

- It must be compact, contiguous and amenable to separate municipal government.
- It must have a total population, as determined in the latest official state census, special census or estimate of population, of at least 1,500 persons in counties with a population of less than 75,000, and of at least 5,000 persons in counties with a population of more than 75,000.
- It must have an average population density of at least 1.5 persons per acre or have extraordinary conditions requiring the establishment of a municipal corporation with less existing density.
- It must be a minimum distance of at least two miles from the boundaries of an existing municipality within the county or have an extraordinary natural boundary that requires separate municipal government.
- It must have a proposed municipal charter that clearly prescribes and defines the form of government and its functions and does not prohibit or restrict the levy of authorized tax.
- In accordance with s. 10, Art. I of the State Constitution,⁴ the plan for incorporation must honor existing solid-waste contracts in the affected geographic area subject to incorporation.

³ Section 165.041(1)(b), F.S.

In counties that have adopted a municipal overlay for municipal incorporation pursuant to s. 163.3217, F.S., feasibility study information also is submitted to the Legislature in conjunction with any proposed municipal incorporation.

Additional Feasibility Study Assessment

In the past, incorporation feasibility studies have been provided to a number of state governmental entities for a critical assessment to assist the Legislature in its findings. These entities include the Office of the Governor, the Department of Revenue, the Office of Economic and Demographic Research, the Department of Community Affairs, and the Legislative Committee on Intergovernmental Relations. Two of the primary evaluators utilized by the Legislature, the Legislative Committee on Intergovernmental Relations and the Department of Community Affairs (DCA), were recently abolished,⁵ although many of the DCA functions have been transferred to other state agencies.

III. Effect of Proposed Changes:

Section 1 amends s. 165.031, F.S., to delete four definitions which are no longer applicable: “unit of local government,” “local general purpose government,” “service delivery,” and “sufficiency of petition.” The seven retained definitions in this section are reordered.

Section 2 amends s. 165.041, F.S., to change the submission deadline for a municipality incorporation feasibility study. A feasibility study is currently due 90 days before the first day of the regular session of the Legislature. The CS establishes a deadline of the first Monday after September 1, immediately preceding the regular session. The earlier submission date would provide additional time to review a study.

Section 3 amends s. 257.171, F.S., to delete a cross reference to the definition of “unit of local government” which is deleted in section 1 of the CS.

Section 4 provides that this act shall take effect July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

⁴ No bill of attainder, ex post facto law or law impairing the obligation of contracts shall be passed.

⁵ The Legislative Committee on Intergovernmental Relations, a joint committee, was not funded in the FY 2010 – 2011 General Appropriations Act, and ceased operations on June 30, 2010. The Department of Community Affairs was abolished pursuant to ch. 2011-142, L.O.F.

C. Trust Funds Restrictions:

None.

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. Additional Information:

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

CS by Community Affairs on January 12, 2012:

The committee substitute retains two definitions in s. 165.031, F.S., “parties affected” and “qualified voter,” that were to be deleted in the original bill and makes additional technical changes.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/12/2012	.	
	.	
	.	
	.	

The Committee on Community Affairs (Bennett) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 165.031, Florida Statutes, is amended to
read:

165.031 Definitions.—The following terms and phrases, when
used in this chapter, shall have the meanings ascribed to them
in this section, except where the context clearly indicates a
different meaning:

~~(1) "Unit of local government" means any local general-
purpose government.~~



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~~(2) "Local general purpose government" means a county, municipality, or consolidated city-county government.~~

(1)~~(3)~~ "County" means a political subdivision of the state established pursuant to s. 1, Art. VIII of the State Constitution.

(2)~~(6)~~ "Formation" means any one of the following activities:

(a) "Incorporation"—The establishment of a municipality.

(b) "Dissolution"—The dissolving of the corporate status of a municipality.

(c) "Merger"—The merging of two or more municipalities with each other and with any unincorporated areas authorized pursuant to this act to form a new municipality; the merging of one or more municipalities or special districts, in any combination thereof, with each other; or the merging of one or more counties with one or more special districts.

(3)~~(4)~~ "Municipality" means a municipality created pursuant to general or special law authorized or recognized pursuant to s. 2 or s. 6, Art. VIII of the State Constitution.

~~(7) "Service delivery" means any mechanism used by a unit of local government to provide governmental services.~~

(4)~~(8)~~ "Newspaper of general circulation" means a newspaper printed in the language most commonly spoken in the area within which it circulates, which is readily available for purchase by all inhabitants in its area of circulation, but does not include a newspaper intended primarily for members of a particular professional or occupational group, a newspaper the primary function of which is to carry legal notices, or a newspaper that is given away primarily to distribute advertising.



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42 (5)~~(9)~~ "Parties affected" means any person owning property
43 or residing in a municipality proposing a formation or in the
44 territory that is proposed for a formation or any governmental
45 unit with jurisdiction over such area.

46 (6)~~(10)~~ "Qualified voter" means any person registered to
47 vote in accordance with law.

48 (7)~~(5)~~ "Special district" means a local unit of special
49 government, as defined in s. 189.403(1). This term includes
50 dependent special districts, as defined in s. 189.403(2), and
51 independent special districts, as defined in s. 189.403(3). All
52 provisions of s. 200.001(8)(d) and (e) shall be considered
53 provisions of this chapter.

54 ~~(11) "Sufficiency of petition" means the verification of~~
55 ~~the signatures and addresses of all signers of a petition with~~
56 ~~the voting list maintained by the county supervisor of elections~~
57 ~~and certification that the number of valid signatures represents~~
58 ~~the required percentage of the total number of qualified voters~~
59 ~~in the area affected by a proposal pursuant to this chapter.~~

60 Section 2. Paragraph (b) of subsection (1) of section
61 165.041, Florida Statutes, is amended to read:

62 165.041 Incorporation; merger.—

63 (1)

64 (b) To inform the Legislature on the feasibility of a
65 proposed incorporation of a municipality, a feasibility study
66 shall be completed and submitted to the Legislature no later
67 than the first Monday after September 1 of the year ~~90 days~~
68 ~~before the first day of~~ the regular session of the Legislature
69 during which the municipal charter would be enacted. The
70 feasibility study shall contain the following:



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71 1. The ~~general~~ location of territory subject to boundary
72 change and a map of the area which identifies the proposed
73 change.

74 2. The major reasons for proposing the boundary change.

75 3. The following characteristics of the area:

76 a. A list of the current land use designations applied to
77 the subject area in the county comprehensive plan.

78 b. A list of the current county zoning designations applied
79 to the subject area.

80 c. A general statement of present land use characteristics
81 of the area.

82 d. A description of development being proposed for the
83 territory, if any, and a statement of when actual development is
84 expected to begin, if known.

85 4. A list of all public agencies, such as local
86 governments, school districts, and special districts, whose
87 current boundary falls within the boundary of the territory
88 proposed for the change or reorganization.

89 5. A list of current services being provided within the
90 proposed incorporation area, including, but not limited to,
91 water, sewer, solid waste, transportation, public works, law
92 enforcement, fire and rescue, zoning, street lighting, parks and
93 recreation, and library and cultural facilities, and the
94 estimated costs for each current service.

95 6. A list of proposed services to be provided within the
96 proposed incorporation area, and the estimated cost of such
97 proposed services.

98 7. The names and addresses of three officers or persons
99 submitting the proposal.



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8. Evidence of fiscal capacity and an organizational plan as it relates to the area seeking incorporation that, at a minimum, includes:

a. Existing tax bases, including ad valorem taxable value, utility taxes, sales and use taxes, franchise taxes, license and permit fees, charges for services, fines and forfeitures, and other revenue sources, as appropriate.

b. A 5-year operational plan that, at a minimum, includes proposed staffing, building acquisition and construction, debt issuance, and budgets.

9. Data and analysis to support the conclusions that incorporation is necessary and financially feasible, including population projections and population density calculations, and an explanation concerning methodologies used for such analysis.

10. Evaluation of the alternatives available to the area to address its policy concerns.

11. Evidence that the proposed municipality meets the requirements for incorporation pursuant to s. 165.061.

Section 3. Section 257.171, Florida Statutes, is amended to read:

257.171 Multicounty libraries.—Units of local government, ~~as defined in s. 165.031(1),~~ may establish a multicounty library. The Division of Library and Information Services may establish operating standards and rules under which a multicounty library is eligible to receive state moneys. For a multicounty library, a local government may pay moneys in advance in lump sum from its public funds for the provision of library services only.

Section 4. This act shall take effect July 1, 2012.



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

And the title is amended as follows:

 Delete everything before the enacting clause
and insert:

 A bill to be entitled

 An act relating to the formation of local governments;
amending s. 165.031, F.S.; deleting definitions; amending s.
165.041, F.S.; revising the deadline for submission of a
feasibility study of a proposed incorporation of a municipality;
revising a requirement for the content of the study; amending s.
257.171, F.S.; conforming a cross-reference; providing an
effective date.

By Senator Bennett

21-00688-12

2012692__

A bill to be entitled

An act relating to municipalities; reordering and amending s. 165.031, F.S.; deleting unused terms; amending s. 165.041, F.S.; revising the date that a feasibility study on a proposed incorporation of a municipality must be submitted to the Legislature; amending ss. 163.340 and 257.171, F.S.; conforming cross-references; providing an effective date.

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

Section 1. Section 165.031, Florida Statutes, is reordered and amended to read:

165.031 Definitions.—~~As The following terms and phrases, when used in this chapter, the term shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~(1) "Unit of local government" means any local general-purpose government.~~

~~(2) "Local general-purpose government" means a county, municipality, or consolidated city-county government.~~

(1)(3) "County" means a political subdivision of the state established pursuant to s. 1, Art. VIII of the State Constitution.

(3)(4) "Municipality" means a municipality created pursuant to general or special law, authorized or recognized pursuant to s. 2 or s. 6, Art. VIII of the State Constitution.

(5) "Special district" means a local unit of special government, as defined in s. 189.403(1). This term includes

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dependent special districts, ~~as defined in s. 189.403(2), and independent special districts, also as defined in s. 189.403(3).~~ All provisions of s. 200.001(8) (d) and (e) are ~~shall be~~ considered provisions of this chapter.

(2)(6) "Formation" means any one of the following activities:

(a) "Incorporation"—The establishment of a municipality.

(b) "Dissolution"—The dissolving of the corporate status of a municipality.

(c) "Merger"—The merging of two or more municipalities with each other and with any unincorporated areas authorized pursuant to this chapter ~~act~~ to form a new municipality; the merging of one or more municipalities or special districts, in any combination thereof, with each other; or the merging of one or more counties with one or more special districts.

~~(7) "Service delivery" means any mechanism used by a unit of local government to provide governmental services.~~

(4)(8) "Newspaper of general circulation" means a newspaper printed in the language most commonly spoken in the area within which it circulates, which is readily available for purchase by all inhabitants in its area of circulation. The term, but does not include a newspaper intended primarily for members of a particular professional or occupational group, a newspaper the primary function of which is to carry legal notices, or a newspaper that is given away primarily to distribute advertising.

~~(9) "Parties affected" means any person owning property or residing in a municipality proposing a formation or in the territory that is proposed for a formation or any governmental~~

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unit with jurisdiction over such area.

~~(10) "Qualified voter" means any person registered to vote in accordance with law.~~

~~(11) "Sufficiency of petition" means the verification of the signatures and addresses of all signers of a petition with the voting list maintained by the county supervisor of elections and certification that the number of valid signatures represents the required percentage of the total number of qualified voters in the area affected by a proposal pursuant to this chapter.~~

Section 2. Paragraph (b) of subsection (1) of section 165.041, Florida Statutes, is amended to read:

165.041 Incorporation; merger.—

(1)

(b) To inform the Legislature on the feasibility of a proposed incorporation of a municipality, a feasibility study must ~~shall~~ be completed and submitted to the Legislature by the first Monday after the September 1 immediately preceding 90 days ~~before the first day of~~ the regular session of the Legislature during which the municipal charter would be enacted. The feasibility study must ~~shall~~ contain the following:

1. The general location of territory subject to boundary change and a map of the area which identifies the proposed change.

2. The major reasons for proposing the boundary change.

3. The following characteristics of the area:

a. A list of the current land use designations applied to the subject area in the county comprehensive plan.

b. A list of the current county zoning designations applied to the subject area.

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c. A general statement of present land use characteristics of the area.

d. A description of development being proposed for the territory, if any, and a statement of when actual development is expected to begin, if known.

4. A list of all public agencies, such as local governments, school districts, and special districts, whose current boundary falls within the boundary of the territory proposed for the change or reorganization.

5. A list of current services being provided within the proposed incorporation area, including, but not limited to, water, sewer, solid waste, transportation, public works, law enforcement, fire and rescue, zoning, street lighting, parks and recreation, and library and cultural facilities, and the estimated costs for each current service.

6. A list of proposed services to be provided within the proposed incorporation area, and the estimated cost of such proposed services.

7. The names and addresses of three officers or persons submitting the proposal.

8. Evidence of fiscal capacity and an organizational plan as it relates to the area seeking incorporation that, at a minimum, includes:

a. Existing tax bases, including ad valorem taxable value, utility taxes, sales and use taxes, franchise taxes, license and permit fees, charges for services, fines and forfeitures, and other revenue sources, as appropriate.

b. A 5-year operational plan that, at a minimum, includes proposed staffing, building acquisition and construction, debt

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issuance, and budgets.

9. Data and analysis to support the conclusions that incorporation is necessary and financially feasible, including population projections and population density calculations, and an explanation concerning methodologies used for such analysis.

10. Evaluation of the alternatives available to the area to address its policy concerns.

11. Evidence that the proposed municipality meets the requirements for incorporation under ~~pursuant to~~ s. 165.061.

Section 3. Subsection (2) of section 163.340, Florida Statutes, is amended to read:

163.340 Definitions.—The following terms, wherever used or referred to in this part, have the following meanings:

(2) "Public body" means the state or any county, municipality, authority, special district as defined in s. 165.031(4), or other public body of the state, except a school district.

Section 4. Section 257.171, Florida Statutes, is amended to read:

257.171 Multicounty libraries.—Units of general-purpose local government, ~~as defined in s. 165.031(1)~~, may establish a multicounty library. The Division of Library and Information Services may establish operating standards and rules under which a multicounty library is eligible to receive state moneys. For a multicounty library, a local government may pay moneys in advance in lump sum from its public funds for the provision of library services only.

Section 5. This act shall take effect July 1, 2012.

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/12/12

Meeting Date

Topic Relating to Municipalities

Bill Number SB 692
(if applicable)

Name David Cruz

Amendment Barcode _____
(if applicable)

Job Title Legislative Advocate

Address P.O. Box 1757
Street

Phone 305-322-3643

Tallahassee FL 32302
City State Zip

E-mail DCruz@flcities.com

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida League of Cities

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

The Florida Senate
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 Environmental Preservation and Conservation Committee

BILL: SB 640

INTRODUCER: Senator Bennett

SUBJECT: Local Government Energy Zones

DATE: December 20, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiggins	Yeatman	CA	Favorable
2.			CU	
3.			BC	
4.				
5.				
6.				

I. Summary:

The bill creates local government energy zones and amends the definition of a public utility to allow certain renewable energy facilities to make retail sales to end-use customers. As a result, these renewable energy facilities could sell renewable energy as defined in s. 366.91(2), F.S., to retail customers.

The bill creates local government energy zones and amends the definition of a public utility in s. 366.02, F.S. The bill also incorporates the amendments to s. 366.02, F.S., into ss. 290.007 and 768.1382, F.S.

II. Present Situation:

Section 366.02, F.S., defines any entity, except for municipal or rural cooperative utilities, supplying electricity or gas to or for the public as a public utility. According to the Florida Public Service Commission (FPSC), status as a public utility carries with it certain obligations to serve, and also renders the entity subject to the jurisdiction of the FPSC.¹ In a milestone 1987 decision, referred to as the *PW Ventures* case, the FPSC found that any energy sales to an individual constituted a sale to the public, and thus would interfere with the natural monopolies in place by the electric utilities in the state. This FPSC decision was affirmed soon afterwards by the Florida Supreme Court.² The availability of the third-party ownership model varies from state to state.

¹ Florida Public Service Commission, *SB 640*, (Nov. 14, 2011) (on file with the Senate Committee on Environmental Preservation and Conservation).

² *PW Ventures v. Nichols*, 533 So. 2d 281 (Fla. 1988).

Eight states currently have specific policies allowing it: New Hampshire, California, Connecticut, New York, Colorado, Nevada, New Mexico, and Oregon.³

In a third-party ownership model, a third party owns the generation equipment on the customer's property and sells the power produced to the customer. This option helps defray the large up-front capital investment for solar power, and allows the investor to make a consistent profit from power sales, often through a power purchase agreement. The owner of the panels is also eligible for incentives offered at the federal level. Under other ownership models, these incentives might not be available.

Under current law, investors can lease generation equipment to customers, and even include operations and maintenance costs in terms of the lease, but cannot sell the electricity to customers at a rate based on the level of consumption. This solution is considered an imperfect one by some prospective investors, as it would render them ineligible for some governmental incentives that help form the basis of the business model. It also removes a direct incentive to ensure the panels are located and installed in a manner that maximizes production, as leases must be based on fair market value without regard to production.

Currently, many small renewable energy systems are eligible for net metering under an FPSC rule adopted in 2008.⁴ Net metering allows a customer to have any renewable energy they produce to be applied against their retail purchases, allowing them to receive the equivalent of the retail rate for the excess renewable energy delivered to the grid. Under the FPSC's net metering rules, which apply to renewable energy systems 2 Megawatts (MW) or less, any excess production left at the end of a year is paid out to customers at a price equal to the utility's avoided cost, also known as an as-available energy rate. The FPSC also adopted interconnection rules at the same time, which require investor-owned utilities to allow customers with renewable energy systems under 2 MW to connect to the grid.⁵

III. Effect of Proposed Changes:

Section 1 provides definitions for "interruptible rate," "local government," "new customer," and "energy zones." Interruptible rate means a rate approved by the FPSC for service to renewable energy providers of their new customers which allows the utility to temporarily discontinue service at any time with or without notice when the utility is unable to provide service to the renewable energy producer or its new customer. The utility will be able to do this if it lacks capacity to serve the renewable energy producer or its new customer.

New customers are defined as "a residential or business location at which previous sales of electricity was only related to the development or construction of the property." It allows a local government to adopt an ordinance establishing energy zones within political or geographic boundaries. A producer of renewable energy may sell renewable energy to any new customer within that zone. The bill uses the definition of renewable energy in s. 366.91(2), F.S., which

³ Florida Public Service Commission, *SB 640*, (Nov. 14, 2011) (on file with the Senate Committee on Environmental Preservation and Conservation).

⁴ Rule [25-6.065, Florida Administrative Code](#), Interconnection and Metering of Customer-Owned Renewable Generation.

⁵ Florida Public Service Commission, *SB 640*, (Nov. 14, 2011) (on file with the Senate Committee on Environmental Preservation and Conservation).

includes electrical energy produced from a method that uses one or more of the following fuels or energy sources:

- Hydrogen produced from sources other than fossil fuels,
- Biomass,
- Solar energy,
- Geothermal energy,
- Wind energy,
- Ocean energy,
- Hydroelectric power,
- Waste heat from sulfuric acid manufacturing operations, and
- Pipeline-quality synthetic gas produced from waste petroleum coke with carbon capture and sequestration.

The bill would allow qualifying renewable energy producers to make retail sales without being classified as a public utility. The producers of renewable energy sold would pay the utility 1.5 cents per kilowatt hour. It is unknown if this payment is intended to compensate the utility for lost revenues or if the payment is cost based. The payment is waived if the producer and the customer elect a disconnectable rate. It is unclear if the payment to the utility is meant to off-set the potential costs of wheeling power⁶ or if the payment is to compensate for lost sales and the costs to the utility should be recovered exclusively through the local government energy zone rates established by the FPSC.⁷ The utility must offer to the producer and its customers an interruptible rate for any size service in the energy zone. Customers may elect to receive their power directly from the utility instead of the renewable energy producer.

This bill could allow customers to purchase renewable energy even if their homes are not installed with compatible renewable energy systems. Renewable energy companies could offer customers renewable energy and recoup the capital costs of these systems by charging customers for the electricity. It is unclear if the incumbent utility would be required to provide back-up or supplemental power.

The bill would require the FPSC to enter into rulemaking to set rates that ensure the general body of ratepayers do not subsidize customers who purchase renewable energy in the local government energy zone. The bill also provides that renewable energy producers under this bill would be required to provide the FPSC with information related to the renewable energy generation at the facility and any pertinent information required by FPSC.

Beginning October 1, 2013, the FPSC would be responsible for filing a report with the Legislature at least every six months. The report would detail how the act affects the utility system of the state, the individual utility systems, and the individual ratepayer. The report would also include recommendations for implementation of the act.

⁶ The use of a utility system's transmission facilities to transmit power from one location to another.

⁷ Florida Public Service Commission, *SB 640*, (Nov. 14, 2011) (on file with the Senate Committee on Environmental Preservation and Conservation).

Section 2 amends s. 366.02, F.S., to redefine public utility to exempt producers and sellers of renewable energy from economic regulation by the FPSC.

Section 3 reenacts s. 290.007 (8), F.S., incentives for the revitalization of enterprise zones.

Section 4 reenacts s. 768.1382 (1) (e), F.S., incentives related to streetlights.

Section 5 provides an effective date.

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:

Renewable energy producers, installers, and service providers would see increased business as a new market segment would be made available to them. An unknown number of new jobs would likely result from this increase in business.

Utilities serving the customers receiving power from the renewable energy systems created as a result of the bill would likely see a loss in retail sales. These incumbent public utilities might also be expected to maintain reserve capacity, and provide transmission support.

The bill would also allow for an increase in the amount of renewable energy installed in the state without having the costs of renewable energy systems paid for directly by utility ratepayers. Most renewable energy resources do not provide firm capacity; however, utilities would still need to have reserve capacity for when renewable energy was operating at low levels. Solar installations, for which this bill will probably provide the greatest incentive, provide no capacity benefit, and utilities would need to have reserves capable of providing the expected solar output on non-sunny days and at night. Utility

ratepayers would have to continue to pay for this capacity, though their fuel costs likely would be lower.

C. Government Sector Impact:

According to the FPSC, the bill would partially reverse a policy in place since the 1980s. Any entity that sells power to even a single retail customer is considered a public utility, and subjects the seller to the Florida Public Service Commission (FPSC) rate setting authority.⁸

According to the FPSC, the rulemaking process typically takes six months, but may take longer depending on the number of workshops and/or hearings needed to develop the rule. Rulemaking would require additional technical and legal staff. The bill could have a significant economic impact on utilities, and thus the resulting rule would likely require legislative ratification.⁹

Further, according to the FPSC, the bill also creates ambiguities that would need to be addressed either legislatively or administratively. First, it is not clear whether the bill intends to include all electric utilities or just investor-owned utilities. If the intent is to include all utilities, the FPSC would need expanded authority to set rates for municipal and cooperative utilities. Second, the bill also provides that renewable energy producers under this bill would be required to provide the FPSC any information they deemed necessary. FPSC may not have regulatory authority over private producers and may have trouble accessing data. Finally, because the bill allows renewable energy sellers to sell or net meter into the grid, the bill is silent on whether utilities might be expected to wheel this electricity between generator and customer. While the FPSC has authority to set rates to help compensate for costs to the utility, it may not be possible to remove all subsidization.¹⁰

Depending on the location and size of the renewable facility, a municipal utility may also need to expand their transmission and distribution facilities. Municipal utilities may also need staff and/or consultants to participate in the rulemaking process.

According to the FPSC, the bill would require 2.5 additional staff positions: 2 Regulatory Analyst I's and .5 Attorney would be needed for rulemaking, reviewing the tariffs, and filing the legislative reports for renewable energy producers.¹¹

⁸ Florida Public Service Commission, Senate Bill 640 (Nov.14, 2011) (on file with the Committee on Community Affairs)

⁹ Ratification may be necessary due to the passage of HB 1565 during the 2010 Special Session A as HJR 9A. The rule may have costs that exceed \$1 million over the first five years after implementation.

¹⁰ Florida Public Service Commission, Senate Bill 640 (Nov.14, 2011) (on file with the Committee on Community Affairs).

¹¹ Id.

	(FY 12-13) <u>Amount / FTE</u>	(FY 13-14) <u>Amount / FTE</u>	(FY 14-15) <u>Amount / FTE</u>
A. Revenues			
1. Recurring			
2. Non-Recurring			
B. Expenditures			
1. Recurring	\$128,472/2.5 FTE	\$128,472/2.5 FTE	\$128,472/2.5 FTE
2. Non-Recurring	\$9,689/0 FTE	\$0/0 FTE	\$0/0 FTE

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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

None.

B. Amendments:

None.

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

By Senator Bennett

21-00546-12

2012640__

A bill to be entitled

An act relating to local government energy zones; defining terms; authorizing a local government to create an energy zone by ordinance; allowing a producer of renewable energy to produce and sell energy within the boundaries of the energy zone; requiring that the producer or new customer of renewable energy be offered an interruptible rate from the utility; authorizing retail sales by any producer of renewable energy within an energy zone; requiring the Public Service Commission to adopt rules to govern sales by producers of renewable energy within the local government energy zone; requiring that the commission submit reports to the Legislature; amending s. 366.02, F.S.; redefining the term "public utility" to exempt producers and sellers of renewable energy from economic regulation by the Public Service Commission; reenacting ss. 290.007(8) and 768.1382(1)(e), F.S., relating to state incentives available in enterprise zones and streetlights, security lights, and other similar illumination devices, respectively, to incorporate the amendment made to s. 366.02, F.S., in references thereto; providing an effective date.

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

Section 1. Local government energy zones.—

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

Page 1 of 6

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

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(a) "Full avoided cost" has the same meaning as provided in s. 366.051, Florida Statutes.

(b) "Interruptible rate" means a rate approved by the Public Service Commission for service to renewable energy providers or their new customers which allows the utility to temporarily discontinue service at any time with or without notice when the utility is unable to provide service to the renewable energy producer or its new customer because the utility lacks capacity to serve the renewable energy producer or its new customer.

(c) "Local government" means a county or a municipality.

(d) "New customer" means a residence or business at a location where any previous sales of electricity were related solely to development or construction of the property.

(e) "Renewable energy" has the same meaning as provided in s. 366.91, Florida Statutes.

(2) A local government may adopt an ordinance establishing an energy zone within its political or geographic boundaries. Within this energy zone, a producer of renewable energy may sell renewable energy to any new customer directly at retail for any price agreed upon.

(a) All renewable energy sold under this section must be produced and used within the boundaries of the energy zone or sold through net metering onto the utility grid at the purchasing utility's full avoided cost.

(b) All producers of renewable energy which sell pursuant to this section must pay the utility that serves the energy zone 1 1/2 cents for each kilowatt hour of renewable energy produced and sold.

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

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(c) However, if and to the extent that the utility's services to the producer of renewable energy and its customers are on an interruptible-rate structure approved by the commission, the payment of 1 1/2 cents per kilowatt hour is waived.

(d) The utility shall offer to the producer and its customers an interruptible rate for any size service in the energy zone.

(e) This subsection does not prohibit a new customer from obtaining service directly from the electric utility.

(3) The Florida Public Service Commission shall adopt rules to administer this section. All sales of renewable energy within an energy zone are subject to these rules. The rules shall provide, at a minimum:

(a) Requirements related to interconnection with the utility's transmission and distribution facilities which may be necessary for metering or service.

(b) Criteria for setting rates for any service provided to the renewable energy producer or the new customer by the utility if such service is required. The rates must ensure that the utility's general ratepayers do not subsidize the renewable energy producer or the new customer in any way, including the creation of any redundant utility generating capacity necessary to serve the renewable energy producer or the new customer.

(c) Requirements for notice to the commission of the size and location of each renewable energy generation facility planned under this section, the identity and historical and projected load characteristics for the facility, and any other information deemed necessary by the commission to satisfy its

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obligations under s. 366.04(5), Florida Statutes.

(4) Beginning October 1, 2013, and at least once every 6 months thereafter, the commission shall submit a report to the Legislature concerning activity under this section. The report must address the effect of such activity on the electric power grid of the state, the individual utility systems, and each utility's general ratepayers. The report must also include recommendations concerning implementation of this program.

Section 2. Subsection (1) of section 366.02, Florida Statutes, is amended to read:

366.02 Definitions.—As used in this chapter:

(1) "Public utility" means every person, corporation, partnership, association, or other legal entity and their lessees, trustees, or receivers supplying electricity or gas, whether ~~natural, manufactured, or similar gaseous substance,~~ to or for the public within this state. ~~but~~ The term "public utility" does not include: ~~either~~

(a) A cooperative now or hereafter organized and existing under the Rural Electric Cooperative Law of the state. ~~+~~

(b) A municipality or any agency thereof. ~~+~~

(c) ~~A~~ ~~any~~ dependent or independent special natural gas district. ~~+~~

(d) ~~A~~ ~~any~~ natural gas transmission pipeline company making only sales or transportation delivery of natural gas at wholesale and to direct industrial consumers. ~~+~~

(e) ~~An~~ ~~any~~ entity selling or arranging for sales of natural gas which neither owns nor operates natural gas transmission or distribution facilities within the state. ~~+~~ ~~or~~

(f) A person supplying liquefied petroleum gas, in either

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 117 liquid or gaseous form, irrespective of the method of
 118 distribution or delivery, or owning or operating facilities
 119 beyond the outlet of a meter through which natural gas is
 120 supplied for compression and delivery into motor vehicle fuel
 121 tanks or other transportation containers, unless ~~the such~~ person
 122 also supplies electricity or manufactured or natural gas.
 123 (g) A producer and seller of renewable energy, as defined
 124 in s. 366.91.

125 Section 3. For the purpose of incorporating the amendment
 126 made by this act to section 366.02, Florida Statutes, in a
 127 reference thereto, subsection (8) of section 290.007, Florida
 128 Statutes, is reenacted to read:

129 290.007 State incentives available in enterprise zones.—The
 130 following incentives are provided by the state to encourage the
 131 revitalization of enterprise zones:

132 (8) Notwithstanding any law to the contrary, the Public
 133 Service Commission may allow public utilities and
 134 telecommunications companies to grant discounts of up to 50
 135 percent on tariffed rates for services to small businesses
 136 located in an enterprise zone designated pursuant to s.
 137 290.0065. Such discounts may be granted for a period not to
 138 exceed 5 years. For purposes of this subsection, the term
 139 "public utility" has the same meaning as in s. 366.02(1) and the
 140 term "telecommunications company" has the same meaning as in s.
 141 364.02(13).

142 Section 4. For the purpose of incorporating the amendment
 143 made by this act to section 366.02, Florida Statutes, in a
 144 reference thereto, paragraph (e) of subsection (1) of section
 145 768.1382, Florida Statutes, is reenacted to read:

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 146 768.1382 Streetlights, security lights, and other similar
 147 illumination; limitation on liability.—
 148 (1) As used in this section, the term:
 149 (e) "Streetlight provider" means the state or any of the
 150 state's officers, agencies, or instrumentalities, any political
 151 subdivision as defined in s. 1.01, any public utility as defined
 152 in s. 366.02(1), or any electric utility as defined in s.
 153 366.02(2).

154 Section 5. This act shall take effect July 1, 2012.

THE FLORIDA SENATE
APPEARANCE RECORD

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

1-12-12
Meeting Date

Topic _____
Name Richard Pinsky
Job Title _____

Bill Number 640
(if applicable)
Amendment Barcode _____
(if applicable)

Address 106 E. college
Street
Tallahassee FL 32301
City State Zip

Phone _____
E-mail _____

Speaking: ☒ For ☐ Against ☐ Information

Representing FL Assoc. of Renewable Energy (FARE)

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard 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)

1-12-12

Meeting Date

Topic ENERGY ZONES

Bill Number 640
(if applicable)

Name DAVID CULLEN

Amendment Barcode _____
(if applicable)

Job Title _____

Address 1674 UNIVERSITY PKWY #206
Street

Phone 941-323-2404

SARASOTA FL 34243
City State Zip

E-mail cullenasea@
adl.com

Speaking: ☒ For ☐ Against ☐ Information

Representing SIERRA CLUB FLORIDA

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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)

1/12/12

Meeting Date

Topic SB 640

Bill Number 640
(if applicable)

Name Ryan Matthews

Amendment Barcode _____
(if applicable)

Job Title Leg Advocate

Address 301 S. Bay St Sub 300
Street
Tall, FL 32302
City State Zip

Phone _____

E-mail rmatthew@flcities.com

Speaking: ☒ For ☐ Against ☐ Information

Representing FL League of Cities

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1 / 12 / 2012

Meeting Date

Topic _____

Bill Number 640
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVENUE SOUTH
Street

Phone 727/897-9291

SAINT PETERSBURG FLORIDA 33705
City State Zip

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☒ ^{in part} For ☐ Against ☒ Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Environmental Preservation and Conservation Committee

BILL: CS/SB 716

INTRODUCER: Community Affairs Committee and Senator Bennett

SUBJECT: Environmental Regulation

DATE: January 13, 2012

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Uchino	Yeatman	CA	Fav/CS
2.			EP	
3.			BC	
4.				
5.				
6.				

I. Summary:

The CS creates, amends and redefines provisions relating to environmental regulation. It relates to permit administration, requirements and application for various types of permits. It also addresses contaminated site cleanup and other petroleum-related issues. Lastly, the CS addresses small community sewer grants and drinking water for religious institutions. Specifically the CS:

- Prohibits a county or a municipality from conditioning the processing for a development permit on an applicant obtaining a permit or approval from any other state or federal agency;
- Expands eligibility for those entities entitled to reduced or waived permit processing fees;
- Specifies additional uses and activities in the Biscayne Bay Aquatic Preserve;
- Establishes a limited exemption for an intermodal logistic center, or its equivalent, from the Strategic Intermodal System (SIS) requirements;
- Expands the use of Internet-based self-certification services and general permits;
- Exempts previously authorized underground injection wells from part III of ch. 373, F.S., relating to the regulation of wells;
- Shortens the time frame that permits must be noticed for proposed agency action from 90 days to 60;
- Provides for an expanded state programmatic general permit;
- Requires a county or a municipality with a specified population to apply for delegation of authority by certain deadlines for environmental resource permitting;
- Exempts certain expenditures from counting against the low-scored site initiative cleanup program;
- Revises qualifications for fiscal assistance for innocent victim petroleum storage system restoration;

- Provides expedited permitting for inland multimodal facilities receiving or sending cargo to or from Florida ports;
- Authorizes zones of discharges to groundwater for existing installations, with certain limitations;
- Revises requirements for permit revocation;
- Revises the definition for “financially disadvantaged small community”;
- Revises the definition of industrial sludge;
- Revises provisions related to solid waste disposal and management;
- Provides for a general permit for small surface water management systems;
- Expands the definition for “transient noncommunity water systems” to include religious institutions;
- Clarifies creation of regional permit action teams for expedited permitting for certain businesses; and
- Allows for sale of unblended fuels for specified applications.

This CS substantially amends ss. 125.022, 166.033, 218.075, 258.397, 339.63, 373.026, 373.306, 373.4141, 373.4144, 373.441, 376.3071, 376.30715, 380.0657, 403.061, 403.087, 403.1838, 403.7045, 403.707, 403.709, 403.7125, 403.814, 403.853, 403.973, 526.203 of the Florida Statutes.

II. Present Situation:

The affected permitting and other areas addressed by this CS are diverse. Each programmatic area will be addressed in the “effect of proposed changes” of the CS to allow for greater clarity of how it is affected by the particular proposed change.

III. Effect of Proposed Changes:

Sections 1 and 2 amend ss. 125.022 and 166.033, F.S., respectively, relating to county and municipality development permit requirements.

Stakeholders in the business and regulated communities have expressed some frustration at the local permitting process. There is anecdotal evidence that local governments may condition approval of development permits on the applicant’s first securing state and federal permits. For complicated permits requiring local, state and federal permits, this process can cause delays and drive up costs.

The CS prohibits a county or municipality from making the processing of a development permit conditional on the applicant first securing permits from any other state or federal agency, unless the agency issues a notice of intent to deny the permit before a county’s or municipality’s action. It specifies that issuance of a county or municipal development permit does not create any right for the applicant to obtain permits from other agencies. It also clarifies that a county or municipality is not liable for an applicant’s failure to fulfill its legal obligations and may attach a disclaimer stating as much. The CS allows a county or municipality to require that an applicant obtain all state and federal permits before commencing development. The CS does not prohibit a county or municipality from providing information to an applicant as to what other permits may apply.

Section 3 amends s. 218.075, F.S., relating to reduction or waiver of permit fees.

Section 218.075, F.S., provides that the DEP or a Water Management District (WMD) can reduce or waive permit processing fees for counties with a population of 50,000 or less until that county exceeds a population of 75,000, and for municipalities with a population of 25,000 or less. Fee reductions or waivers are approved on the basis of fiscal hardship or environmental need for a particular project or activity. The governing body must certify that the cost of the permit processing fee is a fiscal hardship.

The CS expands eligibility for reductions or waivers of permit processing fees for entities created by special act, local ordinance or interlocal agreement of those local governments that would qualify under existing law.

Section 4 amends s. 258.397, F.S., relating to the Biscayne Bay Aquatic Preserve.

Florida has 41 aquatic preserves, encompassing approximately 2 million acres. Biscayne Bay Aquatic preserve is located in Southeast Florida in Miami-Dade and Monroe Counties. Its boundaries, management authorities, and rules are established in Rule 18-18, F.A.C.¹ The Board of Trustees of the Internal Improvement Trust Fund (Board) may not convey sovereignty submerged lands within the preserve except upon a showing of extreme hardship by the applicant and that the conveyance is in the public interest. There are no exceptions for municipal projects. In addition, dredging and filling activities are restricted to four activities:

- For public navigation, public necessity or preservation of the bay;
- For enhancement of the quality and utility of the preserve;
- For creation and maintenance of marinas, piers and docks and their associated activities as long as the Board makes a specific finding that the dredge and fill activities will not adversely affect the quality and utility of the preserve; and
- For the purpose of eliminating public health hazards, stagnant waters, islands and spoil banks, if the dredging will enhance the aesthetic and environmental quality and utility of the preserve.

The CS exempts a municipal applicant from having to show extreme hardship for a proposed project, although the Board must still find the project is in the public interest. The CS also authorizes dredge and fill activities to allow for creation of public waterfront promenades.

Section 5 amends s. 339.63, F.S., relating to additions and deletions to system facilities designation for the SIS.

Major changes to concurrency were included in HB 7207, passed during the 2011 Regular Session.² In addition to repealing rule 9J-5, F.A.C., the act made concurrency for parks and recreation, schools and transportation facilities optional for local governments. However, s. 163.3180, F.S., subjects certain public facilities and services to the concurrency requirement

¹ Florida Dep't of Environmental Protection, *About the Biscayne Bay Aquatic Preserve*, <http://www.dep.state.fl.us/coastal/sites/biscayne/info.htm> (last visited Jan. 9, 2012).

² See ch. 2011-139, s. 15, Laws of Fla.

on a statewide basis: sanitary sewer, solid waste, drainage and potable water. Additional public facilities and services may not be made subject to concurrency on a statewide basis without approval by the Legislature. Local governments may still extend the concurrency requirement so that it applies to additional public facilities within its jurisdiction. If a local government decides to extend concurrency within its jurisdiction, the comprehensive plan must include certain guidelines, including adopted levels of service, that can be reasonably attained.

Section 339.155, F.S. requires the Florida Department of Transportation (DOT) to develop and annually update a statewide transportation plan known as the Florida Transportation Plan (FTP). The FTP covers the entire state transportation system and requires an examination of all modes of transportation to effectively and efficiently meet Florida's needs. The purpose of the FTP is to establish and define the state's long-range transportation goals and objectives to be accomplished over a period of at least 20 years and any other statutory mandates and authorizations. It is based upon the prevailing principles of:

- Preserving the existing transportation infrastructure,
- Enhancing Florida's economic competitiveness, and
- Improving travel choices to ensure mobility.

The Strategic Intermodal System (SIS) Plan was established by the Legislature in 2003 to enhance Florida's economic prosperity and competitiveness. The DOT works with its partners to determine investment needs based on the performance of the transportation system relative to the goals and objectives of the SIS. Chapter 339, F.S., includes provisions for developing and updating the SIS. The system encompasses transportation facilities of statewide and interregional significance and is focused on the efficient movement of passengers and freight.

Transportation concurrency is intended to ensure transportation facilities and services are available at the same time as the development impacts. To carry out concurrency, local governments must define what constitutes an adequate level of service for the transportation system and measure whether a proposed new development will create more demand than the existing transportation system can handle. If the development will create excess demand, the local government must schedule transportation improvements to be made as the development is constructed. If the roads or other portions of the transportation system are inadequate, then the developer must either provide the necessary improvements, contribute money to pay for the improvements or wait until government provides the necessary improvements.

Section 339.63, F.S., provides for additions and deletions of system facilities from the SIS for those facilities described as existing or planned hubs that are ports and terminals serving to move goods or people within Florida, between states and around the world. Section 339.63(4) provides for a limited exemption from the addition and deletion process for certain airports designated as reliever airports to an SIS airport.

The CS provides for a second exemption to the addition and deletion process for an intermodal logistics center, also known as an inland port. It requires the Secretary of Transportation to designate such facilities as part of the SIS if requested to do so by an inland port facility. However, the facility must meet the following criteria to qualify:

- Receive or send cargo for distribution and providing cargo storage, consolidation, repackaging, and transfer of goods, and which may include other intermodal terminals,

related transportation facilities, warehousing and distribution facilities, and associated office space, light industrial, manufacturing and assembly uses;

- Located near one or more SIS highway facilities;
- Located within 30 miles of an existing or emerging SIS rail line;
- Located within 100 miles of an SIS seaport and have a written agreement with that seaport;
- Be consistent with a market feasibility study as published by the DOT or other sources.

In addition, if the facility or planned facility is designated as an inland port, or a local equivalent, the local government where the facility is located must adopt a waiver of transportation concurrency or a limited exemption that allows up to a 150 percent increase in the adopted level of service capacity standard for impacts to SIS roadway facilities. This will prevent a local government from requiring upgrades to handle any increased impacts in local transportation corridors.

Section 6 amends s. 373.026, F.S., relating to DEP powers and duties and Internet-based self-certification.

Self-certification of permit requirements is the process of the permitting agency allowing “applicants” to manage their own compliance for a given regulated activity. The regulating agency sets up the specific requirements of the permit, and if followed, “applicants” do not apply for permits in the traditional sense. They simply undertake the regulated activity and “self certify” that they have complied with all conditions of the permit. The DEP currently accepts certain types of permit applications online and provides an online self-certification process for private docks associated with detached individual single-family homes on the adjacent uplands. Through this electronic process, one may immediately determine whether a dock can be constructed without further notice or review by the DEP. The DEP is working on expanding its online self-certification into other permitting areas, but it is currently limited to constructing and repairing single-family docks, adding boatlifts to private docks and adding rip rap to the toe of existing seawalls.³

In addition, the WMDs allow users to access nearly all permitting documents and forms online. Their websites also allow interested third parties access to permitting applications and supplementary materials. According to the Legislative Committee on Intergovernmental Relations report,⁴ interviews with stakeholder groups indicated some local governments often do not accept self-certification for permit-exempt projects identified in statute, rule, or listed in the DEP’s website. Some local governments require a “signature” from DEP permit review staff to verify the exempt status of a project submitted under self-certification, notwithstanding the fact that current law neither requires nor provides for a “signature” from the DEP as an alternative or as supplemental to self-certification.

³ Florida Dep’t of Environmental Protection, *FDEP’s Self-Certification Process for Single-Family Docks*, <http://appprod.dep.state.fl.us/erppa/> (last visited Jan. 9, 2012).

⁴ Florida Legislative Committee on Intergovernmental Relations, *Improving Consistency and Predictability in Dock and Marina Permitting* (Mar. 2007), available at http://www.myfmca.org/wp-content/uploads/2009/12/007_Improving_Consistency_Predictability_Dock_Marina_Permitting_2-19-07.pdf (last visited Jan. 9, 2012).

The CS requires the DEP to expand the use of Internet-based self-certification services for appropriate exemptions and general permits issued by the DEP and the WMDs. The expansion of services is only required if economically feasible. In addition to expanding the use of such online services, the DEP and WMDs must identify and develop general permits for appropriate activities currently requiring individual review that could be expedited through the use of professional certifications.

Section 7 amends s. 373.306, F.S., relating to the regulation of underground injection wells.

The DEP's Underground Injection Control (UIC) program protects the state's underground sources of drinking water (USDW) while disposing of appropriately treated fluids in underground injection wells.⁵ A USDW is defined as an aquifer that contains a total dissolved solids concentration of less than 10,000 milligrams per liter of water.⁶ The UIC program is charged with preventing degradation of the quality of other aquifers adjacent to the injection zone. Subsurface injection, the practice of emplacing fluids through an injection well, is one of many wastewater disposal methods used in Florida.⁷

The injection wells are required to be constructed, maintained, and operated so that the injected fluid remains in the injection zone, and the unapproved interchange of water between aquifers is prohibited. There are five classes of injection wells. Four of the well classes address the injection of hazardous and nonhazardous waste and fluids associated with the production of oil and natural gas. Class V injection wells generally inject nonhazardous fluid into or above a USDW.

The CS exempts underground injection wells from part III of ch. 373, F.S. This will prevent any unnecessary duplication between the DEP and the WMDs for regulating such wells. It was never intended that both the DEP and the WMDs would jointly permit injection wells.

Section 8 amends s. 373.4141, F.S., relating to the DEP's permit processing procedures.

Upon receipt of an application for a license or an environmental resource permit (ERP) under part IV, ch. 373, F.S., the DEP or a WMD is required to examine the application and notify the applicant within 30 days of any apparent errors or omissions and requests for additional information (RAIs). The application is not deemed complete until the agency determines that it has all of the information it needs to approve or deny the application. An applicant may request the agency process the application if he or she believes that an RAI is not authorized by law or rule. The DEP or a WMD is required to approve or deny every application within 90 days after receipt of a completed application unless a shorter period of time for agency action is provided by law. There is no time limit on when the applicant must respond to an RAI, or limit to the number of RAIs the DEP or WMD may issue.

The CS reduces the time frame for the DEP or a WMD to approve, deny or issue a notice of proposed agency action from 90 to 60 days. Additionally, the CS prohibits a state agency or an

⁵ See Rule 62-528, F.A.C.

⁶ Rule 62-528.200, F.A.C.

⁷ Florida Dep't of Environmental Protection, *Underground Injection Control*, www.dep.state.fl.us/water/uic/ (last visited Jan. 13, 2012).

agency of the state from requiring a permit from any other local, state or federal agency as a condition to approve or submit a completed application unless statutorily authorized to do so.

Section 9 amends s. 373.4144, F.S., relating to federal environmental permitting.

One of Florida's key characteristics is its vast wetlands, including the Everglades. Wetlands are defined as being neither dry nor covered by open water but continually influenced by water. At times, wetlands may be dry for months or even years, or they may be covered with water the majority of the time only drying out for short periods.⁸

For activities occurring in "waters of the United States" in Florida, including wetlands, the federal Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (Corps) require compliance with and regulate activities under the authority of Section 404 of the federal Clean Water Act (CWA).⁹ Wetlands are also regulated under Section 10 of the federal Rivers and Harbors Act of 1899,¹⁰ although the focus of that legislation is primarily maintaining navigable waters.¹¹ When a dredge and fill permit is required in addition to permits required by the state, it is issued independently from the DEP or the WMD permits and is reviewed by the Corps. However, the Corps' issuance of the permit is dependent on the applicant first receiving state water quality certification or a waiver through the state Environmental Resource Permit (ERP)¹² program. If the permitted activity is in a coastal county, the application must also have received a finding of consistency with the Florida Coastal Zone Management Program.¹³

In addition to permits issued under the CWA and the federal Rivers and Harbors Act, the Corps also administers the National Pollution Discharge Elimination System (NPDES) permit program. The Corps has delegated the authority to Florida to implement this program for stormwater systems, including municipal systems, certain industrial activities and construction activities. The WMDs do not have delegated authorization from the EPA to implement this program. The EPA has determined that the separate WMDs do not constitute a central state authority, and therefore, they do not have the state-wide consistency required for federal delegation of the NPDES permit program.

The Corps has also delegated to Florida the authority to issue federal dredge and fill permits under Section 404 of the CWA for certain activities. These are known as State Programmatic General Permits (SPGP). Under this delegated authority, the department may issue state authorizations for limited state exemptions and noticed general permits for shoreline stabilization, docks, boat ramps, and maintenance dredging that constitute federal authorization.

⁸ Florida Dep't of Environmental Protection, *Florida State of the Environment – Wetlands: A Guide to Living with Florida's Wetlands*, available at <http://www.dep.state.fl.us/water/wetlands/docs/erp/fsewet.pdf> (last visited Jan. 9, 2012).

⁹ 33 U.S.C. §§ 1251-1387.

¹⁰ 33 U.S.C. § 403.

¹¹ Florida Dep't of Environmental Protection, *Consolidation of State and Federal Wetland Permitting Programs, Implementation of House Bill 759 (Chapter 2005-273, Laws of Florida)* (Sep. 2005), available at http://www.dep.state.fl.us/ig/reports/files/final_report016.pdf (last visited Jan. 9, 2012).

¹² See generally part IV, ch. 373, F.S.

¹³ Florida Dep't of Environmental Protection, *Summary of the Wetland and Other Surface Water Regulatory and Proprietary Programs in Florida* (2007), available at <http://www.dep.state.fl.us/water/wetlands/docs/erp/overview.pdf> (last visited Jan. 9, 2012).

Such authorization may be subject to additional specific federal conditions, however.¹⁴ The DEP has expressed interest in expanding the SPGP program for activity-specific categories, subject to acreage limitations. In addition to a closer alignment of state and federal wetland delineation methods, changes to statutes or rules must be made to address federal coordination and consultation requirements for threatened and endangered species.

The CS authorizes the DEP to obtain issuance of an expanded SPGP or a series of regional general permits from the Corps for categories of activities in waters of the United States governed by the Clean Water Act and in navigable waters governed by the Rivers and Harbors Act of 1899. An activity will only be authorized if it causes only minimal adverse environmental effects when performed separately and, when taken together, cause only minimal cumulative adverse environmental effects.

The CS directs the DEP to not seek issuance of or take any action pursuant to such permits unless the conditions are at least as protective of the environment and natural resources as existing state law and federal law under the Clean Water Act and the Rivers and Harbors Act of 1899. It deletes the requirement that the DEP develop a consolidated wetland permitting mechanism by October 1, 2005. It also deletes the requirement that dredge and fill activities impacting 10 acres or less be processed as part of an ERP program.

The CS authorizes the DEP and WMDs to implement a voluntary SPGP for all dredge and fill activities impacting 3 acres or less of wetlands or other surface waters, including navigable waters, subject to agreement with the Corps if the general permit is at least as protective of the environment and natural resources as existing state law and federal law under the Clean Water Act and Rivers and Harbors Act of 1899. It deletes an obsolete reporting requirement. The CS would not preclude the DEP from pursuing a series of regional general permits for construction activities in wetlands or surface waters.

Section 10 amends s. 373.441, F.S., relating to delegation of ERPs to local governments.

Florida Statutes and rules authorize and provide procedures and considerations for the DEP to delegate the ERP program to local governments.¹⁵ Local governments are entitled to request delegation authority from the DEP for a variety of programs and the DEP has authority to approve those delegations. With respect to programs related to section 404 of the CWA, both wastewater and ERP programs may be delegated to local governments, but delegation is permissive, not mandated. The various delegations are periodically updated in rule 62-113, F.A.C.¹⁶ Currently, only Broward County has received an ERP program delegation, but the DEP is processing requests by Miami-Dade and Hillsborough Counties. In general, delegations are requested by larger local governments that have the resources to implement and oversee these complex permitting programs.

¹⁴ *Id.* at 20.

¹⁵ In an effort to place the planning and regulatory program into the hands of the local governments, s. 373.441, F.S., and its implementing rule, chapter 62-344, F.A.C., provide delegation authority.

¹⁶ Florida Dep't of Environmental Protection, *Delegations*, available at <http://www.dep.state.fl.us/legal/Rules/shared/62-113/62-113.pdf> (last visited Jan. 9, 2012).

Delegation allows the local government to review and approve or deny the state permits at the same time the local authorizations are approved or denied. The goals are to “seek to increase governmental efficiency” and “maintain environmental standards.” Delegations can be granted only where:

- The local government can demonstrate that delegation would further the goal of providing an efficient, effective and streamlined permitting program; and
- The local government can demonstrate that it has the financial, technical and administrative capabilities and desire to effectively and efficiently implement and enforce the program, and protection of environmental resources will be maintained.¹⁷

According to the statute, delegation includes the applicability of ch. 120, F. S., (the Administrative Procedure Act), to local government programs when the ERP program is delegated to counties, municipalities, or local pollution control programs. Responsibilities of the state agency and the local government are outlined in a “delegation agreement” executed between the two parties.

The CS requires any county or municipality having a population of 400,000 or more as of July 1, 2012, that has local pollution control programs regulating wetlands or surface waters within its geographic boundary to apply for delegation of ERP authority on or before January 1, 2014. Local governments that fail to receive delegation of all or part of ERP authority within two years of requesting delegation or January 1, 2016, at the latest, may not require permits that are substantially similar to the requirements needed to obtain an ERP. The CS includes a grandfather clause for local governments that receive ERP delegation by January 1, 2014.

The CS specifies that the DEP is responsible for all ERP delegations to local governments. The DEP must approve or deny the application within two years of receipt of the application for delegation. If a delegation is denied, a challenge to the denial tolls the deadline until the challenge is resolved. The CS also prohibits the DEP and the WMDs from regulating activities subject to a delegated authority.

The CS does not prohibit or limit a local government from regulating wetlands or surface waters after January 1, 2014, if it receives delegation of all or part of ERP authority within two years of submitting its application.

The CS specifically excludes ERPs or reclamation applications for solid mineral mining from the delegation provisions contained in this section. It also allows local governments to continue to regulate new solid mineral mines or any additions, changes or expansions to existing solid mineral mines.

Section 11 amends s. 376.3071, F.S., related to the low-scored site initiative for contaminated sites.

The Legislature created the Inland Protection Trust Fund (fund) with the intent that it serve as a repository for funds which will enable the DEP to respond without delay to incidents of inland

¹⁷ Rule 62-344, F.A.C., provides a guide to local governments in the application process, as well as the criteria that will be used to approve or deny a delegation request.

contamination related to the storage of petroleum and petroleum products in order to protect public health, safety and welfare, and to minimize environmental damage.¹⁸ Section 376.3071(4), F.S., directs the DEP to obligate moneys available in the fund whenever incidents of inland contamination related to the storage of petroleum or petroleum products may pose a threat to the environment or public health, safety or welfare. The current law provides for:

- Prompt investigation and assessment of contaminated sites;
- Expeditious restoration or replacement of potable water supplies;
- Rehabilitation of contaminated sites;
- Maintenance and monitoring of contaminated sites;
- Payment of expenses incurred by the DEP in its efforts to obtain the payment or recovery of reasonable costs resulting from the activities described in this subsection from responsible parties;
- Payment of any other reasonable costs of administration, including those administrative costs incurred by the Department of Health in providing field and laboratory services, toxicological risk assessment and other assistance to the DEP in the investigation of drinking water contamination complaints, and costs associated with public information and education activities;
- Establishment and implementation of a compliance verification program;
- Activities related to removal and replacement of petroleum storage systems;
- Reasonable costs of restoring property as nearly as practicable to the conditions which existed prior to activities associated with contamination assessment or remedial action;
- Repayment of loans to the fund; and
- Expenditures from the fund to cover ineligible sites or costs if the DEP deems it necessary to do so.

Section 376.3071(5), F.S., provides for the site selection and cleanup criteria that the DEP uses in determining the priority ranking for sites seeking state-funded rehabilitation. The priority ranking is based upon a scoring system for state-conducted cleanup at petroleum contamination sites based upon factors that include, but are not limited to:

- The degree to which human health, safety or welfare may be affected by exposure to the contamination;
- The size of the population or area affected by the contamination;
- The present and future uses of the affected aquifer or surface waters, with particular consideration as to the probability that the contamination is substantially affecting, or will migrate to and substantially affect, a known public or private source of potable water; and
- The effect of the contamination on the environment.

Section 376.3071(11), F.S., provides for a low-scored site initiative for sites with a priority ranking score of 10 points or less and provides conditions for voluntary participation, including:

- Upon reassessment pursuant to DEP rule, the site retains a priority ranking score of 10 points or less;
- No excessively contaminated soil, as defined by DEP rule, exists onsite as a result of a release of petroleum products;

¹⁸ Section 376.3071, F.S.

- A minimum of six months of groundwater monitoring indicates that the plume is shrinking or stable;
- The release of petroleum products at the site does not adversely affect adjacent surface waters, including their effects on human health and the environment;
- The area of groundwater containing the petroleum products' chemicals of concern is less than one-quarter acre and is confined to the source property boundaries of the real property on which the discharge originated; and
- Soils onsite that are subject to human exposure found between land surface and two feet below land surface meet the soil cleanup target levels established by DEP rule, or human exposure is limited by appropriate institutional or engineering controls.

If these conditions are met, the DEP must issue a "No Further Action" determination, which means minimal contamination exists onsite and that contamination is not a threat to human health or the environment. If no contamination is detected, the DEP may issue a site rehabilitation completion order (SRCO). Sites that are eligible must be voluntarily initiated by the source property owner or responsible party for the contamination. For sites eligible for state restoration funding, the DEP may pre-approve the costs of the site assessment, including six months of groundwater monitoring, not to exceed \$30,000 for each site. The DEP may not pay the costs associated with the establishment of institutional or engineering controls. Assessment work must be completed no later than six months after the DEP issues its approval.

The CS clarifies that program deductibles, copayments, and contamination assessment report requirements do not count towards expenditures under the low-scored site initiative.

Section 12 amends s. 376.30715, F.S., relating to innocent victim petroleum storage system restoration.

In 2005, the Legislature created the Innocent Victim Petroleum Storage System Restoration Program to provide state clean-up assistance to property owners of petroleum-contaminated sites that were acquired prior to July 1, 1990. To be eligible for clean up, the site must have ceased operating as a petroleum storage or retail business prior to January 1, 1985. A conveyance of property to a spouse, a surviving spouse in trust or free of trust, or a revocable trust created for the benefit of the settlor, does not disqualify the site from participating in the Innocent Victim Petroleum Storage System Restoration Program. The current property owner of the contaminated site must have acquired the property prior to July 1, 1990.

The CS provides that the transfer of title for a petroleum contaminated site to a child, a child in trust or a corporate entity created by the owner to hold title to the site does not disqualify the site from financial assistance. The CS allows applicants who were previously denied coverage to reapply.

Section 13 amends s. 380.0657, F.S., relating to expedited permitting for economic development projects.

The DEP and the WMDs are required to adopt programs to expedite the processing of wetland resource permits and ERPs when such permits are for the purpose of economic development

projects that have been identified by a municipality or county as meeting the definition of target industry businesses under s. 288.106, F.S.

Pursuant to s. 288.106(2)(q), F.S., a “target industry business” is defined as a corporate headquarters business or any business that is engaged in one of the target industries identified pursuant to the following criteria developed by the Office of Tourism, Trade and Economic Development (OTTED) in consultation with Enterprise Florida, Inc.:

- Future growth in both employment and output;
- Workforce is not subject to periodic layoffs;
- High wages compared to the surrounding area;
- Market and resource independence from Florida markets;
- Expansion or diversification of the state’s or the area’s economic base; and
- Strong economic benefits to the state or regional economies.

An inland multimodal cargo facility (inland port) is typically a distribution complex designed to provide intermodal transfers between ship, rail and truck operations. The Port of Palm Beach has limited expansion options. Its terminal size is also limiting its growth potential. To address its limitations, Port staff developed the inland port idea to be located in western Palm Beach County.¹⁹ The project has not gotten out of the planning stage and has hit a number of delays. The most recent came when the Port St. Lucie Planning & Zoning Board rejected plans to annex 7,139 acres for development and to amend the comprehensive plan to change the land use from agricultural to heavy industrial.²⁰

The CS specifies that any inland multimodal facility that receives and sends cargo to and from Florida’s ports qualifies for expedited permitting review.

Section 14 amends s. 403.061, F.S., relating to zones of discharge to groundwater.

“Zone of Discharge” is defined in Rule 62-520.200(27), F.A.C. It means “a volume underlying or surrounding the site and extending to the base of a specifically designated aquifer or aquifers, within which an opportunity for the treatment, mixture or dispersion of wastes into receiving ground water is afforded.” Additionally, Rule 62-520.300(2)(c), F.A.C., provides:

The zone of discharge and exemption provisions are designed to provide an opportunity for the future consideration of factors relating to localized situations which could not adequately be addressed in the rulemaking hearing of March 1, 1979, including economic and social consequences, attainability, irretrievable conditions, natural background and detectability.

Further, Rule 62-520.200(10), F.A.C., defines “existing installation” as:

¹⁹ Florida Dep’t of Transportation, *South Florida Inland Port Feasibility Study – final report* (June 2007), available at http://www.dot.state.fl.us/seaport/pdfs/SFL_Inland_Port_Final_Report_11_07.pdf (last visited Jan. 9, 2012).

²⁰ Alex Howk, *Planning board rejection signals dwindling support for Port St. Lucie inland port project*, TCPalm, Mar. 3, 2011, available at <http://www.tcpalm.com/news/2011/mar/03/planning-board-rejection-signals-dwindling-for/> (last visited Jan. 9, 2012).

[A]ny installation which had filed a complete application for a water discharge permit on or before January 1, 1983, or which submitted a ground water monitoring plan no later than six months after the date required for that type of installation as listed in former Rule 17-4.245, F.A.C. (1983), and a plan was subsequently approved by the Department; or which was in fact an installation reasonably expected to release contaminants into the ground water on or before July 1, 1982, and operated consistently with statutes and rules relating to ground water discharge in effect at the time of the operation.

Currently, many existing installations do not have permits or groundwater monitoring plans. It is therefore impossible in these instances for the DEP to designate a specific aquifer for discharge. The DEP has historically used the uppermost aquifer as the default and specified other aquifers if required on case-by-case basis.

The CS provides that for existing installations, as defined by rule 62-520.200(10), F.A.C., zones of discharge to groundwater are authorized to a facility's or owner's property boundary and extending to the base of a specifically designated aquifer or aquifers. Exceedance of primary and secondary groundwater standards that occur within a zone of discharge does not create liability pursuant to chs. 376 or 403, F.S., for site cleanup, and the exceedance of soil cleanup target levels is not a basis for enforcement or site cleanup, unless it is caused by an illegal discharge.

Section 15 amends s. 403.087, F.S., relating to revocation of permits by DEP.

Currently, the DEP may revoke permits for the following reasons:

- The permit holder has submitted false or inaccurate information on the application;
- The permit holder has violated law, DEP orders, rules, or regulations, or permit conditions;
- The permit holder has failed to submit operational reports or other information required by DEP rule or regulation; or
- The permit holder has refused lawful inspection under s. 403.091, F.S.²¹

The CS narrows those violations that the DEP may consider in revoking a permit. The CS allows the DEP to revoke permits for the following violations:

- The permit holder has violated a law, DEP order, rule or condition, but no longer for violations of regulations;
- The permit holder has failed to submit required operational reports or other information that directly relates to the permit and has refused to correct or cure such violations when requested to do so; and
- The permit holder has refused a lawful inspection at the facility authorized by the permit.

Section 16 amends s. 403.1838, F.S., relating to the small community sewer construction act.

²¹ Section 403.091(c), F.S., states that no person shall refuse reasonable entry or access to any authorized representative of the DEP who requests entry for purposes of inspection and who presents appropriate credentials; nor shall any person obstruct, hamper, or interfere with any such inspection. The owner or operator of the premises shall receive a report, if requested, setting forth all facts found which relate to compliance status.

Florida's Small Community Wastewater Facilities Grants Program is administered by the DEP. The DEP grants funds for the planning, design and construction of wastewater management systems for qualifying small municipalities. Highest priority is given to projects that address the most serious risks to public health, are necessary to achieve compliance, or assist systems most in need based on an affordability index. The population limit to qualify as a financially disadvantaged small community is currently 7,500 or less.

The CS increases the population size from 7,500 to 10,000 or fewer to qualify as a financially disadvantaged small community. More communities will be eligible to qualify for grants.

Section 17 amends s. 403.7045, F.S., relating to industrial waste.

Currently, solid waste is defined in statute to mean sludge unregulated under the federal Clean Water Act or Clean Air Act, sludge from a waste treatment works, water supply treatment plant, or air pollution control facility, or garbage, rubbish, refuse, special waste, or other discarded material. Industrial byproducts are not considered hazardous wastes.

The CS clarifies that sludge from industrial waste treatment works that meet certain exemptions contained in s. 403.7045(1)(f), F.S., is not considered solid waste.

Sections 18-20 amend 403.707, 403.709 and 403.7125, F.S., relating to permitting of solid waste disposal. These sections are similar to those in CS/SB 738 from 2012.

Currently, a solid waste management facility may not be operated, maintained, constructed, expanded, modified, or closed without valid permits issued by the DEP. Permits under s. 403.707, F.S., are not required for the following activities, if an activity does not create a public nuisance or any condition adversely affecting the environment or public health and does not violate other state or local laws, ordinances, rules, regulations or orders:

- Disposal by persons of solid waste resulting from their own activities on their properties, if such waste is ordinary household waste or rocks, soils, trees, tree remains, and other vegetative matter that normally result from land development operations;
- Storage in containers by persons of solid waste resulting from their own activities on their properties, if the solid waste is collected at least once a week; and
- Disposal by persons of solid waste resulting from their own activities on their properties if the environmental effects of such disposal on groundwater and surface waters are addressed or authorized by a site certification order or a permit issued by the DEP under ch. 403, F.S., or rules adopted pursuant to ch. 403, F.S., or addressed or authorized by, or exempted from the requirement to obtain, a groundwater monitoring plan approved by the DEP.

The DEP provides guidelines for the storage, separation, processing, recovery, recycling, and disposal of solid waste throughout the state. Section 403.707, F.S., requires that a solid waste management facility must obtain a permit from DEP in order to operate.

Section 403.707(3), F.S., limits permit duration to 10 years for a potential source of water pollution, which includes most solid waste management facilities. The DEP rules currently limit permit duration to 5 years, except for certain long-term care permits for closed facilities, which may be approved up to 10 years. The fees for most solid waste permits are limited to \$10,000.

Leachate from a landfill varies widely in composition depending on the age of the landfill and the type of waste it contains. It can usually contain both dissolved and suspended solids. The generation of leachate is caused principally by precipitation percolating through waste deposited in a landfill. The term “leachate” refers to the fluid flowing out of waste material after coming in contact with decomposing solid waste.

The risks of leachate generation can be mitigated by properly designed and engineered landfill sites, such as sites that are constructed on geologically impermeable materials or sites that use impermeable liners made of geomembranes or engineered clay.

The CS deletes the public nuisance requirements in s. 403.707(2), F.S., providing that a permit is not required if the activity does not create a public nuisance or any condition adversely affecting the environment or public health and does not violate other state or local laws, ordinances, rules, regulations or orders.

The CS provides that if a facility has a permit authorizing disposal activity, a new area where solid waste is being disposed of which is monitored by an existing or modified groundwater monitoring plan is not required to be specifically authorized in a permit or other certification.

The CS provides that a permit issued after October 1, 2012, to a solid waste management facility with a leachate control system that is in compliance will be valid for up to 20 years. This change will allow the DEP to prorate existing fees for these longer permits. For example, a Class I landfill operation permit fee is currently \$10,000 for a 5-year permit. If these provisions become law, the permit fee will increase to a maximum of \$40,000 for a 20-year permit.

The CS also allows a permit to be issued to a solid waste management facility that does not have a leachate control system for 10 years if the applicant meets certain criteria. The applicant seeking renewal must:

- have regularly utilized the site for at least 4 and a half months before the application;
- not be subject to a notice, at the time of applying for the renewal permit, by the DEP, or be in violation of an applicable rule;
- not have been notified to implement assessment or evaluation monitoring as a result of exceedances of applicable groundwater standards, or completing corrective actions in accordance with applicable DEP rules;
- be in compliance with the applicable financial assurance requirements.

This section also authorizes the DEP to adopt rules. The provisions of ch. 120, F.S., which require a statement of estimated regulatory cost and legislative ratification, do not apply to this rulemaking. The DEP is also not required to submit any adopted rules to the Environmental Regulation Commission for approval.

Section 19 amends s. 403.709, F.S., relating to closure of solid waste management facilities.

To minimize the threat to public health and the environment, Solid Waste Financial Assurance requirements were adopted in 1984 to secure the proper closing of solid waste management facilities operating in the state of Florida. Owners or operators, when demonstrating proof of

financial assurance, can choose from a list of approved financial mechanisms that best meet their individual needs. The dollar amount of financial assurance required is directly tied to the DEP's approved closure cost estimate. The DEP's primary responsibility is to insure that the facility is in full compliance with all solid waste financial assurance requirements. This is accomplished by providing any assistance necessary to facility owners and operators as well as provider companies attempting to meet rule requirements.²²

The DEP allows the use of insurance policies to provide financial assurance for closure of solid waste management facilities. According to the DEP, some procedural difficulties arise when it has to contract with a third party to close an abandoned facility. In order to enter into a contract, the DEP must encumber funds to pay for the third party. There is no fund available for the DEP to encumber the funds even if the insurance company is expected to reimburse the costs.

The CS creates a solid waste landfill closure account within the Solid Waste Management Trust Fund to provide funding for the closing and long-term care of solid waste management facilities. The CS enables the DEP to close a facility if:

- the facility has been issued a permit by the DEP to operate the facility;
- the permittee has provided proof of financial assurance for closure in the form of an insurance certificate;
- the facility has been deemed abandoned or has been ordered closed by DEP; and
- the closure will be accomplished in substantial accordance with a DEP-approved closure plan.

The CS states the DEP has a reasonable expectation to recover most or all of the costs associated with a facility closure. If an insurance company reimburses the DEP for the costs of closing a facility, the DEP must deposit the funds into the solid waste landfill closure account.

Section 20 amends s. 403.7125, F.S., relating to financial assurance for corrective actions for solid waste management facilities.

The EPA adopted rules for solid waste management facilities in 1991. According to the DEP, if a state's program was determined to be at least equivalent to the federal program, it would be approved and the federal regulation would not apply in that state. Florida's program was approved in 1993. One of the conditions for approval was that DEP amend existing rules to require financial assurance for corrective actions at landfills. The DEP adopted Rules 62-701.630 and 62-701.730, F.A.C., to include provisions requiring permittees that have an approved corrective action plan to put up financial assurance for the costs of the corrective actions. The Joint Administrative Procedures Committee has stated that the DEP does not have the statutory authority for these rules. If the DEP had to repeal the existing rules, the EPA could determine that Florida's program is no longer equivalent and disapprove it, in which case owners of solid waste management facilities would be required to comply with all of the EPA's regulations in addition to all of Florida's rules. This would create a burden on the regulated community and could create conflict since Florida's rules are not identical to EPA's.²³

²² Florida Dep't of Environmental Protection, *Solid Waste Financial Assurance*, <http://www.dep.state.fl.us/waste/categories/swfr/default.htm> (last visited Jan. 13, 2012).

²³ Conversation with a Florida Dep't of Environmental Protection representative (Jan. 6, 2012).

The CS clarifies that the DEP may enforce already established rules which require an owner or operator of a solid waste management facility that receives waste to undertake corrective actions for violations of water quality standards and provide financial assurance for the cost of completing such corrective actions. The financial assurances requirements for closure costs will also be available for costs associated with undertaking corrective actions.

Section 21 amends 403.814, F.S., relating to delegation of general permits.

Currently, the DEP is authorized to adopt rules establishing and providing for general permits for projects which have, either singularly or cumulatively, a minimal adverse environmental effect. Such rules must specify design or performance criteria that, if applied, would result in compliance with appropriate standards. Any person complying with the requirements of a general permit may use the permit 30 days after giving notice to the DEP without any agency action by the DEP.²⁴ Projects include, but are not limited to:

- Construction and modification of boat ramps of certain sizes,
- Installation and repair of riprap at the base of existing seawalls,
- Installation of culverts associated with stormwater discharge facilities, and
- Construction and modification of certain utility and public roadway construction activities.

The CS directs the DEP to create a general permit for construction, alteration and maintenance of surface water management systems for up to 10 acres. The system may be constructed without action by the DEP or a WMD if:

- The total project area is less than 10 acres;
- The total project area involves less than two acres of impervious surface;
- Activities will not impact wetlands or other surface waters;
- Activities are not conducted in, on or over wetlands or other surface waters;
- Drainage facilities will not include pipes having diameters greater than 24 inches, or the hydraulic equivalent, and will not use pumps in any manner;
- The project is not part of a larger common plan of development or sale;
- The project does not:
 - Cause adverse water quantity or flooding to receiving waters or adjacent lands;
 - Cause adverse impacts to existing surface water storage and conveyance capabilities;
 - Cause violations of state water quality standards;
 - Cause adverse impacts to the maintenance of surface water or groundwater levels or surface water flows established pursuant to s. 373.042, F.S., or a work of a WMD provided for in s. 373.086, F.S.; and
- The water management system design plans are signed and sealed by a registered professional who attests the system will perform to design specifications and that were designed in accordance to accepted industry standards and scientific principles.

Section 22 amends s. 403.853, F.S., relating to drinking water standards for religious institutions.

²⁴ Section 403.814(1), F.S.

Under the federal Safe Drinking Water Act, the U.S. Environmental Protection Agency (EPA) has promulgated national primary drinking water regulations for contaminants that may adversely affect human health, if it is likely to occur in public water systems often and at levels of public health concern. The EPA will regulate the contaminant if the EPA's Administrator decides that regulating the contaminant will meaningfully reduce health risks for those served by public water systems. The federal act also authorizes states to assume implementation and enforcement. In 1977 Florida adopted the Florida Safe Drinking Water Act (FSDWA), which is jointly administered by the DEP, as lead-agency, and the Department of Health (DOH), which has specific duties and responsibilities of its own. The DOH and its agents have general supervision and control over all private water systems and public water systems not covered or included in the FSDWA. Every county health department in Florida has a minimum degree of mandatory participation in the FSDWA. This minimal level of participation is supportive in nature because most of the county health departments do not have sufficient staff or capability to be fully responsible for the program. In those counties where the county health department is without adequate capability, the appropriate DEP office is heavily involved in administering all aspects of the program.

Under the FSDWA, a regulated "public water system" is a system that provides water for human consumption through pipes or other constructed conveyances and has at least 15 service connections or regularly serves at least 25 individuals daily at least 60 days out of the year.²⁵ The only exception is for those systems that, in addition to meeting the criteria for being a public water system, also meet all four criteria provided for in s. 403.853(2), F.S. The system:

- Consists of distribution and storage facilities only and cannot treat or collect water;
- Obtains all its water from a public water system but is not owned or operated by it;
- Does not sell water; and
- Is not a carrier of passengers in interstate commerce.

Public water systems are either community or noncommunity. A community water system serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents. A noncommunity water system is either a nontransient noncommunity system or a transient noncommunity water system. A nontransient noncommunity water system serves at least 25 of the same persons over six months per year. A transient noncommunity water system has at least 15 service connections or regularly serves at least 25 persons daily at least 60 days out of the year but does not regularly serve 25 or more of the same persons for more than six months per year.²⁶

The CS provides that the DEP, or a local county health department designated by the DEP, is authorized at the request of the owner or operator of a transient noncommunity water system using groundwater as a source of supply and serving religious institutions, except those with school or day care services, to perform a sanitary survey. Upon receipt of satisfactory results, the DEP must reduce the monitoring and reporting requirements for such religious institutions.

Section 23 amends s. 403.973, F.S., relating to expedited permitting and comprehensive plan amendments.

²⁵ See s. 403.852(2), F.S.

²⁶ See generally s. 403.852, F.S.

Section 403.973, F.S., provides for an expedited permitting and comprehensive plan amendment process for certain projects that are identified to encourage and facilitate the location and expansion of economic development, offer job creation and high wages, strengthen and diversify the state's economy, and which have been thoughtfully planned to take into consideration the protection of the state's environment.

Under s. 403.973, F.S., OTTED or a Quick Permitting County may certify a business as eligible to use the process. Recommendations on which projects should use the process may come from Enterprise Florida, any county or municipality, or the Rural Economic Development Initiative (REDI). Eligibility criteria stipulate that a business must:

- Create at least 50 jobs; or
- Create 25 jobs if the project is located in an enterprise zone, in a county with a population of fewer than 75,000, or in a county with a population of fewer than 100,000 that is contiguous to a county having a population of 75,000 residing in incorporated and unincorporated areas of the county.

Regional Permit Action Teams are established by a Memorandum of Agreement (MOA) with the secretary of the DEP directing the creation of these teams. The MOA is between the secretary and the applicant with input solicited from the DCA, DOT, Florida Department of Agriculture and Consumer Services; the Florida Fish and Wildlife Conservation Commission; the Regional Planning Councils; and the WMDs. The MOA accommodates participation by federal agencies, as necessary. At a local government's option, a special MOA may be developed on a case-by-case basis to allow some or all local development permits or orders to be covered under the expedited review. Implementation of the local government MOA requires a noticed public workshop and hearing.

Presently, certified projects receive the following benefits:

- Pre-application meeting of regulatory agencies and business representatives held within 14 days after eligibility determination;
- Identification of all necessary permits and approvals needed for the project;
- Designation of a project coordinator and regional permit action team contacts;
- Identification of the need for any special studies or reviews that may affect the time schedule;
- Identification of any areas of significant concern that may affect the outcome of the project review;
- Development of a consolidated time schedule that incorporates all required deadlines, including public meetings and notices;
- Final agency action on permit applications within 90 days from the receipt of complete application(s);
- Waiver of twice-a-year limitation on local comprehensive plan amendments; and
- Waiver of interstate highway concurrency with approved mitigation.

Appeals of expedited permitting projects are subject to the summary hearing provisions of s. 120.574, F.S. The administrative law judge's (ALJ) recommended order is not the final state agency action unless the participating agencies of the state opt at the preliminary hearing conference to allow the ALJ's decision to constitute the final agency action. Where only one

state agency action is challenged, the agency of the state shall issue the final order within 10 working days of receipt of the ALJ's recommended order. In those proceedings where more than one state agency action is challenged, the Governor shall issue the final order within 10 working days of receipt of the ALJ's recommended order.

Expedited permitting provides a special assistance process for REDI counties. OTTED, working with REDI and the regional permitting teams, is to provide technical assistance in preparing permit applications for rural counties. This additional assistance may include providing guidance in land development regulations and permitting processes, and working cooperatively with state, regional and local entities to identify areas within these counties that may be suitable or adaptable for preclearance review of specified types of land uses and other activities requiring permits.

Section 403.973(19), F.S., prohibits the following projects from using the expedited process:

- A project funded and operated by a local government and located within that government's jurisdiction; or
- A project, the primary purpose of which is to:
 - Affect the final disposal of solid waste, biomedical waste, or hazardous waste in the state,
 - Produce electrical power (unless the production of electricity is incidental and not the project's primary function);
 - Extract natural resources;
 - Produce oil; or
 - Construct, maintain or operate an oil, petroleum, natural gas or sewage pipeline.

The CS revises the structure and process for expedited permitting of targeted industries. The CS expands eligibility for activities qualifying for expedited review to commercial or industrial development projects that will be occupied by businesses that would individually or collectively create at least 50 jobs. The CS requires regional teams to be established through the execution of a project-specific MOA. It clarifies that the standard form of the MOA will be used only if the local government participates in the expedited review process. It also fixes several technical errors stemming from the creation of the Department of Economic Opportunity in 2011.

Section 24 amends s. 526.203, F.S., relating to the sale of unblended fuels.

The Federal Energy Independence and Security Act of 2007, signed into law on December 19, 2007, set the renewable fuels standard (RFS) minimum annual goal for renewable fuel use at 9.0 billion gallons in 2008 and 36 billion gallons by 2022. Beginning in 2016, all of the fuel increase in the RFS target must be met by advanced biofuels, defined as fuels derived from other than corn starch.²⁷ Motor gasoline and diesel fuel, both fossil fuels, make up more than 87 percent of Florida's transportation energy costs, with aviation fuel accounting for less than 10 percent.

The Legislature passed a comprehensive energy bill in 2008 that, in part, established the Florida Renewable Fuel Standard Act (Act). The act provided the following definitions:

²⁷ U.S. Dep't of Energy, *Federal & State Incentives & Laws*, <http://www.afdc.energy.gov/afdc/laws/eisa> (last visited Jan. 13, 2012).

- “Fuel ethanol” means an anhydrous denatured alcohol produced by the conversion of carbohydrates meeting the specifications as adopted by the Department of Agriculture and Consumer Services.
- “Blended gasoline” means a mixture of ninety percent gasoline and ten percent fuel ethanol meeting the specifications as adopted by the Department of Agriculture and Consumer Services. The ten percent fuel ethanol portion may be derived from any agricultural source.
- “Unblended gasoline” means gasoline that has not been blended with fuel ethanol meeting the specifications as adopted by the Department of Agriculture and Consumer Services.
- “10 percent” means 9-10 percent ethanol by volume.

The act provided that by December 31, 2010, all gasoline sold or offered for sale in Florida by a terminal supplier, importer, blender or wholesaler was to contain, at a minimum, 10 percent of agriculturally derived, denatured ethanol fuel by volume.

The following are exempt from the act:

- Fuel used in aircraft;
- Fuel sold at marinas and mooring docks for use in boats and similar watercraft;
- Fuel sold to a blender;
- Fuel sold for use in collector vehicles or vehicles eligible to be licensed as collector vehicles, offroad vehicles, motorcycles, or small engines;
- Fuel unable to comply due to requirements of the United States Environmental Protection Agency;
- Fuel bulk transferred between terminals;
- Fuel exported from the state in accordance with s. 206.052, F.S.;
- Fuel qualifying for any exemption in accordance with ch. 206, F.S.;
- Fuel at an electric power plant that is regulated by the United States Nuclear Regulatory Commission unless such commission has approved the use of fuel meeting the requirements of the act;
- Fuel for a railroad locomotive; and
- Fuel for equipment, including vehicle or vessel, covered by a warranty that would be voided, if explicitly stated in writing by the vehicle or vessel manufacturer, if it were to be operated using fuel meeting the requirements of the act.

The CS clarifies that s. 526.203, F.S., does not prohibit the sale of unblended fuels for the uses exempted above. It also expands the definition of “blended gasoline” to include renewable fuels other than ethanol. Lastly, it defines “renewable fuel” as fuel derived from renewable biomass (e.g., grass, yard waste and other plant materials) to replace or reduce fossil fuels used for transportation fuel.

Section 25 provides an effective of July 1, 2012.

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:

Reducing environmental permitting requirements, time, necessity and compliance costs will collectively save business and individuals significant amounts of money; however, the savings cannot be calculated on an individual basis. Expansion of Internet-based self-certification and additional general permits may also reduce costs for constructing qualifying projects.

Owners and operators of lined solid waste management facilities that opt for longer-term permits may benefit from the increased predictability such longer permits provide. For example, it may be easier to obtain financing for these projects and operational and design criteria are less likely to need updating and amending as frequently. After five years, the cost savings from not having to apply for and receive permit renewals will be significant.

Solid waste management facilities will have more flexibility when preparing to apply for permits as the life of the permit will be increased by 15 years. Further, the costs associated with filing renewal applications will decrease.

Owners and operators of unlined solid waste management facilities that meet DEP's requirements may opt for longer-term permits and may benefit from the increased predictability such longer permits provide.

Owners or operators of transient noncommunity water systems using groundwater as their source of drinking water serving religious institutions may have reduced reporting and monitoring costs.

Lastly, a child of an original owner or a corporation created to hold title to a contaminated site who gained ownership of that site through the transfer of the property may qualify for financial assistance to aid cleanup of the site. Previous applicants who were denied may reapply. The DEP estimates the average cost to clean up a contaminated site is \$380,000.

C. Government Sector Impact:

State Government Impact:

The DEP has estimated there will be an unknown impact to the permit fee trust fund associated with reducing or waiving permit processing fees for entities created by special acts, local ordinances, and interlocal agreements by low-population counties.

Expanding the eligibility criteria for the Innocent Victim Petroleum Storage System Restoration will likely result in more sites being eligible to participate in the state-funded cleanup program. As mentioned above, the average cost of each cleanup is \$380,000. The number of additional sites that may be eligible is unknown.

The DEP anticipates an increase in the amount of fees collected due to the extended length of the permit. This increase will level out, as the new permits will not need to be renewed as often. In addition, there may be some cases when the costs associated with closing a facility would exceed the face value of the insurance policy. In this instance, Solid Waste Trust Fund dollars would need to be spent and would not be reimbursed by an insurance company.

All other impacts to the DEP can be absorbed by existing staff and resources.

WMD governing boards may have to schedule additional meetings in order to comply with taking a denial action within 60 days of receiving completed permit applications. However, some permits will fall within a normal governing board meeting schedule and will not require any additional costs for a WMD to take action. Meeting costs vary by WMD and cannot be determined at this time. Since denials are infrequent because WMD staff work with applicants to avoid such action, the impact of this provision may be negligible.

Local Government Impact:

As with the private sector, when a local government is a permit applicant, reducing environmental permitting requirements, time, necessity and compliance costs will collectively save significant amounts of money; however, the savings cannot be calculated on an individual, local government basis.

According to the DEP, local governments that have their environmental regulatory programs preempted could see a cost savings from program elimination. Conversely, local governments that lose currently active permitting programs to state preemption will lose revenues associated with those programs. It is not known whether the cost savings will be greater than the lost revenues. If a local government applies for delegation, it will incur expenses to complete the application. The costs are indeterminate at this time.

When a local government is an ERP permit applicant, shortened permitting time clocks might reduce costs to obtain a permit if overall permit times are actually reduced, and the provisions do not result in additional permit denials or the need for timeclock waivers.

Local governments that operate solid waste management facilities would have permit fees reduced to one-quarter of current costs. Local governments that operate landfills that have caused environmental impacts would be relieved of the costs of addressing these impacts.

Entities created by special acts, local ordinances or interlocal agreements of certain local governments will pay fewer permit fees so the savings would likely be passed on to the local government but without knowing how many of these entities exist, the actual effect is unknown.

Financially disadvantaged municipalities with a population between 7,500 and 10,000 will now be eligible for wastewater grants under the Small Community Sewer Construction Assistance Act.

The DEP and the WMDs will see reduced permit revenue from the additional exemptions applied to entities that qualify for a reduction or waiver of permit processing fees.

VI. Technical Deficiencies:

The UIC program regulated pursuant to DEP Rule 62-528, F.A.C, authorizes Class 1 through Class V underground injection wells. Construction of closed-loop air conditioning return flow wells (Class V, Group 1) qualifies for a general permit from the DEP. As such, construction of this type of well does not have to be pre-permitted by the DEP. However, the Northwest Florida WMD does issue pre-construction permits for these types of wells. The CS will prohibit the WMDs from permitting this type of well, which was not the intent of the CS.

VII. Related Issues:

The WMD governing boards are responsible for approving or denying certain permits. While some approval functions are delegated from the governing boards to the staffs, denial actions can only be taken by the governing boards. They typically do not meet on a schedule that would allow for consistent denials of permits within 60 days. Denials are infrequent because WMD staff work with applicants to avoid such actions.

VIII. Additional Information:

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

CS by Community Affairs on January 12, 2012:

- Deletes sections related to RAI requirements; permitting beach management projects and extending deadlines for upgrades to secondary containment systems for fuel tank systems;
- Moves provisions related to inland ports from s. 166.3180, F.S. to s. 339.63, F.S.;
- Exempts previously authorized underground injection wells from part III of ch. 373, F.S., relating to the regulation of wells;

- Directs the Secretary of Transportation to designate certain facilities as part of the SIS;
- Revises and expands eligibility for sites that may qualify for an inland port;
- Removes the 5-year duration for transportation impacts from an inland port that allows for up to a 150 percent increase in the adopted level of service;
- Requires a county or a municipality with a specified population by July 1, 2012, to apply for delegation of authority by certain deadlines for environmental resource permitting;
- Includes many provisions from CS/SB 938, related to solid waste disposal, management and permitting; and
- Expands the definitions used as part of the renewable fuel standards.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/12/2012	.	
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	.	
	.	

The Committee on Community Affairs (Bennett) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 125.022, Florida Statutes, is amended to
read:

125.022 Development permits.—~~If~~ When a county denies an
application for a development permit, the county shall give
written notice to the applicant. The notice must include a
citation to the applicable portions of an ordinance, rule,
statute, or other legal authority for the denial of the permit.
As used in this section, the term "development permit" has the



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13 same meaning as in s. 163.3164. A county may not require as a
14 condition of processing a development permit that an applicant
15 obtain a permit or approval from a state or federal agency
16 unless that agency has issued a notice of intent to deny the
17 federal or state permit before the county action on the local
18 development permit. The issuance of a development permit by a
19 county does not create a right on the part of the applicant to
20 obtain a permit from a state or federal agency and does not
21 create a liability on the part of the county for issuance of the
22 permit if the applicant fails to fulfill its legal obligations
23 to obtain requisite approvals or fulfill the obligations imposed
24 by a state or federal agency. A county may attach such a
25 disclaimer to the issuance of a development permit and may
26 include a permit condition that all other applicable state or
27 federal permits be obtained before commencement of the
28 development. This section does not prohibit a county from
29 providing information to an applicant regarding what other state
30 or federal permits may apply.

31 Section 2. Section 166.033, Florida Statutes, is amended to
32 read:

33 166.033 Development permits.—~~If~~ ~~When~~ a municipality denies
34 an application for a development permit, the municipality shall
35 give written notice to the applicant. The notice must include a
36 citation to the applicable portions of an ordinance, rule,
37 statute, or other legal authority for the denial of the permit.
38 As used in this section, the term "development permit" has the
39 same meaning as in s. 163.3164. A municipality may not require
40 as a condition of processing a development permit that an
41 applicant obtain a permit or approval from a state or federal



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agency unless that agency has issued a notice of intent to deny the federal or state permit before the municipal action on the local development permit. The issuance of a development permit by a municipality does not create a right on the part of an applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the municipality for issuance of the permit if the applicant fails to fulfill its legal obligations to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency. A municipality may attach such a disclaimer to the issuance of a development permit and may include a permit condition that all other applicable state or federal permits be obtained before commencement of the development. This section does not prohibit a municipality from providing information to an applicant regarding what other state or federal permits may apply.

Section 3. Section 218.075, Florida Statutes, is amended to read:

218.075 Reduction or waiver of permit processing fees.—Notwithstanding any other provision of law, the Department of Environmental Protection and the water management districts shall reduce or waive permit processing fees for a county that has ~~counties with~~ a population of 50,000 or fewer ~~less~~ on April 1, 1994, until such county exceeds ~~counties exceed~~ a population of 75,000; for a municipality that has ~~and municipalities with~~ a population of 25,000 or fewer; for an entity created by special act, local ordinance, or interlocal agreement of such county or municipality; ~~less,~~ or for a ~~any~~ county or municipality not included within a metropolitan statistical area. Fee reductions or waivers shall be approved on the basis of fiscal hardship or



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environmental need for a particular project or activity. The governing body must certify that the cost of the permit processing fee is a fiscal hardship due to one of the following factors:

(1) Per capita taxable value is less than the statewide average for the current fiscal year;

(2) Percentage of assessed property value that is exempt from ad valorem taxation is higher than the statewide average for the current fiscal year;

(3) Any condition specified in s. 218.503(1) which results in the county or municipality being in a state of financial emergency;

(4) Ad valorem operating millage rate for the current fiscal year is greater than 8 mills; or

(5) A financial condition that is documented in annual financial statements at the end of the current fiscal year and indicates an inability to pay the permit processing fee during that fiscal year.

The permit applicant must be the governing body of a county or municipality, ~~or~~ a third party under contract with a county or municipality, or an entity created by special act, local ordinance, or interlocal agreement, and the project for which the fee reduction or waiver is sought must serve a public purpose. If a permit processing fee is reduced, the total fee may ~~shall~~ not exceed \$100.

Section 4. Paragraphs (a) and (b) of subsection (3) of section 258.397, Florida Statutes, are amended to read:

258.397 Biscayne Bay Aquatic Preserve.-



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(3) AUTHORITY OF TRUSTEES.—The Board of Trustees of the Internal Improvement Trust Fund is authorized and directed to maintain the aquatic preserve hereby created pursuant and subject to the following provisions:

(a) A ~~No further~~ sale, transfer, or lease of sovereignty submerged lands in the preserve may not ~~shall~~ be approved or consummated by the board of trustees, except upon a showing of extreme hardship on the part of the applicant and a determination by the board of trustees that such sale, transfer, or lease is in the public interest. A municipal applicant proposing a project under paragraph (b) is exempt from showing extreme hardship.

(b) A ~~No further~~ dredging or filling of submerged lands of the preserve may not ~~shall~~ be approved or tolerated by the board of trustees except:

1. Such minimum dredging and spoiling as may be authorized for public navigation projects or for such minimum dredging and spoiling as may be constituted as a public necessity or for preservation of the bay according to the expressed intent of this section.

2. Such other alteration of physical conditions, including the placement of riprap, as may be necessary to enhance the quality and utility of the preserve.

3. Such minimum dredging and filling as may be authorized for the creation and maintenance of marinas, piers, and docks and their attendant navigation channels and access roads. Such projects may ~~only~~ be authorized only upon a specific finding by the board of trustees that there is assurance that the project will be constructed and operated in a manner that will not



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adversely affect the water quality and utility of the preserve.
This subparagraph does ~~shall~~ not authorize the connection of
upland canals to the waters of the preserve.

4. Such dredging as ~~is~~ necessary for the purpose of
eliminating conditions hazardous to the public health or for the
purpose of eliminating stagnant waters, islands, and spoil
banks, the dredging of which would enhance the aesthetic and
environmental quality and utility of the preserve and be clearly
in the public interest as determined by the board of trustees.

5. Such dredging and filling as necessary for the creation
of public waterfront promenades.

Any dredging or filling under this subsection or improvements
under subsection (5) may ~~shall~~ be approved only after public
notice as provided by s. 253.115.

Section 5. Subsection (4) of section 339.63, Florida
Statutes, is amended, and subsections (5) and (6) are added to
that section, to read:

339.63 System facilities designated; additions and
deletions.—

(4) After the initial designation of the Strategic
Intermodal System under subsection (1), the department shall, in
coordination with the metropolitan planning organizations, local
governments, regional planning councils, transportation
providers, and affected public agencies, add facilities to or
delete facilities from the Strategic Intermodal System described
in paragraph (2)(a) based upon criteria adopted by the
department with the exceptions provided in subsections (5) and
(6).



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158 (5) However, An airport that is designated as a reliever
159 airport to a Strategic Intermodal System airport which has at
160 least 75,000 itinerant operations per year, has a runway length
161 of at least 5,500 linear feet, is capable of handling aircraft
162 weighing at least 60,000 pounds with a dual wheel configuration
163 which is served by at least one precision instrument approach,
164 and serves a cluster of aviation-dependent industries, shall be
165 designated as part of the Strategic Intermodal System by the
166 Secretary of Transportation upon the request of a reliever
167 airport meeting this criteria.

168 (6) A planned facility that is projected to create at least
169 50 full-time jobs and is designated in the local comprehensive
170 plan as an intermodal logistics center or inland logistics
171 center, or the local equivalent, and meets the following
172 criteria shall be designated as part of the Strategic Intermodal
173 System by the Secretary of Transportation upon the request of a
174 planned intermodal logistics center facility. The planned
175 facility must:

176 (a) Serve the purpose of receiving or sending cargo for
177 distribution and providing cargo storage, consolidation, and
178 repackaging and transfer of goods, and may, if developed as
179 proposed, include other intermodal terminals, related
180 transportation facility, warehousing and distribution, and
181 associated office space, light industrial, manufacturing, and
182 assembly uses;

183 (b) Be proximate to one or more Strategic Intermodal
184 System-designated highway facility for the purpose of
185 facilitating regional freight traffic movements within the
186 state;



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(c) Be located within 30 miles to an existing Strategic Intermodal System- or Emerging Strategic Intermodal System- designated rail line;

(d) Be located within 100 miles of a Strategic Intermodal System-designated seaport, for the purpose of providing additional relief for expansion of cargo storage and seaport movement capacity, and have a collaborative agreement, letter of interest, or memorandum of understanding with the seaport; and

(e) Be consistent with market feasibility studies for location and size of a intermodal logistics center or an inland port facility as published by the Department of Transportation or other sources.

If a planned facility is designated as an intermodal logistics center or inland logistics center, or the local equivalent, a local government must adopt a waiver of transportation concurrency or a limited exemption that allows up to 150 percent increase in the adopted level of service capacity standard for the project's impact to roadway facilities on the Strategic Intermodal System.

Section 6. Subsection (10) is added to section 373.026, Florida Statutes, to read:

373.026 General powers and duties of the department.—The department, or its successor agency, shall be responsible for the administration of this chapter at the state level. However, it is the policy of the state that, to the greatest extent possible, the department may enter into interagency or interlocal agreements with any other state agency, any water management district, or any local government conducting programs



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related to or materially affecting the water resources of the state. All such agreements shall be subject to the provisions of s. 373.046. In addition to its other powers and duties, the department shall, to the greatest extent possible:

(10) Expand the use of Internet-based self-certification services for appropriate exemptions and general permits issued by the department and the water management districts, if the expansion is economically feasible. In addition to expanding the use of Internet-based, self-certification services for appropriate exemptions and general permits, the department and the water management districts shall identify and develop general permits for appropriate activities currently requiring individual review which could be expedited through the use of applicable professional certification.

Section 7. Section 373.306, Florida Statutes, is amended to read:

373.306 Scope.—A No person may not shall construct, repair, abandon, or cause to be constructed, repaired, or abandoned, any water well contrary to the provisions of this part and applicable rules ~~and regulations~~. This part does shall not apply to equipment used temporarily for dewatering purposes or to the process used in dewatering or to wells that have been authorized under the state's underground injection control program pursuant to department rules.

Section 8. Subsection (2) of section 373.4141, Florida Statutes, is amended, and subsection (4) is added to that section, to read:

373.4141 Permits; processing.—

(2) A permit shall be approved, ~~or~~ denied, or subject to a



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notice of proposed agency action within 60 ~~90~~ days after receipt of the original application, the last item of timely requested additional material, or the applicant's written request to begin processing the permit application.

(4) A state agency or an agency of the state may not require as a condition of approval for a permit or as an item to complete a pending permit application that an applicant obtain a permit or approval from any other local, state, or federal agency without explicit statutory authority to require such permit or approval.

Section 9. Section 373.4144, Florida Statutes, is amended to read:

373.4144 Federal environmental permitting.—

(1) It is the intent of the Legislature to facilitate the coordination of a more efficient process for implementing regulatory duties and functions between the Department of Environmental Protection, the water management districts, the United States Army Corps of Engineers, the United States Fish and Wildlife Service, the National Marine Fisheries Service, the United States Environmental Protection Agency, the Fish and Wildlife Conservation Commission, and other relevant federal and state agencies.

(2) The Department of Environmental Protection may obtain issuance by the United States Army Corps of Engineers, pursuant to state and federal law and as set forth in this section, of an expanded state programmatic general permit, or a series of regional general permits, for categories of activities in waters of the United States governed by the Clean Water Act and in navigable waters under the Rivers and Harbors Act of 1899 which



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are similar in nature, which will cause only minimal adverse environmental effects when performed separately, and which will have only minimal cumulative adverse effects on the environment.

(3) The Department of Environmental Protection may use a state general permit or a regional general permit to eliminate overlapping federal regulations and state rules that protect the same resource and to avoid duplication of permitting between the United States Army Corps of Engineers and the department for minor work located in waters of the United States, including navigable waters, and to eliminate, in appropriate cases, the need for a separate individual approval from the United States Army Corps of Engineers while ensuring the most stringent protection of wetland resources.

(4) The department may not seek issuance of or take any action pursuant to a permit unless the conditions of that permit are at least as protective of the environment and natural resources as existing state law under this part and federal law under the Clean Water Act and the Rivers and Harbors Act of 1899.

(5) The department and the water management districts may implement a voluntary state programmatic general permit for all dredge and fill activities impacting 3 acres or less of wetlands or other surface waters, including navigable waters, subject to agreement with the United States Army Corps of Engineers, if the general permit is at least as protective of the environment and natural resources as existing state law under this part and federal law under the Clean Water Act and the Rivers and Harbors Act of 1899.

~~(1) The department is directed to develop, on or before~~



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~~October 1, 2005, a mechanism or plan to consolidate, to the maximum extent practicable, the federal and state wetland permitting programs. It is the intent of the Legislature that all dredge and fill activities impacting 10 acres or less of wetlands or waters, including navigable waters, be processed by the state as part of the environmental resource permitting program implemented by the department and the water management districts. The resulting mechanism or plan shall analyze and propose the development of an expanded state programmatic general permit program in conjunction with the United States Army Corps of Engineers pursuant to s. 404 of the Clean Water Act, Pub. L. No. 92-500, as amended, 33 U.S.C. ss. 1251 et seq., and s. 10 of the Rivers and Harbors Act of 1899. Alternatively, or in combination with an expanded state programmatic general permit, the mechanism or plan may propose the creation of a series of regional general permits issued by the United States Army Corps of Engineers pursuant to the referenced statutes. All of the regional general permits must be administered by the department or the water management districts or their designees.~~

~~(2) The department is directed to file with the Speaker of the House of Representatives and the President of the Senate a report proposing any required federal and state statutory changes that would be necessary to accomplish the directives listed in this section and to coordinate with the Florida Congressional Delegation on any necessary changes to federal law to implement the directives.~~

~~(6) (3) Nothing in This section does not shall be construed to preclude the department from pursuing a series of regional general permits for construction activities in wetlands or~~



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surface waters or from pursuing complete assumption of federal permitting programs regulating the discharge of dredged or fill material pursuant to s. 404 of the Clean Water Act, Pub. L. No. 92-500, as amended, 33 U.S.C. ss. 1251 et seq., and s. 10 of the Rivers and Harbors Act of 1899, so long as the assumption encompasses all dredge and fill activities in, on, or over jurisdictional wetlands or waters, including navigable waters, within the state.

Section 10. Present subsections (3), (4), and (5) of section 373.441, Florida Statutes, are renumbered as subsections (7), (8), and (9), respectively, and new subsections (3), (4), and (5) and subsection (6) are added to that section, to read:

373.441 Role of counties, municipalities, and local pollution control programs in permit processing; delegation.—

(3) A county or municipality that has a population of 400,000 or more and that implements a local pollution control program regulating all or a portion of the wetlands or surface waters throughout its geographic boundary must apply for delegation of state environmental resource permitting authority before January 1, 2014. If the county or municipality fails to receive delegation of all or a portion of state environmental resource permitting authority within 2 years after submitting its application for delegation or by January 1, 2016, at the latest, it may not require permits that in part or in full are substantially similar to the requirements needed to obtain an environmental resource permit. A county or municipality that has received delegation before January 1, 2014, does not need to reapply.

(4) The department may delegate state environmental



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resource permitting authority to local governments. The
department must grant or deny an application for delegation of
authority submitted by a county or municipality that meets the
criteria in subsection (3) within 2 years after receipt of the
application. If an application for delegation of authority is
denied, any available legal challenge to the denial tolls the
preemption deadline until resolution of the legal challenge.
Upon delegation of authority to a qualified local government,
the department and water management district may not regulate
the activities delegated to the qualified local government
within that jurisdiction.

(5) This section does not prohibit or limit a local
government that meets the criteria in subsection (3) from
regulating wetlands or surface waters on or after January 1,
2014, if the local government receives delegation of all or a
portion of state environmental resource permitting authority
within 2 years after submitting its application for the
delegation.

(6) Notwithstanding subsections (3), (4), and (5), this
section does not apply to environmental resource permitting or
reclamation applications for solid mineral mining and does not
prohibit the application of local government regulations to any
new solid mineral mine or any proposed addition to, change to,
or expansion of an existing solid mineral mine.

Section 11. Paragraph (b) of subsection (11) of section
376.3071, Florida Statutes, is amended to read:

376.3071 Inland Protection Trust Fund; creation; purposes;
funding.—

(11)



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(b) *Low-scored site initiative.*—Notwithstanding s. 376.30711, any site with a priority ranking score of 10 points or less may voluntarily participate in the low-scored site initiative, whether or not the site is eligible for state restoration funding.

1. To participate in the low-scored site initiative, the responsible party or property owner must affirmatively demonstrate that the following conditions are met:

a. Upon reassessment pursuant to department rule, the site retains a priority ranking score of 10 points or less.

b. No excessively contaminated soil, as defined by department rule, exists onsite as a result of a release of petroleum products.

c. A minimum of 6 months of groundwater monitoring indicates that the plume is shrinking or stable.

d. The release of petroleum products at the site does not adversely affect adjacent surface waters, including their effects on human health and the environment.

e. The area of groundwater containing the petroleum products' chemicals of concern is less than one-quarter acre and is confined to the source property boundaries of the real property on which the discharge originated.

f. Soils onsite that are subject to human exposure found between land surface and 2 feet below land surface meet the soil cleanup target levels established by department rule or human exposure is limited by appropriate institutional or engineering controls.

2. Upon affirmative demonstration of the conditions under subparagraph 1., the department shall issue a determination of



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419 "No Further Action." Such determination acknowledges that
420 minimal contamination exists onsite and that such contamination
421 is not a threat to human health or the environment. If no
422 contamination is detected, the department may issue a site
423 rehabilitation completion order.

424 3. Sites that are eligible for state restoration funding
425 may receive payment of preapproved costs for the low-scored site
426 initiative as follows:

427 a. A responsible party or property owner may submit an
428 assessment plan designed to affirmatively demonstrate that the
429 site meets the conditions under subparagraph 1. Notwithstanding
430 the priority ranking score of the site, the department may
431 preapprove the cost of the assessment pursuant to s. 376.30711,
432 including 6 months of groundwater monitoring, not to exceed
433 \$30,000 for each site. The department may not pay the costs
434 associated with the establishment of institutional or
435 engineering controls.

436 b. The assessment work shall be completed no later than 6
437 months after the department issues its approval.

438 c. No more than \$10 million for the low-scored site
439 initiative may ~~shall~~ be encumbered from the Inland Protection
440 Trust Fund in any fiscal year. Funds shall be made available on
441 a first-come, first-served basis and shall be limited to 10
442 sites in each fiscal year for each responsible party or property
443 owner.

444 d. Program deductibles, copayments, and the limited
445 contamination assessment report requirements under paragraph
446 (13) (c) do not apply to expenditures under this paragraph.

447 Section 12. Section 376.30715, Florida Statutes, is amended



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to read:

376.30715 Innocent victim petroleum storage system restoration.—A contaminated site acquired by the current owner before ~~prior to~~ July 1, 1990, which has ceased operating as a petroleum storage or retail business before ~~prior to~~ January 1, 1985, is eligible for financial assistance pursuant to s. 376.305(6), notwithstanding s. 376.305(6)(a). For purposes of this section, the term “acquired” means the acquisition of title to the property; however, a subsequent transfer of the property to a spouse or a child of the owner, a surviving spouse or a child of the owner in trust or free of trust, ~~or~~ a revocable trust created for the benefit of the settlor, or a corporate entity created by the owner to hold title to the site does not disqualify the site from financial assistance pursuant to s. 376.305(6). Applicants previously denied coverage may reapply. Eligible sites shall be ranked in accordance with s. 376.3071(5).

Section 13. Subsection (1) of section 380.0657, Florida Statutes, is amended to read:

380.0657 Expedited permitting process for economic development projects.—

(1) The Department of Environmental Protection and, as appropriate, the water management districts created under chapter 373 shall adopt programs to expedite the processing of wetland resource and environmental resource permits for economic development projects that have been identified by a municipality or county as meeting the definition of target industry businesses under s. 288.106, or any inland multimodal facility receiving or sending cargo to or from state ports, with the



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exception of those projects requiring approval by the Board of Trustees of the Internal Improvement Trust Fund.

Section 14. Paragraph (j) is added to subsection (5) of section 381.0065, Florida Statutes, to read:

381.0065 Onsite sewage treatment and disposal systems; regulation.—

(5) EVALUATION AND ASSESSMENT.—

(j) This subsection applies only to owners of onsite sewage treatment and disposal systems in a county in which the board of county commissioners has adopted a resolution subjecting owners to the requirements of the program and has submitted a copy of the resolution to the department.

Section 15. Subsection (11) of section 403.061, Florida Statutes, is amended to read:

403.061 Department; powers and duties.—The department shall have the power and the duty to control and prohibit pollution of air and water in accordance with the law and rules adopted and promulgated by it and, for this purpose, to:

(11) Establish ambient air quality and water quality standards for the state as a whole or for any part thereof, and also standards for the abatement of excessive and unnecessary noise. The department may ~~is authorized to~~ establish reasonable zones of mixing for discharges into waters. For existing installations as defined by department rule, zones of discharge to groundwater are authorized to a facility's or owner's property boundary and extending to the base of a specifically designated aquifer or aquifers. Primary and secondary groundwater standards that are exceeded and that occur within a zone of discharge do not create a liability pursuant to this



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chapter or chapter 376 for site cleanup, and soil cleanup target levels that are exceeded are not a basis for enforcement or site cleanup.

(a) ~~If~~ When a receiving body of water fails to meet a water quality standard for pollutants set forth in department rules, a steam electric generating plant discharge of pollutants that is existing or licensed under this chapter on July 1, 1984, may nevertheless be granted a mixing zone, provided that:

1. The standard would not be met in the water body in the absence of the discharge;

2. The discharge is in compliance with all applicable technology-based effluent limitations;

3. The discharge does not cause a measurable increase in the degree of noncompliance with the standard at the boundary of the mixing zone; and

4. The discharge otherwise complies with the mixing zone provisions specified in department rules.

(b) ~~A~~ No mixing zone for point source discharges may not ~~shall~~ be permitted in Outstanding Florida Waters except for:

1. Sources that have received permits from the department prior to April 1, 1982, or the date of designation, whichever is later;

2. Blowdown from new power plants certified pursuant to the Florida Electrical Power Plant Siting Act;

3. Discharges of water necessary for water management purposes which have been approved by the governing board of a water management district and, if required by law, by the secretary; and

4. The discharge of demineralization concentrate which has



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been determined permittable under s. 403.0882 and which meets the specific provisions of s. 403.0882(4)(a) and (b), if the proposed discharge is clearly in the public interest.

(c) The department, by rule, shall establish water quality criteria for wetlands which criteria give appropriate recognition to the water quality of such wetlands in their natural state.

~~Nothing in~~ This act does not ~~shall be construed to~~ invalidate any existing department rule relating to mixing zones. The department shall cooperate with the Department of Highway Safety and Motor Vehicles in the development of regulations required by s. 316.272(1).

The department shall implement such programs in conjunction with its other powers and duties and shall place special emphasis on reducing and eliminating contamination that presents a threat to humans, animals or plants, or to the environment.

Section 16. Subsection (7) of section 403.087, Florida Statutes, is amended to read:

403.087 Permits; general issuance; denial; revocation; prohibition; penalty.—

(7) A permit issued pursuant to this section does ~~shall~~ not become a vested right in the permittee. The department may revoke any permit issued by it if it finds that the permitholder has:

(a) ~~Has~~ Submitted false or inaccurate information in the ~~his or her~~ application for the permit;

(b) ~~Has~~ Violated law, department orders, rules, ~~or~~



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~~regulations, or permit conditions;~~

(c) ~~Has~~ Failed to submit operational reports or other information required by department rule which directly relates to the permit and has refused to correct or cure such violation when requested to do so ~~or regulation;~~ or

(d) ~~Has~~ Refused lawful inspection under s. 403.091 at the facility authorized by the permit.

Section 17. Subsection (2) of section 403.1838, Florida Statutes, is amended to read:

403.1838 Small Community Sewer Construction Assistance Act.—

(2) The department shall use funds specifically appropriated to award grants under this section to assist financially disadvantaged small communities with their needs for adequate sewer facilities. For purposes of this section, the term “financially disadvantaged small community” means a municipality that has ~~with~~ a population of 10,000 ~~7,500~~ or fewer ~~less~~, according to the latest decennial census and a per capita annual income less than the state per capita annual income as determined by the United States Department of Commerce.

Section 18. Paragraph (f) of subsection (1) of section 403.7045, Florida Statutes, is amended to read:

403.7045 Application of act and integration with other acts.—

(1) The following wastes or activities shall not be regulated pursuant to this act:

(f) Industrial byproducts, if:

1. A majority of the industrial byproducts are demonstrated to be sold, used, or reused within 1 year.



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2. The industrial byproducts are not discharged, deposited, injected, dumped, spilled, leaked, or placed upon any land or water so that such industrial byproducts, or any constituent thereof, may enter other lands or be emitted into the air or discharged into any waters, including groundwaters, or otherwise enter the environment such that a threat of contamination in excess of applicable department standards and criteria or a significant threat to public health is caused.

3. The industrial byproducts are not hazardous wastes as defined under s. 403.703 and rules adopted under this section.

Sludge from an industrial waste treatment work which meets the exemption requirements of this paragraph is not solid waste as defined in s. 403.703(32).

Section 19. Subsections (2) and (3) of section 403.707, Florida Statutes, are amended to read:

403.707 Permits.—

(2) Except as provided in s. 403.722(6), a permit under this section is not required for the following, ~~if the activity does not create a public nuisance or any condition adversely affecting the environment or public health and does not violate other state or local laws, ordinances, rules, regulations, or orders:~~

(a) Disposal by persons of solid waste resulting from their own activities on their own property, if such waste is ordinary household waste from their residential property or is rocks, soils, trees, tree remains, and other vegetative matter that normally result from land development operations. Disposal of materials that could create a public nuisance or adversely



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affect the environment or public health, such as white goods; automotive materials, such as batteries and tires; petroleum products; pesticides; solvents; or hazardous substances, is not covered under this exemption.

(b) Storage in containers by persons of solid waste resulting from their own activities on their property, leased or rented property, or property subject to a homeowners' homeowners or maintenance association for which the person contributes association assessments, if the solid waste in such containers is collected at least once a week.

(c) Disposal by persons of solid waste resulting from their own activities on their property, if the environmental effects of such disposal on groundwater and surface waters are:

1. Addressed or authorized by a site certification order issued under part II or a permit issued by the department under this chapter or rules adopted pursuant to this chapter; or

2. Addressed or authorized by, or exempted from the requirement to obtain, a groundwater monitoring plan approved by the department. If a facility has a permit authorizing disposal activity, a new area where solid waste is being disposed of which is monitored by an existing or modified groundwater monitoring plan is not required to be specifically authorized in a permit or other certification.

(d) Disposal by persons of solid waste resulting from their own activities on their own property, if such disposal occurred prior to October 1, 1988.

(e) Disposal of solid waste resulting from normal farming operations as defined by department rule. Polyethylene agricultural plastic, damaged, nonsalvageable, untreated wood



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pallets, and packing material that cannot be feasibly recycled, which are used in connection with agricultural operations related to the growing, harvesting, or maintenance of crops, may be disposed of by open burning if a public nuisance or any condition adversely affecting the environment or the public health is not created by the open burning and state or federal ambient air quality standards are not violated.

(f) The use of clean debris as fill material in any area. However, this paragraph does not exempt any person from obtaining any other required permits, and does not affect a person's responsibility to dispose of clean debris appropriately if it is not to be used as fill material.

(g) Compost operations that produce less than 50 cubic yards of compost per year when the compost produced is used on the property where the compost operation is located.

(3)(a) All applicable provisions of ss. 403.087 and 403.088, relating to permits, apply to the control of solid waste management facilities.

(b) A permit, including a general permit, issued to a solid waste management facility that is designed with a leachate control system meeting department requirements shall be issued for a term of 20 years unless the applicant requests a shorter permit term. Notwithstanding the limitations of s. 403.087(6)(a), existing permit fees for a qualifying solid waste management facility shall be adjusted to the permit term authorized by this section. This paragraph applies to a qualifying solid waste management facility that applies for an operating or construction permit or renews an existing operating or construction permit on or after October 1, 2012.



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(c) A permit, including a general permit, but not including a registration, issued to a solid waste management facility that does not have a leachate control system meeting department requirements shall be renewed for a term of 10 years, unless the applicant requests a shorter term, if the following conditions are met:

1. The applicant has conducted the regulated activity at the same site for which the renewal is sought for at least 4 years and 6 months before the date that the permit application is received by the department; and

2. At the time of applying for the renewal permit:

a. The applicant is not subject to a notice of violation, consent order, or administrative order issued by the department for violation of an applicable law or rule;

b. The department has not notified the applicant that the applicant is required to implement assessment or evaluation monitoring as a result of applicable groundwater standards or criteria being exceeded, or, if applicable, the applicant is completing corrective actions in accordance with applicable department rules; and

c. The applicant is in compliance with the applicable financial assurance requirements.

(d) The department may adopt rules to administer this subsection; however, the provisions of chapter 120 which require a statement of estimated regulatory cost and legislative ratification do not apply to such rulemaking, and the department is not required to submit the rules to the Environmental Regulation Commission for approval. Notwithstanding the limitations of s. 403.087(6)(a), permit fee caps for solid waste



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management facilities shall be prorated to reflect the extended permit term authorized by this subsection.

Section 20. Subsection (5) is added to section 403.709, Florida Statutes, to read:

403.709 Solid Waste Management Trust Fund; use of waste tire fees.—There is created the Solid Waste Management Trust Fund, to be administered by the department.

(5) A solid waste landfill closure account is created within the Solid Waste Management Trust Fund to provide funding for the closing and long-term care of solid waste management facilities, if:

(a) The facility has or had a department permit to operate;

(b) The permittee provided proof of financial assurance for closure in the form of an insurance certificate;

(c) The facility has been deemed to be abandoned or has been ordered to close by the department; and

(d) Closure will be accomplished in substantial accordance with a closure plan approved by the department.

The department has a reasonable expectation that the insurance company issuing the closure insurance policy will provide or reimburse most or all of the funds required to complete the closing and long-term care of the facility. If the insurance company reimburses the department for the costs of the closing or long-term care of the facility, the department shall deposit the funds into the solid waste landfill closure account.

Section 21. Section 403.7125, Florida Statutes, is amended to read:

403.7125 Financial assurance ~~for closure.~~—



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(1) Each ~~Every~~ owner or operator of a landfill is jointly and severally liable for the improper operation and closure of the landfill, as provided by law. As used in this section, the term "owner or operator" means any owner of record of any interest in land wherein a landfill is or has been located and any person or corporation that owns a majority interest in any other corporation that is the owner or operator of a landfill.

(2) The owner or operator of a landfill owned or operated by a local or state government or the Federal Government shall establish a fee, or a surcharge on existing fees or other appropriate revenue-producing mechanism, to ensure the availability of financial resources for the proper closure of the landfill. However, the disposal of solid waste by persons on their own property, as described in s. 403.707(2), is exempt from this section.

(a) The revenue-producing mechanism must produce revenue at a rate sufficient to generate funds to meet state and federal landfill closure requirements.

(b) The revenue shall be deposited in an interest-bearing escrow account to be held and administered by the owner or operator. The owner or operator shall file with the department an annual audit of the account. The audit shall be conducted by an independent certified public accountant. Failure to collect or report such revenue, except as allowed in subsection (3), is a noncriminal violation punishable by a fine of not more than \$5,000 for each offense. The owner or operator may make expenditures from the account and its accumulated interest only for the purpose of landfill closure and, if such expenditures do not deplete the fund to the detriment of eventual closure, for



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767 planning and construction of resource recovery or landfill
768 facilities. Any moneys remaining in the account after paying for
769 proper and complete closure, as determined by the department,
770 shall, if the owner or operator does not operate a landfill, be
771 deposited by the owner or operator into the general fund or the
772 appropriate solid waste fund of the local government of
773 jurisdiction.

774 (c) The revenue generated under this subsection and any
775 accumulated interest thereon may be applied to the payment of,
776 or pledged as security for, the payment of revenue bonds issued
777 in whole or in part for the purpose of complying with state and
778 federal landfill closure requirements. Such application or
779 pledge may be made directly in the proceedings authorizing such
780 bonds or in an agreement with an insurer of bonds to assure such
781 insurer of additional security therefor.

782 (d) The provisions of s. 212.055 which relate to raising of
783 revenues for landfill closure or long-term maintenance do not
784 relieve a landfill owner or operator from the obligations of
785 this section.

786 (e) The owner or operator of any landfill that had
787 established an escrow account in accordance with this section
788 and the conditions of its permit before ~~prior to~~ January 1,
789 2007, may continue to use that escrow account to provide
790 financial assurance for closure of that landfill, even if that
791 landfill is not owned or operated by a local or state government
792 or the Federal Government.

793 (3) An owner or operator of a landfill owned or operated by
794 a local or state government or by the Federal Government may
795 provide financial assurance to the department in lieu of the



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requirements of subsection (2). An owner or operator of any other landfill, or any other solid waste management facility designated by department rule, shall provide financial assurance to the department for the closure of the facility. Such financial assurance may include surety bonds, certificates of deposit, securities, letters of credit, or other documents showing that the owner or operator has sufficient financial resources to cover, at a minimum, the costs of complying with applicable closure requirements. The owner or operator shall estimate such costs to the satisfaction of the department.

(4) This section does not repeal, limit, or abrogate any other law authorizing local governments to fix, levy, or charge rates, fees, or charges for the purpose of complying with state and federal landfill closure requirements.

(5) The department shall by rule require that the owner or operator of a solid waste management facility that receives waste on or after October 9, 1993, and that is required by department rule to undertake corrective actions for violations of water quality standards provide financial assurance for the cost of completing such corrective actions. The same financial assurance mechanisms that are available for closure costs shall be available for costs associated with undertaking corrective actions.

(6)~~(5)~~ The department shall adopt rules to implement this section.

Section 22. Subsection (12) is added to section 403.814, Florida Statutes, to read:

403.814 General permits; delegation.—

(12) A general permit shall be granted for the



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construction, alteration, and maintenance of a surface water management system serving a total project area of up to 10 acres. The construction of the system may proceed without any agency action by the department or water management district if:

(a) The total project area is less than 10 acres;

(b) The total project area involves less than 2 acres of impervious surface;

(c) The activities will not impact wetlands or other surface waters;

(d) The activities are not conducted in, on, or over wetlands or other surface waters;

(e) Drainage facilities will not include pipes having diameters greater than 24 inches, or the hydraulic equivalent, and will not use pumps in any manner;

(f) The project is not part of a larger common plan, development, or sale;

(g) The project does not cause:

1. Adverse water quantity or flooding impacts to receiving water and adjacent lands;

2. Adverse impacts to existing surface water storage and conveyance capabilities;

3. A violation of state water quality standards; or

4. An adverse impact to the maintenance of surface or ground water levels or surface water flows established pursuant to s. 373.042 or a work of the district established pursuant to s. 373.086; and

(h) The surface water management system design plans are signed and sealed by a Florida-registered professional who attests that the system will perform and function as proposed



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and has been designed in accordance with appropriate, generally
accepted performance standards and scientific principles.

Section 23. Subsection (6) of section 403.853, Florida
Statutes, is amended to read:

403.853 Drinking water standards.—

(6) Upon the request of the owner or operator of a
transient noncommunity water system using groundwater as a
source of supply and serving religious institutions or
businesses, other than restaurants or other public food service
establishments or religious institutions with school or day care
services, ~~and using groundwater as a source of supply~~, the
department, or a local county health department designated by
the department, shall perform a sanitary survey of the facility.
Upon receipt of satisfactory survey results according to
department criteria, the department shall reduce the
requirements of such owner or operator from monitoring and
reporting on a quarterly basis to performing these functions on
an annual basis. Any revised monitoring and reporting schedule
approved by the department under this subsection shall apply
until such time as a violation of applicable state or federal
primary drinking water standards is determined by the system
owner or operator, by the department, or by an agency designated
by the department, after a random or routine sanitary survey.
Certified operators are not required for transient noncommunity
water systems of the type and size covered by this subsection.
Any reports required of such system shall be limited to the
minimum as required by federal law. When not contrary to the
provisions of federal law, the department may, upon request and
by rule, waive additional provisions of state drinking water



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regulations for such systems.

Section 24. Paragraph (a) of subsection (3) and subsections (4), (5), (10), (11), (14), (15), and (18) of section 403.973, Florida Statutes, are amended to read:

403.973 Expedited permitting; amendments to comprehensive plans.—

(3)(a) The secretary shall direct the creation of regional permit action teams for the purpose of expediting review of permit applications and local comprehensive plan amendments submitted by:

1. Businesses creating at least 50 jobs or a commercial or industrial development project that will be occupied by businesses that would individually or collectively create at least 50 jobs; or

2. Businesses creating at least 25 jobs if the project is located in an enterprise zone, or in a county having a population of fewer than 75,000 or in a county having a population of fewer than 125,000 which is contiguous to a county having a population of fewer than 75,000, as determined by the most recent decennial census, residing in incorporated and unincorporated areas of the county.

(4) The regional teams shall be established through the execution of a project-specific memorandum ~~memoranda~~ of agreement developed and executed by the applicant and the secretary, with input solicited from ~~the Department of Economic Opportunity and~~ the respective heads of the Department of Transportation and its district offices, the Department of Agriculture and Consumer Services, the Fish and Wildlife Conservation Commission, appropriate regional planning councils,



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appropriate water management districts, and voluntarily participating municipalities and counties. The memorandum ~~memoranda~~ of agreement should also accommodate participation in this expedited process by other local governments and federal agencies as circumstances warrant.

(5) In order to facilitate local government's option to participate in this expedited review process, the secretary shall, in cooperation with local governments and participating state agencies, create a standard form memorandum of agreement. The standard form of the memorandum of agreement shall be used only if the local government participates in the expedited review process. In the absence of local government participation, only the project-specific memorandum of agreement executed pursuant to subsection (4) applies. A local government shall hold a duly noticed public workshop to review and explain to the public the expedited permitting process and the terms and conditions of the standard form memorandum of agreement.

(10) The memorandum ~~memoranda~~ of agreement may provide for the waiver or modification of procedural rules prescribing forms, fees, procedures, or time limits for the review or processing of permit applications under the jurisdiction of those agencies that are members of the regional permit action team ~~party to the memoranda of agreement~~. Notwithstanding any other provision of law to the contrary, a memorandum of agreement must to the extent feasible provide for proceedings and hearings otherwise held separately ~~by the parties to the memorandum of agreement~~ to be combined into one proceeding or held jointly and at one location. Such waivers or modifications are not authorized ~~shall not be available~~ for permit



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941 applications governed by federally delegated or approved
942 permitting programs, the requirements of which would prohibit,
943 or be inconsistent with, such a waiver or modification.

944 (11) The memorandum ~~standard form for memoranda~~ of
945 agreement must ~~shall~~ include guidelines to be used in working
946 with state, regional, and local permitting authorities.
947 Guidelines may include, but are not limited to, the following:

948 (a) A central contact point for filing permit applications
949 and local comprehensive plan amendments and for obtaining
950 information on permit and local comprehensive plan amendment
951 requirements. ~~+~~

952 (b) Identification of the individual or individuals within
953 each respective agency who will be responsible for processing
954 the expedited permit application or local comprehensive plan
955 amendment for that agency. ~~+~~

956 (c) A mandatory preapplication review process to reduce
957 permitting conflicts by providing guidance to applicants
958 regarding the permits needed from each agency and governmental
959 entity, site planning and development, site suitability and
960 limitations, facility design, and steps the applicant can take
961 to ensure expeditious permit application and local comprehensive
962 plan amendment review. As a part of this process, the first
963 interagency meeting to discuss a project shall be held within 14
964 days after the secretary's determination that the project is
965 eligible for expedited review. Subsequent interagency meetings
966 may be scheduled to accommodate the needs of participating local
967 governments that are unable to meet public notice requirements
968 for executing a memorandum of agreement within this timeframe.
969 This accommodation may not exceed 45 days from the secretary's



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determination that the project is eligible for expedited review.~~†~~

(d) The preparation of a single coordinated project description form and checklist and an agreement by state and regional agencies to reduce the burden on an applicant to provide duplicate information to multiple agencies.~~†~~

(e) Establishment of a process for the adoption and review of any comprehensive plan amendment needed by any certified project within 90 days after the submission of an application for a comprehensive plan amendment. However, the memorandum of agreement may not prevent affected persons as defined in s. 163.3184 from appealing or participating in this expedited plan amendment process and any review or appeals of decisions made under this paragraph.~~† and~~

(f) Additional incentives for an applicant who proposes a project that provides a net ecosystem benefit.

(14) (a) Challenges to state agency action in the expedited permitting process for projects processed under this section are subject to the summary hearing provisions of s. 120.574, except that the administrative law judge's decision, as provided in s. 120.574(2) (f), shall be in the form of a recommended order and do not constitute the final action of the state agency. In those proceedings where the action of only one agency of the state other than the Department of Environmental Protection is challenged, the agency of the state shall issue the final order within 45 working days after receipt of the administrative law judge's recommended order, and the recommended order shall inform the parties of their right to file exceptions or responses to the recommended order in accordance with the



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999 uniform rules of procedure pursuant to s. 120.54. In those
1000 proceedings where the actions of more than one agency of the
1001 state are challenged, the Governor shall issue the final order
1002 within 45 working days after receipt of the administrative law
1003 judge's recommended order, and the recommended order shall
1004 inform the parties of their right to file exceptions or
1005 responses to the recommended order in accordance with the
1006 uniform rules of procedure pursuant to s. 120.54. For This
1007 ~~paragraph does not apply to~~ the issuance of department licenses
1008 required under any federally delegated or approved permit
1009 program. ~~In such instances,~~ the department, and not the
1010 Governor, shall enter the final order. The participating
1011 agencies of the state may opt at the preliminary hearing
1012 conference to allow the administrative law judge's decision to
1013 constitute the final agency action.

1014 (b) Projects identified in paragraph (3)(f) or challenges
1015 to state agency action in the expedited permitting process for
1016 establishment of a state-of-the-art biomedical research
1017 institution and campus in this state by the grantee under s.
1018 288.955 are subject to the same requirements as challenges
1019 brought under paragraph (a), except that, notwithstanding s.
1020 120.574, summary proceedings must be conducted within 30 days
1021 after a party files the motion for summary hearing, regardless
1022 of whether the parties agree to the summary proceeding.

1023 (15) The Department of Economic Opportunity, working with
1024 the agencies providing cooperative assistance and input
1025 regarding the memorandum ~~memoranda~~ of agreement, shall review
1026 sites proposed for the location of facilities that the
1027 Department of Economic Opportunity has certified to be eligible



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for the Innovation Incentive Program under s. 288.1089. Within 20 days after the request for the review by the Department of Economic Opportunity, the agencies shall provide to the Department of Economic Opportunity a statement as to each site's necessary permits under local, state, and federal law and an identification of significant permitting issues, which if unresolved, may result in the denial of an agency permit or approval or any significant delay caused by the permitting process.

(18) The Department of Economic Opportunity, working with the Rural Economic Development Initiative ~~and the agencies participating in the memoranda of agreement~~, shall provide technical assistance in preparing permit applications and local comprehensive plan amendments for counties having a population of fewer than 75,000 residents, or counties having fewer than 125,000 residents which are contiguous to counties having fewer than 75,000 residents. Additional assistance may include, but not be limited to, guidance in land development regulations and permitting processes, working cooperatively with state, regional, and local entities to identify areas within these counties which may be suitable or adaptable for preclearance review of specified types of land uses and other activities requiring permits.

Section 25. Subsection (1) of section 526.203, Florida Statutes, is amended, and subsection (5) is added to that section, to read:

526.203 Renewable fuel standard.—

(1) DEFINITIONS.—As used in this act:

(a) "Blender," "importer," "terminal supplier," and



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"wholesaler" are defined as provided in s. 206.01.

(b) "Blended gasoline" means a mixture of 90 to 91 percent gasoline and 9 to 10 percent fuel ethanol or other renewable fuel, by volume, which ~~that~~ meets the specifications as adopted by the department. The fuel ethanol portion may be derived from any agricultural source.

(c) "Fuel ethanol" means an anhydrous denatured alcohol produced by the conversion of carbohydrates that meets the specifications as adopted by the department.

(d) "Renewable fuel" means a fuel produced from renewable biomass which is used to replace or reduce the quantity of fossil fuel present in a transportation fuel.

(e) ~~(d)~~ "Unblended gasoline" means gasoline that has not been blended with fuel ethanol and that meets the specifications as adopted by the department.

(5) SALE OF UNBLENDED FUELS.—This section does not prohibit the sale of unblended fuels for the uses exempted under subsection (3).

Section 26. This act shall take effect July 1, 2012.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to environmental regulation; amending
s. 125.022, F.S.; prohibiting a county from requiring
an applicant to obtain a permit or approval from any
state or federal agency as a condition of processing a



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development permit under certain conditions;
authorizing a county to attach certain disclaimers to
the issuance of a development permit; amending s.
166.033, F.S.; prohibiting a municipality from
requiring an applicant to obtain a permit or approval
from any state or federal agency as a condition of
processing a development permit under certain
conditions; authorizing a municipality to attach
certain disclaimers to the issuance of a development
permit; amending s. 218.075, F.S.; providing for the
reduction or waiver of permit processing fees relating
to projects that serve a public purpose for certain
entities created by special act, local ordinance, or
interlocal agreement; amending s. 258.397, F.S.;
providing an exemption from a showing of extreme
hardship relating to the sale, transfer, or lease of
sovereignty submerged lands in the Biscayne Bay
Aquatic Preserve for certain municipal applicants;
providing for additional dredging and filling
activities in the preserve; amending s. 339.63, F.S.;
providing exceptions to criteria required for system
facilities designated under the Strategic Intermodal
System; amending s. 373.026, F.S.; requiring the
Department of Environmental Protection to expand its
use of Internet-based self-certification services for
exemptions and permits issued by the department and
water management districts; amending s. 373.306, F.S.;
exempting underground injection control wells from
certain rules; amending s. 373.4141, F.S.; reducing



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1115 the time within which a permit must be approved,
1116 denied, or subject to notice of proposed agency
1117 action; prohibiting a state agency or an agency of the
1118 state from requiring additional permits or approval
1119 from a local, state, or federal agency without
1120 explicit authority; amending s. 373.4144, F.S.;
1121 providing legislative intent with respect to the
1122 coordination of regulatory duties among specified
1123 state and federal agencies; encouraging expanded use
1124 of the state programmatic general permit or regional
1125 general permits; providing for a voluntary state
1126 programmatic general permit for certain dredge and
1127 fill activities; amending s. 373.441, F.S.; requiring
1128 that certain counties or municipalities apply by a
1129 specified date to the department or water management
1130 district for authority to require certain permits;
1131 providing that following such delegation, the
1132 department or district may not regulate activities
1133 that are subject to the delegation; clarifying the
1134 authority of local governments to adopt pollution
1135 control programs under certain conditions; providing
1136 applicability with respect to solid mineral mining;
1137 amending s. 376.3071, F.S.; exempting program
1138 deductibles, copayments, and certain assessment report
1139 requirements from expenditures under the low-scored
1140 site initiative; amending s. 376.30715, F.S.;
1141 providing that the transfer of a contaminated site
1142 from an owner to a child of the owner or corporate
1143 entity does not disqualify the site from the innocent



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victim petroleum storage system restoration financial assistance program; authorizing certain applicants to reapply for financial assistance; amending s. 380.0657, F.S.; authorizing expedited permitting for certain inland multimodal facilities; amending s. 381.0065, F.S.; limiting applicability of the onsite sewage treatment and disposal system evaluation and assessment program; amending s. 403.061, F.S.; requiring the department to establish reasonable zones of mixing for discharges into specified waters; providing that certain groundwater standards that are exceeded do not create liability for site cleanup; providing that certain soil cleanup target levels that are exceeded are not a basis for enforcement or cleanup; amending s. 403.087, F.S.; revising conditions under which the department is authorized to revoke permits for sources of air and water pollution; amending s. 403.1838, F.S.; revising the definition of the term "financially disadvantaged small community" for the purposes of the Small Community Sewer Construction Assistance Act; amending s. 403.7045, F.S.; providing conditions under which sludge from an industrial waste treatment work is not solid waste; amending s. 403.707, F.S.; exempting the disposal of solid waste monitored by certain groundwater monitoring plans from specific authorization; extending the duration of all permits issued to solid waste management facilities that meet specified criteria; providing an exception; providing for



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prorated permit fees; providing applicability;
specifying a permit term for a solid waste management
facility that does not have a leachate control system
meeting the requirements of the department under
certain conditions; authorizing the department to
adopt rules; providing that the department is not
required to submit the rules to the Environmental
Regulation Commission for approval; requiring that
permit fee caps for solid waste management facilities
be prorated to reflect the extended permit term;
amending s. 403.709, F.S.; creating a solid waste
landfill closure account within the Solid Waste
Management Trust Fund to fund the closing and long-
term care of solid waste facilities under certain
circumstances; requiring that the department deposit
funds that are reimbursed into the solid waste
landfill closure account; amending s. 403.7125, F.S.;
requiring that the department require by rule that the
owner or operator of a solid waste management facility
receiving waste after a specified date provide
financial assurance for the cost of completing
corrective action for violations of water quality
standards; amending s. 403.814, F.S.; providing for
issuance of general permits for the construction,
alteration, and maintenance of certain surface water
management systems under certain circumstances;
specifying conditions for the construction of the
system without any action by the department or water
management district; amending s. 403.853, F.S.;



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1202 providing for the department, or a local county health
1203 department designated by the department, to perform
1204 sanitary surveys for certain transient noncommunity
1205 water systems; amending s. 403.973, F.S.; authorizing
1206 expedited permitting for certain commercial or
1207 industrial development projects that individually or
1208 collectively will create a minimum number of jobs;
1209 providing for a project-specific memorandum of
1210 agreement to apply to a project subject to expedited
1211 permitting; clarifying the authority of the department
1212 to enter final orders for the issuance of certain
1213 licenses; revising criteria for the review of certain
1214 sites; amending s. 526.203, F.S.; revising the
1215 definition of the term "blended gasoline"; defining
1216 the term "renewable fuel"; authorizing the sale of
1217 unblended fuels for certain uses; providing an
1218 effective date.



733330

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
01/12/2012	.	
	.	
	.	
	.	

The Committee on Community Affairs (Bennett) recommended the following:

Senate Amendment to Amendment (540764)

Delete line 347
and insert:

400,000 or more as of July 1, 2012, and that implements a local
pollution control



657732

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
01/12/2012	.	
	.	
	.	
	.	

The Committee on Community Affairs (Bennett) recommended the following:

Senate Amendment to Amendment (540764) (with title amendment)

Delete lines 479 - 488.

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

And the title is amended as follows:

Delete lines 1149 - 1151

and insert:

403.061, F.S.;

By Senator Bennett

21-00696-12

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1 A bill to be entitled
 2 An act relating to environmental regulation; amending
 3 s. 125.022, F.S.; prohibiting a county from requiring
 4 an applicant to obtain a permit or approval from any
 5 state or federal agency as a condition of processing a
 6 development permit under certain conditions;
 7 authorizing a county to attach certain disclaimers to
 8 the issuance of a development permit; creating s.
 9 161.032, F.S.; requiring that the Department of
 10 Environmental Protection review an application for
 11 certain permits under the Beach and Shore Preservation
 12 Act and request additional information within a
 13 specified time; requiring that the department proceed
 14 to process the application if the applicant believes
 15 that a request for additional information is not
 16 authorized by law or rule; extending the period for an
 17 applicant to timely submit additional information,
 18 notwithstanding certain provisions of the
 19 Administrative Procedure Act; authorizing the
 20 department to issue such permits in advance of the
 21 issuance of certain authorizations as provided for in
 22 the Endangered Species Act under certain conditions;
 23 amending s. 161.041, F.S.; prohibiting the department
 24 from requiring certain sediment quality specifications
 25 or turbidity standards as a permit condition;
 26 providing legislative intent with respect to
 27 permitting for beach renourishment projects; directing
 28 the department to amend specified rules relating to
 29 permitting for such projects; amending s. 163.3180,

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

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30 F.S.; providing an exemption to the level-of-service
 31 standards adopted under the Strategic Intermodal
 32 System for certain inland multimodal facilities;
 33 specifying project criteria; amending s. 166.033,
 34 F.S.; prohibiting a municipality from requiring an
 35 applicant to obtain a permit or approval from any
 36 state or federal agency as a condition of processing a
 37 development permit under certain conditions;
 38 authorizing a municipality to attach certain
 39 disclaimers to the issuance of a development permit;
 40 amending s. 218.075, F.S.; providing for the reduction
 41 or waiver of permit processing fees relating to
 42 projects that serve a public purpose for certain
 43 entities created by special act, local ordinance, or
 44 interlocal agreement; amending s. 258.397, F.S.;
 45 providing an exemption from a showing of extreme
 46 hardship relating to the sale, transfer, or lease of
 47 sovereignty submerged lands in the Biscayne Bay
 48 Aquatic Preserve for certain municipal applicants;
 49 providing for additional dredging and filling
 50 activities in the preserve; amending s. 373.026, F.S.;
 51 requiring the department to expand its use of
 52 Internet-based self-certification services for
 53 exemptions and permits issued by the department and
 54 water management districts; amending s. 373.4141,
 55 F.S.; reducing the time within which a permit must be
 56 approved, denied, or subject to notice of proposed
 57 agency action; prohibiting a state agency or an agency
 58 of the state from requiring additional permits or

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

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59 approval from a local, state, or federal agency
 60 without explicit authority; amending s. 373.4144,
 61 F.S.; providing legislative intent with respect to the
 62 coordination of regulatory duties among specified
 63 state and federal agencies; encouraging expanded use
 64 of the state programmatic general permit or regional
 65 general permits; providing for a voluntary state
 66 programmatic general permit for certain dredge and
 67 fill activities; amending s. 373.441, F.S.; requiring
 68 that certain counties or municipalities apply by a
 69 specified date to the department or water management
 70 district for authority to require certain permits;
 71 providing that following such delegation, the
 72 department or district may not regulate activities
 73 that are subject to the delegation; clarifying the
 74 authority of local governments to adopt pollution
 75 control programs under certain conditions; providing
 76 applicability with respect to solid mineral mining;
 77 amending s. 376.3071, F.S.; exempting program
 78 deductibles, copayments, and certain assessment report
 79 requirements from expenditures under the low-scored
 80 site initiative; amending s. 376.30715, F.S.;
 81 providing that the transfer of a contaminated site
 82 from an owner to a child of the owner or corporate
 83 entity does not disqualify the site from the innocent
 84 victim petroleum storage system restoration financial
 85 assistance program; authorizing certain applicants to
 86 reapply for financial assistance; amending s.
 87 380.0657, F.S.; authorizing expedited permitting for

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88 certain inland multimodal facilities that individually
 89 or collectively will create a minimum number of jobs;
 90 amending s. 403.061, F.S.; requiring the department to
 91 establish reasonable zones of mixing for discharges
 92 into specified waters; providing that exceedance of
 93 certain groundwater standards does not create
 94 liability for site cleanup; providing that exceedance
 95 of soil cleanup target levels is not a basis for
 96 enforcement or cleanup; amending s. 403.087, F.S.;
 97 revising conditions under which the department is
 98 authorized to revoke permits for sources of air and
 99 water pollution; amending s. 403.1838, F.S.; revising
 100 the definition of the term "financially disadvantaged
 101 small community" for the purposes of the Small
 102 Community Sewer Construction Assistance Act; amending
 103 s. 403.7045, F.S.; providing conditions under which
 104 sludge from an industrial waste treatment works is not
 105 solid waste; amending s. 403.707, F.S.; exempting the
 106 disposal of solid waste monitored by certain
 107 groundwater monitoring plans from specific
 108 authorization; extending the duration of all permits
 109 issued to solid waste management facilities that meet
 110 specified criteria; providing an exception; providing
 111 for prorated permit fees; providing applicability;
 112 amending s. 403.814, F.S.; providing for issuance of
 113 general permits for the construction, alteration, and
 114 maintenance of certain surface water management
 115 systems without the action of the department or a
 116 water management district; specifying conditions for

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117 the general permits; amending s. 403.853, F.S.;
 118 providing for the department, or a local county health
 119 department designated by the department, to perform
 120 sanitary surveys for certain transient noncommunity
 121 water systems; amending s. 403.973, F.S.; authorizing
 122 expedited permitting for certain commercial or
 123 industrial development projects that individually or
 124 collectively will create a minimum number of jobs;
 125 providing for a project-specific memorandum of
 126 agreement to apply to a project subject to expedited
 127 permitting; clarifying the authority of the department
 128 to enter final orders for the issuance of certain
 129 licenses; revising criteria for the review of certain
 130 sites; amending s. 526.203, F.S.; authorizing the sale
 131 of unblended fuels for certain uses; revising the
 132 deadline for completion of the installation of fuel
 133 tank upgrades to secondary containment systems for
 134 specified properties; providing an effective date.

135
 136 Be It Enacted by the Legislature of the State of Florida:

137
 138 Section 1. Section 125.022, Florida Statutes, is amended to
 139 read:

140 125.022 Development permits.—When a county denies an
 141 application for a development permit, the county shall give
 142 written notice to the applicant. The notice must include a
 143 citation to the applicable portions of an ordinance, rule,
 144 statute, or other legal authority for the denial of the permit.
 145 As used in this section, the term “development permit” has the

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146 same meaning as in s. 163.3164. A county may not require as a
 147 condition of processing a development permit that an applicant
 148 obtain a permit or approval from any state or federal agency
 149 unless the agency has issued a notice of intent to deny the
 150 federal or state permit before the county action on the local
 151 development permit. Issuance of a development permit by a county
 152 does not in any way create any rights on the part of the
 153 applicant to obtain a permit from a state or federal agency and
 154 does not create any liability on the part of the county for
 155 issuance of the permit if the applicant fails to fulfill its
 156 legal obligations to obtain requisite approvals or fulfill the
 157 obligations imposed by a state or federal agency. A county may
 158 attach such a disclaimer to the issuance of a development
 159 permit, and may include a permit condition that all other
 160 applicable state or federal permits be obtained before
 161 commencement of the development. This section does not prohibit
 162 a county from providing information to an applicant regarding
 163 what other state or federal permits may apply.

164 Section 2. Section 161.032, Florida Statutes, is created to
 165 read:

166 161.032 Application review; request for additional
 167 information.—

168 (1) Within 30 days after receipt of an application for a
 169 permit under this part, the department shall review the
 170 application and shall request submission of any additional
 171 information the department is permitted by law to require. If
 172 the applicant believes that a request for additional information
 173 is not authorized by law or rule, the applicant may request a
 174 hearing pursuant to s. 120.57. Within 30 days after receipt of

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such additional information, the department shall review the additional information and may request only that information needed to clarify the additional information or to answer new questions raised by or directly related to the additional information. If the applicant believes that the request for additional information by the department is not authorized by law or rule, the department, at the applicant's request, shall proceed to process the permit application.

(2) Notwithstanding s. 120.60, an applicant for a permit under this part has 90 days after the date of a timely request for additional information to submit the information. If an applicant requires more than 90 days in order to respond to a request for additional information, the applicant must notify the agency processing the permit application in writing of the circumstances, at which time the application shall be held in active status for no more than one additional period of up to 90 days. Additional extensions may be granted for good cause shown by the applicant. A showing that the applicant is making a diligent effort to obtain the requested additional information constitutes good cause. Failure of an applicant to provide the timely requested information by the applicable deadline shall result in denial of the application without prejudice.

(3) Notwithstanding any other provision of law, the department may issue a permit pursuant to this part in advance of the issuance of any incidental take authorization as provided for in the Endangered Species Act and its implementing regulations if the permit and authorization include a condition that authorized activities may not begin until the incidental take authorization is issued.

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Section 3. Subsections (5) and (6) are added to section 161.041, Florida Statutes, to read:

161.041 Permits required.—

(5) The department may not require as a permit condition sediment quality specifications or turbidity standards more stringent than those provided for in this chapter, chapter 373, or the Florida Administrative Code. The department may not issue guidelines that are enforceable as standards without going through the rulemaking process pursuant to chapter 120.

(6) As an incentive for permit applicants, it is the Legislature's intent to simplify the permitting for periodic maintenance of beach renourishment projects previously permitted and restored under the joint coastal permit process pursuant to this section or part IV of chapter 373. The department shall amend chapters 62B-41 and 62B-49 of the Florida Administrative Code to streamline the permitting process, as necessary, for periodic maintenance projects.

Section 4. Subsection (7) is added to section 163.3180, Florida Statutes, to read:

163.3180 Concurrency.—

(7) There shall be a limited exemption from the Strategic Intermodal System adopted level-of-service standards for new or redevelopment projects consistent with the local comprehensive plan as inland multimodal facilities receiving or sending cargo for distribution and providing cargo storage, consolidation, repackaging, and transfer of goods, and which may, if developed as proposed, include other intermodal terminals, related transportation facilities, warehousing and distribution facilities, and associated office space, light industrial,

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manufacturing, and assembly uses. The limited exemption applies if the project meets all of the following criteria:

(a) The project will not cause the adopted level-of-service standards for the Strategic Intermodal System facilities to be exceeded by more than 150 percent within the first 5 years of the project's development.

(b) The project, upon completion, would result in the creation of at least 50 full-time jobs.

(c) The project is compatible with existing and planned adjacent land uses.

(d) The project is consistent with local and regional economic development goals or plans.

(e) The project is proximate to regionally significant road and rail transportation facilities.

(f) The project is proximate to a community having an unemployment rate, as of the date of the development order application, which is 10 percent or more above the statewide reported average.

(g) The local government has a plan, developed in consultation with the Department of Transportation, for mitigating any impacts to the strategic intermodal system.

Section 5. Section 166.033, Florida Statutes, is amended to read:

166.033 Development permits.—When a municipality denies an application for a development permit, the municipality shall give written notice to the applicant. The notice must include a citation to the applicable portions of an ordinance, rule, statute, or other legal authority for the denial of the permit. As used in this section, the term "development permit" has the

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same meaning as in s. 163.3164. A municipality may not require as a condition of processing a development permit that an applicant obtain a permit or approval from any state or federal agency unless the agency has issued a notice of intent to deny the federal or state permit before the municipal action on the local development permit. Issuance of a development permit by a municipality does not in any way create any right on the part of an applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the municipality for issuance of the permit if the applicant fails to fulfill its legal obligations to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency. A municipality may attach such a disclaimer to the issuance of development permits and may include a permit condition that all other applicable state or federal permits be obtained before commencement of the development. This section does not prohibit a municipality from providing information to an applicant regarding what other state or federal permits may apply.

Section 6. Section 218.075, Florida Statutes, is amended to read:

218.075 Reduction or waiver of permit processing fees.—Notwithstanding any other provision of law, the Department of Environmental Protection and the water management districts shall reduce or waive permit processing fees for counties with a population of 50,000 or less on April 1, 1994, until such counties exceed a population of 75,000 and municipalities with a population of 25,000 or less, or for an entity created by special act, local ordinance, or interlocal agreement of such counties or municipalities, or for any county or municipality

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not included within a metropolitan statistical area. Fee reductions or waivers shall be approved on the basis of fiscal hardship or environmental need for a particular project or activity. The governing body must certify that the cost of the permit processing fee is a fiscal hardship due to one of the following factors:

(1) Per capita taxable value is less than the statewide average for the current fiscal year;

(2) Percentage of assessed property value that is exempt from ad valorem taxation is higher than the statewide average for the current fiscal year;

(3) Any condition specified in s. 218.503(1) which results in the county or municipality being in a state of financial emergency;

(4) Ad valorem operating millage rate for the current fiscal year is greater than 8 mills; or

(5) A financial condition that is documented in annual financial statements at the end of the current fiscal year and indicates an inability to pay the permit processing fee during that fiscal year.

The permit applicant must be the governing body of a county or municipality or a third party under contract with a county or municipality or an entity created by special act, local ordinance, or interlocal agreement and the project for which the fee reduction or waiver is sought must serve a public purpose. If a permit processing fee is reduced, the total fee shall not exceed \$100.

Section 7. Paragraphs (a) and (b) of subsection (3) of

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section 258.397, Florida Statutes, are amended to read:

258.397 Biscayne Bay Aquatic Preserve.—

(3) AUTHORITY OF TRUSTEES.—The Board of Trustees of the Internal Improvement Trust Fund is authorized and directed to maintain the aquatic preserve hereby created pursuant and subject to the following provisions:

(a) ~~No further~~ Sale, transfer, or lease of sovereignty submerged lands in the preserve may not ~~shall~~ be approved or consummated by the board of trustees, except upon a showing of extreme hardship on the part of the applicant and a determination by the board of trustees that such sale, transfer, or lease is in the public interest. A municipal applicant proposing a project under paragraph (b) is exempt from showing extreme hardship.

(b) ~~No further~~ Dredging or filling of submerged lands of the preserve may not ~~shall~~ be approved or tolerated by the board of trustees except:

1. Such minimum dredging and spoiling as may be authorized for public navigation projects or for such minimum dredging and spoiling as may be constituted as a public necessity or for preservation of the bay according to the expressed intent of this section.

2. Such other alteration of physical conditions, including the placement of riprap, as may be necessary to enhance the quality and utility of the preserve.

3. Such minimum dredging and filling as may be authorized for the creation and maintenance of marinas, piers, and docks and their attendant navigation channels and access roads. Such projects may ~~only~~ be authorized only upon a specific finding by

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the board of trustees that there is assurance that the project will be constructed and operated in a manner that will not adversely affect the water quality and utility of the preserve. This subparagraph ~~does shall~~ not authorize the connection of upland canals to the waters of the preserve.

4. Such dredging as is necessary for the purpose of eliminating conditions hazardous to the public health or for the purpose of eliminating stagnant waters, islands, and spoil banks, the dredging of which would enhance the aesthetic and environmental quality and utility of the preserve and be clearly in the public interest as determined by the board of trustees.

5. Such dredging and filling as is necessary for the creation of public waterfront promenades.

Any dredging or filling under this subsection or improvements under subsection (5) may ~~shall~~ be approved only after public notice as provided by s. 253.115.

Section 8. Subsection (10) is added to section 373.026, Florida Statutes, to read:

373.026 General powers and duties of the department.—The department, or its successor agency, shall be responsible for the administration of this chapter at the state level. However, it is the policy of the state that, to the greatest extent possible, the department may enter into interagency or interlocal agreements with any other state agency, any water management district, or any local government conducting programs related to or materially affecting the water resources of the state. All such agreements shall be subject to the provisions of s. 373.046. In addition to its other powers and duties, the

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department shall, to the greatest extent possible:

(10) Expand the use of Internet-based self-certification services for appropriate exemptions and general permits issued by the department and the water management districts, if such expansion is economically feasible. In addition to expanding the use of Internet-based self-certification services for appropriate exemptions and general permits, the department and water management districts shall identify and develop general permits for appropriate activities currently requiring individual review which could be expedited through the use of applicable professional certification.

Section 9. Subsection (2) of section 373.4141, Florida Statutes, is amended, and subsection (4) is added to that section, to read:

373.4141 Permits; processing.—

(2) A permit shall be approved, ~~or~~ denied, or subject to a notice of proposed agency action within 60 ~~90~~ days after receipt of the original application, the last item of timely requested additional material, or the applicant's written request to begin processing the permit application.

(4) A state agency or an agency of the state may not require as a condition of approval for a permit or as an item to complete a pending permit application that an applicant obtain a permit or approval from any other local, state, or federal agency without explicit statutory authority to require such permit or approval.

Section 10. Section 373.4144, Florida Statutes, is amended to read:

373.4144 Federal environmental permitting.—

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(1) It is the intent of the Legislature to:

(a) Facilitate coordination and a more efficient process of implementing regulatory duties and functions between the Department of Environmental Protection, the water management districts, the United States Army Corps of Engineers, the United States Fish and Wildlife Service, the National Marine Fisheries Service, the United States Environmental Protection Agency, the Fish and Wildlife Conservation Commission, and other relevant federal and state agencies.

(b) Authorize the Department of Environmental Protection to obtain issuance by the United States Army Corps of Engineers, pursuant to state and federal law and as set forth in this section, of an expanded state programmatic general permit, or a series of regional general permits, for categories of activities in waters of the United States governed by the Clean Water Act and in navigable waters under the Rivers and Harbors Act of 1899 which are similar in nature, which will cause only minimal adverse environmental effects when performed separately, and which will have only minimal cumulative adverse effects on the environment.

(c) Use the mechanism of such a state general permit or such regional general permits to eliminate overlapping federal regulations and state rules that seek to protect the same resource and to avoid duplication of permitting between the United States Army Corps of Engineers and the department for minor work located in waters of the United States, including navigable waters, thus eliminating, in appropriate cases, the need for a separate individual approval from the United States Army Corps of Engineers while ensuring the most stringent

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protection of wetland resources.

(d) Direct the department not to seek issuance of or take any action pursuant to any such permit or permits unless such conditions are at least as protective of the environment and natural resources as existing state law under this part and federal law under the Clean Water Act and the Rivers and Harbors Act of 1899. The department is directed to develop, on or before October 1, 2005, a mechanism or plan to consolidate, to the maximum extent practicable, the federal and state wetland permitting programs. It is the intent of the Legislature that all dredge and fill activities impacting 10 acres or less of wetlands or waters, including navigable waters, be processed by the state as part of the environmental resource permitting program implemented by the department and the water management districts. The resulting mechanism or plan shall analyze and propose the development of an expanded state programmatic general permit program in conjunction with the United States Army Corps of Engineers pursuant to s. 404 of the Clean Water Act, Pub. L. No. 92-500, as amended, 33 U.S.C. ss. 1251 et seq., and s. 10 of the Rivers and Harbors Act of 1899. Alternatively, or in combination with an expanded state programmatic general permit, the mechanism or plan may propose the creation of a series of regional general permits issued by the United States Army Corps of Engineers pursuant to the referenced statutes. All of the regional general permits must be administered by the department or the water management districts or their designees.

(2) In order to effectuate efficient wetland permitting and avoid duplication, the department and water management districts are authorized to implement a voluntary state programmatic

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general permit for all dredge and fill activities impacting 3
acres or less of wetlands or other surface waters, including
navigable waters, subject to agreement with the United States
Army Corps of Engineers, if the general permit is at least as
protective of the environment and natural resources as existing
state law under this part and federal law under the Clean Water
Act and the Rivers and Harbors Act of 1899. The department is
directed to file with the Speaker of the House of
Representatives and the President of the Senate a report
proposing any required federal and state statutory changes that
would be necessary to accomplish the directives listed in this
section and to coordinate with the Florida Congressional
Delegation on any necessary changes to federal law to implement
the directives.

(3) ~~Nothing in~~ This section may not ~~shall~~ be construed to
 preclude the department from pursuing a series of regional
general permits for construction activities in wetlands or
surface waters or complete assumption of federal permitting
programs regulating the discharge of dredged or fill material
pursuant to s. 404 of the Clean Water Act, Pub. L. No. 92-500,
as amended, 33 U.S.C. ss. 1251 et seq., and s. 10 of the Rivers
and Harbors Act of 1899, so long as the assumption encompasses
all dredge and fill activities in, on, or over jurisdictional
wetlands or waters, including navigable waters, within the
state.

Section 11. Present subsections (3), (4), and (5) of
 section 373.441, Florida Statutes, are renumbered as subsections
 (7), (8), and (9), respectively, and new subsections (3), (4),
 (5), and (6) are added to that section to read:

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373.441 Role of counties, municipalities, and local
 pollution control programs in permit processing; delegation.-

(3) A county or municipality having a population of 400,000
or more that implements a local pollution control program
regulating all or a portion of the wetlands or surface waters
throughout its geographic boundary must apply for delegation of
state environmental resource permitting authority on or before
January 1, 2014. If such a county or municipality fails to
receive delegation of all or a portion of state environmental
resource permitting authority within 2 years after submitting
its application for delegation or by January 1, 2016, at the
latest, it may not require permits that in part or in full are
substantially similar to the requirements needed to obtain an
environmental resource permit. A county or municipality that has
received delegation before January 1, 2014, does not need to
reapply.

(4) The department is responsible for all delegations of
state environmental resource permitting authority to local
governments. The department must grant or deny an application
for delegation submitted by a county or municipality that meets
the criteria in subsection (3) within 2 years after the receipt
of the application. If an application for delegation is denied,
any available legal challenge to such denial shall toll the
preemption deadline until resolution of the legal challenge.
Upon delegation to a qualified local government, the department
and water management district may not regulate the activities
subject to the delegation within that jurisdiction.

(5) This section does not prohibit or limit a local
government that meets the criteria in subsection (3) from

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regulating wetlands or surface waters after January 1, 2014, if the local government receives delegation of all or a portion of state environmental resource permitting authority within 2 years after submitting its application for delegation.

(6) Notwithstanding subsections (3), (4), and (5), this section does not apply to environmental resource permitting or reclamation applications for solid mineral mining and does not prohibit the application of local government regulations to any new solid mineral mine or any proposed addition to, change to, or expansion of an existing solid mineral mine.

Section 12. Paragraph (b) of subsection (11) of section 376.3071, Florida Statutes, is amended to read:

376.3071 Inland Protection Trust Fund; creation; purposes; funding.—

(11)

(b) *Low-scored site initiative.*—Notwithstanding s. 376.30711, any site with a priority ranking score of 10 points or less may voluntarily participate in the low-scored site initiative, whether or not the site is eligible for state restoration funding.

1. To participate in the low-scored site initiative, the responsible party or property owner must affirmatively demonstrate that the following conditions are met:

a. Upon reassessment pursuant to department rule, the site retains a priority ranking score of 10 points or less.

b. No excessively contaminated soil, as defined by department rule, exists onsite as a result of a release of petroleum products.

c. A minimum of 6 months of groundwater monitoring

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indicates that the plume is shrinking or stable.

d. The release of petroleum products at the site does not adversely affect adjacent surface waters, including their effects on human health and the environment.

e. The area of groundwater containing the petroleum products' chemicals of concern is less than one-quarter acre and is confined to the source property boundaries of the real property on which the discharge originated.

f. Soils onsite that are subject to human exposure found between land surface and 2 feet below land surface meet the soil cleanup target levels established by department rule or human exposure is limited by appropriate institutional or engineering controls.

2. Upon affirmative demonstration of the conditions under subparagraph 1., the department shall issue a determination of "No Further Action." Such determination acknowledges that minimal contamination exists onsite and that such contamination is not a threat to human health or the environment. If no contamination is detected, the department may issue a site rehabilitation completion order.

3. Sites that are eligible for state restoration funding may receive payment of preapproved costs for the low-scored site initiative as follows:

a. A responsible party or property owner may submit an assessment plan designed to affirmatively demonstrate that the site meets the conditions under subparagraph 1. Notwithstanding the priority ranking score of the site, the department may preapprove the cost of the assessment pursuant to s. 376.30711, including 6 months of groundwater monitoring, not to exceed

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581 \$30,000 for each site. The department may not pay the costs
582 associated with the establishment of institutional or
583 engineering controls.

584 b. The assessment work shall be completed no later than 6
585 months after the department issues its approval.

586 c. No more than \$10 million for the low-scored site
587 initiative may ~~shall~~ be encumbered from the Inland Protection
588 Trust Fund in any fiscal year. Funds shall be made available on
589 a first-come, first-served basis and shall be limited to 10
590 sites in each fiscal year for each responsible party or property
591 owner.

592 d. Program deductibles, copayments, and the limited
593 contamination assessment report requirements under paragraph
594 (13)(c) do not apply to expenditures under this paragraph.

595 Section 13. Section 376.30715, Florida Statutes, is amended
596 to read:

597 376.30715 Innocent victim petroleum storage system
598 restoration.—A contaminated site acquired by the current owner
599 prior to July 1, 1990, which has ceased operating as a petroleum
600 storage or retail business prior to January 1, 1985, is eligible
601 for financial assistance pursuant to s. 376.305(6),
602 notwithstanding s. 376.305(6)(a). For purposes of this section,
603 the term “acquired” means the acquisition of title to the
604 property; however, a subsequent transfer of the property to a
605 spouse or child of the owner, a surviving spouse or child of the
606 owner in trust or free of trust, ~~or~~ a revocable trust created
607 for the benefit of the settlor, or a corporate entity created by
608 the owner to hold title to the site does not disqualify the site
609 from financial assistance pursuant to s. 376.305(6) and

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610 applicants previously denied coverage may reapply. Eligible
611 sites shall be ranked in accordance with s. 376.3071(5).

612 Section 14. Subsection (1) of section 380.0657, Florida
613 Statutes, is amended to read:

614 380.0657 Expedited permitting process for economic
615 development projects.—

616 (1) The Department of Environmental Protection and, as
617 appropriate, the water management districts created under
618 chapter 373 shall adopt programs to expedite the processing of
619 wetland resource and environmental resource permits for economic
620 development projects that have been identified by a municipality
621 or county as meeting the definition of target industry
622 businesses under s. 288.106, or any inland multimodal facility
623 receiving or sending cargo to or from Florida ports, with the
624 exception of those projects requiring approval by the Board of
625 Trustees of the Internal Improvement Trust Fund.

626 Section 15. Subsection (11) of section 403.061, Florida
627 Statutes, is amended to read:

628 403.061 Department; powers and duties.—The department shall
629 have the power and the duty to control and prohibit pollution of
630 air and water in accordance with the law and rules adopted and
631 promulgated by it and, for this purpose, to:

632 (11) Establish ambient air quality and water quality
633 standards for the state as a whole or for any part thereof, and
634 also standards for the abatement of excessive and unnecessary
635 noise. The department is authorized to establish reasonable
636 zones of mixing for discharges into waters. For existing
637 installations as defined by rule 62-520.200(10), Florida
638 Administrative Code, effective July 12, 2009, zones of discharge

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to groundwater are authorized to a facility's or owner's property boundary and extending to the base of a specifically designated aquifer or aquifers. Exceedance of primary and secondary groundwater standards that occur within a zone of discharge does not create liability pursuant to this chapter or chapter 376 for site cleanup, and the exceedance of soil cleanup target levels is not a basis for enforcement or site cleanup.

(a) When a receiving body of water fails to meet a water quality standard for pollutants set forth in department rules, a steam electric generating plant discharge of pollutants that is existing or licensed under this chapter on July 1, 1984, may nevertheless be granted a mixing zone, provided that:

1. The standard would not be met in the water body in the absence of the discharge;

2. The discharge is in compliance with all applicable technology-based effluent limitations;

3. The discharge does not cause a measurable increase in the degree of noncompliance with the standard at the boundary of the mixing zone; and

4. The discharge otherwise complies with the mixing zone provisions specified in department rules.

(b) ~~No Mixing zones zone~~ for point source discharges are not ~~shall be~~ permitted in Outstanding Florida Waters except for:

1. Sources that have received permits from the department prior to April 1, 1982, or the date of designation, whichever is later;

2. Blowdown from new power plants certified pursuant to the Florida Electrical Power Plant Siting Act;

3. Discharges of water necessary for water management

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purposes which have been approved by the governing board of a water management district and, if required by law, by the secretary; and

4. The discharge of demineralization concentrate which has been determined permittable under s. 403.0882 and which meets the specific provisions of s. 403.0882(4)(a) and (b), if the proposed discharge is clearly in the public interest.

(c) The department, by rule, shall establish water quality criteria for wetlands which criteria give appropriate recognition to the water quality of such wetlands in their natural state.

~~Nothing in~~ This act may not be ~~shall~~ be construed to invalidate any existing department rule relating to mixing zones. The department shall cooperate with the Department of Highway Safety and Motor Vehicles in the development of regulations required by s. 316.272(1).

The department shall implement such programs in conjunction with its other powers and duties and shall place special emphasis on reducing and eliminating contamination that presents a threat to humans, animals or plants, or to the environment.

Section 16. Subsection (7) of section 403.087, Florida Statutes, is amended to read:

403.087 Permits; general issuance; denial; revocation; prohibition; penalty.—

(7) A permit issued pursuant to this section does ~~shall~~ not become a vested right in the permittee. The department may revoke any permit issued by it if it finds that the permitholder

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697 has:

698 (a) ~~Has~~ Submitted false or inaccurate information in the
 699 ~~his or her~~ application for the permit;

700 (b) ~~Has~~ Violated law, department orders, rules, ~~or~~
 701 ~~regulations~~, or permit conditions;

702 (c) ~~Has~~ Failed to submit operational reports or other
 703 information required by department rule which directly relate to
 704 the permit and has refused to correct or cure such violations
 705 when requested to do so ~~or regulation~~; or

706 (d) ~~Has~~ Refused lawful inspection under s. 403.091 at the
 707 facility authorized by the permit.

708 Section 17. Subsection (2) of section 403.1838, Florida
 709 Statutes, is amended to read:

710 403.1838 Small Community Sewer Construction Assistance
 711 Act.—

712 (2) The department shall use funds specifically
 713 appropriated to award grants under this section to assist
 714 financially disadvantaged small communities with their needs for
 715 adequate sewer facilities. For purposes of this section, the
 716 term "financially disadvantaged small community" means a
 717 municipality that has with a population of 10,000 ~~7,500~~ or fewer
 718 ~~less~~, according to the latest decennial census and a per capita
 719 annual income less than the state per capita annual income as
 720 determined by the United States Department of Commerce.

721 Section 18. Paragraph (f) of subsection (1) of section
 722 403.7045, Florida Statutes, is amended to read:

723 403.7045 Application of act and integration with other
 724 acts.—

725 (1) The following wastes or activities shall not be

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726 regulated pursuant to this act:

727 (f) Industrial byproducts, if:

728 1. A majority of the industrial byproducts are demonstrated
 729 to be sold, used, or reused within 1 year.

730 2. The industrial byproducts are not discharged, deposited,
 731 injected, dumped, spilled, leaked, or placed upon any land or
 732 water so that such industrial byproducts, or any constituent
 733 thereof, may enter other lands or be emitted into the air or
 734 discharged into any waters, including groundwaters, or otherwise
 735 enter the environment such that a threat of contamination in
 736 excess of applicable department standards and criteria or a
 737 significant threat to public health is caused.

738 3. The industrial byproducts are not hazardous wastes as
 739 defined under s. 403.703 and rules adopted under this section.

740
 741 Sludge from an industrial waste treatment works that meets the
 742 exemption requirements of this paragraph is not solid waste as
 743 defined in s. 403.703(32).

744 Section 19. Subsections (2) and (3) of section 403.707,
 745 Florida Statutes, are amended to read:

746 403.707 Permits.—

747 (2) Except as provided in s. 403.722(6), a permit under
 748 this section is not required for the following, ~~if the activity~~
 749 ~~does not create a public nuisance or any condition adversely~~
 750 ~~affecting the environment or public health and does not violate~~
 751 ~~other state or local laws, ordinances, rules, regulations, or~~
 752 ~~orders~~:

753 (a) Disposal by persons of solid waste resulting from their
 754 own activities on their own property, if such waste is ordinary

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household waste from their residential property or is rocks, soils, trees, tree remains, and other vegetative matter that normally result from land development operations. Disposal of materials that could create a public nuisance or adversely affect the environment or public health, such as white goods; automotive materials, such as batteries and tires; petroleum products; pesticides; solvents; or hazardous substances, is not covered under this exemption.

(b) Storage in containers by persons of solid waste resulting from their own activities on their property, leased or rented property, or property subject to a homeowners' homeowners or maintenance association for which the person contributes association assessments, if the solid waste in such containers is collected at least once a week.

(c) Disposal by persons of solid waste resulting from their own activities on their property, if the environmental effects of such disposal on groundwater and surface waters are:

1. Addressed or authorized by a site certification order issued under part II or a permit issued by the department under this chapter or rules adopted pursuant to this chapter; or

2. Addressed or authorized by, or exempted from the requirement to obtain, a groundwater monitoring plan approved by the department. If a facility has a permit authorizing disposal activity, new areas where solid waste is being disposed of which are monitored by an existing or modified groundwater monitoring plan are not required to be specifically authorized in a permit or other certification.

(d) Disposal by persons of solid waste resulting from their own activities on their own property, if such disposal occurred

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prior to October 1, 1988.

(e) Disposal of solid waste resulting from normal farming operations as defined by department rule. Polyethylene agricultural plastic, damaged, nonsalvageable, untreated wood pallets, and packing material that cannot be feasibly recycled, which are used in connection with agricultural operations related to the growing, harvesting, or maintenance of crops, may be disposed of by open burning if a public nuisance or any condition adversely affecting the environment or the public health is not created by the open burning and state or federal ambient air quality standards are not violated.

(f) The use of clean debris as fill material in any area. However, this paragraph does not exempt any person from obtaining any other required permits, and does not affect a person's responsibility to dispose of clean debris appropriately if it is not to be used as fill material.

(g) Compost operations that produce less than 50 cubic yards of compost per year when the compost produced is used on the property where the compost operation is located.

(3) (a) All applicable provisions of ss. 403.087 and 403.088, relating to permits, apply to the control of solid waste management facilities.

(b) Any permit issued to a solid waste management facility that is designed with a leachate control system that meets department requirements shall be issued for a term of 20 years unless the applicant requests a lesser permit term. Existing permit fees for qualifying solid waste management facilities shall be prorated to the permit term authorized by this section. This paragraph applies to all qualifying solid waste management

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813 facilities that apply for an operating or construction permit or
 814 renew an existing operating or construction permit on or after
 815 July 1, 2012.

816 Section 20. Subsection (12) is added to section 403.814,
 817 Florida Statutes, to read:

818 403.814 General permits; delegation.—

819 (12) A general permit shall be granted for the
 820 construction, alteration, and maintenance of a surface water
 821 management system serving a total project area of up to 10
 822 acres. The construction of such a system may proceed without any
 823 agency action by the department or water management district if:

824 (a) The total project area is less than 10 acres;

825 (b) The total project area involves less than 2 acres of
 826 impervious surface;

827 (c) No activities will impact wetlands or other surface
 828 waters;

829 (d) No activities are conducted in, on, or over wetlands or
 830 other surface waters;

831 (e) Drainage facilities will not include pipes having
 832 diameters greater than 24 inches, or the hydraulic equivalent,
 833 and will not use pumps in any manner;

834 (f) The project is not part of a larger common plan,
 835 development, or sale;

836 (g) The project does not:

837 1. Cause adverse water quantity or flooding impacts to
 838 receiving water and adjacent lands;

839 2. Cause adverse impacts to existing surface water storage
 840 and conveyance capabilities;

841 3. Cause a violation of state water quality standards; or

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842 4. Cause an adverse impact to the maintenance of surface or
 843 ground water levels or surface water flows established pursuant
 844 to s. 373.042 or a work of the district established pursuant to
 845 s. 373.086; and

846 (h) The surface water management system design plans are
 847 signed and sealed by a Florida registered professional who
 848 attests that the system will perform and function as proposed
 849 and has been designed in accordance with appropriate, generally
 850 accepted performance standards and scientific principles.

851 Section 21. Subsection (6) of section 403.853, Florida
 852 Statutes, is amended to read:

853 403.853 Drinking water standards.—

854 (6) Upon the request of the owner or operator of a
 855 transient noncommunity water system using groundwater as a
 856 source of supply and serving religious institutions or
 857 businesses, other than restaurants or other public food service
 858 establishments or religious institutions with school or day care
 859 services, and using groundwater as a source of supply, the
 860 department, or a local county health department designated by
 861 the department, shall perform a sanitary survey of the facility.
 862 Upon receipt of satisfactory survey results according to
 863 department criteria, the department shall reduce the
 864 requirements of such owner or operator from monitoring and
 865 reporting on a quarterly basis to performing these functions on
 866 an annual basis. Any revised monitoring and reporting schedule
 867 approved by the department under this subsection shall apply
 868 until such time as a violation of applicable state or federal
 869 primary drinking water standards is determined by the system
 870 owner or operator, by the department, or by an agency designated

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 871 by the department, after a random or routine sanitary survey.
 872 Certified operators are not required for transient noncommunity
 873 water systems of the type and size covered by this subsection.
 874 Any reports required of such system shall be limited to the
 875 minimum as required by federal law. When not contrary to the
 876 provisions of federal law, the department may, upon request and
 877 by rule, waive additional provisions of state drinking water
 878 regulations for such systems.

879 Section 22. Paragraph (a) of subsection (3) and subsections
 880 (4), (5), (10), (11), (14), (15), and (18) of section 403.973,
 881 Florida Statutes, are amended to read:

882 403.973 Expedited permitting; amendments to comprehensive
 883 plans.—

884 (3)(a) The secretary shall direct the creation of regional
 885 permit action teams for the purpose of expediting review of
 886 permit applications and local comprehensive plan amendments
 887 submitted by:

888 1. Businesses creating at least 50 jobs or a commercial or
 889 industrial development project that will be occupied by
 890 businesses that would individually or collectively create at
 891 least 50 jobs; or

892 2. Businesses creating at least 25 jobs if the project is
 893 located in an enterprise zone, or in a county having a
 894 population of fewer than 75,000 or in a county having a
 895 population of fewer than 125,000 which is contiguous to a county
 896 having a population of fewer than 75,000, as determined by the
 897 most recent decennial census, residing in incorporated and
 898 unincorporated areas of the county.

899 (4) The regional teams shall be established through the

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 900 execution of a project-specific memoranda of agreement developed
 901 and executed by the applicant and the secretary, with input
 902 solicited from ~~the Department of Economic Opportunity~~ and the
 903 respective heads of the Department of Transportation and its
 904 district offices, the Department of Agriculture and Consumer
 905 Services, the Fish and Wildlife Conservation Commission,
 906 appropriate regional planning councils, appropriate water
 907 management districts, and voluntarily participating
 908 municipalities and counties. The memoranda of agreement should
 909 also accommodate participation in this expedited process by
 910 other local governments and federal agencies as circumstances
 911 warrant.

912 (5) In order to facilitate local government's option to
 913 participate in this expedited review process, the secretary
 914 shall, in cooperation with local governments and participating
 915 state agencies, create a standard form memorandum of agreement.
 916 The standard form of the memorandum of agreement shall be used
 917 only if the local government participates in the expedited
 918 review process. In the absence of local government
 919 participation, only the project-specific memorandum of agreement
 920 executed pursuant to subsection (4) applies. A local government
 921 shall hold a duly noticed public workshop to review and explain
 922 to the public the expedited permitting process and the terms and
 923 conditions of the standard form memorandum of agreement.

924 (10) The memoranda of agreement may provide for the waiver
 925 or modification of procedural rules prescribing forms, fees,
 926 procedures, or time limits for the review or processing of
 927 permit applications under the jurisdiction of those agencies
 928 that are members of the regional permit action team ~~party to the~~

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 929 ~~memoranda of agreement~~. Notwithstanding any other provision of
 930 law to the contrary, a memorandum of agreement must to the
 931 extent feasible provide for proceedings and hearings otherwise
 932 held separately ~~by the parties to the memorandum of agreement~~ to
 933 be combined into one proceeding or held jointly and at one
 934 location. Such waivers or modifications are not authorized ~~shall~~
 935 ~~not be available~~ for permit applications governed by federally
 936 delegated or approved permitting programs, the requirements of
 937 which would prohibit, or be inconsistent with, such a waiver or
 938 modification.

939 (11) The ~~standard form for~~ memoranda of agreement shall
 940 include guidelines to be used in working with state, regional,
 941 and local permitting authorities. Guidelines may include, but
 942 are not limited to, the following:

943 (a) A central contact point for filing permit applications
 944 and local comprehensive plan amendments and for obtaining
 945 information on permit and local comprehensive plan amendment
 946 requirements.†

947 (b) Identification of the individual or individuals within
 948 each respective agency who will be responsible for processing
 949 the expedited permit application or local comprehensive plan
 950 amendment for that agency.†

951 (c) A mandatory preapplication review process to reduce
 952 permitting conflicts by providing guidance to applicants
 953 regarding the permits needed from each agency and governmental
 954 entity, site planning and development, site suitability and
 955 limitations, facility design, and steps the applicant can take
 956 to ensure expeditious permit application and local comprehensive
 957 plan amendment review. As a part of this process, the first

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 958 interagency meeting to discuss a project shall be held within 14
 959 days after the secretary's determination that the project is
 960 eligible for expedited review. Subsequent interagency meetings
 961 may be scheduled to accommodate the needs of participating local
 962 governments that are unable to meet public notice requirements
 963 for executing a memorandum of agreement within this timeframe.
 964 This accommodation may not exceed 45 days from the secretary's
 965 determination that the project is eligible for expedited
 966 review.†

967 (d) The preparation of a single coordinated project
 968 description form and checklist and an agreement by state and
 969 regional agencies to reduce the burden on an applicant to
 970 provide duplicate information to multiple agencies.†

971 (e) Establishment of a process for the adoption and review
 972 of any comprehensive plan amendment needed by any certified
 973 project within 90 days after the submission of an application
 974 for a comprehensive plan amendment. However, the memorandum of
 975 agreement may not prevent affected persons as defined in s.
 976 163.3184 from appealing or participating in this expedited plan
 977 amendment process and any review or appeals of decisions made
 978 under this paragraph.† ~~and~~

979 (f) Additional incentives for an applicant who proposes a
 980 project that provides a net ecosystem benefit.

981 (14) (a) Challenges to state agency action in the expedited
 982 permitting process for projects processed under this section are
 983 subject to the summary hearing provisions of s. 120.574, except
 984 that the administrative law judge's decision, as provided in s.
 985 120.574(2)(f), shall be in the form of a recommended order and
 986 do not constitute the final action of the state agency. In those

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proceedings where the action of only one agency of the state other than the Department of Environmental Protection is challenged, the agency of the state shall issue the final order within 45 working days after receipt of the administrative law judge's recommended order, and the recommended order shall inform the parties of their right to file exceptions or responses to the recommended order in accordance with the uniform rules of procedure pursuant to s. 120.54. In those proceedings where the actions of more than one agency of the state are challenged, the Governor shall issue the final order within 45 working days after receipt of the administrative law judge's recommended order, and the recommended order shall inform the parties of their right to file exceptions or responses to the recommended order in accordance with the uniform rules of procedure pursuant to s. 120.54. For This ~~paragraph does not apply to~~ the issuance of department licenses required under any federally delegated or approved permit program. ~~In such instances,~~ the department, and not the Governor, shall enter the final order. The participating agencies of the state may opt at the preliminary hearing conference to allow the administrative law judge's decision to constitute the final agency action.

(b) Projects identified in paragraph (3)(f) or challenges to state agency action in the expedited permitting process for establishment of a state-of-the-art biomedical research institution and campus in this state by the grantee under s. 288.955 are subject to the same requirements as challenges brought under paragraph (a), except that, notwithstanding s. 120.574, summary proceedings must be conducted within 30 days

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after a party files the motion for summary hearing, regardless of whether the parties agree to the summary proceeding.

(15) The Department of Economic Opportunity, working with the agencies providing cooperative assistance and input regarding the memoranda of agreement, shall review sites proposed for the location of facilities that the Department of Economic Opportunity has certified to be eligible for the Innovation Incentive Program under s. 288.1089. Within 20 days after the request for the review by the Department of Economic Opportunity, the agencies shall provide to the Department of Economic Opportunity a statement as to each site's necessary permits under local, state, and federal law and an identification of significant permitting issues, which if unresolved, may result in the denial of an agency permit or approval or any significant delay caused by the permitting process.

(18) The Department of Economic Opportunity, working with the Rural Economic Development Initiative ~~and the agencies participating in the memoranda of agreement,~~ shall provide technical assistance in preparing permit applications and local comprehensive plan amendments for counties having a population of fewer than 75,000 residents, or counties having fewer than 125,000 residents which are contiguous to counties having fewer than 75,000 residents. Additional assistance may include, but not be limited to, guidance in land development regulations and permitting processes, working cooperatively with state, regional, and local entities to identify areas within these counties which may be suitable or adaptable for preclearance review of specified types of land uses and other activities

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requiring permits.

Section 23. Subsection (5) is added to section 526.203, Florida Statutes, to read:

526.203 Renewable fuel standard.—

(5) SALE OF UNBLENDED FUELS.—This section does not prohibit the sale of unblended fuels for the uses exempted under subsection (3).

Section 24. The installation of fuel tank upgrades to secondary containment systems shall be completed by the deadlines specified in rule 62-761.510, Florida Administrative Code, Table UST. However, notwithstanding any agreements to the contrary, any fuel service station that changed ownership interest through a bona fide sale of the property between January 1, 2009, and December 31, 2009, is not required to complete the upgrades described in rule 62-761.510, Florida Administrative Code, Table UST, until December 31, 2013.

Section 25. This act shall take effect July 1, 2012.

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/12/12
Meeting Date

Topic Environmental Regulation

Bill Number SB 716
(if applicable)

Name Mary Jean Yan

Amendment Barcode _____
(if applicable)

Job Title _____

Address 3324 Charleston Rd
Tallahassee FL 32309
Street City State Zip

Phone (850) 519-7859

E-mail maryjeanyan@concepts.net

Speaking: ☐ For ☐ Against ☒ Information

Representing Audubon Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/12/12
Meeting Date

Topic Permitting

Bill Number 716
(if applicable)

Name Steven Webster

Amendment Barcode _____
(if applicable)

Job Title President MW Consulting

Address 122 S Calhoun
Street
Tallahassee FL 32301
City State Zip

Phone 850 391 7674

E-mail swelster@mwconsult.us

Speaking: ☒ For ☐ Against ☐ Information

Representing marine construction biofuels

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1-12-12

Meeting Date

Topic ENVIRONMENTAL REGULATION

Bill Number 716
(if applicable)

Name DAVID CULLEN

Amendment Barcode _____
(if applicable)

Job Title _____

Address 1624 UNIVERSITY PKWY #226
Street

Phone 941.323.2404

SARASOTA FL 34243
City State Zip

E-mail cullenass@aol.com

Speaking: ☐ For ☒ Against ☐ Information

Representing SIERRA CLUB FLORIDA

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/12/12

Meeting Date

Topic ENVIRONMENTAL REG.

Bill Number 716
(if applicable)

Name STEPHEN JAMES

Amendment Barcode
(if applicable)

Job Title

Address 100 S. MONROE

Street

Phone (850) 922-4300

TALLAHASSEE, FL

City

State

Zip

E-mail

Speaking: ☐ For ☐ Against ☐ Information

Representing FLA. ASSOC. OF COUNTIES

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1-12-12
Meeting Date

Topic Permitted SIRENMENT

Bill Number 716
(if applicable)

Name JOHN SPRAGUE

Amendment Barcode _____
(if applicable)

Job Title CHAIR GOV AFFAIRS

Address 840 SW SALERNO RD
Street

Phone 561-723-5418

STUART FL 34997
City State Zip

E-mail _____

Speaking: ☒ For ☐ Against ☐ Information

Representing MARINE INDUSTRIES Assoc FL

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Topic _____

Name Rick Tschantz

Job Title Gen. Counsel EPC Hlls. City

Address 3629 Queen Palm Dr.

Tampa FL
City State Zip

Bill Number SB 716
(if applicable)

Amendment Barcode _____
(if applicable)

Phone 813-363-2784

E-mail tschantz@epchc.org

Speaking: ☐ For ☐ Against ☐ Information

Representing FLERA | EPC of Hlls. City

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1-12-12
Meeting Date

Topic ENV PERMITTING

Bill Number S 716
(if applicable)

Name KURT SPITZER

Amendment Barcode _____
(if applicable)

Job Title EXEC. DIRECTOR

Address 719 E. PARK AVE

Phone 561-0904

T 32301
City State Zip

E-mail KURTSPITZER@KSANET.NET

Speaking: ☐ For ☒ Against ☒ Information

Representing FL. STORMWATER ASSOCIATION

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/12/12

Meeting Date

Topic ENVIRONMENTAL REGULATIONS

Bill Number SB 716
(if applicable)

Name KEYNA CORY

Amendment Barcode _____
(if applicable)

Job Title SENIOR LOBBYIST

Address 110 E. COLLEGE AVE

Phone 850 681-1065

Street

TALLAHASSEE FL 32301

City

State

Zip

E-mail keynacory@paconsultants.com

Speaking: ☒ For ☐ Against ☐ Information

Representing ASSOCIATED INDUSTRIES OF FL

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

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 Community Affairs Committee

BILL: CS/SB 292

INTRODUCER: Committee on Community Affairs and Senator Bennett

SUBJECT: Effective Public Notices by Governmental Entities

DATE: January 12, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Anderson	Yeatman	CA	Fav/CS
2.			JU	
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	☒	Statement of Substantial Changes
B. AMENDMENTS.....	☐	Technical amendments were recommended
	☐	Amendments were recommended
	☐	Significant amendments were recommended

I. Summary:

This committee substitute (CS) requires that after a specified date if a legal notice is published in a newspaper, the newspaper publishing the notice shall also place the notice on a website maintained by the newspaper. The CS provides that after a specified date newspapers that publish legal notice provide e-mail notification of new legal notices at no cost to the public. The CS sets out the requirements for advertisements and public notices published on the Internet. The CS deletes requirements that certain notices be published in Leon County. The CS also deletes requirements relating to newspaper publication of certain notices relating to marketing orders and provides for Internet publication and for information to certain news outlets.

This CS creates s. 50.0211, F.S., and substantially amends the following sections of the Florida Statutes: 50.041, 50.061, 125.66, 166.041, 190.005, 200.065, 17.325, 120.60, 215.555, 253.52, 255.555, 253.52, 255.518, 380.0668, 455.275, 473.3141, 527.23, 573.109, 573.111, and 631.59.

II. Present Situation:

Legal and Official Advertisements

Public Notices and Legal Ads contain activities and events that impact citizens' lives because of governmental actions or requirements. They include actions such as government hearings and meetings, zoning, annexation and land use changes, election notices, municipal budgets, taxes and special assessment information. Also, public notices cover requests for bids on government construction and service contracts, permit and licensing applications, land and water use regulations, judicial and executive sales, disposal of foreclosed and abandoned property as well as many others.

The Florida Legislature has recognized the need and right of the public to be informed about these activities and events. As a result, public notices and legal ads are published in newspapers to effectively disseminate this important information throughout their communities while also providing historical preservation and easy public access.

Chapter 50, F.S., contains the requirements for legal and official advertisements. Section 50.011, F.S., provides requirements governing the publication of legal advertisements and notices in a newspaper, including all legal notices and advertisements of sheriffs and tax collectors. Publication must be in a newspaper that is printed and published at least once a week, and contain at least 25 percent of its words in the English language. The newspaper must qualify or be entered to qualify as periodicals matter at the post office in the county where published, and be generally available to the public for the purpose of publication of official or other notices.

Further, s. 50.031, F.S., requires, in part, that such newspapers also shall have been in existence for 1 year and shall have been entered as periodicals matter at a post office in the county where published, or in a newspaper which is a direct successor of a newspaper which together have been so published.

Local Government Public Notices

Local governments are the governments closest to the people. They are viewed as the government where individuals can have the greatest impact on the policies of their community. A critical part of participatory democracy is that citizens know of and even participate in government. It is for this reason that Florida has such strong Sunshine Laws granting citizens access to public records and meetings of government officials. The publication of legal notices in newspapers is a long established practice in Florida and throughout the United States. According to newspaper trade associations and independent analysts, "it's unclear how much newspapers collect in total from such publicly financed advertising."¹ A report published by The Florida Senate in 2010 stated that publication costs for public notices and legal advertisements ranged considerably with the City of Center Hill reporting an annual cost of \$150 and the Miami City Clerk's Office reporting the annual cost was \$130,000.²

¹ Dalesio, Emery P., *Move to Online Public Notices Looms Over Papers*, USA Today, May 22, 2009, http://www.usatoday.com/tech/news/2009-05-22-online-notices_N.htm (last visited December 21, 2011).

² Committee on Community Affairs, Internet Notice, Interim Report 2010-106 (October 2009) (on file with the Community Affairs Staff).

Current law provides requirements for publishing legal notices and official advertisements. Publications must be in a newspaper that is printed and published at least once a week and that contains at least 25 percent of its words in the English language. In addition, the newspaper must qualify or be entered to qualify as periodicals matter at the post office in the county where published, and be generally available to the public for the purpose of publication of official or other notices. Also the newspaper must customarily contain information of a public character or of interest or of value to the residents or owners of property in the county where published, or of interest or of value to the general public.³

A range of other statutes require local governments to publish in local newspapers notice of a range of topics of interest to local residents and businesses. Such notices include:

Proof of publication; uniform affidavits required - §50.041, F.S.

This section provides, in part, each affidavit shall be printed upon white bond paper containing at least 25 percent rag material and shall be 8 1/2 inches in width and of convenient length, not less than 5 1/2 inches. A white margin of not less than 2 1/2 inches shall be left at the right side of each affidavit form and upon or in this space shall be substantially pasted a clipping which shall be a true copy of the public notice or legal advertisement for which proof is executed.

Amounts chargeable for official notices and advertisements published in a newspaper - §50.061, F.S.

Subsection (2) of this section provides the charge for publishing each official public notice or legal advertisement shall be 70 cents per square inch for the first insertion and 40 cents per square inch for each subsequent insertion, with exceptions.

County Ordinances; enactment procedure – notice - §125.66, F.S.

This section provides, in part, that the board of county commissioners at any regular or special meeting may enact or amend any ordinance if notice of intent to consider such ordinance is given at least 10 days prior to said meeting by publication in a newspaper of general circulation in the county. In cases in which the proposed ordinance or resolution changes the actual list of permitted, conditional, or prohibited uses within a zoning category, or changes the actual zoning map designation of a parcel or parcels of land involving 10 contiguous acres or more, the required advertisements shall be no less than 2 columns wide by 10 inches long in a standard size or a tabloid size newspaper, and the headline in the advertisement shall be in a type no smaller than 18 point. The advertisement shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement shall be placed in a newspaper of general paid circulation in the county and of general interest and readership in the community pursuant to ch. 50, F.S., not one of limited subject matter.

³ Section 50.011, F.S.

Municipal ordinance adoption notices - §166.041, F.S.

This section provides procedures for adoption of municipal ordinances and resolutions. A proposed ordinance, at least 10 days prior to adoption, must be noticed once in a newspaper of general circulation in the municipality. The notice of proposed enactment must include specified information.

In cases in which the proposed ordinance changes the actual list of permitted, conditional, or prohibited uses within a zoning category, or changes the actual zoning map designation of a parcel or parcels of land involving 10 contiguous acres or more, the governing body shall hold two advertised public hearings on the proposed ordinance. The first public hearing shall be held at least 7 days after the day that the first advertisement is published. The second hearing shall be held at least 10 days after the first hearing and shall be advertised at least 5 days prior to the public hearing. The size and content of the required newspaper advertisements is specified. The advertisement shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement shall be placed in a newspaper of general paid circulation in the municipality and of general interest and readership in the municipality, not one of limited subject matter, pursuant to ch. 50, F.S. In lieu of publishing the advertisement set out in this paragraph, the municipality may mail a notice to each person owning real property within the area covered by the ordinance.

Establishment of district - §190.005, F.S.

This section provides, in part, that a local public hearing on the petition shall be conducted by a hearing officer in conformance with the applicable requirements and procedures of the Administrative Procedure Act. The hearing shall include oral and written comments on the petition pertinent to the factors specified. The hearing shall be held at an accessible location in the county in which the community development district is to be located. The petitioner shall cause a notice of the hearing to be published in a newspaper at least once a week for the 4 successive weeks immediately prior to the hearing. Such notice shall give the time and place for the hearing, a description of the area to be included in the district, which description shall include a map showing clearly the area to be covered by the district, and any other relevant information which the establishing governing bodies may require. The advertisement shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement shall be published in a newspaper of general paid circulation in the county and of general interest and readership in the community, not one of limited subject matter, pursuant to chapter 50. Whenever possible, the advertisement shall appear in a newspaper that is published at least 5 days a week, unless the only newspaper in the community is published fewer than 5 days a week. All affected units of general-purpose local government and the general public shall be given an opportunity to appear at the hearing and present oral or written comments on the petition.

Method of fixing millage - §200.065, F.S.

Subsection (3) of this section provides that the advertisement of millage rates shall be no less than one-quarter page in size of a standard size or a tabloid size newspaper, and the headline in the advertisement shall be in a type no smaller than 18 point. The advertisement shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement shall be published in a newspaper of general paid circulation in the county or in a geographically limited insert of such newspaper.

Governmental efficiency hotline; duties of Chief Financial Officer - §17.325, F.S.

This section provides, in part, the Chief Financial Officer shall operate the hotline 24 hours a day. The Chief Financial Officer shall advertise the availability of the hotline in newspapers of general circulation in this state and shall provide for the posting of notices in conspicuous places in state agency offices, city halls, county courthouses, and places in which there is exposure to significant numbers of the general public, including, but not limited to, local convenience stores, shopping malls, shopping centers, gasoline stations, or restaurants. The Chief Financial Officer shall use the slogan "Tell us where we can 'Get Lean'" for the hotline and in advertisements for the hotline.

Licensing - §120.60, F.S.

Subsection (5) of this section provides that no revocation, suspension, annulment, or withdrawal of any license is lawful unless, prior to the entry of a final order, the agency has served, by personal service or certified mail, an administrative complaint which affords reasonable notice to the licensee of facts or conduct which warrant the intended action and unless the licensee has been given an adequate opportunity to request a proceeding pursuant to ss. 120.569 and 120.57, F.S. When personal service cannot be made and the certified mail notice is returned undelivered, the agency shall cause a short, plain notice to the licensee to be published once each week for 4 consecutive weeks in a newspaper published in the county of the licensee's last known address as it appears on the records of the agency. If no newspaper is published in that county, the notice may be published in a newspaper of general circulation in that county. If the address is in some state other than this state or in a foreign territory or country, the notice may be published in Leon County.

Florida Hurricane Catastrophe Fund - §215.555, F.S.

Subsection (6) of this section covers revenue bonds and the Florida Hurricane Catastrophe Fund Finance Corporation. In actions under chapter 75, F.S., to validate any bonds issued by the corporation, the notice required by s.75.06, F.S., shall be published only in Leon County and in two newspapers of general circulation in the state, and the complaint and order of the court shall be served only on the State Attorney of the Second Judicial Circuit.

Placing oil and gas leases on market by board - §253.52, F.S.

This section provides, in part, that whenever in the opinion of the Board of Trustees of the Internal Improvement Trust Fund there shall be a demand for the purchase of oil and gas leases on any area, tract, or parcel of the land so owned, controlled, or managed, by any state board, department, or agency, then the board shall place such oil and gas lease or leases on the market in such blocks, tracts, or parcels as it may designate. The lease or leases shall only be made after notice by publication thereof has been made not less than once a week for 4 consecutive weeks in a newspaper of general circulation published in Leon County, and in a similar newspaper for a similar period of time published in the vicinity of the lands offered to be leased, the last publication in both newspapers to be not less than 5 days in advance of the sale date.

Obligations; purpose, terms, approval, limitations - §255.518, F.S.

This section provides, in part, that in actions to validate obligations pursuant to chapter 75, F.S., the complaint shall be filed in the Circuit Court of Leon County, the notice required by s. 75.06, F.S., shall be published only in Leon County and in two newspapers of general circulation in the

state, and the complaint and order of the court shall be served only on the state attorney of the Second Judicial Circuit.

Bonds; purpose, terms, approval, limitation - §380.0668, F.S.

This section provides, in part, that in actions to validate bonds pursuant to chapter 75, F.S., the complaint shall be filed in the Circuit Court of Leon County, the notice required by s. 75.06, F.S., shall be published in newspapers of general circulation in Leon County and the county in which the area or areas of critical state concern involved are located, and the complaint and order of the court shall be served on the state attorney of the Second Judicial Circuit and the circuit in which the area or areas of critical state concern involved are located.

Address of record - §455.275, F.S.

This section provides, in part, that if service, as previously defined does not provide the department with proof of service, the department shall call the last known telephone number of record and cause a short, plain notice to the licensee to be published once each week for 4 consecutive weeks in a newspaper published in the county of the licensee's last known address of record. If a newspaper is not published in the county, the administrative complaint may be published in a newspaper of general circulation in the county. If the licensee's last known address is located in another state or in a foreign jurisdiction, the administrative complaint may be published in Leon County pursuant to s. 120.60(5), F.S.

Certified public accountants licensed in other states - §473.3141, F.S.

Subsection (5) of this section provides that disciplinary action against an individual or firm that practices pursuant to this section is not valid unless, prior to the entry of a final order, the agency has served, by personal service pursuant to this chapter or chapter 48, F.S., or by certified mail, an administrative complaint that provides reasonable notice to the individual or firm of facts or conduct that warrants the intended action and unless the individual or firm has been given an adequate opportunity to request a proceeding pursuant to ss. 120.569 and 120.57, F.S. When personal service cannot be made and the certified mail notice is returned undelivered, the agency shall have a short, plain notice to the individual or firm with practice privileges published once a week for 4 consecutive weeks in a newspaper published in Leon County, Florida. The newspaper shall meet the requirements prescribed by law for such purposes.

Marketing orders; referendum requirements; assessments - §527.23, F.S.

This section provides, in part, that it is the duty of the producers or dealers of propane gas who vote in each referendum to send their marked ballots to the department, which shall have the ballots counted by qualified and impartial personnel in its office, and the department shall, within 10 days after the closing date for submitting ballots in any referendum, certify in writing and publish the results of such referendum in a newspaper of general circulation in the state and in such other newspapers as the department prescribes.

Notice of effective date of marketing order - §573.111, F.S.

This section provides that before the issuance of any marketing order, or any suspension, amendment, or termination thereof, a notice shall be posted on a public bulletin board to be maintained by the department in the Division of Marketing and Development of the department in the Nathan Mayo Building, Tallahassee, Leon County, and a copy of the notice shall be published in a newspaper of general circulation in the state and in such other newspaper or

newspapers as the department may prescribe. The notices published in the newspaper or newspapers shall be sent by first-class mail, by the department to those newspapers designated by it, the same date that the notice is posted on the bulletin board with instructions to publish the same as a legal advertisement the first date after receipt of the notice as such newspaper's policy for publishing legal advertisements provides. No marketing order, or any suspension, amendment, or termination thereof, shall become effective until the termination of a period of 5 days from the date of posting and publication.

Duties and powers of department and office - §631.59, F.S.

This section provides that the department may require that the association notify the insureds of the insolvent insurer and any other interested parties of the determination of insolvency and of their rights under this part. Such notification shall be by mail at their last known addresses, when available, but if sufficient information for notification by mail is not available, notice by publication in a newspaper of general circulation shall be sufficient.

III. Effect of Proposed Changes:

Section 1 creates s. 50.0211, F.S., requiring that, after a specified date, if a legal notice is published in a newspaper, the newspaper publishing the notice shall also place the notice on a website maintained by the newspaper; provides requirements for size and placement of such website publication and requires free access to such online publications and requires that legal notices published in newspapers also be published on another specified website; requires that, after a specified date, newspapers that publish legal notice provide e-mail notification of new legal notices and provides requirements for such notice; and provides that an error on a newspaper or statewide website is considered a harmless error and legal notice requirements are considered met if the notice published in the newspaper is correct.

Section 2 amends s. 50.041, F.S., revising physical requirements for proof of publication affidavits; authorizing electronic affidavits that meet specified requirements.

Section 3 amends s. 50.061, F.S., limiting the rate that may be charged for government notices required to be published more than once in certain circumstances; deleting provisions specifying rates for legal notices based on county population.

Section 4 amends s. 125.66, F.S., requiring that website publication of certain legal notices include maps that appear in the newspaper advertisements.

Section 5 amends s. 166.041, F.S., requiring that website publication of certain legal notices include maps that appear in the newspaper advertisements.

Section 6 amends s. 190.005, F.S., requiring that website publication of certain legal notices include maps that appear in the newspaper advertisements.

Section 7 amends s. 200.065, F.S., requiring that website publication of certain legal notices include maps that appear in the newspaper advertisements.

Section 8 amends s. 17.325, F.S., making it optional for the Chief Financial Officer to advertise the availability of the governmental efficiency hotline.

Section 9 amends s. 120.60, F.S., deleting requirements that certain legal notices be published in Leon County.

Section 10 amends s. 215.555, F.S., deleting requirements that certain legal notices be published in Leon County.

Section 11 amends s. 253.52, F.S., deleting requirements that certain legal notices be published in Leon County.

Section 12 amends s. 255.518, F.S., deleting requirements that certain legal notices be published in Leon County.

Section 13 amends s. 380.0668, F.S., deleting requirements that certain legal notices be published in Leon County.

Section 14 amends s. 455.275, F.S., deleting a requirement that certain notices concerning professional licensees who cannot be personally served be published in Leon County; requiring that plain notice to the licensee be posted on the front page of the Department of Business and Professional Regulation's website and be provided to certain news outlets.

Section 15 amends s. 473.3141, F.S., deleting a requirement that notices concerning the discipline of certain certified public accountants be published in Leon County.

Section 16 amends s. 527.23, F.S., deleting requirements relating to the newspaper publication of certain notices relating to marketing orders for propane gas; requiring that such orders be published on the Internet and that information be provided to certain news outlets.

Section 17 amends s. 573.109, F.S., deleting requirements relating to the newspaper publication of certain notices relating to agricultural marketing orders; requiring that such orders be published on the Internet and that information be provided to certain news outlets.

Section 18 amends s. 573.111, F.S., deleting requirements relating to the newspaper publication of certain notices relating to agricultural marketing orders; requiring that such orders be published on the Internet and that information be provided to certain news outlets.

Section 19 amends s. 631.59, F.S., deleting requirements for the newspaper publication of certain notices concerning insolvent insurers; providing for notice by e-mail or telephone.

Section 20 provides that unless otherwise expressly provided, the effective date is July 1, 2012.

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:

Floridians will have enhanced public notice since information will now be available in print, on the newspaper's website, at www.floridapublicnotices.com, or in an email. Newspapers might have to expend funds to create, maintain and issue correspondence from a registry of persons requesting notifications by e-mail.

According to a report published by the Florida Senate in 2010 the median income reported from newspapers for public notices and legal advertisements was \$108,704 with an average cost of \$173,219.⁴

C. Government Sector Impact:

The Office of Economic and Demographic Research (EDR) Revenue Estimating Impact Conference has not yet addressed this CS. The Florida League of Cities along with the Florida Association of Counties have stated that based on a survey of their constituents they estimate that local governments spend more than \$16 million a year to print legal notices in local newspapers.

According to a report published by the Florida Senate in 2010, the costs for the publication of public notices and legal advertisements ranges substantially; for example Wakulla County reported an annual cost of \$3,000, while Orange County reported costs of more than \$323,681. The County of Miami-Dade spent \$1,124,664 on newspaper notices. The median cost of newspaper publications reported by municipalities was \$9,550 and the average cost was \$20,222. Costs reported by the counties had a median of \$32,900 and an average of \$133,096.⁵

This CS amends the current language for the charges assessed for publishing official public notices and legal advertisements. The CS removes language specifying rates based on population size and in its place sets out to standardize the rates on which government notices are based. If the government notice is not paid in advance or reimbursed by private parties the rate is initially 70 cents per square inch and successive insertions

⁴ Committee on Community Affairs, *supra* note 2.

⁵ *Id.*

would be charged at a rate no more than 85 percent of “the original rate,” which is 59.50 cents. However, if the government is reimbursed by private parties the rate will be 70 cents per square inch for the initial posting and 40 cents thereafter.

This will likely have an unknown fiscal impact on those governmental entities that publish these notices.

VI. Technical Deficiencies:

The Department of Revenue (DOR) performed a staff analysis of SB 292 prior to the bill becoming a committee substitute. Some of their areas of concern are applicable to the committee substitute as it is now written. There are some areas of concern regarding the public notices being placed on publicly available websites.⁶

The DOR has made some recommendations regarding additional sections of Florida Statutes that may need to be added to SB 292 (and now the CS) to conform to the changes proposed in the bill. Their report states that if the intent of the legislation is that a notice on www.floridapublicnotices.com constitutes legal notice, the following statutes will need to be amended: ss. 194.037, 196.194, 197.122, 197.2301, 197.322, 197.402, 197.403, 197.512, 197.522, F.S. These sections describe newspaper advertisement requirements, and the sponsor may want to have them remain consistent if any changes are made to the underlying requirements.

VII. Related Issues:

In 2009, the Florida Legislature passed CS/SB 2188, 2nd Eng., requiring state agencies to provide internet notice for purposes of Chapter 120, F.S.⁷

VIII. Additional Information:

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

CS by Community Affairs on January 12, 2012

The CS created a new framework for which legal notices are required to be published. The CS also removes several references to Leon County in statutes as they pertain to legal notices being published there. The CS requires that websites that publish legal notices include maps that appear in the newspaper advertisements.

- B. **Amendments:**

None.

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

⁶ Department of Revenue, Staff Analysis SB 292 (2011) (on file with the Senate Committee on Community Affairs.)

⁷ Chapter 2009-87, Laws of Fla.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/12/2012	.	
	.	
	.	
	.	

The Committee on Community Affairs (Bennett) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 50.0211, Florida Statutes, is created to
read:

50.0211 Internet website publication.—

(1) This section applies to legal notices that must be
published in accordance with this chapter unless otherwise
specified.

(2) Each legal notice must be placed on the newspaper's
website on the same day the notice appears in the newspaper. A



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link to legal notices shall be provided on the front page of the newspaper's website that provides access to the legal notices without charge. If there is a specified size and placement required for a printed legal notice, the size and placement of the notice on the newspaper's website must optimize its online visibility in keeping with the print requirements. The newspaper's web pages that contain legal notices shall present the legal notices as the dominant subject matter of those pages. The newspaper's website shall contain a search function to facilitate searching the legal notices. This subsection shall take effect July 1, 2013.

(3) If a legal notice is published in a newspaper, the newspaper publishing the notice shall place the notice on the website established and maintained as an initiative of the Florida Press Association as a repository for such notices located at the following address: www.floridapublicnotices.com.

(4) Newspapers that publish legal notices shall, upon request, provide e-mail notification of new legal notices when they are printed in the newspaper and added to the newspaper's website. Such e-mail notification shall be provided without charge and notification for such an e-mail registry shall be available on the front page of the legal notices section of the newspaper's website. This subsection shall take effect July 1, 2013.

(5) An error in the notice placed on the newspaper or statewide website shall be considered a harmless error and proper legal notice requirements shall be considered met if the notice published in the newspaper is correct.

Section 2. Subsection (2) of section 50.041, Florida



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Statutes, is amended to read:

50.041 Proof of publication; uniform affidavits required.—

(2) Each such affidavit shall be printed upon white ~~bond~~ paper ~~containing at least 25 percent rag material~~ and shall be 8 1/2 inches in width and of convenient length, not less than 5 1/2 inches. A white margin of not less than 2 1/2 inches shall be left at the right side of each affidavit form and upon or in this space shall be substantially pasted a clipping which shall be a true copy of the public notice or legal advertisement for which proof is executed. Alternatively, the affidavit may be provided in electronic rather than paper form, provided the notarization of the affidavit complies with the requirements of s. 117.021.

Section 3. Subsection (2) of section 50.061, Florida Statutes, is amended to read:

50.061 Amounts chargeable.—

(2) The charge for publishing each such official public notice or legal advertisement shall be 70 cents per square inch for the first insertion and 40 cents per square inch for each subsequent insertion, except that government notices required to be published more than once whose cost is paid for by the government and not paid in advance by or allowed to be recouped from private parties may not be charged for the second and successive insertions at a rate greater than 85 percent of the original rate.+

~~(a) In all counties having a population of more than 304,000 according to the latest official decennial census, the charge for publishing each such official public notice or legal advertisement shall be 80 cents per square inch for the first~~



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~~insertion and 60 cents per square inch for each subsequent
insertion.~~

~~(b) In all counties having a population of more than
450,000 according to the latest official decennial census, the
charge for publishing each such official public notice or legal
advertisement shall be 95 cents per square inch for the first
insertion and 75 cents per square inch for each subsequent
insertion.~~

Section 4. Paragraph (b) of subsection (4) of section
125.66, Florida Statutes, is amended to read:

125.66 Ordinances; enactment procedure; emergency
ordinances; rezoning or change of land use ordinances or
resolutions.—

(4) Ordinances or resolutions, initiated by other than the
county, that change the actual zoning map designation of a
parcel or parcels of land shall be enacted pursuant to
subsection (2). Ordinances or resolutions that change the actual
list of permitted, conditional, or prohibited uses within a
zoning category, or ordinances or resolutions initiated by the
county that change the actual zoning map designation of a parcel
or parcels of land shall be enacted pursuant to the following
procedure:

(b) In cases in which the proposed ordinance or resolution
changes the actual list of permitted, conditional, or prohibited
uses within a zoning category, or changes the actual zoning map
designation of a parcel or parcels of land involving 10
contiguous acres or more, the board of county commissioners
shall provide for public notice and hearings as follows:

1. The board of county commissioners shall hold two



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advertised public hearings on the proposed ordinance or resolution. At least one hearing shall be held after 5 p.m. on a weekday, unless the board of county commissioners, by a majority plus one vote, elects to conduct that hearing at another time of day. The first public hearing shall be held at least 7 days after the day that the first advertisement is published. The second hearing shall be held at least 10 days after the first hearing and shall be advertised at least 5 days prior to the public hearing.

2. The required advertisements shall be no less than 2 columns wide by 10 inches long in a standard size or a tabloid size newspaper, and the headline in the advertisement shall be in a type no smaller than 18 point. The advertisement shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement shall be placed in a newspaper of general paid circulation in the county and of general interest and readership in the community pursuant to chapter 50, not one of limited subject matter. It is the legislative intent that, whenever possible, the advertisement shall appear in a newspaper that is published at least 5 days a week unless the only newspaper in the community is published less than 5 days a week. The advertisement shall be in substantially the following form:

NOTICE OF (TYPE OF) CHANGE

The ...(name of local governmental unit)... proposes to adopt the following by ordinance or resolution:...(title of ordinance or resolution)....



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A public hearing on the ordinance or resolution will be held on ...(date and time)... at ...(meeting place)....

Except for amendments which change the actual list of permitted, conditional, or prohibited uses within a zoning category, the advertisement shall contain a geographic location map which clearly indicates the area within the local government covered by the proposed ordinance or resolution. The map shall include major street names as a means of identification of the general area. In addition to being published in the newspaper, the map must be part of the online notice required pursuant to s. 50.0211.

3. In lieu of publishing the advertisements set out in this paragraph, the board of county commissioners may mail a notice to each person owning real property within the area covered by the ordinance or resolution. Such notice shall clearly explain the proposed ordinance or resolution and shall notify the person of the time, place, and location of both public hearings on the proposed ordinance or resolution.

Section 5. Paragraph (c) of subsection (3) of section 166.041, Florida Statutes, is amended to read:

166.041 Procedures for adoption of ordinances and resolutions.—

(3)

(c) Ordinances initiated by other than the municipality that change the actual zoning map designation of a parcel or parcels of land shall be enacted pursuant to paragraph (a). Ordinances that change the actual list of permitted, conditional, or prohibited uses within a zoning category, or



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ordinances initiated by the municipality that change the actual zoning map designation of a parcel or parcels of land shall be enacted pursuant to the following procedure:

1. In cases in which the proposed ordinance changes the actual zoning map designation for a parcel or parcels of land involving less than 10 contiguous acres, the governing body shall direct the clerk of the governing body to notify by mail each real property owner whose land the municipality will redesignate by enactment of the ordinance and whose address is known by reference to the latest ad valorem tax records. The notice shall state the substance of the proposed ordinance as it affects that property owner and shall set a time and place for one or more public hearings on such ordinance. Such notice shall be given at least 30 days prior to the date set for the public hearing, and a copy of the notice shall be kept available for public inspection during the regular business hours of the office of the clerk of the governing body. The governing body shall hold a public hearing on the proposed ordinance and may, upon the conclusion of the hearing, immediately adopt the ordinance.

2. In cases in which the proposed ordinance changes the actual list of permitted, conditional, or prohibited uses within a zoning category, or changes the actual zoning map designation of a parcel or parcels of land involving 10 contiguous acres or more, the governing body shall provide for public notice and hearings as follows:

a. The local governing body shall hold two advertised public hearings on the proposed ordinance. At least one hearing shall be held after 5 p.m. on a weekday, unless the local



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governing body, by a majority plus one vote, elects to conduct that hearing at another time of day. The first public hearing shall be held at least 7 days after the day that the first advertisement is published. The second hearing shall be held at least 10 days after the first hearing and shall be advertised at least 5 days prior to the public hearing.

b. The required advertisements shall be no less than 2 columns wide by 10 inches long in a standard size or a tabloid size newspaper, and the headline in the advertisement shall be in a type no smaller than 18 point. The advertisement shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement shall be placed in a newspaper of general paid circulation in the municipality and of general interest and readership in the municipality, not one of limited subject matter, pursuant to chapter 50. It is the legislative intent that, whenever possible, the advertisement appear in a newspaper that is published at least 5 days a week unless the only newspaper in the municipality is published less than 5 days a week. The advertisement shall be in substantially the following form:

NOTICE OF (TYPE OF) CHANGE

The ...(name of local governmental unit)... proposes to adopt the following ordinance:...(title of the ordinance)....

A public hearing on the ordinance will be held on ...(date and time)... at ...(meeting place)....

Except for amendments which change the actual list of permitted,



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conditional, or prohibited uses within a zoning category, the advertisement shall contain a geographic location map which clearly indicates the area covered by the proposed ordinance. The map shall include major street names as a means of identification of the general area. In addition to being published in the newspaper, the map must be part of the online notice required pursuant to s. 50.0211.

c. In lieu of publishing the advertisement set out in this paragraph, the municipality may mail a notice to each person owning real property within the area covered by the ordinance. Such notice shall clearly explain the proposed ordinance and shall notify the person of the time, place, and location of any public hearing on the proposed ordinance.

Section 6. Paragraph (d) of subsection (1) of section 190.005, Florida Statutes, is amended to read:

190.005 Establishment of district.—

(1) The exclusive and uniform method for the establishment of a community development district with a size of 1,000 acres or more shall be pursuant to a rule, adopted under chapter 120 by the Florida Land and Water Adjudicatory Commission, granting a petition for the establishment of a community development district.

(d) A local public hearing on the petition shall be conducted by a hearing officer in conformance with the applicable requirements and procedures of the Administrative Procedure Act. The hearing shall include oral and written comments on the petition pertinent to the factors specified in paragraph (e). The hearing shall be held at an accessible location in the county in which the community development



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district is to be located. The petitioner shall cause a notice of the hearing to be published in a newspaper at least once a week for the 4 successive weeks immediately prior to the hearing. Such notice shall give the time and place for the hearing, a description of the area to be included in the district, which description shall include a map showing clearly the area to be covered by the district, and any other relevant information which the establishing governing bodies may require. The advertisement shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement shall be published in a newspaper of general paid circulation in the county and of general interest and readership in the community, not one of limited subject matter, pursuant to chapter 50. Whenever possible, the advertisement shall appear in a newspaper that is published at least 5 days a week, unless the only newspaper in the community is published fewer than 5 days a week. In addition to being published in the newspaper, the map referenced in this paragraph must be part of the online advertisement required pursuant to s. 50.0211. All affected units of general-purpose local government and the general public shall be given an opportunity to appear at the hearing and present oral or written comments on the petition.

Section 7. Paragraph (h) of subsection (3) of section 200.065, Florida Statutes, is amended to read:

200.065 Method of fixing millage.—

(3) The advertisement shall be no less than one-quarter page in size of a standard size or a tabloid size newspaper, and the headline in the advertisement shall be in a type no smaller



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than 18 point. The advertisement shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement shall be published in a newspaper of general paid circulation in the county or in a geographically limited insert of such newspaper. The geographic boundaries in which such insert is circulated shall include the geographic boundaries of the taxing authority. It is the legislative intent that, whenever possible, the advertisement appear in a newspaper that is published at least 5 days a week unless the only newspaper in the county is published less than 5 days a week, or that the advertisement appear in a geographically limited insert of such newspaper which insert is published throughout the taxing authority's jurisdiction at least twice each week. It is further the legislative intent that the newspaper selected be one of general interest and readership in the community and not one of limited subject matter, pursuant to chapter 50.

(h) In no event shall any taxing authority add to or delete from the language of the advertisements as specified herein unless expressly authorized by law, except that, if an increase in ad valorem tax rates will affect only a portion of the jurisdiction of a taxing authority, advertisements may include a map or geographical description of the area to be affected and the proposed use of the tax revenues under consideration. In addition, if published in the newspaper, the map must be part of the online advertisement required by s. 50.0211. The advertisements required herein shall not be accompanied, preceded, or followed by other advertising or notices which conflict with or modify the substantive content prescribed



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herein.

Section 8. Subsection (2) of section 17.325, Florida Statutes, is amended to read:

17.325 Governmental efficiency hotline; duties of Chief Financial Officer.—

(2) The Chief Financial Officer shall operate the hotline 24 hours a day. The Chief Financial Officer may ~~shall~~ advertise the availability of the hotline in newspapers of general circulation in this state and shall provide for the posting of notices in conspicuous places in state agency offices, city halls, county courthouses, and places in which there is exposure to significant numbers of the general public, including, but not limited to, local convenience stores, shopping malls, shopping centers, gasoline stations, or restaurants. The Chief Financial Officer shall use the slogan "Tell us where we can 'Get Lean'" for the hotline and in advertisements for the hotline.

Section 9. Subsection (5) of section 120.60, Florida Statutes, is amended to read:

120.60 Licensing.—

(5) No revocation, suspension, annulment, or withdrawal of any license is lawful unless, prior to the entry of a final order, the agency has served, by personal service or certified mail, an administrative complaint which affords reasonable notice to the licensee of facts or conduct which warrant the intended action and unless the licensee has been given an adequate opportunity to request a proceeding pursuant to ss. 120.569 and 120.57. When personal service cannot be made and the certified mail notice is returned undelivered, the agency shall cause a short, plain notice to the licensee to be published once



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each week for 4 consecutive weeks in a newspaper published in the county of the licensee's last known address as it appears on the records of the agency. If no newspaper is published in that county, the notice may be published in a newspaper of general circulation in that county. ~~If the address is in some state other than this state or in a foreign territory or country, the notice may be published in Leon County.~~

Section 10. Paragraph (d) of subsection (6) of section 215.555, Florida Statutes, is amended to read:

215.555 Florida Hurricane Catastrophe Fund.—

(6) REVENUE BONDS.—

(d) *Florida Hurricane Catastrophe Fund Finance Corporation.*—

1. In addition to the findings and declarations in subsection (1), the Legislature also finds and declares that:

a. The public benefits corporation created under this paragraph will provide a mechanism necessary for the cost-effective and efficient issuance of bonds. This mechanism will eliminate unnecessary costs in the bond issuance process, thereby increasing the amounts available to pay reimbursement for losses to property sustained as a result of hurricane damage.

b. The purpose of such bonds is to fund reimbursements through the Florida Hurricane Catastrophe Fund to pay for the costs of construction, reconstruction, repair, restoration, and other costs associated with damage to properties of policyholders of covered policies due to the occurrence of a hurricane.

c. The efficacy of the financing mechanism will be enhanced



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by the corporation's ownership of the assessments, by the insulation of the assessments from possible bankruptcy proceedings, and by covenants of the state with the corporation's bondholders.

2.a. There is created a public benefits corporation, which is an instrumentality of the state, to be known as the Florida Hurricane Catastrophe Fund Finance Corporation.

b. The corporation shall operate under a five-member board of directors consisting of the Governor or a designee, the Chief Financial Officer or a designee, the Attorney General or a designee, the director of the Division of Bond Finance of the State Board of Administration, and the senior employee of the State Board of Administration responsible for operations of the Florida Hurricane Catastrophe Fund.

c. The corporation has all of the powers of corporations under chapter 607 and under chapter 617, subject only to the provisions of this subsection.

d. The corporation may issue bonds and engage in such other financial transactions as are necessary to provide sufficient funds to achieve the purposes of this section.

e. The corporation may invest in any of the investments authorized under s. 215.47.

f. There shall be no liability on the part of, and no cause of action shall arise against, any board members or employees of the corporation for any actions taken by them in the performance of their duties under this paragraph.

3.a. In actions under chapter 75 to validate any bonds issued by the corporation, the notice required by s. 75.06 shall be published ~~only in Leon County and~~ in two newspapers of



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general circulation in the state, and the complaint and order of the court shall be served only on the State Attorney of the Second Judicial Circuit.

b. The state hereby covenants with holders of bonds of the corporation that the state will not repeal or abrogate the power of the board to direct the Office of Insurance Regulation to levy the assessments and to collect the proceeds of the revenues pledged to the payment of such bonds as long as any such bonds remain outstanding unless adequate provision has been made for the payment of such bonds pursuant to the documents authorizing the issuance of such bonds.

4. The bonds of the corporation are not a debt of the state or of any political subdivision, and neither the state nor any political subdivision is liable on such bonds. The corporation does not have the power to pledge the credit, the revenues, or the taxing power of the state or of any political subdivision. The credit, revenues, or taxing power of the state or of any political subdivision shall not be deemed to be pledged to the payment of any bonds of the corporation.

5.a. The property, revenues, and other assets of the corporation; the transactions and operations of the corporation and the income from such transactions and operations; and all bonds issued under this paragraph and interest on such bonds are exempt from taxation by the state and any political subdivision, including the intangibles tax under chapter 199 and the income tax under chapter 220. This exemption does not apply to any tax imposed by chapter 220 on interest, income, or profits on debt obligations owned by corporations other than the Florida Hurricane Catastrophe Fund Finance Corporation.



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b. All bonds of the corporation shall be and constitute legal investments without limitation for all public bodies of this state; for all banks, trust companies, savings banks, savings associations, savings and loan associations, and investment companies; for all administrators, executors, trustees, and other fiduciaries; for all insurance companies and associations and other persons carrying on an insurance business; and for all other persons who are now or may hereafter be authorized to invest in bonds or other obligations of the state and shall be and constitute eligible securities to be deposited as collateral for the security of any state, county, municipal, or other public funds. This sub-subparagraph shall be considered as additional and supplemental authority and shall not be limited without specific reference to this sub-subparagraph.

6. The corporation and its corporate existence shall continue until terminated by law; however, no such law shall take effect as long as the corporation has bonds outstanding unless adequate provision has been made for the payment of such bonds pursuant to the documents authorizing the issuance of such bonds. Upon termination of the existence of the corporation, all of its rights and properties in excess of its obligations shall pass to and be vested in the state.

Section 11. Section 253.52, Florida Statutes, is amended to read:

253.52 Placing oil and gas leases on market by board.—
Whenever in the opinion of the Board of Trustees of the Internal Improvement Trust Fund there shall be a demand for the purchase of oil and gas leases on any area, tract, or parcel of the land



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so owned, controlled, or managed, by any state board,
department, or agency, then the board shall place such oil and
gas lease or leases on the market in such blocks, tracts, or
parcels as it may designate. The lease or leases shall only be
made after notice by publication thereof has been made not less
than once a week for 4 consecutive weeks in a newspaper of
general circulation ~~published in Leon County, and in a similar~~
~~newspaper for a similar period of time~~ published in the vicinity
of the lands offered to be leased, the last publication ~~in both~~
~~newspapers~~ to be not less than 5 days in advance of the sale
date. Such notice shall be to the effect that a lease or leases
will be offered for sale at such date and time as may be named
in said notice and shall describe the land upon which such
lease, or leases, will be offered. This notice may be combined
with the notice required pursuant to s. 253.115. Before any
lease of any block, tract, or parcel of land, submerged, or
unsubmerged, within a radius of 3 miles of the boundaries of any
incorporated city, or town, or within such radius of any bathing
beach, or beaches, outside thereof, such board, department, or
agency, shall through one or more of its members hold a public
hearing, after notice thereof by publication once in a newspaper
of general circulation published at least 1 week prior to said
hearing in the vicinity of the land, or lands, offered to be
leased, of the offer to lease the same, calling upon all
interested persons to attend said hearing where they would be
given the opportunity to be heard, all of which shall be
considered by the board prior to the execution of any lease or
leases to said land, and the board may withdraw said land, or
any part thereof, from the market, and refuse to execute such



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lease or leases if after such hearing, or otherwise, it considers such execution contrary to the public welfare. Before advertising any land for lease the form of the lease or leases to be offered for sale, not inconsistent with law, or the provisions of this section, shall be prescribed by the board and a copy, or copies, thereof, shall be available to the general public at the office of the Board of Trustees of the Internal Improvement Trust Fund and the advertisements of such sale shall so state.

Section 12. Paragraph (b) of subsection (4) of section 255.518, Florida Statutes, is amended to read:

255.518 Obligations; purpose, terms, approval, limitations.—

(4)

(b) In actions to validate such obligations pursuant to chapter 75, the complaint shall be filed in the Circuit Court of Leon County, the notice required by s. 75.06, shall be published ~~only in Leon County and~~ in two newspapers of general circulation in the state, and the complaint and order of the court shall be served only on the state attorney of the Second Judicial Circuit.

Section 13. Paragraph (b) of subsection (4) of section 380.0668, Florida Statutes, is amended to read:

380.0668 Bonds; purpose, terms, approval, limitations.—

(4)

(b) In actions to validate such bonds pursuant to chapter 75, the complaint shall be filed in the Circuit Court of Leon County, the notice required by s. 75.06 shall be published in newspapers of general circulation in ~~Leon County and~~ the county



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in which the area or areas of critical state concern involved are located, and the complaint and order of the court shall be served on the state attorney of the Second Judicial Circuit and the circuit in which the area or areas of critical state concern involved are located.

Section 14. Paragraph (b) of subsection (3) of section 455.275, Florida Statutes, is amended to read:

455.275 Address of record.—

(3)

(b) If service, as provided in paragraph (a), does not provide the department with proof of service, the department shall call the last known telephone number of record and cause a short, plain notice to the licensee to be posted on the front page of the department's website and shall send notice via e-mail to all newspapers of general circulation and all news departments of broadcast network affiliates in the county of the licensee's last known address of record ~~published once each week for 4 consecutive weeks in a newspaper published in the county of the licensee's last known address of record. If a newspaper is not published in the county, the administrative complaint may be published in a newspaper of general circulation in the county. If the licensee's last known address is located in another state or in a foreign jurisdiction, the administrative complaint may be published in Leon County pursuant to s.~~
~~120.60(5).~~

Section 15. Subsection (5) of section 473.3141, Florida Statutes, is amended to read:

473.3141 Certified public accountants licensed in other states.—



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(5) Disciplinary action against an individual or firm that practices pursuant to this section is not valid unless, prior to the entry of a final order, the agency has served, by personal service pursuant to this chapter or chapter 48 or by certified mail, an administrative complaint that provides reasonable notice to the individual or firm of facts or conduct that warrants the intended action and unless the individual or firm has been given an adequate opportunity to request a proceeding pursuant to ss. 120.569 and 120.57. ~~When personal service cannot be made and the certified mail notice is returned undelivered, the agency shall have a short, plain notice to the individual or firm with practice privileges published once a week for 4 consecutive weeks in a newspaper published in Leon County, Florida. The newspaper shall meet the requirements prescribed by law for such purposes.~~

Section 16. Paragraph (b) of subsection (5) of section 527.23, Florida Statutes, is amended to read:

527.23 Marketing orders; referendum requirements; assessments.—

(5)

(b) It is the duty of the producers or dealers of propane gas who vote in each referendum to send their marked ballots to the department, which shall have the ballots counted by qualified and impartial personnel in its office, and the department shall, within 10 days after the closing date for submitting ballots in any referendum, certify in writing and publish the results of such referendum on the front page of its website and shall send notice via e-mail to all publications of general circulation and all news departments of broadcast



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network affiliates located within the state ~~in a newspaper of general circulation in the state and in such other newspapers as the department prescribes.~~

Section 17. Subsection (2) of section 573.109, Florida Statutes, is amended to read:

573.109 Procedure for referendum.—

(2) It shall be the duty of the producers or handlers affected who vote in each referendum to send their marked ballots to the department, which shall have the ballots counted by qualified and impartial personnel in its office, and the department shall, within 10 days after the closing date for submitting ballots in any referendum, certify in writing and publish the results of such referendum on the front page of its website and shall send notice via e-mail to all publications of general circulation and all news departments of broadcast network affiliates located within the state ~~in a newspaper of general circulation in the state and in such other newspapers as the department may prescribe.~~

Section 18. Section 573.111, Florida Statutes, is amended to read:

573.111 Notice of effective date of marketing order.—Before the issuance of any marketing order, or any suspension, amendment, or termination thereof, a notice shall be posted on a public bulletin board to be maintained by the department in the Division of Marketing and Development of the department in the Nathan Mayo Building, Tallahassee, Leon County, and a copy of the notice shall be posted on the department's website ~~published in a newspaper of general circulation in the state and in such other newspaper or newspapers as the department may prescribe.~~



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~~The notices published in the newspaper or newspapers shall be sent by first-class mail, by the department to those newspapers designated by it,~~ the same date that the notice is posted on the bulletin board ~~with instructions to publish the same as a legal advertisement the first date after receipt of the notice as such newspaper's policy for publishing legal advertisements provides.~~
No marketing order, or any suspension, amendment, or termination thereof, shall become effective until the termination of a period of 5 days from the date of posting and publication.

Section 19. Subsection (2) of section 631.59, Florida Statutes, is amended to read:

631.59 Duties and powers of department and office.—

(2) The department may require that the association notify the insureds of the insolvent insurer and any other interested parties of the determination of insolvency and of their rights under this part. Such notification shall be by mail at their last known addresses, when available, but if sufficient information for notification by mail is not available, notice by e-mail or telephone ~~publication in a newspaper of general circulation~~ shall be sufficient.

Section 20. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2012, and shall apply to legal notices that must be published on or after that date.

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

Delete everything before the enacting clause
and insert:

A bill to be entitled



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An act relating to legal notices; creating s. 50.0211, F.S.; requiring that, after a specified date, if a legal notice is published in a newspaper, the newspaper publishing the notice shall also place the notice on a website maintained by the newspaper; providing requirements for size and placement of such website publication; requiring free access to such online publications; requiring that legal notices published in newspapers also be published on another specified website; requiring that, after a specified date, newspapers that publish legal notice provide e-mail notification of new legal notices; providing requirements for such notice; providing that an error on a newspaper or statewide website is considered a harmless error and legal notice requirements are considered met if the notice published in the newspaper is correct; amending s. 50.041, F.S.; revising physical requirements for proof of publication affidavits; authorizing electronic affidavits that meet specified requirements; amending s. 50.061, F.S.; limiting the rate that may be charged for government notices required to be published more than once in certain circumstances; deleting provisions specifying rates for legal notices based on county population; amending ss. 125.66, 166.041, 190.005, and 200.065, F.S.; requiring that website publication of certain legal notices include maps that appear in the newspaper advertisements; amending s. 17.325, F.S.; making it optional for the Chief



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Financial Officer to advertise the availability of the governmental efficiency hotline; amending ss. 120.60 215.555, 253.52, 255.518, and 380.0668, F.S.; deleting requirements that certain legal notices be published in Leon County; amending s. 455.275, F.S.; deleting a requirement that certain notices concerning professional licensees who cannot be personally served be published in Leon County; requiring that plain notice to the licensee be posted on the front page of the Department of Business and Professional Regulation's website and be provided to certain news outlets; amending s. 473.3141, F.S.; deleting a requirement that notices concerning the discipline of certain certified public accountants be published in Leon County; amending s. 527.23, F.S.; deleting requirements relating to the newspaper publication of certain notices relating to marketing orders for propane gas; requiring that such orders be published on the Internet and that information be provided to certain news outlets; amending ss. 573.109 and 573.111, F.S.; deleting requirements relating to the newspaper publication of certain notices relating to agricultural marketing orders; requiring that such orders be published on the Internet and that information be provided to certain news outlets; amending s. 631.59, F.S.; deleting requirements for the newspaper publication of certain notices concerning insolvent insurers; providing for notice by e-mail or telephone; providing for applicability;



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providing effective dates.

By Senator Bennett

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1 A bill to be entitled
 2 An act relating to effective public notices by
 3 governmental entities; creating s. 50.0311, F.S.;
 4 defining the term "publicly accessible website";
 5 authorizing a local government to use its publicly
 6 accessible website for legally required advertisements
 7 and public notices; providing conditions for such use;
 8 providing for optional receipt of legally required
 9 advertisements and public notices by first-class mail
 10 or e-mail; providing requirements for advertisements
 11 and public notices published on a publicly accessible
 12 website; amending s. 50.011, F.S.; providing that a
 13 notice, advertisement, or publication on a publicly
 14 accessible website of a local government in accordance
 15 with s. 50.0311, F.S., constitutes legal notice;
 16 amending s. 50.021, F.S.; providing that
 17 advertisements directed by law or order or decree of
 18 court to be made in a county in which no newspaper is
 19 published may be made by publication on a publicly
 20 accessible website; amending s. 50.051, F.S.;
 21 providing clarifying provisions; amending s. 50.061,
 22 F.S.; providing clarifying provisions; amending s.
 23 100.342, F.S.; providing for notice of a special
 24 election or referendum on a publicly accessible
 25 website; amending s. 125.66, F.S.; providing for
 26 notice of consideration of an ordinance by a board of
 27 county commissioners to be published on a publicly
 28 accessible website; requiring maintenance of the
 29 advertisement for a specified period; providing

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30 clarifying provisions; amending s. 129.03, F.S.;
 31 providing for the advertisement of a summary statement
 32 of adopted tentative county budgets on a publicly
 33 accessible website; amending s. 129.06, F.S.;
 34 providing for advertisement of a public hearing
 35 relating to the amendment of a county budget on a
 36 publicly accessible website; amending s. 153.79, F.S.;
 37 providing for public advertisement by a county water
 38 and sewer system district of projects to construct,
 39 reconstruct, acquire, or improve a water system or a
 40 sewer system, and of a call for sealed bids for such
 41 projects, on a publicly accessible website; amending
 42 s. 159.32, F.S.; providing for advertisement for
 43 competitive bids for contracts for the construction of
 44 a project under the Florida Industrial Development
 45 Financing Act on a publicly accessible website;
 46 amending s. 162.12, F.S.; providing for optional
 47 serving of notice by a code enforcement board of a
 48 violation of a county or municipal code via a publicly
 49 accessible website; amending s. 163.3184, F.S.;
 50 providing for notice of public hearings on the
 51 adoption of a local government comprehensive plan or
 52 plan amendment via a publicly accessible website;
 53 amending s. 166.041, F.S.; providing for notice of
 54 adoption of a municipal ordinance via a publicly
 55 accessible website; providing clarifying provisions;
 56 amending s. 170.05, F.S.; providing for publication on
 57 a publicly accessible website of a resolution relating
 58 to municipal public improvements financed by special

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59 assessments; amending s. 170.07, F.S.; providing for
 60 publication on a publicly accessible website of notice
 61 of hearing on municipal public improvements financed
 62 by special assessments; amending s. 180.24, F.S.;
 63 providing for advertisement via a publicly accessible
 64 website of specified construction contracts for
 65 utilities or extensions to a previously constructed
 66 utility; amending s. 197.3632, F.S.; providing for
 67 publication on a publicly accessible website of a
 68 local government's notice of intent to use the uniform
 69 method of collecting non-ad valorem assessments;
 70 amending s. 200.065, F.S.; providing for advertisement
 71 on a publicly accessible website of a taxing
 72 authority's intent to adopt a millage rate and budget;
 73 providing for advertisement on a publicly accessible
 74 website of the intention of a specified multicounty
 75 taxing authority to adopt a tentative budget and
 76 millage rate; providing clarifying and conforming
 77 provisions; providing for notice via a publicly
 78 accessible website of correction of a specified error
 79 contained in a notice of proposed property taxes
 80 mailed to taxpayers; amending s. 255.0525, F.S.;
 81 providing for advertisement via a publicly accessible
 82 website for the solicitation of competitive bids or
 83 proposals for construction projects of a county,
 84 municipality, or other political subdivision which are
 85 projected to exceed specified costs; amending s.
 86 380.06, F.S.; providing for publication of an
 87 advertisement on a publicly accessible website of a

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88 public hearing by a local government on an areawide
 89 development of regional impact under the Florida
 90 Environmental Land and Water Management Act of 1972;
 91 amending s. 403.7049, F.S.; prescribing procedures for
 92 fulfilling public disclosure system requirements with
 93 respect to the duty of a municipality to disclose
 94 costs for solid waste management; amending s. 403.973,
 95 F.S.; redefining the term "duly noticed" to include
 96 publication on a publicly accessible website;
 97 providing conforming provisions; amending s. 420.9075,
 98 F.S.; providing for advertisement of notice on a
 99 publicly accessible website of funding availability
 100 through a local housing assistance plan under the
 101 State Housing Initiatives Partnership Act; providing
 102 an effective date.

103
 104 Be It Enacted by the Legislature of the State of Florida:

105
 106 Section 1. Section 50.0311, Florida Statutes, is created to
 107 read:

108 50.0311 Publication of advertisements and public notices on
 109 a local government's publicly accessible website and government
 110 access channels.—

111 (1) For purposes of notices and advertisements required by
 112 statute to be published by a local government, the term
 113 "publicly accessible website" means the official website of a
 114 county or municipal government which is accessible via the
 115 Internet.

116 (2) If specifically authorized by ordinance, a local

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government may use its website for legally required
advertisements and public notices if:

(a) A public library or other governmental facility that
provides free access to the Internet during regular business
hours exists within the jurisdictional boundaries of such county
or municipality;

(b) The local government provides notice to its residents
at least once per year in a newspaper of general circulation,
the county or municipality's newsletter or periodical, or
another publication that is mailed or delivered to all residents
or property owners throughout the local government's
jurisdiction, indicating that residents may receive legally
required advertisements and public notices from the local
government by first-class mail or e-mail upon registering their
name and address or e-mail address with the local governmental
entity; and

(c) The local government maintains a registry of names,
addresses, and e-mail addresses of residents who request in
writing that they receive legally required advertisements and
public notices from the local government by first-class mail or
e-mail.

(3) Advertisements and public notices published on a
publicly accessible website shall be conspicuously placed on the
website's homepage or accessible through a direct link from the
homepage. The advertisement must indicate the date on which the
advertisement was first published on the publicly accessible
website.

(4) The local government that has a government access
channel authorized under s. 610.109 may also include on its

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government access channel a summary of all advertisements and
public notices that are published on its website.

Section 2. Section 50.011, Florida Statutes, is amended to
read:

50.011 Where and in what language legal notices to be
published.—Whenever by statute an official or legal
advertisement or a publication, or notice in a newspaper has
been or is directed or permitted in the nature of or in lieu of
process, or for constructive service, or in initiating,
assuming, reviewing, exercising or enforcing jurisdiction or
power, or for any purpose, including all legal notices and
advertisements of sheriffs and tax collectors, the
contemporaneous and continuous intent and meaning of such
legislation all and singular, existing or repealed, is and has
been and is hereby declared to be and to have been, and the rule
of interpretation is and has been, a publication in a newspaper
printed and published periodically once a week or oftener,
containing at least 25 percent of its words in the English
language, entered or qualified to be admitted and entered as
periodicals matter at a post office in the county where
published, for sale to the public generally, available to the
public generally for the publication of official or other
notices and customarily containing information of a public
character or of interest or of value to the residents or owners
of property in the county where published, or of interest or of
value to the general public. Notwithstanding any provisions to
the contrary, and as specifically authorized by s. 50.0311, a
notice, advertisement, or publication on a publicly accessible
website of a local government in accordance with s. 50.0311

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constitutes legal notice.

Section 3. Section 50.021, Florida Statutes, is amended to read:

50.021 Publication when no newspaper in county.—When any law, or order or decree of court, directs ~~shall direct~~ advertisements to be made in any county and ~~there be~~ no newspaper is published in that the said county, the advertisement may be made, in the case of a county or municipality, by publishing such advertisement on a publicly accessible website maintained by the entity responsible for publication or posting three copies thereof in three different places in the said county, one of which shall be at the front door of the courthouse, and by publication in the nearest county in which a newspaper is published.

Section 4. Section 50.051, Florida Statutes, is amended to read:

50.051 Proof of publication; form of uniform affidavit.—The printed form upon which all such affidavits establishing proof of publication in a newspaper are to be executed shall be substantially as follows:

NAME OF NEWSPAPER

Published (Weekly or Daily)

(Town or City) (County) FLORIDA

STATE OF FLORIDA

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COUNTY OF:

Before the undersigned authority personally appeared, who on oath says that he or she is of the, a newspaper published at in County, Florida; that the attached copy of advertisement, being a in the matter of in the Court, was published in said newspaper in the issues of

Affiant further says that the said is a newspaper published at, in said County, Florida, and that the said newspaper has heretofore been continuously published in said County, Florida, each and has been entered as periodicals matter at the post office in, in said County, Florida, for a period of 1 year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Sworn to and subscribed before me this day of, ... (year) ..., by, who is personally known to me or who has produced (type of identification) as identification.

... (Signature of Notary Public) ...

... (Print, Type, or Stamp Commissioned Name of Notary Public) ...

... (Notary Public) ...

Section 5. Subsection (4) of section 50.061, Florida

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Statutes, is amended to read:

50.061 Amounts chargeable.—

(4) All official public notices and legal advertisements published in a newspaper shall be charged and paid for on the basis of 6-point type on 6-point body, unless otherwise specified by statute.

Section 6. Section 100.342, Florida Statutes, is amended to read:

100.342 Notice of special election or referendum.—In any special election or referendum not otherwise provided for there shall be at least 30 days' notice of the election or referendum by publication in a newspaper of general circulation in the county, district, or municipality, as the case may be, or, in the case of a county or municipality, publication on a publicly accessible website maintained by the local government responsible for publication and published daily during the 5 weeks immediately preceding the election or referendum. If advertised in the newspaper, the publication shall be made at least twice, once in the fifth week and once in the third week prior to the week in which the election or referendum is to be held. If there is no newspaper of general circulation in the county, district, or municipality and publication is not made on a publicly accessible website maintained by the local government responsible for publication, the notice shall be posted in at least ~~no less than~~ five places within the territorial limits of the county, district, or municipality.

Section 7. Paragraph (a) of subsection (2) and paragraph (b) of subsection (4) of section 125.66, Florida Statutes, are amended to read:

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125.66 Ordinances; enactment procedure; emergency ordinances; rezoning or change of land use ordinances or resolutions.—

(2) (a) The regular enactment procedure shall be as follows: The board of county commissioners at any regular or special meeting may enact or amend any ordinance, except as provided in subsection (4), if notice of intent to consider such ordinance is given at least 10 days before the ~~prior to said meeting on a publicly accessible website maintained by the county or by~~ publication in a newspaper of general circulation in the county. If advertised on a publicly accessible website, the advertisement shall be published daily during the 10 days immediately preceding the meeting. A copy of such notice shall be kept available for public inspection during the regular business hours of the office of the clerk of the board of county commissioners. The notice of proposed enactment must ~~shall~~ state the date, time, and place of the meeting; the title or titles of proposed ordinances; and the place or places within the county where such proposed ordinances may be inspected by the public. The notice must ~~shall~~ also advise that interested parties may appear at the meeting and be heard with respect to the proposed ordinance.

(4) Ordinances or resolutions, initiated by other than the county, that change the actual zoning map designation of a parcel or parcels of land shall be enacted pursuant to subsection (2). Ordinances or resolutions that change the actual list of permitted, conditional, or prohibited uses within a zoning category, or ordinances or resolutions initiated by the county that change the actual zoning map designation of a parcel

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291 or parcels of land shall be enacted pursuant to the following
292 procedure:

293 (b) In cases in which the proposed ordinance or resolution
294 changes the actual list of permitted, conditional, or prohibited
295 uses within a zoning category, or changes the actual zoning map
296 designation of a parcel or parcels of land involving 10
297 contiguous acres or more, the board of county commissioners
298 shall provide for public notice and hearings as follows:

299 1. The board of county commissioners shall hold two
300 advertised public hearings on the proposed ordinance or
301 resolution. At least one hearing shall be held after 5 p.m. on a
302 weekday, unless the board of county commissioners, by a majority
303 plus one vote, elects to conduct that hearing at another time of
304 day. The first public hearing shall be held at least 7 days
305 after the day that the first advertisement is published. The
306 second hearing shall be held at least 10 days after the first
307 hearing and shall be advertised at least 5 days before ~~prior to~~
308 the public hearing.

309 2. The required newspaper advertisements shall be at least
310 ~~no less than~~ 2 columns wide by 10 inches long in a standard size
311 or a tabloid size newspaper, and the headline in the
312 advertisement shall be in a type no smaller than 18 point. The
313 newspaper advertisement ~~may shall~~ not be placed in that portion
314 of the newspaper where legal notices and classified
315 advertisements appear. The newspaper advertisement shall be
316 placed in a newspaper of general paid circulation in the county
317 and of general interest and readership in the community pursuant
318 to chapter 50, not one of limited subject matter. It is the
319 legislative intent that, whenever possible, the newspaper

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320 advertisement shall appear in a newspaper that is published at
321 least 5 days a week unless the only newspaper in the community
322 is published less than 5 days a week. The newspaper
323 advertisement ~~must shall~~ be in substantially the following form:

NOTICE OF (TYPE OF) CHANGE

327 The ...(name of local governmental unit)... proposes to
328 adopt the following by ordinance or resolution:...(title of
329 ordinance or resolution)....

330 A public hearing on the ordinance or resolution will be
331 held on ...(date and time)... at ...(meeting place)....

332
333 Except for amendments that ~~which~~ change the actual list of
334 permitted, conditional, or prohibited uses within a zoning
335 category, the advertisement shall contain a geographic location
336 map that ~~which~~ clearly indicates the area within the local
337 government covered by the proposed ordinance or resolution. The
338 map shall include major street names as a means of
339 identification of the general area.

340 3. In lieu of publishing the advertisements specified ~~set~~
341 ~~out~~ in this paragraph, the board of county commissioners may
342 mail a notice to each person owning real property within the
343 area covered by the ordinance or resolution. Such notice must
344 ~~shall~~ clearly explain the proposed ordinance or resolution and
345 ~~shall~~ notify the person of the time, place, and location of both
346 public hearings on the proposed ordinance or resolution.

347 Section 8. Paragraph (b) of subsection (3) of section
348 129.03, Florida Statutes, is amended to read:

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349 129.03 Preparation and adoption of budget.—

350 (3) The county budget officer, after tentatively
351 ascertaining the proposed fiscal policies of the board for the
352 next fiscal year, shall prepare and present to the board a
353 tentative budget for the next fiscal year for each of the funds
354 provided in this chapter, including all estimated receipts,
355 taxes to be levied, and balances expected to be brought forward
356 and all estimated expenditures, reserves, and balances to be
357 carried over at the end of the year.

358 (b) Upon receipt of the tentative budgets and completion of
359 any revisions, the board shall prepare a statement summarizing
360 all of the adopted tentative budgets. The summary statement must
361 show, for each budget and the total of all budgets, the proposed
362 tax millages, balances, reserves, and the total of each major
363 classification of receipts and expenditures, classified
364 according to the uniform classification of accounts adopted by
365 the appropriate state agency. The board shall cause this summary
366 statement to be advertised one time in a newspaper of general
367 circulation published in the county, on a publicly accessible
368 website maintained by the county, or by posting at the
369 courthouse door if there is no such newspaper or website, and
370 the advertisement must appear adjacent to the advertisement
371 required pursuant to s. 200.065.

372 Section 9. Paragraph (f) of subsection (2) of section
373 129.06, Florida Statutes, is amended to read:

374 129.06 Execution and amendment of budget.—

375 (2) The board at any time within a fiscal year may amend a
376 budget for that year, and may within the first 60 days of a
377 fiscal year amend the budget for the prior fiscal year, as

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378 follows:

379 (f) Unless otherwise prohibited by law, if an amendment to
380 a budget is required for a purpose not specifically authorized
381 in paragraphs (a)-(e), the amendment may be authorized by
382 resolution or ordinance of the board of county commissioners
383 adopted following a public hearing.

384 1. ~~The public hearing must be advertised at least 2 days,~~
385 ~~but not more than 5 days, before the date of the hearing.~~ The
386 advertisement must appear on a publicly accessible website
387 maintained by the county or in a newspaper of paid general
388 circulation and must identify the name of the taxing authority,
389 the date, place, and time of the hearing, and the purpose of the
390 hearing. If advertised in the newspaper, the public hearing must
391 be advertised at least 2 days, but not more than 5 days, before
392 the date of the hearing. If advertised on a publicly accessible
393 website, the notice must be published daily during the 5 days
394 immediately preceding the hearing. The advertisement must also
395 identify each budgetary fund to be amended, the source of the
396 funds, the use of the funds, and the total amount of each fund's
397 appropriations.

398 2. If the board amends the budget pursuant to this
399 paragraph, the adopted amendment must be posted on the county's
400 official website within 5 days after adoption.

401 Section 10. Section 153.79, Florida Statutes, is amended to
402 read:

403 153.79 Contracts for construction of improvements, sealed
404 bids.—All contracts let, awarded, or entered into by the
405 district for the construction, reconstruction, or acquisition or
406 improvement of a water system or a sewer system or both or any

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part thereof, if the amount thereof shall exceed \$1,000, shall
 be awarded only after public advertisement and call for sealed
 bids therefor on a publicly accessible website maintained by the
~~county or,~~ in a newspaper published in the county circulating in
 the district, or, if there ~~is~~ be no such website or newspaper,
~~then~~ in a newspaper published in the state and circulating in
 the district. If advertised in the newspaper, such advertisement
shall ~~to~~ be published at least once at least 3 weeks before the
 date set for the receipt of such bids. If advertised on a
publicly accessible website, such advertisement shall be
published daily during the 3 weeks immediately preceding the
date set for the receipt of such bids. Such advertisements for
 bids in addition to the other necessary and pertinent matter
 shall state in general terms the nature and description of the
 improvement or improvements to be undertaken and shall state
 that detailed plans and specifications for such work are on file
 for inspection in the office of the district clerk and copies
 thereof shall be furnished to any interested party upon payment
 of reasonable charges to reimburse the district for its expenses
 in providing such copies. The award shall be made to the
 responsible and competent bidder or bidders who shall offer to
 undertake the improvements at the lowest cost to the district
 and such bidder or bidders shall be required to file bond for
 the full and faithful performance of such work and the execution
 of any such contract in such amount as the district board shall
 determine, and in all other respects the letting of such
 construction contracts shall comply with applicable provisions
 of the general laws relating to the letting of public contracts.
 Nothing in this section shall be deemed to prevent the district

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from hiring or retaining such consulting engineers, attorneys,
 financial experts or other technicians as it shall determine, in
 its discretion, or from undertaking any construction work with
 its own resources, without any such public advertisement.

Section 11. Section 159.32, Florida Statutes, is amended to
 read:

159.32 Construction contracts.—Contracts for the
 construction of the project may be awarded by the local agency
 in such manner as in its judgment will best promote free and
 open competition, including advertisement for competitive bids
 in a newspaper of general circulation within the boundaries of
 the local agency or on a publicly accessible website maintained
by the county; however, if the local agency shall determine that
 the purposes of this part will be more effectively served, the
 local agency in its discretion may award or cause to be awarded
 contracts for the construction of any project, or any part
 thereof, upon a negotiated basis as determined by the local
 agency. The local agency shall prescribe bid security
 requirements and other procedures in connection with the award
 of such contracts as in its judgment shall protect the public
 interest. The local agency may by written contract engage the
 services of the lessee, purchaser, or prospective lessee or
 purchaser of any project in the construction of the project and
 may provide in the contract that the lessee, purchaser, or
 prospective lessee or purchaser may act as an agent of, or an
 independent contractor for, the local agency for the performance
 of the functions described therein, subject to such conditions
 and requirements consistent with the provisions of this part as
 shall be prescribed in the contract, including functions such as

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 465 the acquisition of the site and other real property for the
 466 project; the preparation of plans, specifications, and contract
 467 documents; the award of construction and other contracts upon a
 468 competitive or negotiated basis; the construction of the
 469 project, or any part thereof, directly by the lessee, purchaser,
 470 or prospective lessee or purchaser; the inspection and
 471 supervision of construction; the employment of engineers,
 472 architects, builders, and other contractors; and the provision
 473 of money to pay the cost thereof pending reimbursement by the
 474 local agency. Any such contract may provide that the local
 475 agency may, out of proceeds of bonds, make advances to or
 476 reimburse the lessee, purchaser, or prospective lessee or
 477 purchaser for its costs incurred in the performance of those
 478 functions, and shall set forth the supporting documents required
 479 to be submitted to the local agency and the reviews,
 480 examinations, and audits that shall be required in connection
 481 therewith to assure compliance with the provisions of this part
 482 and the contract.

483 Section 12. Paragraph (a) of subsection (2) of section
 484 162.12, Florida Statutes, is amended to read:

485 162.12 Notices.—

486 (2) In addition to providing notice as set forth in
 487 subsection (1), at the option of the code enforcement board,
 488 notice may also be served by publication or posting, as follows:

489 (a)1. Such notice shall be published once during each week
 490 for 4 consecutive weeks (four publications being sufficient) in
 491 a newspaper of general circulation in the county where the code
 492 enforcement board is located or daily during the 4 weeks
 493 immediately preceding the hearing on a publicly accessible

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 494 website maintained by the local government. The website and
 495 newspaper shall meet such requirements as are prescribed under
 496 chapter 50 for legal and official advertisements.

497 2. Proof of newspaper publication shall be made as provided
 498 in ss. 50.041 and 50.051.

499
 500 Evidence that an attempt has been made to hand deliver or mail
 501 notice as provided in subsection (1), together with proof of
 502 publication or posting as provided in subsection (2), shall be
 503 sufficient to show that the notice requirements of this part
 504 have been met, without regard to whether or not the alleged
 505 violator actually received such notice.

506 Section 13. Paragraph (b) of subsection (11) of section
 507 163.3184, Florida Statutes, is amended to read:

508 163.3184 Process for adoption of comprehensive plan or plan
 509 amendment.—

510 (11) PUBLIC HEARINGS.—

511 (b) The local governing body shall hold at least two
 512 advertised public hearings on the proposed comprehensive plan or
 513 plan amendment as follows:

514 1. The first public hearing shall be held at the
 515 transmittal stage. It shall be held on a weekday at least 7 days
 516 after the day that the first advertisement is published pursuant
 517 to the requirements of chapter 125 or chapter 166 or after the
 518 notice of the first public hearing is initially published on the
 519 publicly accessible website.

520 2. The second public hearing shall be held at the adoption
 521 stage. It shall be held on a weekday at least 5 days after the
 522 day that the second advertisement is published pursuant to the

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requirements of chapter 125 or chapter 166 or after the notice
of the second public hearing is initially published on the
publicly accessible website.

Section 14. Paragraphs (a) and (c) of subsection (3) of
 section 166.041, Florida Statutes, are amended to read:

166.041 Procedures for adoption of ordinances and
 resolutions.—

(3)(a) Except as provided in paragraph (c), a proposed
 ordinance may be read by title, or in full, on at least 2
 separate days and shall, at least 10 days before ~~prior to~~
 adoption, be noticed once in a newspaper of general circulation
 in the municipality or noticed daily during the 10 days
immediately preceding the adoption on a publicly accessible
website maintained by the municipality. The notice of proposed
 enactment must ~~shall~~ state the date, time, and place of the
 meeting; the title or titles of proposed ordinances; and the
 place or places within the municipality where such proposed
 ordinances may be inspected by the public. The notice must ~~shall~~
 also advise that interested parties may appear at the meeting
 and be heard with respect to the proposed ordinance.

(c) Ordinances initiated by other than the municipality
~~which that~~ change the actual zoning map designation of a parcel
 or parcels of land shall be enacted pursuant to paragraph (a).
 Ordinances that change the actual list of permitted,
 conditional, or prohibited uses within a zoning category, or
 ordinances initiated by the municipality which that change the
 actual zoning map designation of a parcel or parcels of land
 shall be enacted pursuant to the following procedure:

1. In cases in which the proposed ordinance changes the

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actual zoning map designation for a parcel or parcels of land
 involving less than 10 contiguous acres, the governing body
 shall direct the clerk of the governing body to notify by mail
 each real property owner whose land the municipality will
 redesignate by enactment of the ordinance and whose address is
 known by reference to the latest ad valorem tax records. The
 notice shall state the substance of the proposed ordinance as it
 affects that property owner and shall set a time and place for
 one or more public hearings on such ordinance. Such notice shall
 be given at least 30 days before ~~prior to~~ the date set for the
 public hearing, and a copy of the notice shall be kept available
 for public inspection during the regular business hours of the
 office of the clerk of the governing body. The governing body
 shall hold a public hearing on the proposed ordinance and may,
 upon the conclusion of the hearing, immediately adopt the
 ordinance.

2. In cases in which the proposed ordinance changes the
 actual list of permitted, conditional, or prohibited uses within
 a zoning category, or changes the actual zoning map designation
 of a parcel or parcels of land involving 10 contiguous acres or
 more, the governing body shall provide for public notice and
 hearings as follows:

a. The local governing body shall hold two advertised
 public hearings on the proposed ordinance. At least one hearing
 shall be held after 5 p.m. on a weekday, unless the local
 governing body, by a majority plus one vote, elects to conduct
 that hearing at another time of day. The first public hearing
 shall be held at least 7 days after the day that the first
 advertisement is published. The second hearing shall be held at

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least 10 days after the first hearing and shall be advertised at least 5 days ~~before~~ ~~prior to~~ the public hearing.

b. The required newspaper advertisements shall be at least ~~no less than~~ 2 columns wide by 10 inches long in a standard size or a tabloid size newspaper, and the headline in the advertisement shall be in a type no smaller than 18 point. The newspaper advertisement ~~may~~ ~~shall~~ not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The newspaper advertisement shall be placed in a newspaper of general paid circulation in the municipality and of general interest and readership in the municipality, not one of limited subject matter, pursuant to chapter 50. It is the legislative intent that, whenever possible, the newspaper advertisement appear in a newspaper that is published at least 5 days a week unless the only newspaper in the municipality is published less than 5 days a week. The newspaper advertisement must ~~shall~~ be in substantially the following form:

NOTICE OF (TYPE OF) CHANGE

The ...(name of local governmental unit)... proposes to adopt the following ordinance...(title of the ordinance)....

A public hearing on the ordinance will be held on ...(date and time)... at ...(meeting place)....

Except for amendments ~~that which~~ change the actual list of permitted, conditional, or prohibited uses within a zoning category, the advertisement must ~~shall~~ contain a geographic

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location map ~~that which~~ clearly indicates the area covered by the proposed ordinance. The map must ~~shall~~ include major street names as a means of identification of the general area.

c. In lieu of publishing the advertisement set out in this paragraph, the municipality may mail a notice to each person owning real property within the area covered by the ordinance. Such notice must ~~shall~~ clearly explain the proposed ordinance and shall notify the person of the time, place, and location of any public hearing on the proposed ordinance.

Section 15. Section 170.05, Florida Statutes, is amended to read:

170.05 Publication of resolution.—Upon the adoption of the resolution provided for in s. 170.03, the municipality shall cause the ~~said~~ resolution to be published on a publicly accessible website maintained by the municipality or one time in a newspaper of general circulation published in the ~~said~~ municipality, and if there is ~~be~~ no website or newspaper published in the ~~said~~ municipality, the governing authority of the ~~said~~ municipality shall cause the ~~said~~ resolution to be published once a week for a period of 2 weeks in a newspaper of general circulation published in the county in which the ~~said~~ municipality is located.

Section 16. Section 170.07, Florida Statutes, is amended to read:

170.07 Publication of preliminary assessment roll.—Upon the completion of the ~~said~~ preliminary assessment roll, the governing authority of the municipality shall by resolution fix a time and place at which the owners of the property to be assessed or any other persons interested therein may appear

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639 before ~~the said~~ governing authority and be heard as to the
 640 propriety and advisability of making such improvements, as to
 641 the cost thereof, as to the manner of payment therefor, and as
 642 to the amount thereof to be assessed against each property so
 643 improved. Thirty days' notice in writing of such time and place
 644 shall be given to such property owners. The notice must ~~shall~~
 645 include the amount of the assessment and shall be served by
 646 mailing a copy to each of such property owners at his or her
 647 last known address.7 The names and addresses of such property
 648 owners shall ~~to~~ be obtained from the records of the property
 649 appraiser or from such other sources as the city or town clerk
 650 or engineer deems reliable, and proof of such mailing shall ~~to~~
 651 be made by the affidavit of the clerk or deputy clerk of the
 652 ~~said~~ municipality, or by the engineer, said proof to be filed
 653 with the clerk; however, provided, that failure to mail the said
 654 notice or notices does ~~shall~~ not invalidate any of the
 655 proceedings hereunder. Notice of the time and place of such
 656 hearing shall also be given by two publications a week apart in
 657 a newspaper of general circulation in the said municipality or
 658 by publication daily for 2 weeks on a publicly accessible
 659 website maintained by the municipality, and if there is ~~be~~ no
 660 website or newspaper published in the said municipality, the
 661 governing authority of the said municipality shall cause the
 662 ~~said~~ notice to be published in like manner in a newspaper of
 663 general circulation published in the county in which the said
 664 municipality is located, and, provided that the last publication
 665 must ~~shall~~ be at least 1 week before ~~prior to~~ the date of the
 666 hearing. The said notice must ~~shall~~ describe the streets or
 667 other areas to be improved and advise all persons interested

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668 that the description of each property to be assessed and the
 669 amount to be assessed to each piece or parcel of property may be
 670 ascertained at the office of the clerk of the municipality. Such
 671 service by publication shall be verified by the affidavit of the
 672 publisher and filed with the clerk of the said municipality.
 673 Section 17. Subsection (1) of section 180.24, Florida
 674 Statutes, is amended to read:
 675 180.24 Contracts for construction; bond; publication of
 676 notice; bids.—
 677 (1) Any municipality desiring the accomplishment of any or
 678 all of the purposes of this chapter may make contracts for the
 679 construction of any of the utilities mentioned in this chapter,
 680 or any extension or extensions to any previously constructed
 681 utility. Such, which said contracts must ~~shall~~ be in writing,
 682 and the contractor shall be required to give bond, which ~~said~~
 683 ~~bond~~ shall be executed by a surety company authorized to do
 684 business in the state; provided, however, construction contracts
 685 in excess of \$25,000 shall be advertised by the publication of a
 686 notice in a newspaper of general circulation in the county in
 687 which the said municipality is located at least once each week
 688 for 2 consecutive weeks, by publication daily for 2 weeks on a
 689 publicly accessible website maintained by the municipality, or
 690 by posting three notices in three conspicuous places in the said
 691 municipality, one of which shall be on the door of the city
 692 hall.7 ~~and that~~ At least 10 days shall elapse between the date
 693 of the first publication or posting of such notice and the date
 694 of receiving bids and the execution of such contract documents.
 695 For municipal construction projects identified in s. 255.0525,
 696 the notice provision of that section supersedes and replaces the

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notice provisions in this section.

Section 18. Paragraph (a) of subsection (3) of section 197.3632, Florida Statutes, is amended to read:

197.3632 Uniform method for the levy, collection, and enforcement of non-ad valorem assessments.—

(3) (a) Notwithstanding any other provision of law to the contrary, a local government ~~that which~~ is authorized to impose a non-ad valorem assessment and ~~that which~~ elects to use the uniform method of collecting such assessment for the first time as authorized in this section shall adopt a resolution at a public hearing ~~before~~ prior to January 1 or, if the property appraiser, tax collector, and local government agree, March 1. The resolution ~~must~~ shall clearly state its intent to use the uniform method of collecting such assessment. The local government shall publish notice of its intent to use the uniform method for collecting such assessment weekly in a newspaper of general circulation within each county contained in the boundaries of the local government for 4 consecutive weeks preceding the hearing or, in the case of a county or municipality, daily during the 4 consecutive weeks immediately preceding the hearing on a publicly accessible website maintained by the county or municipality. The resolution ~~must~~ shall state the need for the levy and ~~shall~~ include a legal description of the boundaries of the real property subject to the levy. If the resolution is adopted, the local governing board shall send a copy of it by United States mail to the property appraiser, the tax collector, and the department by January 10 or, if the property appraiser, tax collector, and local government agree, March 10.

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Section 19. Paragraph (d) of subsection (2), paragraph (g) of subsection (3), subsection (12), and paragraph (a) of subsection (14) of section 200.065, Florida Statutes, are amended to read:

200.065 Method of fixing millage.—

(2) No millage shall be levied until a resolution or ordinance has been approved by the governing board of the taxing authority which resolution or ordinance must be approved by the taxing authority according to the following procedure:

(d) Within 15 days after the meeting adopting the tentative budget, the taxing authority shall advertise in a newspaper of general circulation in the county as provided in subsection (3), ~~its intent to finally adopt a millage rate and budget~~ or, in the case of a county or municipality, may advertise on its publicly accessible website its intent to finally adopt a millage rate and budget, and shall maintain the notice on its website until completion of the hearing. If advertised in a newspaper, a public hearing to finalize the budget and adopt a millage rate shall be held not less than 2 days nor more than 5 days after the day that the advertisement is first published. During the hearing, the governing body of the taxing authority shall amend the adopted tentative budget as it sees fit, adopt a final budget, and adopt a resolution or ordinance stating the millage rate to be levied. The resolution or ordinance ~~must~~ shall state the percent, if any, by which the millage rate to be levied exceeds the rolled-back rate computed pursuant to subsection (1), which shall be characterized as the percentage increase in property taxes adopted by the governing body. The adoption of the budget and the millage-levy resolution or ordinance shall be

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 755 by separate votes. For each taxing authority levying millage,
 756 the name of the taxing authority, the rolled-back rate, the
 757 percentage increase, and the millage rate to be levied shall be
 758 publicly announced ~~before~~ ~~prior to~~ the adoption of the millage-
 759 levy resolution or ordinance. ~~In no event may~~ The millage rate
 760 adopted pursuant to this paragraph may not exceed the millage
 761 rate tentatively adopted pursuant to paragraph (c). If the rate
 762 tentatively adopted pursuant to paragraph (c) exceeds the
 763 proposed rate provided to the property appraiser pursuant to
 764 paragraph (b), or as subsequently adjusted pursuant to
 765 subsection (11), each taxpayer within the jurisdiction of the
 766 taxing authority shall be sent notice by first-class mail of his
 767 or her taxes under the tentatively adopted millage rate and his
 768 or her taxes under the previously proposed rate. The notice must
 769 be prepared by the property appraiser, at the expense of the
 770 taxing authority, and must generally conform to the requirements
 771 of s. 200.069. If such additional notice is necessary, its
 772 mailing must precede the hearing held pursuant to this paragraph
 773 by not less than 10 days and not more than 15 days.

774 (3) The advertisement shall be no less than one-quarter
 775 page in size of a standard size or a tabloid size newspaper, and
 776 the headline in the advertisement shall be in a type no smaller
 777 than 18 point. The advertisement may ~~shall~~ not be placed in that
 778 portion of the newspaper where legal notices and classified
 779 advertisements appear. The advertisement shall be published in a
 780 newspaper of general paid circulation in the county or in a
 781 geographically limited insert of such newspaper. The geographic
 782 boundaries in which such insert is circulated shall include the
 783 geographic boundaries of the taxing authority. It is the

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 784 legislative intent that, whenever possible, the advertisement
 785 appear in a newspaper that is published at least 5 days a week
 786 unless the only newspaper in the county is published less than 5
 787 days a week, or that the advertisement appear in a
 788 geographically limited insert of such newspaper which insert is
 789 published throughout the taxing authority's jurisdiction at
 790 least twice each week. It is further the legislative intent that
 791 the newspaper selected be one of general interest and readership
 792 in the community and not one of limited subject matter, pursuant
 793 to chapter 50.

794 (g) If ~~In the event that~~ the mailing of the notice of
 795 proposed property taxes is delayed beyond September 3 in a
 796 county, any multicounty taxing authority that ~~which~~ levies ad
 797 valorem taxes within that county shall advertise its intention
 798 to adopt a tentative budget and millage rate on a publicly
 799 accessible website maintained by the taxing authority or in a
 800 newspaper of paid general circulation within that county, as
 801 provided in this subsection, and shall hold the hearing required
 802 pursuant to paragraph (2)(c). If advertised in the newspaper,
 803 the hearing shall be held not less than 2 days or more than 5
 804 days thereafter, and not later than September 18. If advertised
 805 on the website, the hearing shall be held not less than 2 days
 806 after initial publication of the advertisement on the website
 807 and not later than September 18, and shall remain on the website
 808 until the date of the hearing. The advertisement shall be in the
 809 following form, unless the proposed millage rate is less than or
 810 equal to the rolled-back rate, computed pursuant to subsection
 811 (1), in which case the advertisement shall be as provided in
 812 paragraph (e):

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NOTICE OF TAX INCREASE

The ...(name of the taxing authority)... proposes to increase its property tax levy by ...(percentage of increase over rolled-back rate)... percent.

All concerned citizens are invited to attend a public hearing on the proposed tax increase to be held on ...(date and time)... at ...(meeting place)....

(12) The time periods specified in this section shall be determined by using the date of certification of value pursuant to subsection (1) or July 1, whichever date is later, as day 1. The time periods shall be considered directory and may be shortened, provided:

(a) No public hearing which is preceded by a mailed notice occurs earlier than 10 days following the mailing of such notice;

(b) Any public hearing preceded by a newspaper advertisement is held not less than 2 days or more than 5 days following publication of such advertisement and any public hearing preceded by advertisement on a website advertisement is held not less than 2 days after initial publication; and

(c) The property appraiser coordinates such shortening of time periods and gives written notice to all affected taxing authorities; however, no taxing authority shall be denied its right to the full time periods allowed in this section.

(14) (a) If the notice of proposed property taxes mailed to taxpayers under this section contains an error, the property appraiser, in lieu of mailing a corrected notice to all taxpayers, may correct the error by mailing a short form of the

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notice to those taxpayers affected by the error and its correction. The notice shall be prepared by the property appraiser at the expense of the taxing authority ~~that which~~ caused the error or at the property appraiser's expense if he or she caused the error. The form of the notice must be approved by the executive director of the Department of Revenue or the executive director's designee. If the error involves only the date and time of the public hearings required by this section, the property appraiser, with the permission of the taxing authority affected by the error, may correct the error by advertising the corrected information on a publicly accessible website maintained by the taxing authority or in a newspaper of general circulation in the county as provided in subsection (3).

Section 20. Subsection (2) of section 255.0525, Florida Statutes, is amended to read:

255.0525 Advertising for competitive bids or proposals.—

(2) The solicitation of competitive bids or proposals for any county, municipality, or other political subdivision construction project that is projected to cost more than \$200,000 shall be publicly advertised at least once in a newspaper of general circulation in the county where the project is located at least 21 days ~~before~~ prior to the established bid opening and at least 5 days ~~before~~ prior to any scheduled prebid conference, or advertised daily during the 21-day period immediately preceding the established bid opening date and daily during the 5-day period immediately preceding any scheduled prebid conference on a publicly accessible website maintained by the entity responsible for publication. The solicitation of competitive bids or proposals for any county, municipality, or

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871 other political subdivision construction project that is
 872 projected to cost more than \$500,000 shall be publicly
 873 advertised at least once in a newspaper of general circulation
 874 in the county where the project is located at least 30 days
 875 ~~before prior to~~ the established bid opening and at least 5 days
 876 ~~before prior to~~ any scheduled prebid conference, or advertised
 877 daily during the 30-day period immediately preceding the
 878 established bid opening date and daily during the 5-day period
 879 immediately preceding any scheduled prebid conference on a
 880 publicly accessible website. Bids or proposals shall be received
 881 and opened at the location, date, and time established in the
 882 bid or proposal advertisement. In cases of emergency, the
 883 procedures required in this section may be altered by the local
 884 governmental entity in any manner that is reasonable under the
 885 emergency circumstances.

886 Section 21. Paragraph (e) of subsection (25) of section
 887 380.06, Florida Statutes, is amended to read:

888 380.06 Developments of regional impact.—

889 (25) AREAWIDE DEVELOPMENT OF REGIONAL IMPACT.—

890 (e) The local government shall schedule a public hearing
 891 within 60 days after receipt of the petition. The public hearing
 892 shall be advertised at least 30 days ~~before prior to~~ the
 893 hearing. In addition to the public hearing notice by the local
 894 government, the petitioner, except when the petitioner is a
 895 local government, shall provide actual notice to each person
 896 owning land within the proposed areawide development plan at
 897 least 30 days ~~before prior to~~ the hearing. If the petitioner is
 898 a local government, or local governments pursuant to an
 899 interlocal agreement, notice of the public hearing shall be

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900 provided by the publication of an advertisement on a publicly
 901 accessible website maintained by the county or municipality
 902 responsible for publication or in a newspaper of general
 903 circulation that meets the requirements of this paragraph. The
 904 newspaper advertisement must be at least ~~no less than~~ one-
 905 quarter page in a standard size or tabloid size newspaper, and
 906 the headline in the newspaper advertisement must be in type no
 907 smaller than 18 point. The newspaper advertisement ~~may shall~~ not
 908 be published in that portion of the newspaper where legal
 909 notices and classified advertisements appear. The advertisement
 910 must be published on a publicly accessible website maintained by
 911 the county or municipality responsible for publication or in a
 912 newspaper of general paid circulation in the county and of
 913 general interest and readership in the community, not one of
 914 limited subject matter, pursuant to chapter 50. Whenever
 915 possible, the newspaper advertisement must appear in a newspaper
 916 that is published at least 5 days a week, unless the only
 917 newspaper in the community is published less than 5 days a week.
 918 The advertisement must be in substantially the form used to
 919 advertise amendments to comprehensive plans pursuant to s.
 920 163.3184. The local government shall specifically notify in
 921 writing the regional planning agency and the state land planning
 922 agency at least 30 days ~~before prior to~~ the public hearing. At
 923 the public hearing, all interested parties may testify and
 924 submit evidence regarding the petitioner's qualifications, the
 925 need for and benefits of an areawide development of regional
 926 impact, and such other issues relevant to a full consideration
 927 of the petition. If more than one local government has
 928 jurisdiction over the defined planning area in an areawide

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development plan, the local governments shall hold a joint public hearing. Such hearing shall address, at a minimum, the need to resolve conflicting ordinances or comprehensive plans, if any. The local government holding the joint hearing shall comply with the following additional requirements:

1. The notice of the hearing shall be published at least 60 days in advance of the hearing and shall specify where the petition may be reviewed.

2. The notice shall be given to the state land planning agency, to the applicable regional planning agency, and to such other persons as may have been designated by the state land planning agency as entitled to receive such notices.

3. A public hearing date shall be set by the appropriate local government at the next scheduled meeting.

Section 22. Subsection (2) of section 403.7049, Florida Statutes, is amended to read:

403.7049 Determination of full cost for solid waste management; local solid waste management fees.—

(2) (a) Each municipality shall establish a system to inform, at least ~~no less than~~ once a year, residential and nonresidential users of solid waste management services within the municipality's service area of the user's share, on an average or individual basis, of the full cost for solid waste management as determined pursuant to subsection (1). Counties shall provide the information required of municipalities only to residential and nonresidential users of solid waste management services within the county's service area who that are not served by a municipality. Municipalities shall include costs charged to them or persons contracting with them for disposal of

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solid waste in the full cost information provided to residential and nonresidential users of solid waste management services.

(b) The public disclosure system requirements of this section shall be fulfilled by meeting one of the following:

1. By mailing a copy of the full cost information to each residential and nonresidential user of solid waste management service within the solid waste management service area of the county or municipality;

2. By enclosing a copy of the full cost information in or with a bill sent to each residential and nonresidential user of solid waste management services within the service area of the county or municipality;

3. By publishing a copy of the full cost information in a newspaper of general circulation within the county. Such notice must be a display advertisement not less than one-quarter page in size; or

4. By advertising a copy of the full cost information daily for at least two consecutive weeks on a publicly accessible website maintained by the municipality.

(c) ~~(b)~~ Counties and municipalities are encouraged to operate their solid waste management systems through use of an enterprise fund.

Section 23. Paragraph (a) of subsection (2) of section 403.973, Florida Statutes, is amended to read:

403.973 Expedited permitting; amendments to comprehensive plans.—

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

(a) "Duly noticed" means publication on a publicly accessible website maintained by the municipality or county

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 987 having jurisdiction or in a newspaper of general circulation in
 988 the municipality or county ~~having with~~ jurisdiction. If
 989 published in a newspaper, the notice shall appear on at least 2
 990 separate days, one of which shall be at least 7 days before the
 991 meeting. If published on a publicly accessible website, the
 992 notice shall appear daily during the 7 days immediately
 993 preceding the meeting. The notice ~~must~~ shall state the date,
 994 time, and place of the meeting scheduled to discuss or enact the
 995 memorandum of agreement, and the places within the municipality
 996 or county where such proposed memorandum of agreement may be
 997 inspected by the public. The newspaper notice must be one-eighth
 998 of a page in size and must be published in a portion of the
 999 paper other than the legal notices section. The notice must
 1000 ~~shall~~ also advise that interested parties may appear at the
 1001 meeting and be heard with respect to the memorandum of
 1002 agreement.

1003 Section 24. Paragraph (b) of subsection (4) of section
 1004 420.9075, Florida Statutes, is amended to read:

1005 420.9075 Local housing assistance plans; partnerships.—

1006 (4) Each local housing assistance plan is governed by the
 1007 following criteria and administrative procedures:

1008 (b) The county or eligible municipality or its
 1009 administrative representative shall advertise the notice of
 1010 funding availability in a newspaper of general circulation and
 1011 periodicals serving ethnic and diverse neighborhoods, at least
 1012 30 days before the beginning of the application period or daily
 1013 during the 30 days immediately preceding the application period
 1014 on a publicly accessible website maintained by the county or
 1015 eligible municipality. If no funding is available due to a

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 1016 waiting list, no notice of funding availability is required.
 1017 Section 25. This act shall take effect October 1, 2012.

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/12/12
Meeting Date

Topic Public Notice Requirement

Bill Number SB 292
(if applicable)

Name Commissioner Ilene Lieberman

Amendment Barcode _____
(if applicable)

Job Title Commissioner

Address 300 S. Monroe
Tallahassee FL 32301
City State Zip

Phone 850-922-9300

E-mail _____

Speaking: ☐ For ☐ Against ☒ Information

Representing Broward Co / FL ASS OF COUNTIES

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Topic EFFECTIVE PUBLIC NOTICE

Bill Number SB 292
(if applicable)

Name DEAN RIDINGS

Amendment Barcode _____
(if applicable)

Job Title PRESIDENT

Address 336 E. COLLEGE AVE
Street

Phone 850.521.1162

TALLAHASSEE FL 32301
City State Zip

E-mail deanrpf1press.com

Speaking: ☒ For ☐ Against ☐ Information

Representing FLORIDA PRESS ASSOCIATION

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/12/12

Meeting Date

Topic PUBLIC NOTICE

Bill Number SB 292
(if applicable)

Name KEYNA CORY

Amendment Barcode 635460
(if applicable)

Job Title SENIOR LOBBYIST

Address 110 E. COUGER AVE
Street

Phone 850 681-1065

TAUAHASSEE FL 32301
City State Zip

E-mail keynacory@paconsv.hants.com

Speaking: ☒ For ☐ Against ☐ Information

Representing ASSOCIATED INDUSTRIES OF FL (AIF)

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Topic Strip All Amendment

Bill Number SB 292

Name JACK CORI

Amendment Barcode Strip All
(if applicable)

Job Title VP

Amendment
(if applicable)

Address 170 E. Caffery Rd

Phone 850-893-0995

Tallah FL 32301
City State Zip

E-mail JACK CORI @ DH Co.

Speaking: ☐ For ☐ Against ☐ Information

Representing Dash Bustin Run

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard 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)

Jan. 12, 2012

Meeting Date

Topic Public Notice

Bill Number 292
(if applicable)

Name Wayne Malaney

Amendment Barcode 635460
(if applicable)

Job Title _____

Address 2610 S. Hannon Hill Dr
Street

Phone 850.933.7001

Tallahassee FL 32309
City State Zip

E-mail FLLOBBYIST@AOL.COM

Speaking: ☒ For ☐ Against ☐ Information *THE AMENDMENT*

Representing ALM and Bailey Publishing

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/12/12
Meeting Date

Topic SB 292

Bill Number 292
(if applicable)

Name Casey Cook

Amendment Barcode 635 460
(if applicable)

Job Title Legislative Advocate

Address PO Box 1757
Street

Phone 850 701 3701

Tallahassee FL 32302
City State Zip

E-mail ccook@flcities.com

Speaking: ☐ For ☐ Against ☐ Information

Representing Florida League of Cities

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Jan. 12, 2012

Meeting Date

Topic Public Notice

Bill Number 292
(if applicable)

Name Wayne Malaney

Amendment Barcode 635460
(if applicable)

Job Title _____

Address 2610 S. Hannon Hill Dr
Street

Phone 850.933.7001

Tallahassee FL 32309
City State Zip

E-mail FLLOBBYIST@AOL.COM

Speaking: ☒ For ☐ Against ☐ Information

THE AMENDMENT

Representing ALM and Bailey Publishing

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

The Florida Senate
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 Community Affairs Committee

BILL: SB 818

INTRODUCER: Senators Bennett and Gaetz

SUBJECT: Animal Shelters and Animal Control Agencies

DATE: December 21, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiggins	Yeatman	CA	Pre-meeting
2.			AG	
3.				
4.				
5.				
6.				

I. Summary:

The bill requires animal control agencies or animal shelters that euthanize animals to maintain a registry of animal rescue groups willing to accept animals that are subject to euthanization. The bill provides definitions and specifics regarding who can be included in the registry and who can, if necessary, be removed from the registry. The bill specifies what contact information must be included in the registry. Entities that agree to be included in the registry must specify the type of animals they will accept and under what circumstances.

The animal control agency or animal shelter may not euthanize an animal until the animal control agency or animal shelter has notified, or attempted to notify, all rescue groups or persons on the euthanization registry, which have indicated a willingness to take an animal of that type. The notification must take place at least 24 hours before the animal is scheduled to be euthanized. The rescue group or person agreeing to take possession of the animal must do so within 2 business days after notifying the animal control agency. Further, the bill specifies under what circumstances an animal may be euthanized.

The bill requires an animal control agency or animal shelter to account for each animal through a monthly and annual reporting requirement. The reporting requirement specifies that the animal control agency or shelter must report how many animals were impounded, euthanized, lost or stolen, returned to their owners, adopted, transferred to other organizations or rescue groups, or had died, or remained in the custody of the agency or shelter.

The bill creates s. 828.067, of the Florida Statutes.

II. Present Situation:

The Humane Society of the United States (HSUS) estimated that animal shelters care for 6-8 million dogs and cats every year in the United States, of whom approximately 3-4 million are euthanized. According to the HSUS this is an estimate as there is no central data reporting agency for animal shelters. In the 1970s, American shelters euthanized 12-20 million dogs and cats, at a time when there were 67 million pets in homes. Today shelters euthanize around 4 million animals while there are more than 135 million dogs and cats in homes.¹

According to the Senate Committee on Agriculture's *Interim Report 2009-101*, the history of no-kill sheltering began more than half a century ago when independent caregivers began rescuing and sheltering homeless animals with the intention of keeping them alive. This was in reaction to the current policy of most humane societies and tax supported animal control services that routinely euthanized stray and abandoned animals. In 1994, the city and county of San Francisco became the first community in the nation to end the euthanization of healthy dogs and cats in its animal shelter system. An agreement between the city's Animal care and Control Department and the private San Francisco Society for the Prevention of Cruelty to Animals (SPCA) ensured a home not only to each and every healthy dog and cat, but also to thousands who were sick or injured but treatable. In addition, a citywide preference for neutering/spaying over impounding and euthanizing reduced the death rate for feral cats by 73 percent and for underage kittens by 81 percent. In 1999, the Hayden Shelter Reform Law became effective. It changed California's state policy regarding shelter care for stray and abandoned animals. Most notably it (1) declares "It is the policy of the state that no adoptable animal should be euthanized if it can be adopted into a suitable home," and (2) lengthens the time (generally from three days to six) that shelters must care for animals before euthanizing them.²

The interim report also stated that providing low cost spay/neuter options to the community at a high volume, recruiting large numbers of volunteers, and building a strong relationship with the community was key to the success of any no kill/low kill program. For example, in San Francisco, a community of approximately 800,000 people, there are volunteers that log over 110,000 hours at the shelter each year. Assuming the prevailing hourly wage, payroll taxes and benefits, it would cost the San Francisco SPCA over \$1 million dollars annually to provide those services.³

Rescue and foster care groups are another key element to a successful no kill/low kill program. An adoption or transfer of animals to a rescue group makes cage and kennel space available and reduces feeding and watering costs. These groups can take care of animals that are too sick, too young, or not socialized enough to be immediately adopted.

Cities and counties that administer animal control programs or shelters often develop relationships with foster care and rescue groups to find homes for the animals in their care. In many cases, programs have been developed around the resources available and the agencies'

¹ The Humane Society of the United States, *Common Questions about Animal Shelters*, http://www.humanesociety.org/animal-community/resources/qa/common_questions_on_shelters.html (last visited Dec.20, 2011).

² The Florida Senate Committee on Agriculture, Animal Shelter Related Facilities, *Interim Report, 2009-101*.

³ *Id.*

familiarity with the community. Through trial and error, each program develops a system to determine which groups are reliable and can be used to help place animals. Few city and county animal control programs or shelters have programs in place to deal with animals that are brought to the shelter and are diseased and need to be quarantined or an unweaned animal without its mother.

Animal Shelters in Florida

Chapter 828.27, F.S., defines local “animal control officers” as any person employed or appointed by a county or municipality who is authorized to investigate, on public or private property, civil infractions relating to animal control or cruelty and to issue citations.⁴ The statute also describes that the county-employed animal control officers must and municipally employed animal control officers may complete a 40-hour minimum standards training course. Such a course includes training for animal cruelty investigations, search and seizure, animal handling, courtroom demeanor and civil citations. The course curriculum must be approved by the Florida Animal Control Association (FACA).⁵ This professional association helps train and educate animal control officers in Florida. Their mission, according to their website, “is to improve the methods and standards of the animal control and protection profession throughout Florida.”⁶

Senate staff contacted FACA to find out if there was a mechanism to communicate with all of the animal control agencies and shelters in each of the 67 counties in an attempt to identify each agency that performs the “animal control” function in Florida. The association compiled a list that reflects 107 agencies in the 67 counties. “Some police agencies must perform this role in the absence of an actual animal control agency available in their jurisdictions; some law enforcement agencies employ one or two positions specifically for this function.”⁷ The list that FACA has compiled seems comprehensive but there is no state mandated reporting system in Florida. Further, there is not a central reporting system that all of the animal control agencies or shelters utilize to track how many animals are brought to their shelters, the number adopted and the number euthanized.

The Senate Agriculture Committee, in September 2008, sent out 180 surveys to both municipal and private animal shelters around the state to gather how many animals are brought to their shelters, the number adopted and the number euthanized. A total of 30 were completed and returned. The municipal shelters that responded received 48,558 dogs and 59,562 cats in 2007. The privately funded shelters that responded received 17,955 dogs and 26,925 cats in the same time period. The survey results indicate that municipal shelters receive nearly three times more dogs and more than twice the number of cats than the privately funded shelters.⁸

The study references the no-kill movement in Florida but states that “it is a reality that non-rehabilitatable and non-adoptable animals must be euthanized.”⁹ The data revealed that

⁴ Section. 828.27, (1) (b), F.S.

⁵ Section. 828.27, F.S.

⁶ Florida Animal Control Association, Mission Statement, <http://floridaanimalcontrol.org/> (last visited Jan. 5, 2012).

⁷ Email from Capt. David Walesky, Operations Manager, Field Services, Palm Beach County Animal Care and Control, (dated Jan. 5, 2012) (on file with the Senate Committee on Community Affairs).

⁸ The Florida Senate Committee on Agriculture, Animal Shelter Related Facilities, *Interim Report, 2009-101*.

⁹ *Id.*

municipal shelters euthanized 31,536 dogs and 55,984 cats in the year 2007. The privately funded shelters euthanized 5,735 dogs and 14,348 cats in the same period. The survey results indicate that shelters euthanize more than five times as many dogs and nearly four times as many cats as the privately funded shelters.¹⁰

III. Effect of Proposed Changes:

Section 1 creates the “Animal Rescue Act.”

Section 2 creates s. 828.067, F.S., and provides definitions. The bill defines the following terms: animal control agency, animal rescue group or rescue group, and animal shelter. The bill requires that an animal control agency or animal shelter that euthanizes animals must maintain a registry of animal rescue groups that are willing to accept animals that are subject to euthanization. The euthanization registry must consist of any animal control agency, animal shelter, or animal rescue group that meets the qualifications of s. 501(c)(3) of the Internal Revenue Code and that has requested to be placed on the euthanization registry. An animal control agency or shelter may refuse to include a rescue group or person on the euthanization registry or may remove the person from the euthanization registry if a current director, officer, staff member, or volunteer of the rescue group has been convicted of a crime consisting of cruelty to animals or neglect to animals, or if such charges are pending, or if the rescue group is constrained by a court order. The animal control agency or shelter may require the rescue group to disclose any convictions, charges, or legal impediments.

The registry must include:

- the name of the rescue group or person;
- the mailing address and telephone number;
- the website and email address, if any;
- the emergency contact information for the rescue group;
- the types of animals about which the rescue group wishes to be contacted, including the species type and breed;
- a statement as to whether the rescue group is willing to care for unweaned animals, sick or injured animals, or animals with behavior problems.

The animal control agency or animal shelter may require that a rescue group provide for monthly public inspection:

- information concerning the number of animals that have been taken from the animal control agency or animal shelter and placed with the rescue group;
- have been adopted;
- have died or been euthanized;
- or remain in the care of the rescue group.

The registry information can be provided in an informal format, such as via electronic mail. An animal control agency or animal shelter may not demand additional information as a prerequisite for including a rescue group on the euthanization registry or for continuing to maintain the rescue group on the registry.

¹⁰ The Florida Senate Committee on Agriculture, Animal Shelter Related Facilities, *Interim Report, 2009-101*.

An animal control agency or animal shelter may not euthanize an animal until the animal control agency or animal shelter has notified, or made a reasonable attempt to notify, all rescue groups or persons on the euthanization registry that have indicated a willingness to take an animal of that type.

The notification must:

- take place at least 24 hours before the animal is scheduled to be euthanized;
- include a verifiable electronic communication.

An animal may not be euthanized if a rescue group or person on the registry indicates a willingness to take possession of the animal. The rescue group or person agreeing to take possession of the animal must do so within 2 business days after notifying the animal control agency or animal shelter that has possession of the animal. The animal control agency or animal shelter may assess a fee, not to exceed the standard adoption fee, for each animal released to a rescue group.

The animal control agency or animal shelter may euthanize an animal that is irremediably suffering or a dog that is designated as a dangerous dog under s. 767.13, F.S. If an unweaned animal is turned into the animal control agency or animal shelter without its mother and the agency cannot provide supplemental feeding or locate foster care, then an emergency appeal to a rescue group or person on the euthanization registry who has indicated a willingness to care for these types of animals must be notified. The animal control agency or animal shelter must give the rescue group or person a reasonable amount of time, but not less than 8 hours, to respond to the appeal.

An animal control agency or animal shelter shall provide for public inspection a monthly summary that includes the number of animals, by species type, during the previous month which:

- were impounded;
- were euthanized by the animal control agency or animal shelter;
- died, were lost, or were stolen while in the direct or constructive care of the animal control agency or animal shelter;
- were returned to their owners;
- were adopted;
- were transferred to other organizations or rescue groups;
- remain in the custody of the agency or shelter.

Each animal control or agency or animal shelter shall provide for public inspection an annual summary that includes the number of animals, by species type, during the previous calendar year which:

- were impounded;
- were euthanized;
- died, were lost, or were stolen while in the direct or constructive care of the animal control agency or animal shelter;
- were returned to their owners;
- were adopted;

- were transferred to other organization or rescue groups;
- remain in the custody of the agency or shelter.

Section 3 provides an effective date of July 1, 2012.

IV. Constitutional Issues

A. Municipality/County Mandates Restrictions:

Article VII, Section 18(a) of the Florida Constitution states that no county or municipality shall be bound by any general law requiring such county or municipality to spend funds or to take an action requiring the expenditure of funds unless the Legislature has determined that such law fulfills an important state interest and it meets one of these exceptions:

- The Legislature appropriates funds or provides a funding source not available for such county or municipality on February 1, 1989;
- The expenditure is required to comply with a law that applies to all persons similarly situated, including the state and counties or municipalities; or
- The law is required to comply with a federal requirement.

Subsection (d) provides an additional applicable exemption. Laws determined to have an “insignificant fiscal impact,” which means an amount not greater than the average statewide population for the applicable fiscal year times \$0.10 (\$1.88 million for FY 2010-2011), are exempt.

The city and county animal control facilities and shelters that euthanize animals may have to house animals for longer periods of time. Facilities that do not have programs in place to accommodate unweaned animals or animals that have treatable but contagious diseases will have to develop a plan to do so. The plan may include the need for more space and more personnel which could increase their costs. The facilities are also required to collect and report specific data on a monthly and annual basis. Facilities that are not already collecting that information will need to develop a plan to do so. Facilities will have to develop a system to contact the groups on the euthanization registry. To collect the data or to develop a plan to notify groups on the euthanization registry will require some facilities to train and/or hire additional staff, which will increase their costs. If the programmatic costs incurred by counties or municipalities are greater than \$1.88 million, the law may be unenforceable unless passed by two-thirds in each house of the Legislature.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

Private animal control facilities that euthanize animals will have an increase in costs in order to house, feed, and water the animals for longer periods. Private animal control facilities and shelters may have an increase in costs to comply with the reporting requirements if they are not already collecting that information.

C. Government Sector Impact:

City and county animal control facilities and shelters may have an increase in costs to comply with the reporting requirements if they are not already collecting that information. The facilities that euthanize animals will have an increase in costs in order to house, feed, and water the animals for longer periods. The actual fiscal impact is difficult to determine but animal control agencies and shelters have indicated that the fiscal impact would be significant and that they could not afford to comply with this requirement.

City and county facilities have indicated that they do not have enough space in their facilities to quarantine an animal that has a disease that is highly contagious but is treatable. In this instance, the diseased animal could expose or infect the shelter population to this disease. Further, although the disease is treatable there can be a steep financial cost as well as a significant reduction in the quality of life for that animal. City and county facilities with limited space will not be able to comply with this requirement due to the risk of spreading the diseases to the rest of the shelter population.

The dangerous dog classification in s. 767.13, F.S., only applies to dogs that have an owner. Dogs that the shelter may have deemed as aggressive or have been known to bite do not fall under the dangerous dog definition. This scenario could be problematic for the agency when trying to find the animal a home. The animal could also be a liability concern especially if someone adopted the animal and was bitten.

Animal control agencies and shelters have indicated that caring for an unweaned animal after normal business hours is beyond their current budget limitations. City and county facilities with limited resources may not be able to comply with this requirement due to the added staff cost and overhead.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

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

None.

B. Amendments:

None.

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

By Senator Bennett

21-00410F-12

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1 A bill to be entitled
 2 An act relating to animal shelters and animal control
 3 agencies; creating the "Animal Rescue Act"; creating
 4 s. 828.067, F.S.; defining the terms "animal control
 5 agency," "animal rescue group" or "rescue group," and
 6 "animal shelter"; requiring any animal control agency
 7 or animal shelter that euthanizes animals to maintain
 8 a registry of animal rescue groups that are willing to
 9 accept animals that would otherwise be subject to
 10 euthanization; providing eligibility criteria for
 11 rescue groups and persons desiring to be on the
 12 euthanization registry; providing criteria under which
 13 an animal control agency or animal shelter may reject
 14 an applicant for the euthanization registry or remove
 15 a participant from the registry; requiring that
 16 certain specified information concerning an animal
 17 rescue group be included in the group's application
 18 for inclusion on the euthanasia registry; authorizing
 19 the animal control agency or animal shelter to require
 20 a rescue group or person to provide certain specified
 21 data to the animal control agency or animal shelter
 22 each month; prohibiting an animal control agency or
 23 animal shelter from euthanizing an animal until the
 24 animal control agency or animal shelter has notified
 25 the appropriate animal rescue group or person listed
 26 on the euthanization registry; providing exceptions to
 27 the requirement to notify certain rescue groups;
 28 authorizing an animal control agency or animal shelter
 29 to assess a fee, not to exceed the standard adoption

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30 fee, for each animal released to a rescue group;
 31 requiring that each animal control agency or animal
 32 shelter provide for public inspection certain
 33 information on a monthly and annual basis; providing
 34 an effective date.
 35

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

37
 38 Section 1. This act may be cited as the "Animal Rescue
 39 Act."

40 Section 2. Section 828.067, Florida Statutes, is created to
 41 read:

42 828.067 Animal shelters and animal control agencies;
 43 euthanization registry.—

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

45 (a) "Animal control agency" means an organization operated
 46 by or under contract with the state or a political subdivision
 47 for the purpose of impounding or harboring seized, stray,
 48 homeless, abandoned, or unwanted animals.

49 (b) "Animal rescue group" or "rescue group" means a group
 50 of persons who hold themselves out as an animal rescue group and
 51 who accept or solicit dogs, cats, or other animals with the
 52 intent of finding permanent adoptive homes or providing lifelong
 53 care for such dogs, cats, or other animals and who use foster
 54 homes as the primary means of housing animals, or a group of
 55 persons formed for the prevention of cruelty to animals.

56 (c) "Animal shelter" means a facility that is used for
 57 housing or containing dogs, cats, or other animals and that is
 58 owned, operated, or maintained by a humane society, an animal

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welfare society, a society for the prevention of cruelty to animals, or another nonprofit organization devoted to the welfare, protection, and humane treatment of dogs, cats, or other animals.

(2) An animal control agency or animal shelter that euthanizes animals shall maintain a registry of animal rescue groups that are willing to accept animals that are subject to euthanization.

(a) The euthanization registry must consist of any animal control agency, animal shelter, or animal rescue group that is designated as an agency meeting the qualifications of s. 501(c)(3) of the Internal Revenue Code and that has requested that its name be placed on the euthanization registry. Such an agency, shelter, or rescue group must be included on the euthanization registry regardless of the geographical location of the agency, shelter, or rescue group and regardless of any other factor except as described in subsection (3).

(b) The euthanization registry may include, at the discretion of the animal control agency or animal shelter, any person or animal rescue group that has not met the qualifications of s. 501(c)(3) of the Internal Revenue Code.

(3) An animal control agency or animal shelter may refuse to include a rescue group or person on the euthanization registry or may remove it or the person from the euthanization registry if a current director, officer, staff member, or volunteer of the rescue group has been convicted in a court of competent jurisdiction of a crime consisting of cruelty to animals or neglect of animals, or if such charges are pending, or if the rescue group is constrained by a court order that

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prevents the rescue group from taking in or keeping animals. An animal control agency or animal shelter may require the rescue group to disclose any convictions, charges, or legal impediments described in this subsection.

(4) The euthanization registry must include the following information provided by the rescue group:

(a) The name of the rescue group or person.

(b) The mailing address and telephone number.

(c) The website and e-mail address, if any.

(d) The emergency contact information for the rescue group.

(e) The types of animals about whom the rescue group wishes to be contacted, including species type and breed.

(f) A statement as to whether the rescue group is willing and able to care for unweaned animals, sick or injured animals, or animals with behavior problems.

(5) An animal control agency or animal shelter may require that a rescue group provide monthly for public inspection information concerning the number of animals that:

(a) Have been taken from an animal control agency or animal shelter and placed with the rescue group;

(b) Have been adopted;

(c) Have died or have been euthanized; or

(d) Remain in the care of the rescue group.

This information may be provided in an informal format, such as via electronic mail. An animal control agency or animal shelter may not demand additional information other than that described in this subsection as a prerequisite for including a rescue group on the euthanization registry or for continuing to

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maintain the rescue group on the registry.

(6) An animal control agency or animal shelter may not euthanize an animal until the animal control agency or animal shelter has notified, or made a reasonable attempt to notify, all rescue groups or persons on the euthanization registry which have indicated a willingness to take an animal of that type.

(a) The notification must take place at least 24 hours before the animal is scheduled to be euthanized.

(b) At a minimum, the notification must include a verifiable electronic communication. Notification to each rescue group is considered complete when this has been accomplished.

(c) An animal may not be euthanized if a rescue group or person on the euthanization registry indicates a willingness to take possession of the animal.

(d) The rescue group or person agreeing to take possession of the animal must do so within 2 business days after notifying the animal control agency or animal shelter that has possession of the animal.

(e) The animal control agency or animal shelter may assess a fee, not to exceed the standard adoption fee, for each animal released to a rescue group.

(7) The requirements of subsection (6) do not apply in the following cases:

(a) An irretrievably suffering animal may be euthanized without delay under s. 828.05.

(b) A dangerous dog may be euthanized without delay under s. 767.13.

(c) Upon the impoundment of an unweaned animal without its mother, an animal control agency or animal shelter that has not

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placed the animal into foster care or is not able to provide supplemental feeding shall immediately make an emergency appeal to a rescue group or person on the euthanization registry who has indicated a willingness to care for unweaned animals, and shall give the rescue group or person a reasonable amount of time, but not less than 8 hours, to respond to the appeal.

(8) An animal control agency or animal shelter shall provide for public inspection a monthly summary that includes the number of animals, by species type, during the previous month which:

(a) Were impounded;

(b) Were euthanized by the animal control agency or animal shelter;

(c) Died, were lost, or were stolen while in the direct or constructive care of the animal control agency or animal shelter;

(d) Were returned to their owners;

(e) Were adopted;

(f) Were transferred to other organizations or rescue groups; or

(g) Remain in the custody of the agency or shelter.

(9) Each animal control agency or animal shelter shall provide for public inspection an annual summary that includes the number of animals, by species type, during the previous calendar year which:

(a) Were impounded;

(b) Were euthanized by the animal control agency or animal shelter;

(c) Died, were lost, or were stolen while in the direct or

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175 constructive care of the animal control agency or animal
176 shelter;
177 (d) Were returned to their owners;
178 (e) Were adopted;
179 (f) Were transferred to other organizations or rescue
180 groups; or
181 (g) Remain in the custody of the agency or shelter.
182 Section 3. This act shall take effect July 1, 2012.

APPEARANCE RECORD

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

1/12/12

Meeting Date

Topic Animal SheltersBill Number SB 818
(if applicable)Name David A. LuddenAmendment Barcode _____
(if applicable)Job Title AttorneyAddress 9150 McDougall Ct
StreetPhone 850-386-5671Tallahassee, FL 32312
City State ZipE-mail dauidaludden@comcast.netSpeaking: ☐ For ☒ Against ☐ InformationRepresenting selfAppearing at request of Chair: ☐ Yes ☒ NoLobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard 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)

1/12/12
Meeting Date

Topic SB 818 Animal Shelters

Bill Number SB 818
(if applicable)

Name Cynthia Harle

Amendment Barcode _____
(if applicable)

Job Title Attorney, First District Ct of Appeal

Address 1841 Wagon Wheel Circle West
Street
Tallahassee FL 32317
City State Zip

Phone 850-322-1124

E-mail camcneely@hotmail.com

Speaking: ☒ For ☐ Against ☐ Information

Representing Animal Rescue Groups

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Topic Animal Shelters

Bill Number 818
(if applicable)

Name Jean Gonzalez Wingo

Amendment Barcode _____
(if applicable)

Job Title FL Advocacy & Consulting

Address 460 Frank Shaw Rd
Street
Tallahassee FL 32312
City State Zip

Phone (850) 339-4601

E-mail JeanGWingo@aol.com

Speaking: ☒ For ☐ Against ☐ Information

Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/12/2012
Meeting Date

Topic Animal Rescue Act

Bill Number SB 818
(if applicable)

Name Melissa Abernathy

Amendment Barcode _____
(if applicable)

Job Title Programs Director

Address 18841 Starhill Lane
Street

Phone 850-559-0223

Tallahassee FL 32310
City State Zip

E-mail fosterdirector@aol.com

Speaking: ☐ For ☒ Against ☐ Information

Representing Leon County Humane Society

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1-12-12

Meeting Date

Topic ~~SB~~ ANIMAL RESCUE ACT

Bill Number SB 818
(if applicable)

Name JEFF DOYLE

Amendment Barcode _____
(if applicable)

Job Title ANIMAL CONTROL OFFICER

Address 1125 EASTERWOOD DR
Street

Phone _____

TALLAHASSEE FL 32311
City State Zip

E-mail _____

Speaking: ☐ For ☒ Against ☐ Information

Representing FLORIDA ANIMAL CONTROL ASSOCIATION

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/12/12

Meeting Date

Topic Animal Rescue act

Bill Number 818
(if applicable)

Name Brad Seward

Amendment Barcode _____
(if applicable)

Job Title Student

Address 948 Beaver Creek Way

Phone 850-329-5545

Street

Tallahassee

FL

32301

City

State

Zip

E-mail _____

Speaking: ☐ For ☒ Against ☐ Information

Representing Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1-12-12

Meeting Date

Topic Animal Rescue Act

Bill Number 818
(if applicable)

Name Kelly Courtemanche

Amendment Barcode _____
(if applicable)

Job Title Animal Control Officer

Address 1125 Easterwood Dr
Street

Phone 891-2950

Tallahassee FL 32311
City State Zip

E-mail _____

Speaking: ☐ For ☒ Against ☐ Information

Representing ~~Gov~~ Self

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/12/12
Meeting Date

Topic _____

Bill Number 818
(if applicable)

Name STEPHEN JAMES

Amendment Barcode _____
(if applicable)

Job Title _____

Address 100 S. MONROE
Street

Phone (850) 922-4300

TALLAHASSEE FL
City State Zip

E-mail _____

Speaking: ☐ For ☒ Against ☐ Information

Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1-12-12
Meeting Date

Topic Animal Rescue Act

Bill Number SB 818
(if applicable)

Name Perri Dale

Amendment Barcode _____
(if applicable)

Job Title Asst. Dir. ASC

Address 1125 Easterwood Drive
Street

Phone (850) 891-2966

Tallahassee FL 32311
City State Zip

E-mail _____

Speaking: ☐ For ☒ Against ☐ Information

Representing SELF

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/20/11)

THE FLORIDA SENATE
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1-12-12
Meeting Date

Topic Florida Animal Rescue Act

Bill Number SB 818
(if applicable)

Name Richard Ziegler

Amendment Barcode _____
(if applicable)

Job Title Leon County Animal Control

Address 3256 Hester Dr.
Street

Phone 850-509-5579

Tallahassee FL 32309
City State Zip

E-mail _____

Speaking: ☐ For ☒ Against ☐ Information

Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/20/11)

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APPEARANCE RECORD

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

1/12/12

Meeting Date

Topic Animal Rescue Act

Bill Number 818
(if applicable)

Name Katie Watson

Amendment Barcode _____
(if applicable)

Job Title Veterinary Technician

Address 9104 Ravena Rd

Phone 850-459-0279

Street

Tall FL 32309

E-mail Watsokat4@gmail.com

City

State

Zip

Speaking: ☐ For ☒ Against ☐ Information

Representing Pets Ad Litem

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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S-001 (10/20/11)

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APPEARANCE RECORD

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1/12/12

Meeting Date

Topic Florida Animal Rescue Acts

Bill Number SB 818
(if applicable)

Name Vivian Sharon Gotkin

Amendment Barcode _____
(if applicable)

Job Title Marketing Consultant

Address 2113 Queenswood Dr

Phone 850 228 6870

Street

Tally FL 32303

City

State

Zip

E-mail shargot@vivnet.com

Speaking: ☐ For ☒ Against ☐ Information

Representing Florida taxpayer citizen

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/20/11)

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1-12-12
Meeting Date

Topic Animal Rescue Act

Bill Number 818
(if applicable)

Name Rachel Reeves

Amendment Barcode _____
(if applicable)

Job Title Animal Services Veterinarian

Address 1125 Easterwood Dr.
Street
Tallahassee FL 32311
City State Zip

Phone 850 891-2980

E-mail _____

Speaking: ☐ For ☒ Against ☐ Information

Representing myself

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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THE FLORIDA SENATE

APPEARANCE RECORD

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1/12/12
Meeting Date

Topic ANIMAL RESCUE ACT

Bill Number 818
(if applicable)

Name ERIKA LECKINGTON

Amendment Barcode _____
(if applicable)

Job Title DIRECTOR

Address 1125 EASTERWOOD DR
Street

Phone 661 2431

TAL FL 32311
City State Zip

E-mail _____

Speaking: ☐ For ☐ Against ☐ Information

Representing TALLAHASSEE ANIMAL SERVICES

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/20/11)

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1-12-12

Meeting Date

Topic Animal SHELTERING

Bill Number SB 818
(if applicable)

Name SONYA WHITE

Amendment Barcode _____
(if applicable)

Job Title EXECUTIVE DIRECTOR

Address 413 Timberlane RD
Street

Phone 850-224-9193

Tallahassee FL 32312
City State Zip

E-mail SWHITE@LCHS.INFO

Speaking: ☐ For ☒ Against ☐ Information

Representing LEON County Humane Society

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/12/11
Meeting Date

Topic Animal Sheltering

Bill Number 818
(if applicable)

Name Gerry Phipps

Amendment Barcode _____
(if applicable)

Job Title President, Be the Solution, Inc.

Address 3563 Clippys Dr.
Street

Phone 850-545-5145

Tall. Fl. 32312
City State Zip

E-mail gavl@comcast.net

Speaking: ☐ For ☒ Against ☐ Information

Representing Be the Solution, Inc. Spay and neuter today

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

11/12/12

Meeting Date

Topic Animal Rescue Act.

Bill Number 818
(if applicable)

Name Kate Macfall

Amendment Barcode _____
(if applicable)

Job Title Animal Shelter Foundation President

Address 2144 Delta Way

Phone 850 528-1001

Street

Tallahassee FL 32303

City

State

Zip

E-mail kmacfall@comcast.net

Speaking: ☐ For ☒ Against ☐ Information

Representing Animal Shelter Foundation

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1 / 12 / 2012

Meeting Date

Topic _____

Bill Number 818
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVENUE SOUTH
Street

Phone 727/897-9291

SAINT PETERSBURG FLORIDA 33705
City State Zip

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☒ For ☐ Against ☒ Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/20/11)

Second to last

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/12/2012
Meeting Date

Topic Animal Rescue Act

Bill Number SB 818
(if applicable)

Name James W. Crosby

Amendment Barcode _____
(if applicable)

Job Title Consultant

Address 1435 Oak Haven Rd
Street
Jacksonville FL 32207
City State Zip

Phone 904-476-7655

E-mail Crosby.JamesW@gmail.com

Speaking: ☒ For ☐ Against ☐ Information

Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/20/11)

2

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Topic SB 815 Amended Res A Bill Number SB 815
(if applicable)

Name JACK CORY Amendment Barcode _____
(if applicable)

Job Title VP

Address 120 E. Cally AL Phone 850 893-0945
Street

Tully FL 32308 E-mail JACK CORY @ PACOR
City State Zip

Speaking: ☒ For ☐ Against ☐ Information

Representing Fix FLORIDA

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

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S-001 (10/20/11)

2012 Legislative Priorities

Senate Community Affairs Committee

01/12/2012

John Wayne Smith
Legislative Director



2011-12 County Property Tax Summary

- **2011 – 12 - \$409 million Reduction**

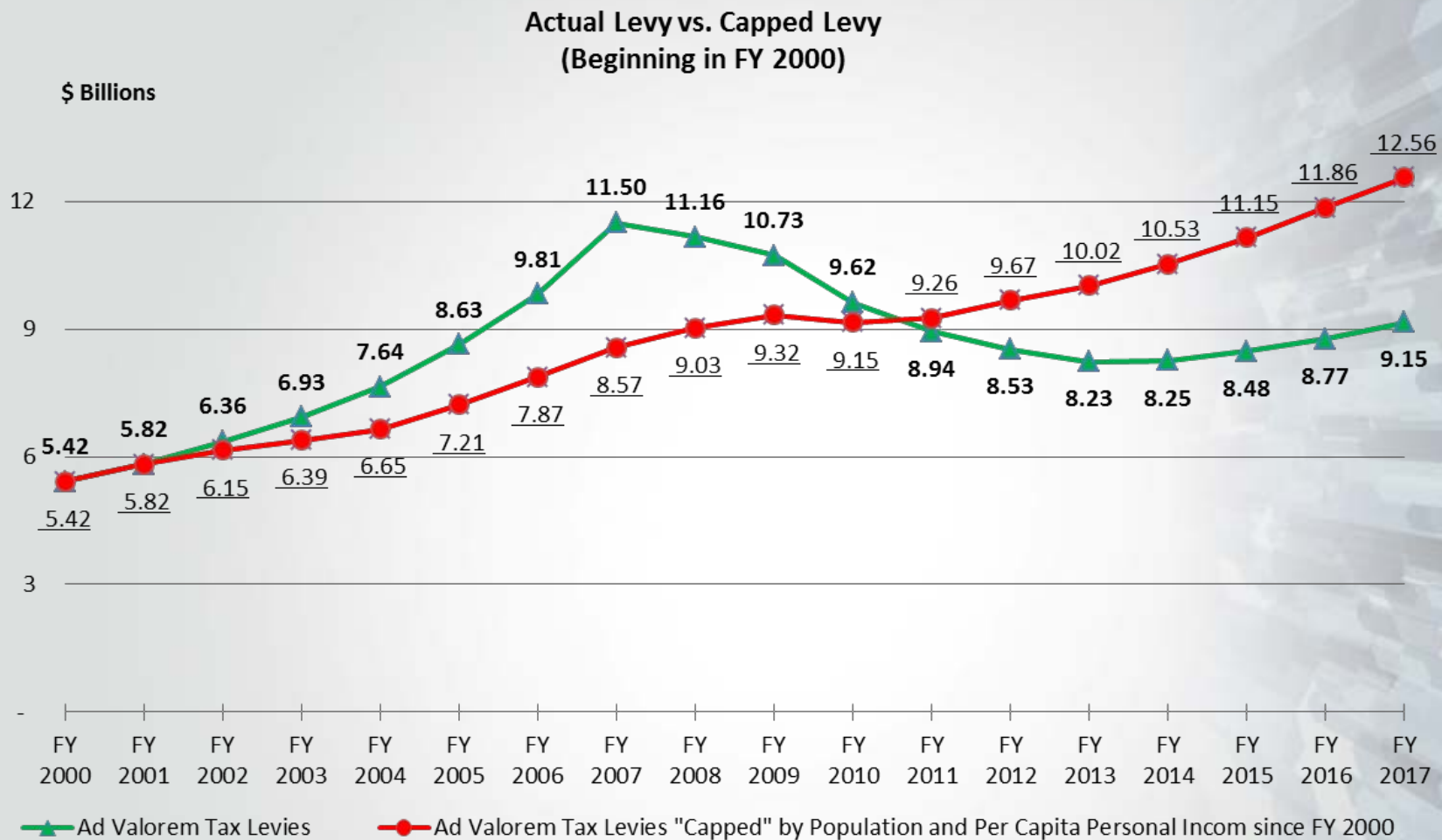
Total Reduction 2007-2012 - \$2.97 Billion

- **Revenue Estimating Conference**

2012 -13 – Base Reduction 3.46%

2013-14 - Flat

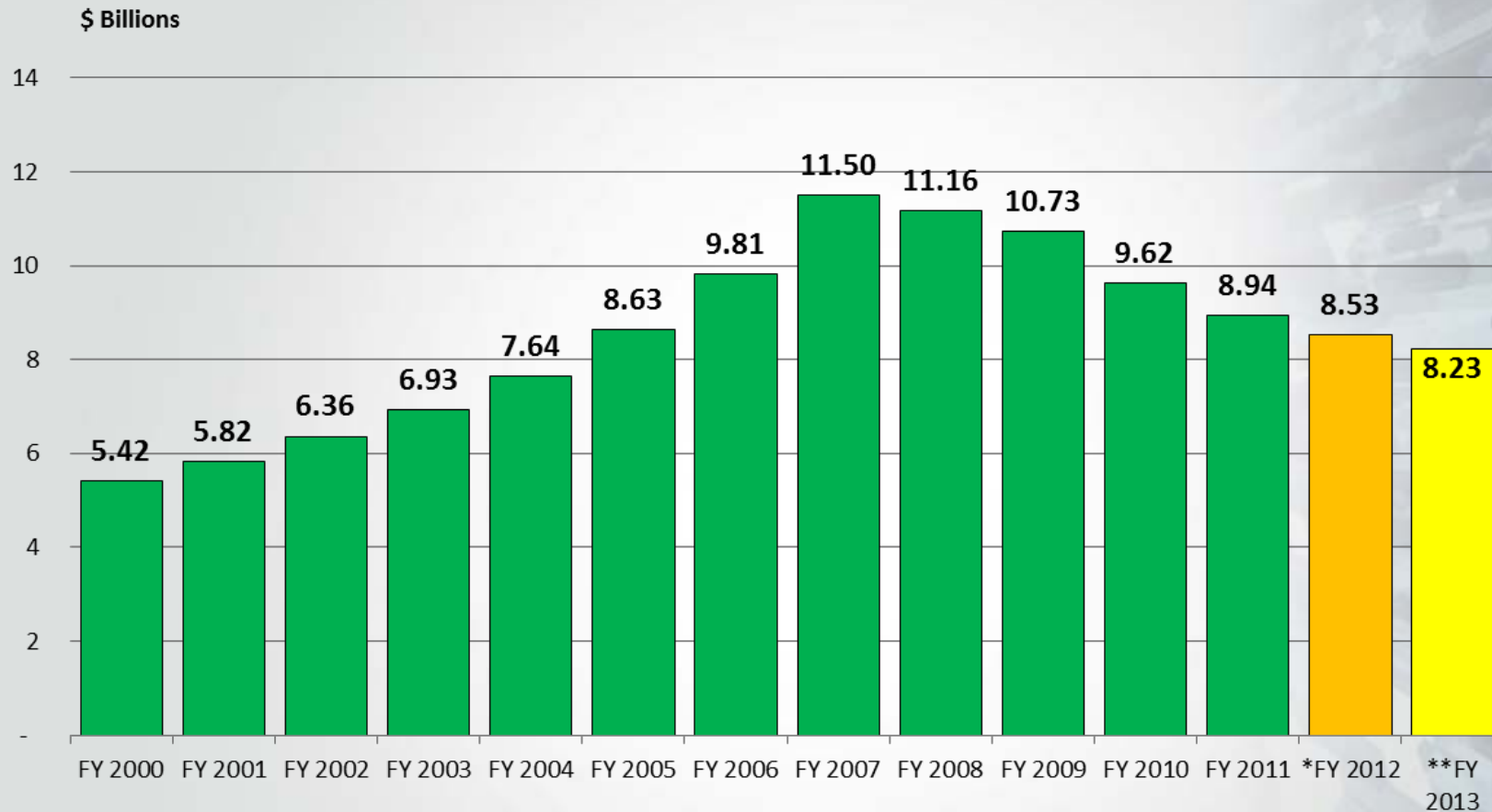
County Ad Valorem Tax Levies by Fiscal Year



County Ad Valorem Tax Levies

By County Fiscal Year

*FY 2012 estimated based on 2011 DR-420's; **FY 2013 Projected



2012 FAC Priorities

- **Proportionate Fair-Share Mitigation**
 - Glitch/Clarification
- **Juvenile Justice Reform**
 - Cost Savings
- **Pretrial Service Agencies**
- **Water Quality**
- **Numeric Nutrient Criteria**
 - Legislative Ratification
- **County Health Departments**
- **County Medicaid Cost Share**

Local Savings Act

- **Public Notice Requirements – Flexibility**
- **Article V Index – eliminate**
- **Consultants competitive Negotiations Act (CCNA) Reform - alternative**

TIME OUTS

- **Property Tax Reform**
 - SJR 312 & 314
- **Local Option Taxes**
 - Local Business Tax
 - Communications Services Tax
 - Tourist Development Tax
- **Florida Retirement System**

Thank You

Questions?



2011 County Property Tax Summary - PRELIMINARY

Doug Smith, President

Bill Williams, President-Elect

Bryan Desloge, 1st Vice President

Ken Welch, 2nd Vice President

Ilene Lieberman, Immediate Past
President

Christopher L. Holley, Executive
Director

For the 3rd year, the Florida Association of Counties has compiled the proposed property tax numbers for counties across the state to reflect the reductions and changes that have occurred over the past four years.

Counties primarily provide public safety, fire, emergency medical services, public record-keeping, jails, parks, libraries, health care, economic development, comprehensive planning, and roads, just to name a few.

Each year unlike the state and federal government, counties are required to establish the property tax rate needed to provide services for their community. State and federal government work within the confines of a predetermined tax rate. For instance, if the sales tax rate is 6% then tax revenue is determined by how much is sold and the state budget is determined based off the revenue expected.

County governments have the opportunity to determine the costs of services mandated by law, critical public safety services and other important services then set the tax rate that will ensure these demands are met. However, it is evident in the following report that with the drop in property values – close to 26 percent combined over the last four years – most local governments did not raise property taxes at all and eight exceeded the statutorily mandated roll back rate.

When local governments begin establishing their budgets they are required by the end of August to submit to the state their maximum proposed millage rate. Once that rate is established most counties then debate their proposed budget and millage rates making many changes along the way. Following the debate a minimum of two public hearings are held where citizens and community leaders can discuss their concerns and support of budget items.

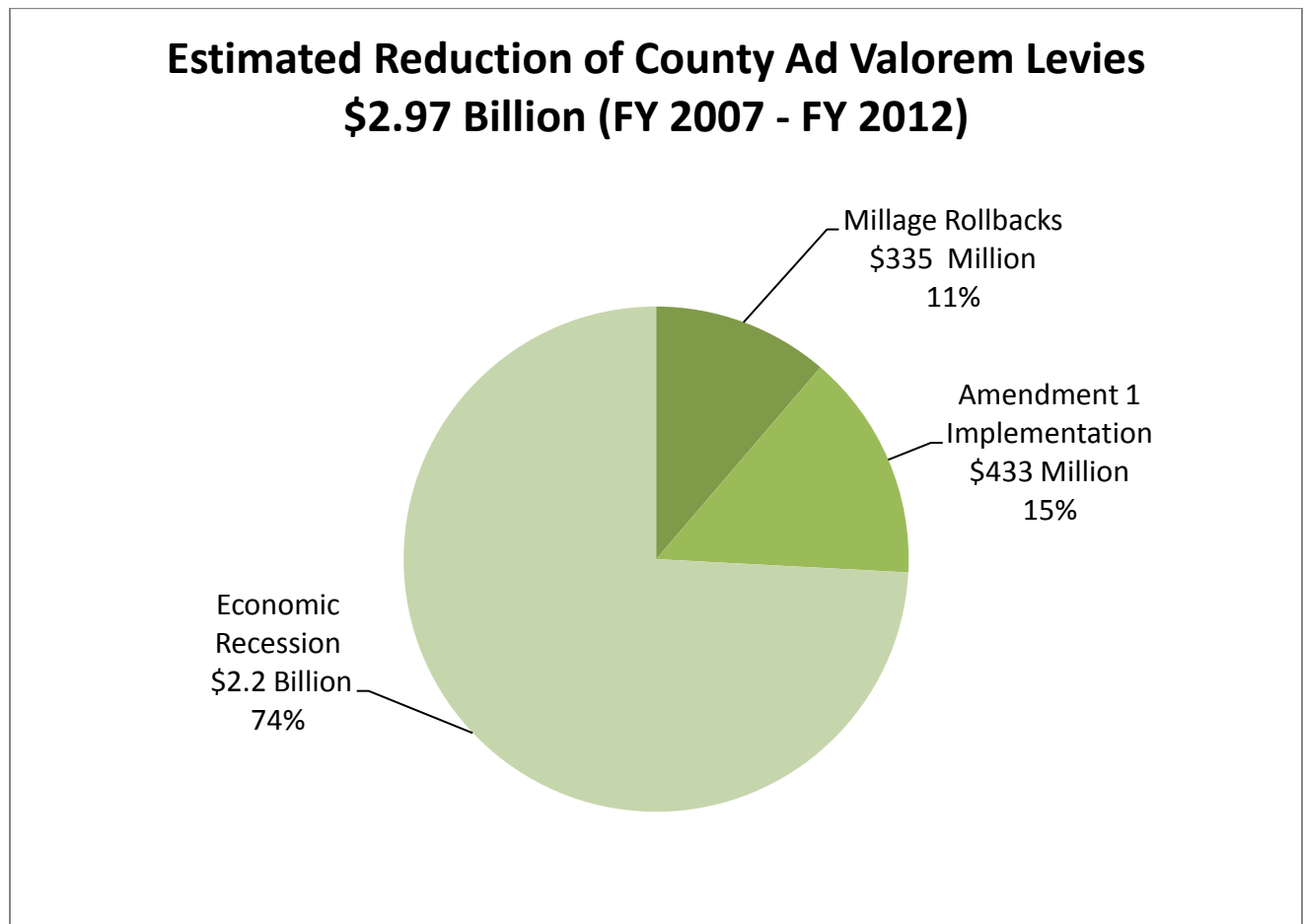
Throughout the budget process the millage rate may change many times, however, it can not exceed the rate given to the state in August. Therefore, many local governments may establish a higher preliminary millage rate to provide more room for debate and discussion and then will reduce that rate upon the final adoption of the budget at the end of September.

This report covers only the preliminary millage rates and a revised report will be completed after the first of the year when final millage rates and property values have been reported and verified.

Three major factors have impacted property taxes in Florida since 2007: the recession and resulting decline in property values, the implementation of the roll back rates (2007) and Amendment 1 (2008). This year alone counties have reduced revenue by nearly \$409 million¹

¹ Data for all 67 of Florida's counties is based off of their preliminary property tax data submitted to the Florida Department of Revenue on Form-DR420. The aggregate millage rate will likely decrease once final millage rates and property values are set at the end of 2011.

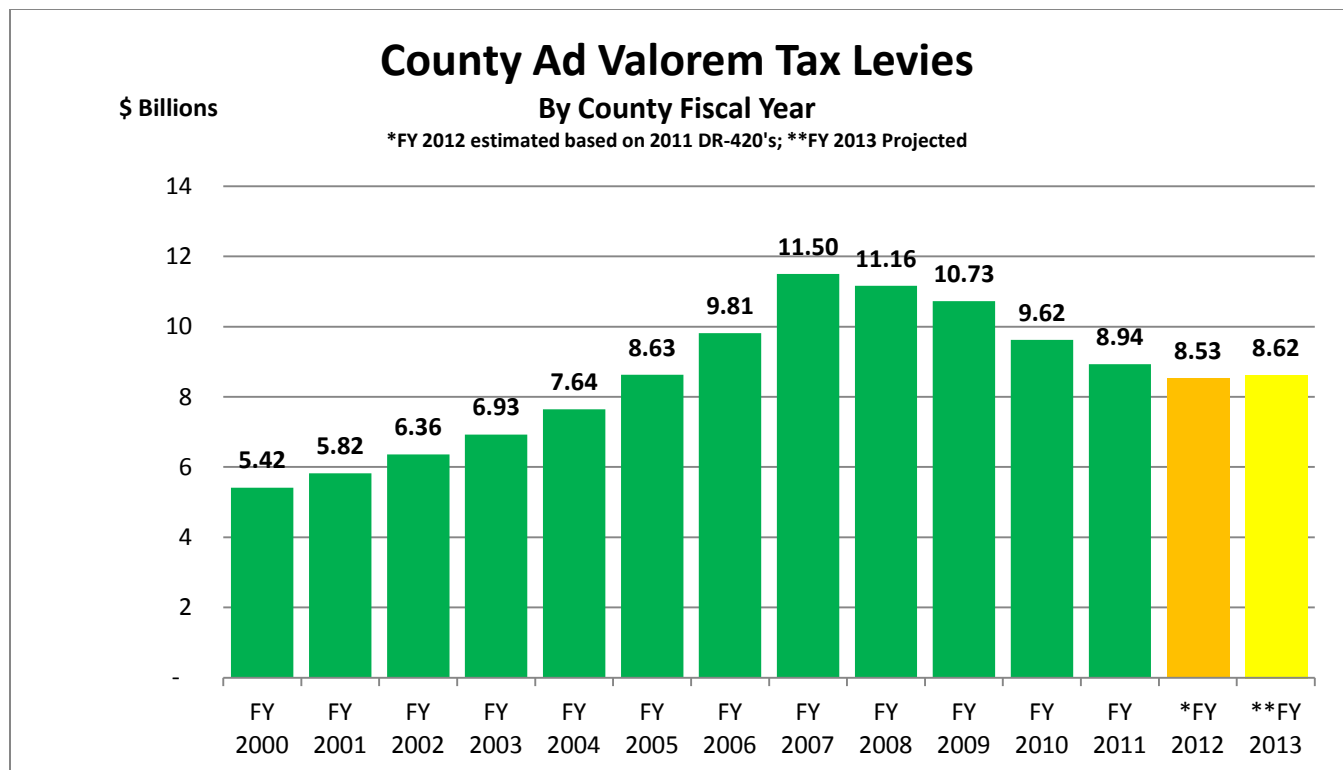
(4.6%). In five years, that reduction totals \$3 Billion or 25.8%². These reductions have resulted in major workforce cuts as well as cuts to all levels of service.



With property taxes influenced by the decline in property values as well as previous changes to the property tax system, 2011-12 property tax revenues are below 2004-05 revenues (see next chart). If current economic trends continue, counties will remain near or below 2004-2005 revenue levels until after 2013-14³.

² Historical data for County Ad Valorem Tax Levies provided by LCIR Florida County Tax Profile 1999-2009.

³ Future estimates of County Ad Valorem Levies use a combination of data provided by the Office of Economic and Demographic Research for Change in Taxable Values and New Construction Values. Future estimates of County Ad Valorem Levies assume no change in the proposed "aggregate statewide millage rate" of 7.5222.



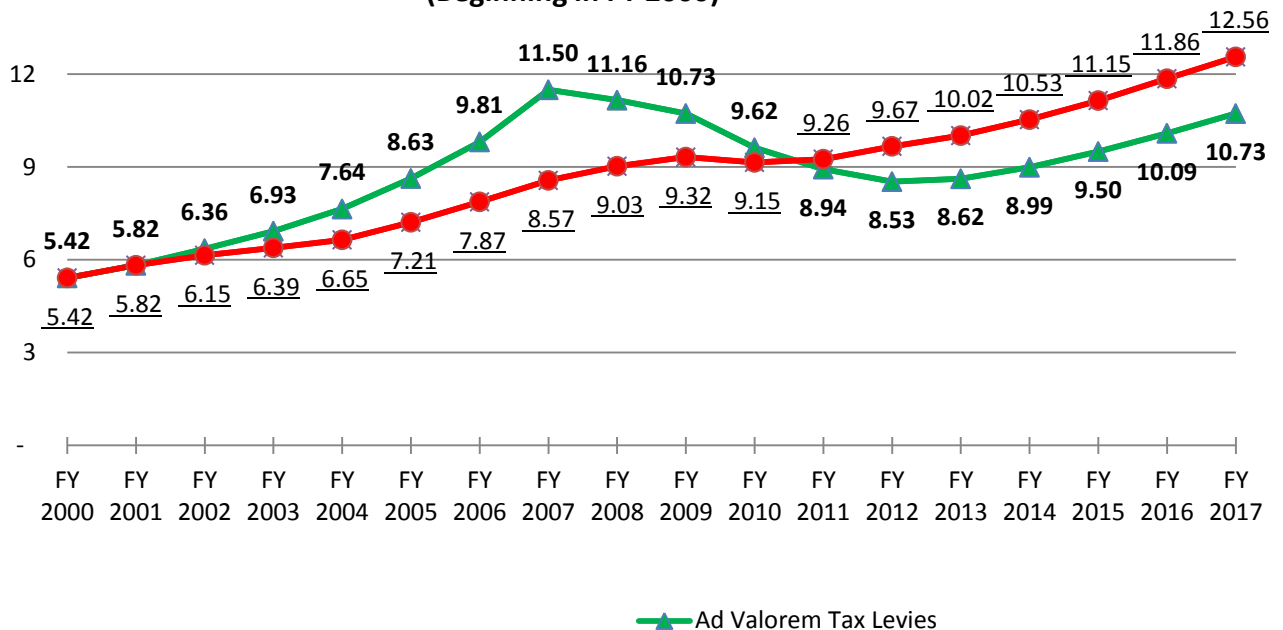
The next chart reflects actual property tax revenue numbers in comparison to the guidelines established by the Legislature in 2007⁴. This chart clearly outlines that economic conditions and existing property tax changes have realigned property tax revenues with the trend lines established by the Legislature. Based on proposed millage rates counties are more than \$1 billion below the statutory trend line for FY 2012.

⁴ Historical and future estimates of population and change in personal per capita income provided by data from the Office of Economic and Demographic Research. Historical and future estimates of the "capped" trend line were calculated by applying the combined change in population and per capita personal income against the total amount of taxes levied in the previous year. This calculation does not take into account any other factors used in the traditional calculation of millage rates and ad valorem tax levies. Additionally, the estimates do not take into account any other changes in Florida Ad Valorem law.

County Ad Valorem Tax Levies by Fiscal Year

\$ Billions

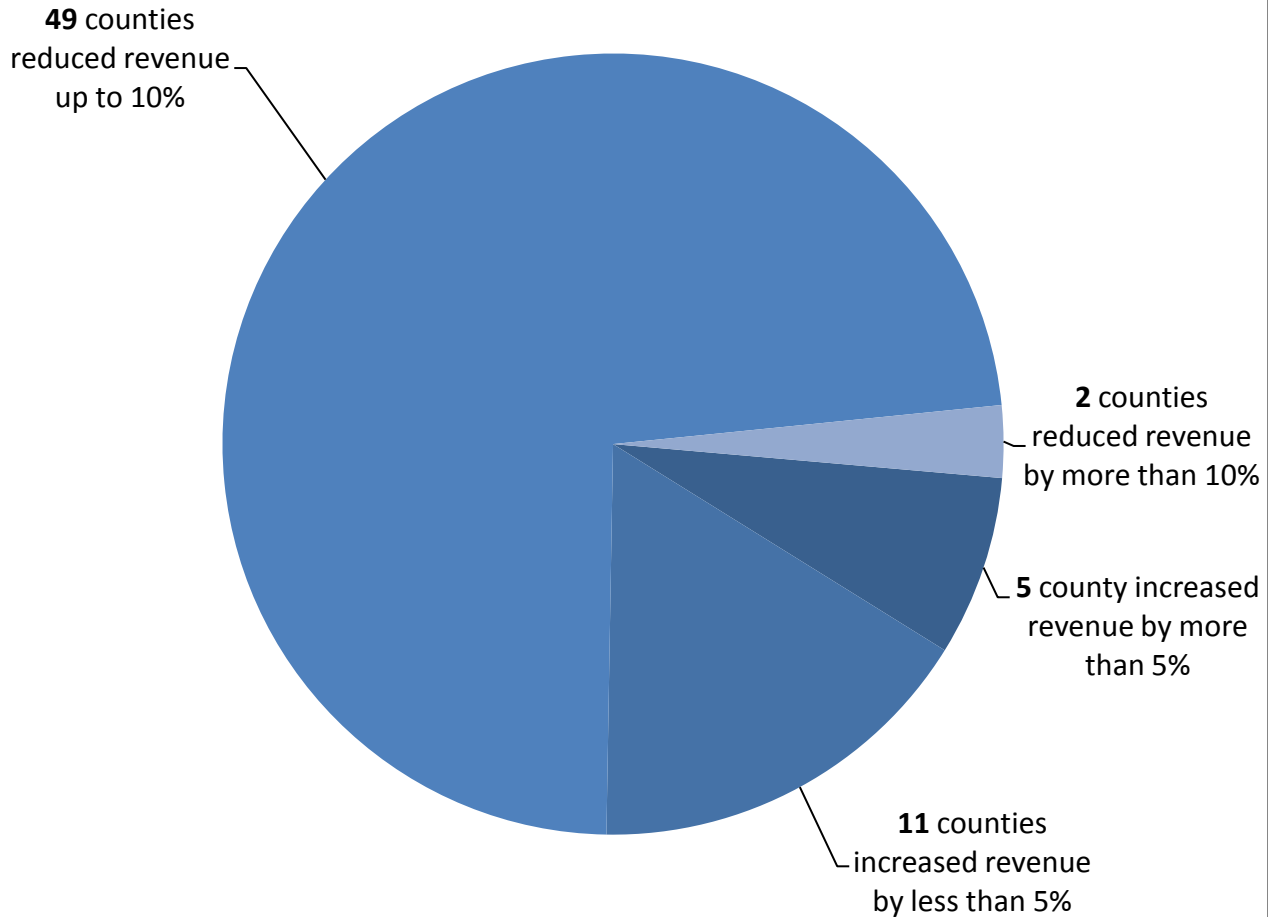
Actual Levy vs. Capped Levy
(Beginning in FY 2000)



It can be reasonably argued that the jump in property values from 2006-2007 was an anomaly and the free market has leveled tax rates in such a manner that will likely keep local government revenue below any policies that the legislature has or may enact.

This year 51 counties (76%) will collect less property tax revenue and 16 counties (24%) will collect more property tax revenue than in 2010-11. Of those 51 counties, 2 of them have reduced their tax revenue by greater than 10%, and 49 have reduced their tax revenue up to, but below 10%. Of the 16 counties with increased property tax revenue, 11 counties increased their revenue by less than 5% and 5 by more than 5%. Fiscally constrained counties account for 10 of those 16 counties that voted to increase their property tax revenues.

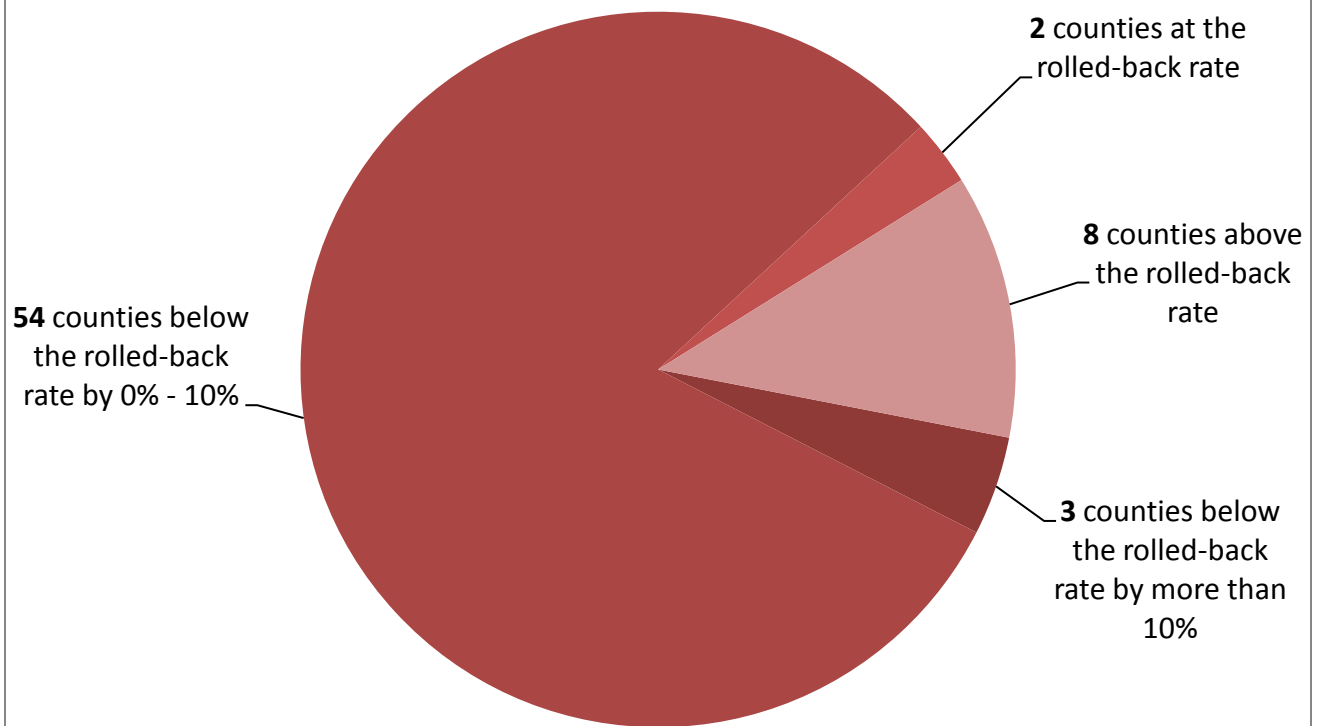
2011 Tax Year - All Florida Counties Revenues



If you were to look at these numbers in comparison to the statutory rollback rate, you would see that 57 counties are below the rollback rate, 2 counties met the rollback rate and 8 counties exceeded the rollback rate⁵.

⁵ Data for all 67 of Florida's counties is based off of their preliminary property tax data submitted to the Florida Department of Revenue on Form-DR420. The aggregate millage rate will likely decrease once final millage rates and property values are set at the end of 2011.

2011 Tax Year - All Florida Counties Rolled-back Rates



Florida's strength is in her diversity and her counties paint that picture. While every county has made reductions over the last four years, each has done so in a manner that serves the unique community they represent.

The Florida Association of Counties (FAC) is committed to not only serving our members but providing our legislative partners with accurate and critical information needed to make ongoing tax decisions. It is clear that counties, just as the state, have been forced by many factors to make dramatic reductions and they have done so accordingly.



PRELIMINARY - FACT SHEET

County Property Taxes 2011-12

Property taxes levied in 2011-12 are **reduced by 4.6% or \$409 Million** from 2010-11
Property taxes levied have been reduced by 26% or **\$2.97 Billion** since 2006-07

Property Taxes Collected by Counties⁶

2012-2013* (Projected)	\$8.63 Billion
2011-2012	\$8.53 Billion
2010-2011	\$8.94 Billion
2009-2010	\$9.62 Billion
2008-2009	\$10.73 Billion
2007-2008	\$11.16 Billion
2006-2007	\$11.5 Billion

Average County Proposed % Change in Taxes Levied (2011-12): **-2.84%**

Average County Proposed Percent Change in Tax rate compared to Rollback Rate: **-3.45%**

Est. taxable property values: *\$1.28 Trillion, a reduction of 3.41% or \$45.3 Billion* from 2010-11.

⁶ Data for all 67 of Florida's counties is based off of their preliminary property tax data submitted to the Florida Department of Revenue on Form-DR420. The aggregate millage rate will likely decrease once final millage rates and property values are set at the end of 2011.



PRELIMINARY - FACT SHEET

County Property Taxes 2011-12

30 counties increased their millage rate, of those 22 remained at or below the rollback rate. For Example: Brevard County increased their millage by 16.56% yet they remain 1.36% BELOW the rollback rate with \$210,000 in decreased revenues - a .12% drop from 2011.

PRELIMINARY DATA 2011-2012 (September 2011)

51 counties (76%) will collect less property tax revenue

16 counties (24%) will collect more property tax revenue

57 counties are below the roll back rate

2 counties are proposing to adopt the roll back rate⁷

- Holmes County
- Levy County

8 counties could exceed the roll back rate

- Alachua County .02%
- Citrus County 1.26%
- Franklin County 5.14%
- Hendry County 6.89%
- Madison County .13%
- Okeechobee County 4.09%
- St. Johns County 3.97%
- St. Lucie County 1.69%

.83%: 2012 New Construction as a percent of 2011 Gross Taxable Value

⁷ Data for all 67 of Florida's counties is based off of their preliminary property tax data submitted to the Florida Department of Revenue on Form-DR420. The aggregate millage rate will likely decrease once final millage rates and property values are set at the end of 2011.

**Florida Associations of Counties
2011 County by County Rollback Rate**

#	Jurisdiction	2010 Taxable Value	2011 Taxable Value	FY 2011 Taxes Levied	FY 2012 Taxes Levied	FY 2012 Rolled- back Rate	FY 2012 Millage Rate	% over/under Rolled- back Rate
1	Miami-Dade County	183,044,795,314	186,962,023,337	1,517,317,588	1,308,425,106	7.9325	6.9983	(11.78%)
2	Wakulla County	1,192,454,342	1,083,304,763	10,433,979	9,478,917	9.7312	8.7500	(10.08%)
3	Washington County	932,940,830	842,673,063	8,321,366	7,516,222	9.9178	8.9195	(10.07%)
4	Marion County	16,212,563,401	14,999,675,147	107,359,945	98,003,318	7.2155	6.5337	(9.45%)
5	Hernando County	8,460,724,169	7,547,546,735	65,319,831	59,645,511	8.7255	7.9026	(9.43%)
6	Lake County	17,021,802,722	15,587,582,550	94,726,891	86,685,160	6.1301	5.5612	(9.28%)
7	Columbia County	2,446,401,713	2,268,066,777	19,607,893	18,178,555	8.7509	8.0150	(8.41%)
8	Gulf County	1,570,245,269	1,460,421,523	9,534,893	8,846,575	6.5839	6.0575	(8.00%)
9	Indian River County	14,139,034,830	13,237,968,419	72,054,224	67,067,832	5.4865	5.0663	(7.66%)
10	Sarasota County	42,128,065,358	39,575,831,502	156,256,971	146,276,730	3.9835	3.6961	(7.21%)
11	Putnam County	3,718,247,933	3,466,631,128	34,372,647	29,731,562	9.2295	8.5765	(7.08%)
12	Highlands County	4,921,416,247	4,662,113,828	34,964,459	33,101,008	7.6400	7.1000	(7.07%)
13	Polk County	26,042,396,666	24,440,706,317	187,486,816	175,677,088	7.7252	7.1879	(6.96%)
14	*Duval County	49,440,991,273	46,334,908,439	496,155,180	464,984,707	10.7688	10.0353	(6.81%)
15	Glades County	587,867,848	554,361,665	6,517,514	6,146,041	11.8538	11.0867	(6.47%)
16	Taylor County	1,261,092,580	1,185,814,649	9,986,968	9,388,649	8.4599	7.9175	(6.41%)
17	Seminole County	25,343,264,959	23,949,202,192	165,447,333	156,325,743	6.9582	6.5151	(6.37%)
18	Nassau County	7,015,415,600	6,636,382,806	47,659,219	45,025,712	7.2457	6.7847	(6.36%)
19	Dixie County	518,528,529	482,271,913	6,727,832	6,269,535	13.8831	13.0000	(6.36%)
20	Hillsborough County	64,703,059,287	62,100,870,943	582,419,055	556,627,429	9.5072	8.9633	(5.72%)
21	Orange County	83,586,769,561	81,565,444,961	563,226,859	546,446,201	7.1045	6.6995	(5.70%)
22	Okaloosa County	14,499,871,635	13,802,468,365	48,914,106	46,574,653	3.5696	3.3744	(5.47%)
23	Flagler County	7,657,765,461	6,563,932,871	42,811,764	40,848,667	6.5726	6.2232	(5.32%)
24	Osceola County	18,093,147,123	16,720,207,326	142,050,596	136,029,791	8.5813	8.1357	(5.19%)
25	Walton County	11,448,430,637	10,945,813,593	41,269,495	39,420,502	3.7962	3.6014	(5.13%)
26	Baker County	802,336,380	772,329,647	5,736,304	5,521,771	7.4891	7.1495	(4.53%)
27	Collier County	61,436,197,437	58,314,443,709	261,574,034	252,456,300	4.5206	4.3292	(4.23%)
28	Bay County	15,070,375,927	14,286,446,652	60,876,806	58,830,621	4.2968	4.1179	(4.16%)
29	Lee County	55,520,514,001	53,601,523,403	278,384,498	267,788,581	5.2128	4.9959	(4.16%)
30	Manatee County	24,748,698,573	23,756,729,326	166,836,702	161,814,214	7.0970	6.8113	(4.03%)
31	Hardee County	1,536,127,184	1,476,266,644	13,140,032	12,627,985	8.8928	8.5540	(3.81%)
32	Union County	227,518,526	219,714,910	2,369,990	2,197,149	10.3928	10.0000	(3.78%)
33	Santa Rosa County	7,567,223,011	7,393,027,769	46,120,020	45,062,722	6.3301	6.0953	(3.71%)
34	Monroe County	19,553,885,436	18,690,561,551	84,911,851	78,999,156	4.3886	4.2267	(3.69%)
35	Escambia County	13,638,819,049	13,296,901,852	101,913,481	99,330,134	7.7384	7.4702	(3.47%)
36	Pasco County	20,727,430,773	20,323,341,802	159,295,480	156,161,958	7.9323	7.6839	(3.13%)
37	Leon County	14,409,226,025	14,073,788,898	120,721,717	117,516,137	8.6168	8.3500	(3.10%)
38	Volusia County	26,182,716,383	24,090,219,710	200,737,428	197,138,007	8.4292	8.1833	(2.92%)
39	Bradford County	846,871,177	828,622,772	7,771,652	7,604,188	9.4501	9.1769	(2.89%)
40	Lafayette County	220,494,451	217,727,244	1,929,326	1,905,113	8.9724	8.7500	(2.48%)
41	Gadsden County	1,376,184,308	1,363,932,104	12,256,848	12,147,725	9.0820	8.9064	(1.93%)
42	Palm Beach County	126,784,523,829	124,519,237,190	837,930,145	835,144,556	6.8271	6.7070	(1.76%)
43	Jefferson County	542,142,579	538,337,799	4,512,036	4,480,370	8.4530	8.3226	(1.54%)
44	Clay County	8,598,848,683	8,112,601,529	62,095,422	61,563,038	7.7074	7.5886	(1.54%)
45	Hamilton County	713,571,187	706,800,381	7,135,712	7,068,004	10.1428	10.0000	(1.41%)
46	Brevard County	29,104,449,212	24,940,629,760	180,765,358	180,554,598	7.3391	7.2394	(1.36%)
47	Jackson County	1,432,377,309	1,420,143,629	10,201,821	10,114,689	7.2178	7.1223	(1.32%)
48	Pinnellas County	58,203,688,479	55,602,604,228	369,154,462	367,506,802	6.6974	6.6095	(1.31%)
49	Charlotte County	13,525,230,842	12,546,850,954	110,517,066	110,518,085	8.9060	8.8084	(1.10%)
50	Martin County	17,492,910,077	17,142,845,280	136,157,629	137,225,954	8.0743	8.0049	(0.86%)
51	Suwanee County	1,434,092,061	1,434,722,529	11,472,736	11,477,780	8.0693	8.0000	(0.86%)
52	Calhoun County	364,288,518	365,271,151	3,641,640	3,652,712	10.0659	10.0000	(0.65%)
53	Broward County	128,455,341,428	126,414,014,099	665,726,685	660,607,363	5.2459	5.2257	(0.39%)
54	Liberty County	207,330,999	209,517,414	2,136,160	2,095,174	10.0323	10.0000	(0.32%)
55	Chlorhist County	628,218,106	602,704,144	5,888,586	5,937,523	9.8686	9.8515	(0.17%)
56	Sumter County	6,204,767,892	6,633,699,940	39,273,461	41,924,984	6.3247	6.3200	(0.07%)
57	Desoto County	1,501,991,518	1,410,963,574	11,005,310	11,000,357	7.8000	7.7963	(0.05%)
58	Holmes County	408,011,267	404,877,841	3,855,380	3,911,322	9.6605	9.6605	0.00%
59	Levy County	1,869,593,968	1,731,342,655	13,874,631	13,957,046	8.0614	8.0614	0.00%
60	Alachua County	12,052,898,624	11,667,900,818	118,873,466	120,601,252	10.3337	10.3362	0.02%
61	Madison County	616,233,159	616,437,375	5,786,429	5,893,634	9.5487	9.5608	0.13%
62	Citrus County	9,582,636,515	9,336,411,252	62,040,409	63,215,255	6.6864	6.7708	1.26%
63	Saint Lucie County	15,013,709,614	14,445,123,153	122,631,894	124,146,416	8.4511	8.5943	1.69%
64	Saint Johns County	18,364,786,783	17,449,553,890	122,560,945	129,293,730	7.1267	7.4096	3.97%
65	Okeechobee County	1,556,664,948	1,457,037,157	12,455,578	13,113,334	8.6460	9.0000	4.09%
66	Franklin County	2,013,686,272	1,899,113,617	8,951,298	9,457,586	4.7365	4.9800	5.14%
67	Hendry County	1,790,130,483	1,709,978,757	11,656,254	12,464,719	6.8197	7.2894	6.89%
		1,328,314,036,280	1,283,000,522,921	8,935,820,106	8,526,749,258			

Notes:

***Duval County** Data excludes values and figures for Beaches and Baldwin Districts

2010 & 2011 Taxable Value These figures represent gross taxable value, not adjusted for new construction and were taken from 2011 Form DR-420 (Line 7 and Line 4) for each County

FY 2011 Taxes Levied These figures were taken from Departmen of Revenue published data and were calculated after 2009/2010 VAB process. Data can be found at <http://dor.myflorida.com/dor/property/taxpayers/cmdata/table1.html>

FY 2012 Taxes Levied These figures represent all ad valorem taxes levied including mstu's and were taken from 2011 Form DR-420 (line 25) for each County

FY 2012 Rolled-Back Rate Current year aggregate rollback rate. Data taken from 2010 Form DR-420 (Line 23) for each county

FY 2012 Millage Rate Current tax year calculated aggregate millage rate for each county (Current year total taxes levied divided by current year gross taxable value multiplied by 1000).

Data taken from 2010 Form DR-420 (Line 23) for each county

Florida Association of Counties
2011 County by County Property Tax Data

#	Jurisdiction	2010 Taxable Value	2011 Taxable Value	% +/- Taxable Value	New Construction	% New Construction	*FY 10/11 Taxes Levied	FY 11/12 Taxes Levied	FY 2011 Millage Rate	FY 2012 Rolled- Back Rate	FY 2012 Millage Rate	% +/- Rolled- Back Rate	\$ Change +/- Taxes Levied	% Change +/- Taxes Levied
1	Alachua County	12,052,898,624	11,667,900,818	(3.19%)	90,814,100	0.78%	118,873,466	120,601,252	9.8626	10.3337	10.3362	0.02%	1,727,786	1.45%
2	Baker County	802,336,380	772,329,647	(3.74%)	6,376,045	0.83%	5,736,304	5,521,771	7.1495	7.4891	7.1495	(4.53%)	(214,533)	(3.74%)
3	Bay County	15,070,375,927	14,286,446,652	(5.20%)	76,411,397	0.53%	60,876,806	58,830,621	4.0395	4.2968	4.1179	(4.16%)	(2,046,185)	(3.36%)
4	Bradford County	846,871,177	828,622,772	(2.15%)	6,237,984	0.75%	7,771,652	7,604,188	9.1769	9.4501	9.1769	(2.89%)	(167,464)	(2.15%)
5	Brevard County	29,104,449,212	24,940,629,760	(14.31%)	210,398,625	0.84%	180,765,358	180,554,598	6.2109	7.3391	7.2394	(1.36%)	(210,760)	(0.12%)
6	Broward County	128,455,341,428	126,414,014,099	(1.59%)	633,590,520	0.50%	665,726,685	660,607,363	5.1826	5.2459	5.2257	(0.39%)	(5,119,322)	(0.77%)
7	Calhoun County	364,288,518	365,271,151	0.27%	3,365,919	0.92%	3,641,640	3,652,712	9.9966	10.0659	10.0000	(0.65%)	11,072	0.30%
8	Charlotte County	13,525,230,842	12,546,850,954	(7.23%)	78,127,215	0.62%	110,517,066	110,518,085	8.1712	8.9060	8.8084	(1.10%)	1,019	0.00%
9	Citrus County	9,582,636,515	9,336,411,252	(2.57%)	55,954,014	0.60%	62,040,409	63,215,255	6.4743	6.6864	6.7708	1.26%	1,174,846	1.89%
10	Clay County	8,598,848,683	8,112,601,529	(5.65%)	72,798,111	0.90%	62,095,422	61,563,038	7.2214	7.7074	7.5886	(1.54%)	(532,384)	(0.86%)
11	Collier County	61,436,197,437	58,314,443,709	(5.08%)	502,084,302	0.86%	261,574,034	252,456,300	4.2577	4.5206	4.3292	(4.23%)	(9,117,734)	(3.49%)
12	Columbia County	2,446,401,713	2,268,066,777	(7.29%)	22,050,151	0.97%	19,607,893	18,178,555	8.0150	8.7509	8.0150	(8.41%)	(1,429,338)	(7.29%)
13	Desoto County	1,501,991,518	1,410,963,574	(6.06%)	6,269,140	0.44%	11,005,310	11,000,357	7.3271	7.8000	7.7963	(0.05%)	(4,953)	(0.05%)
14	Dixie County	518,528,529	482,271,913	(6.99%)	67,992	0.01%	6,727,832	6,269,535	12.9749	13.8831	13.0000	(6.36%)	(458,297)	(6.81%)
15	*Duval County	49,440,991,273	46,334,908,439	(6.28%)	339,991,596	0.73%	496,155,180	464,984,707	10.0353	10.7688	10.0353	(6.81%)	(31,170,473)	(6.28%)
16	Escambia County	13,638,819,049	13,296,901,852	(2.51%)	88,069,833	0.66%	101,913,481	99,330,134	7.4723	7.7384	7.4702	(3.47%)	(2,583,347)	(2.53%)
17	Flagler County	7,657,765,461	6,563,932,871	(14.28%)	51,265,464	0.78%	42,811,764	40,848,667	5.5906	6.5726	6.2232	(5.32%)	(1,963,097)	(4.59%)
18	Franklin County	2,013,686,272	1,899,113,617	(5.69%)	9,729,324	0.51%	8,951,298	9,457,586	4.4452	4.7365	4.9800	5.14%	506,288	5.66%
19	Gadsden County	1,376,184,308	1,363,932,104	(0.89%)	14,362,569	1.05%	12,256,848	12,147,725	8.9064	9.0820	8.9064	(1.93%)	(109,123)	(0.89%)
20	Gilchrist County	628,218,106	602,704,144	(4.06%)	5,861,839	0.97%	5,888,586	5,937,523	9.3735	9.8686	9.8515	(0.17%)	48,937	0.83%
21	Glades County	587,867,848	554,361,665	(5.70%)	5,277,838	0.95%	6,517,514	6,146,041	11.0867	11.8538	11.0867	(6.47%)	(371,473)	(5.70%)
22	Gulf County	1,570,245,269	1,460,421,523	(6.99%)	10,054,860	0.69%	9,534,893	8,846,575	6.0722	6.5839	6.0575	(8.00%)	(688,318)	(7.22%)
23	Hamilton County	713,571,187	706,800,381	(0.95%)	3,276,412	0.46%	7,135,712	7,068,004	10.0000	10.1428	10.0000	(1.41%)	(67,708)	(0.95%)
24	Hardee County	1,536,127,184	1,476,266,644	(3.90%)	3,991,222	0.27%	13,140,032	12,627,985	8.5540	8.8928	8.5540	(3.81%)	(512,047)	(3.90%)
25	Hendry County	1,790,130,483	1,709,978,757	(4.48%)	6,194,540	0.36%	11,656,254	12,464,719	6.5114	6.8197	7.2894	6.89%	808,465	6.94%
26	Hernando County	8,460,724,169	7,547,546,735	(10.79%)	60,199,020	0.80%	65,319,831	59,645,511	7.7204	8.7255	7.9026	(9.43%)	(5,674,320)	(8.69%)
27	Highlands County	4,921,416,247	4,662,113,828	(5.27%)	57,248,135	1.23%	34,964,459	33,101,008	7.1046	7.6400	7.1000	(7.07%)	(1,863,451)	(5.33%)
28	Hillsborough County	64,703,059,287	62,100,870,943	(4.02%)	580,695,319	0.94%	582,419,055	556,627,429	9.0014	9.5072	8.9633	(5.72%)	(25,791,626)	(4.43%)
29	Holmes County	408,011,267	404,877,841	(0.77%)	5,789,468	1.43%	3,855,380	3,911,322	9.4492	9.6605	9.6605	0.00%	55,942	1.45%
30	Indian River County	14,139,034,830	13,237,968,419	(6.37%)	98,918,159	0.75%	72,054,224	67,067,832	5.0961	5.4865	5.0663	(7.66%)	(4,986,392)	(6.92%)
31	Jackson County	1,432,377,309	1,420,143,629	(0.85%)	10,485,291	0.74%	10,201,821	10,114,689	7.1223	7.2178	7.1223	(1.32%)	(87,132)	(0.85%)
32	Jefferson County	542,142,579	538,337,799	(0.70%)	4,559,527	0.85%	4,512,036	4,480,370	8.3226	8.4530	8.3226	(1.54%)	(31,666)	(0.70%)
33	Lafayette County	220,494,451	217,727,244	(1.26%)	2,698,507	1.24%	1,929,326	1,905,113	8.7500	8.9724	8.7500	(2.48%)	(24,213)	(1.25%)
34	Lake County	17,021,802,722	15,587,582,550	(8.43%)	164,819,391	1.06%	94,726,891	86,685,160	5.5650	6.1301	5.5612	(9.28%)	(8,041,731)	(8.49%)
35	Lee County	55,520,514,001	53,601,523,403	(3.46%)	371,608,661	0.69%	278,384,498	267,788,581	5.0141	5.2128	4.9959	(4.16%)	(10,595,917)	(3.81%)
36	Leon County	14,409,226,025	14,073,788,898	(2.33%)	71,143,406	0.51%	120,721,717	117,516,137	8.3781	8.6168	8.3500	(3.10%)	(3,205,580)	(2.66%)
37	Levy County	1,869,593,968	1,731,342,655	(7.39%)	9,853,871	0.57%	13,874,631	13,957,046	7.4212	8.0614	8.0614	0.00%	82,415	0.59%
38	Liberty County	207,330,999	209,517,414	1.05%	2,854,368	1.36%	2,136,160	2,095,174	10.3031	10.0323	10.0000	(0.32%)	(40,986)	(1.92%)
39	Madison County	616,233,159	616,437,375	0.03%	10,118,331	1.64%	5,786,429	5,893,634	9.3900	9.5487	9.5608	0.13%	107,205	1.85%
40	Manatee County	24,748,698,573	23,756,729,326	(4.01%)	264,119,102	1.11%	166,836,702	161,814,214	6.7412	7.0970	6.8113	(4.03%)	(5,022,488)	(3.01%)
41	Marion County	16,212,563,401	14,999,675,147	(7.48%)	112,507,642	0.75%	107,359,945	98,003,318	6.6220	7.2155	6.5337	(9.45%)	(9,356,627)	(8.72%)
42	Martin County	17,492,910,077	17,142,845,280	(2.00%)	323,594,067	1.89%	136,157,629	137,225,954	7.7836	8.0743	8.0049	(0.86%)	1,068,325	0.78%
43	Miami-Dade County	183,044,795,314	186,962,023,337	2.14%	1,543,251,369	0.83%	1,517,317,588	1,308,425,106	8.2893	7.9325	6.9983	(11.78%)	(208,892,482)	(13.77%)
44	Monroe County	19,553,885,436	18,690,561,551	(4.42%)	106,055,074	0.57%	84,911,851	78,999,156	4.3425	4.3886	4.2267	(3.69%)	(5,912,695)	(6.96%)
45	Nassau County	7,015,415,600	6,636,382,806	(5.40%)	58,691,463	0.88%	47,659,219	45,025,712	6.7935	7.2457	6.7847	(6.36%)	(2,633,507)	(5.53%)
46	Okaloosa County	14,499,871,635	13,802,468,365	(4.81%)	116,982,246	0.85%	48,914,106	46,574,653	3.3734	3.5696	3.3744	(5.47%)	(2,339,453)	(4.78%)
47	Okeechobee County	1,556,664,948	1,457,037,157	(6.40%)	16,683,460	1.15%	12,455,578	13,113,334	8.0015	8.6460	9.0000	4.09%	657,756	5.28%
48	Orange County	83,586,769,561	81,565,444,961	(2.42%)	905,996,685	1.11%	563,226,859	546,446,201	6.7382	7.1045	6.6995	(5.70%)	(16,780,658)	(2.98%)
49	Osceola County	18,093,147,123	16,720,207,326	(7.59%)	159,429,713	0.95%	142,050,596	136,029,791	7.8511	8.5813	8.1357	(5.19%)	(6,020,805)	(4.24%)
50	Palm Beach County	126,784,523,829	124,519,237,190	(1.79%)	1,024,390,339	0.82%	837,930,145	835,144,556	6.6091	6.8271	6.7070	(1.76%)	(2,785,589)	(0.33%)
51	Pasco County	20,727,430,773	20,323,341,802	(1.95%)	243,175,851	1.20%	159,295,480	156,161,958	7.6852	7.9323	7.6839	(3.13%)	(3,133,522)	(1.97%)
52	Pinnellas County	58,203,688,479	55,602,604,228	(4.47%)	312,200,916	0.56%	369,154,462	367,506,802	6.3425	6.6095	6.6095	(1.31%)	(1,647,660)	(0.45%)
53	Polk County	26,042,396,666	24,440,706,317	(6.15%)	314,191,415	1.29%	187,486,816	175,677,088	7.1993	7.7252	7.1879	(6.96%)	(11,809,728)	(6.30%)
54	Putnam County	3,718,247,933	3,466,631,128	(6.77%)	11,444,647	0.33%	34,372,647	29,731,562	9.2443	9.2295	8.5765	(7.08%)	(4,641,085)	(13.50%)
55	Saint Johns County	18,364,786,783	17,449,553,890	(4.98%)	231,333,079	1.33%	122,560,945	129,293,730	6.6737	7.1267	7.4096	3.97%	6,732,785	5.49%
56	Saint Lucie County	15,013,709,614	14,445,123,153	(3.79%)	34,210,907	0.24%	122,631,894	124,146,416	8.1680	8.4511	8.5943	1.69%	1,514,522	1.24%
57	Santa Rosa County	7,567,223,011	7,393,027,769	(2.30%)	114,425,411	1.55%	46,120,020	45,062,722	6.0947	6.3301	6.0953	(3.71%)	(1,057,298)	(2.29%)

**Florida Association of Counties
2011 County by County Property Tax Data**

#	Jurisdiction	<u>2010</u> Taxable Value	<u>2011</u> Taxable Value	<u>% +/-</u> Taxable Value	<u>New</u> Construction	<u>% New</u> Construction	<u>*FY 10/11</u> Taxes Levied	<u>FY 11/12</u> Taxes Levied	<u>FY 2011</u> Millage Rate	<u>FY 2012 Rolled-</u> Back Rate	<u>FY 2012 Millage</u> Rate	<u>% +/- Rolled-</u> Back Rate	<u>\$ Change +/-</u> Taxes Levied	<u>% Change +/-</u> Taxes Levied
58	Sarasota County	42,128,065,358	39,575,831,502	(6.06%)	224,315,474	0.57%	156,256,971	146,276,730	3.7091	3.9835	3.6961	(7.21%)	(9,980,241)	(6.39%)
59	Seminole County	25,343,264,959	23,949,202,192	(5.50%)	134,713,255	0.56%	165,447,333	156,325,743	6.5283	6.9582	6.5151	(6.37%)	(9,121,590)	(5.51%)
60	Sumter County	6,204,767,892	6,633,699,940	6.91%	425,315,559	6.41%	39,273,461	41,924,984	6.3296	6.3247	6.3200	(0.07%)	2,651,523	6.75%
61	Suwanee County	1,434,092,061	1,434,722,529	0.04%	12,949,251	0.90%	11,472,736	11,477,780	8.0000	8.0693	8.0000	(0.86%)	5,044	0.04%
62	Taylor County	1,261,092,580	1,185,814,649	(5.97%)	5,766,557	0.49%	9,986,968	9,388,649	7.9193	8.4599	7.9175	(6.41%)	(598,319)	(5.99%)
63	Union County	227,518,526	219,714,910	(3.43%)	1,996,990	0.91%	2,369,990	2,197,149	10.4167	10.3928	10.0000	(3.78%)	(172,841)	(7.29%)
64	Volusia County	26,182,716,383	24,090,219,710	(7.99%)	156,017,155	0.65%	200,737,428	197,138,007	7.6668	8.4292	8.1833	(2.92%)	(3,599,421)	(1.79%)
65	Wakulla County	1,192,454,342	1,083,304,763	(9.15%)	11,088,380	1.02%	10,433,979	9,478,917	8.7500	9.7312	8.7500	(10.08%)	(955,062)	(9.15%)
66	Walton County	11,448,430,637	10,945,813,593	(4.39%)	86,308,612	0.79%	41,269,495	39,420,502	3.6048	3.7962	3.6014	(5.13%)	(1,848,993)	(4.48%)
67	Washington County	932,940,830	842,673,063	(9.68%)	2,996,722	0.36%	8,321,366	7,516,222	8.9195	9.9178	8.9195	(10.07%)	(805,144)	(9.68%)
		1,328,314,036,280	1,283,000,522,921	(3.41%)	10,707,763,807	0.83%	8,935,820,106	8,526,749,258	7.4499	7.8364	7.5636	(3.45%)	(409,070,848)	(4.58%)

Notes:

***Duval County**

Data excludes values and figures for Beaches and Baldwin Districts

2010 & 2011 Taxable Value

These figures represent gross taxable value, not adjusted for new construction and were taken from 2011 Form DR-420 (Line 7 and Line 4) for each County

New Construction

These figures are shown as a percent of 2010 gross taxable value and were taken from 2011 Form DR-420 (Line 5) for each County

FY 10/11 Taxes Levied

These figures were taken from Department of Revenue published data and were calculated after FY 2011 VAB process. Data can be found at <http://dor.myflorida.com/dor/property/taxpayers/cmdata/table1.html>

FY 11/12 Taxes Levied

These figures represent all ad valorem taxes levied including mstu's and were taken from 2011 Form DR-420 (line 25) for each County

FY 2011 Millage Rate

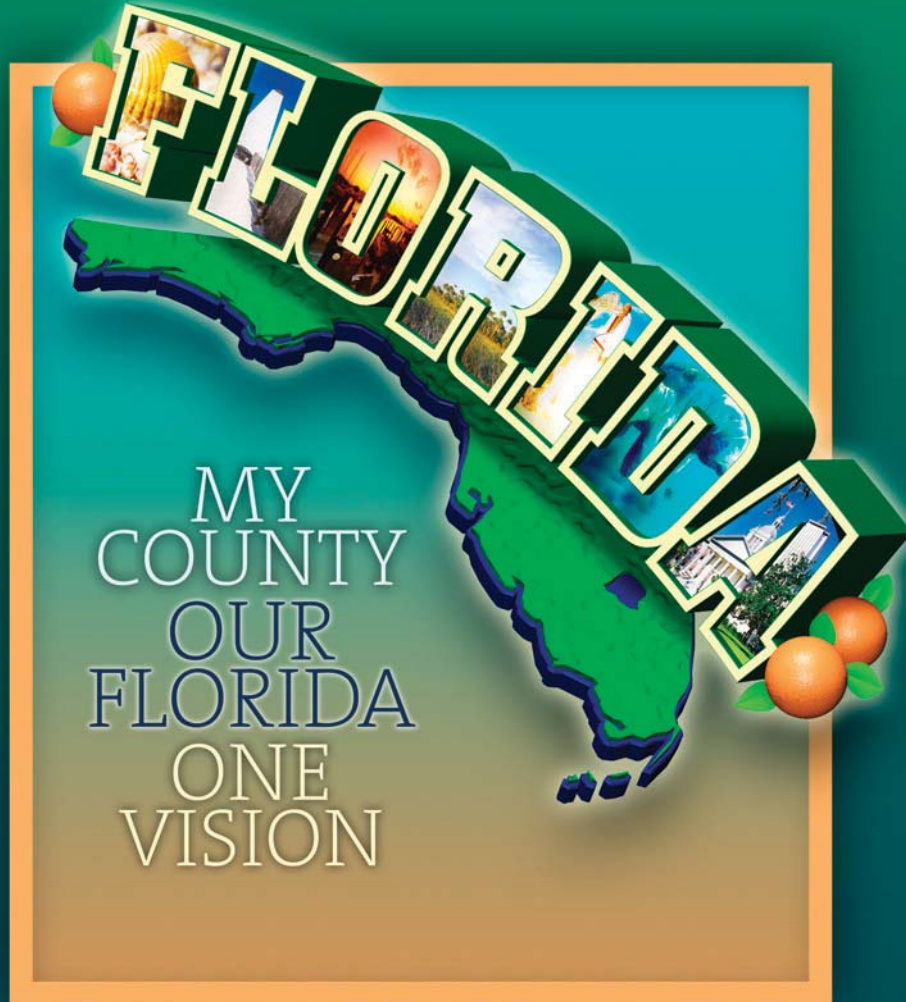
Previous tax year calculated aggregate millage rate for each county (Previous year total taxes levied divided by previous year gross taxable value multiplied by 1000)

FY 2012 Rolled-Back Rate

Current year aggregate rollback rate. Data taken from 2011 Form DR-420 (Line 23) for each county

FY 2012 Millage Rate

Current tax year calculated aggregate millage rate for each county (Current year total taxes levied divided by current year gross taxable value multiplied by 1000). Data taken from 2011 Form DR-420 (Line 23) for each county



2012

Legislative Priorities Program



Letter From the President

It is with great honor that I present to you the Florida Association of Counties' (FAC) 2012 Legislative Priorities Program. Florida's county officials have come together and worked tirelessly to develop a unified legislative agenda that benefits all counties. The FAC Legislative Priorities Program outlines statewide issues important to our shared constituency. The program includes a description of FAC's legislative priorities for the 2012 Session. These priorities underscore our commitment to protecting home rule and provide focus for the Association in responding to legislative issues.

Florida's county commissioners, staff and the Florida Association of Counties look forward to working with you during session. Should you have any questions about particular issues or if we can be of assistance, please contact John Wayne Smith, FAC Legislative Director at (850) 922-4300.

Best wishes for a productive and successful session!

A stylized, handwritten signature in dark ink, consisting of a large loop followed by a horizontal stroke.

Doug Smith
Martin County Commissioner
FAC President

2011-12 Executive Committee

President
Commissioner Doug Smith
Martin County



President-Elect
Commissioner Bill Williams
Gulf County



1st Vice President
Commissioner Bryan Desloge
Leon County



2nd Vice President
Commissioner Ken Welch
Pinellas County



Immediate Past President
Commissioner Ilene Lieberman
Broward County

FAC Team At Your Service



John Wayne Smith
Legislative Director
jsmith@fl-counties.com



Chris Holley
Executive Director
cholley@fl-counties.com



Ginger Delegal
General Counsel
gdelegal@fl-counties.com



Cragin Mosteller
Communications Director
cmosteller@fl-counties.com



Tracy M. Kusmierz
Senior Executive Assistant
tkusmierz@fl-counties.com



Tiffany McCaskill
Executive Assistant
tmccaskill@fl-counties.com

Phone: (850) 922-4300 | Fax: (850) 488-7501

Finance, Taxation & Administration

Florida Retirement System (FRS):

Background: Florida's counties are statutorily required to participate in the Florida Retirement System (FRS). Prior to the last quarter of County Fiscal Year 2011, the FRS was funded through employer contributions and there have been many benefit changes since counties joined the FRS in 1971 resulting in higher payroll costs and increased cost to tax payers.

On July 1, 2011, SB 2001 became effective which changed many FRS provisions, namely the requirement of employees to contribute towards their own retirement. While this provision has helped decrease overall payroll expenses and produced potential cost savings to taxpayers, the FRS is still faced with challenges in mitigating its projected unfunded actuarial liability status (As of September 2011 it is estimated that the system is only 87.1% funded on an actuarial basis).

FAC **OPPOSES** any FRS benefit changes that result in an increase in the FRS county and county employee contribution rates. **SUPPORT** requiring all legislation that potentially results in an increase in the FRS contribution rate to be analyzed and evaluated to determine the direct fiscal impact of proposed changes to all local and state government to be eligible for consideration.



Davin Suggs
Senior Legislative Advocate
dsuggs@fl-counties.com
Phone: 850-922-4300
Fax: 850-488-7501



Sarah Bleakley, Esq.
Special Tax Counsel
Nabors, Giblin & Nickerson, P.A.
sbleakley@ngnlaw.com
Phone: 850-508-4816

- *Ad Valorem Taxes*
- *County Budget Process and Procedures*
- *Fiscally Constrained County Funding*
- *Home Rule Revenues*
- *Local Option / Sales Taxes*
- *Revenue and Expenditure Caps*
- *Unfunded Mandates*



Growth Management, Transportation & Emergency Management

Eric Poole
Assistant Legislative Director
epoole@fl-counties.com
Phone: 850-922-4300
Fax: 850-488-7501

- *Affordable Housing*
- *Building Codes*
- *DRI's (Developments of Regional Impact)*
- *Emergency Management*
- *Growth Management*
- *MPO's (Metropolitan Planning Organizations)*
- *Regional Planning Councils*
- *School Concurrency*
- *Transportation*

Proportionate Fair-Share Mitigation:

Background: A key aspect of Florida's 1985 Growth Management Act required each county to maintain a transportation concurrency management system, which meant that it could not issue a building permit if roadway capacity were not available. Subsequent to the 1985 Act, a new funding process known as "Proportionate Share" was created that allowed a developer to satisfy concurrency by paying the county (or state) its proportionate share of a **scheduled** road improvement. In 2011, the Legislature enacted major revisions to the state's growth management law and eliminated transportation concurrency as a state requirement. However, it allowed counties to retain concurrency by local option under strict conditions. Specifically, a county must give a developer the option of using the proportionate share process, even if the county has no road improvement schedule. This means that a county must charge the developer a fee based on a hypothetical improvement that may never be built. The Legislature also revised the manner in which the proportionate formula is applied, resulting in a process where the first developer pays the fee but all subsequent applicants pay nothing.

- FAC believes that, as matter of fairness and equity, **any** development that creates a roadway deficiency and wants a building permit should pay its proportionate share of an actual scheduled improvement sufficient to mitigate its impacts.
- Any transportation improvements must be shared by all parties impacting road usage from the initial investment through continued improvements on transportation routes.
- Under current law, a single developer is left to shoulder the burden of transportation concurrency rather than fairly sharing those costs to all current and future developments that impact roadways.
- Responsible growth must not only be a shared reward for a community but a shared investment to ensure that citizens have a safe and reliable way to commute daily.

Recent legislative changes to the proportionate share funding process prevents counties, under certain circumstances, from charging a development its fair share of road improvements necessary to support that development. Accordingly, FAC **SUPPORTS** the following:

- Changes in law that gives counties the option of using the proportionate share process and modifying the proportionate share language to allow local governments to determine if the proportionate fair share payment is adequate to satisfy the requirements of the local government concurrency management system;
- Modifying the proportionate fair share language in statute to ensure local governments can charge each development its proportionate share of road improvements when the road is currently deficient or when development causes the road to operate below its adopted level of service; and
- Clarifying language in statute that requires local governments to apply a credit only to that portion of any transportation impact fee that would have been used to fund the same improvements on which a proportionate fair share contribution is calculated, while eliminating the requirement that counties give a dollar-for-dollar credit for impact fees paid or payable in the future.



Public Safety & Administration

John Wayne Smith
Legislative Director
jsmith@fl-counties.com
Phone: 850-922-4300
Fax: 850-488-7501

- *Article V*
- *Corrections*
- *Criminal Justice*
- *Elections*
- *Enterprise Florida*
- *Ethics / Gift Disclosure*
- *Florida Retirement System (FRS)*
- *Insurance*
- *Judicial*
- *Juvenile Detention Cost Share*
- *Workers' Compensation*

Pretrial Service Agencies

Background: Pretrial release is an alternative to incarceration that allows arrested individuals to be released from jail with supervision while they wait disposition of their case. Both the U.S. and Florida's Constitution favor pretrial release on reasonable conditions and favor non-monetary bail for nearly all individuals accused of a crime. FAC opposes legislation that limits local pretrial service agencies' ability to effectively supervise pretrial defendants using locally accepted conditions of release.

Additionally, FAC **SUPPORTS** maintaining county ability to provide non-monetary and risk assessment pretrial release services that ensure the safety and welfare of local communities by preventing new offenses and ensuring those appear as obligated.

OPPOSE legislation limiting the discretion of the first appearance judge, requiring written reports and eliminating the presumption of release on non-monetary conditions. **SUPPORT** changing pretrial program reporting requirements as provided in s. 907.043, F.S., from weekly to monthly updates. **OPPOSE** legislation that restricts pretrial services to only indigent defendants and **SUPPORT** legislation that requires bail bondsmen to report information as required of pretrial service agencies in s.907.043, F.S.

Juvenile Justice Reform

Background: The Department of Juvenile Justice (DJJ) should have full and complete responsibility for juvenile detention; however, FAC supports reforming the juvenile justice system and worked with the DJJ throughout the summer on a list of recommendations that would create a more equitable partnership between the counties and the state.

FAC **SUPPORTS** the state taking full responsibility for funding and operation of detention facilities serving juveniles, both for pre-disposition and post-disposition days and implementing juvenile justice reform, as recommended by the Detention Cost Share Proviso Workgroup. **SUPPORT** recommendations of the joint Department of Juvenile Justice (DJJ) and Florida Association of Counties Workgroup regarding juvenile detention; including but not limited to:

- Align the DJJ Detention budget with the statutory split. The Department has submitted a Legislative Budget Request for \$2.7 million that would help satisfy this recommendation;
- Clarify in statute that post-disposition detention stays, including those associated with post-disposition administrative handling, such as violations of probation and pickup orders, are not the responsibility of the county. Pre-disposition detention stays associated with violations of probation related to new charges will remain the responsibility of the county;
- Proceed with detention reform, including the implementation of a scientifically-validated Risk Assessment Instrument that can accurately predict the risk of reoffending and court appearance; and
- Require the DJJ to collaborate closely with counties to achieve accountable and collaborative governance at the local level.



Health & Human Services

Heather Wildermuth
Senior Legislative Advocate
hwildermuth@fl-counties.com
Phone: 850-922-4300
Fax: 850-488-7501

- *Behavioral Health Care*
- *County Health Departments*
- *Elder Care*
- *Emergency Medical Services*
- *Health Care / Health Insurance*
- *Human Services*
- *KidCare Program*
- *Social Services*
- *Substance Abuse*
- *Transportation Disadvantaged*

County Health Departments (CHDs)

Background: County health departments serve our most vulnerable citizens and must be protected to ensure adequate access to health care services statewide. The Florida Association of Counties supports efforts to restore the exemption from rate control for health departments and will work with Legislators to preserve funding for primary health care services.

FAC **SUPPORTS** maintaining state general revenue funding for CHDs, and **OPPOSES** any state reductions to the County Health Department Trust Funds.

SUPPORT legislative efforts to retain Cost Based Reimbursement for CHDs and to align reimbursement methodologies with Federally Qualified Health Center's reimbursement methodologies under managed care.

SUPPORT efforts to enable CHDs to transition to managed care under the Statewide Medicaid Managed Care Program without impacting service capacity.

SUPPORT reinstating the exemption from rate control for county health departments.

Environment, Agriculture & Utilities

Water Quality

The protection and conservation of our natural resources is critical to managing growth, promoting economic development, and maintaining a healthy environment and high quality of life. Accordingly, and in keeping with home rule authority, the Florida Association of Counties supports the right of local government to adopt environmental regulations to protect its unique natural resources, to the benefit of its citizens, business owners and visitors.

The increased demand on Florida's water supplies requires that all Floridians, including county governments, state agencies and utilities, work together in planning for the future. The primary goal of these planning efforts should be to ensure resource availability for all reasonable beneficial uses consistent with the protection of our other natural resources. Policy decisions regarding water resources should be kept as local in nature as possible.

Many of Florida's counties have also made energy conservation and efficiency a priority. Counties continue to lead by example when it comes to energy, by investing in fuel-efficient fleet vehicles, energy-efficient buildings and renewable technologies, and by working collaboratively with stakeholders in the community to create innovative programs and encourage conservation.

Numeric Nutrient Criteria:

Background: Whether nutrient levels are regulated under federal or state law, county governments will have to spend billions of dollars to improve water quality. Therefore, environmental regulations must ensure that nutrient reduction measures are necessary and effective. Additionally, federal and state requirements must be technically and economically feasible, and must recognize the unique character of Florida's waterbodies and the limited resources of its taxpayers.

FAC SUPPORTS the DEP's Numeric Nutrient Criteria Rule as a replacement for the federally promulgated numeric nutrient criteria. The Florida rule provides the necessary protection to the State's waterbodies without imposing unnecessary costs to county governments. Furthermore, FAC supports the Department's petition to the EPA to rescind their January 2009 determination to federally promulgate numeric nutrient criteria only in Florida.



Stephen James
Legislative Staff Attorney
sjames@fl-counties.com
Phone: 850-922-4300
Fax: 850-488-7501

- *Beaches and Coastal Management*
- *Energy*
- *Environmental Delegation and Permitting*
- *Everglades Restoration*
- *Land Acquisition and Management*
- *Solid Waste and Recycling*
- *Stormwater and Wastewater Utilities*
- *Water Quality and Supply*
- *Wetlands*



Mission

The Florida Association of Counties helps counties effectively serve and represent Floridians by strengthening and preserving county home rule through advocacy, education and collaboration.

CourtSmart Tag Report

Room: KN 412 **Case:**
Caption: Senate Committee on Community Affairs

Type:
Judge:

Started: 1/12/2012 8:02:47 AM
Ends: 1/12/2012 9:59:59 AM **Length:** 01:57:13

8:02:56 AM	Call to order
8:03:00 AM	Roll Call
8:03:45 AM	Tab 1
8:04:02 AM	Senator Rich
8:04:47 AM	Amendment by Senator Ring
8:05:17 AM	On bill as amended
8:06:02 AM	Melissa Abernathy
8:09:09 AM	Roll Call
8:09:38 AM	Tab 4
8:09:40 AM	Presentation for Senator Negron on bill
8:09:58 AM	Call for questions
8:10:07 AM	Roll Call
8:10:27 AM	Tab 2
8:10:29 AM	Senator Dean Presents
8:12:40 AM	Senator Gibson question on amendment
8:16:48 AM	Brian Pitts
8:18:57 AM	Roll Call
8:19:16 AM	Tab 3
8:19:21 AM	Senator Dean Presents
8:21:26 AM	Introduction of amendment
8:21:39 AM	Senator Dean explains
8:22:22 AM	Roll Call
8:22:57 AM	Tab 6
8:23:03 AM	Senator Bogdanoff presents
8:23:34 AM	Amendment
8:23:38 AM	On bill as amended
8:23:57 AM	Roll Call
8:24:19 AM	Tab 8
8:24:28 AM	Senator Jones presents
8:26:09 AM	Amendment
8:26:23 AM	Senator Jones explains amendment
8:27:35 AM	Roll Call
8:27:58 AM	Tab 7
8:28:04 AM	Presenting for Senator Oelrich
8:29:54 AM	Roll Call
8:30:12 AM	Tab 9
8:30:16 AM	Senator Wise presents
8:32:02 AM	Amendment
8:33:20 AM	Roll Call
8:33:51 AM	Tab 5
8:33:59 AM	Senator Storms
8:36:38 AM	On bill as amended
8:37:07 AM	Roll Call
8:37:32 AM	Senator Norman has the chair
8:37:41 AM	Tab 10
8:37:55 AM	Senator Bennett
8:40:22 AM	Roll Call
8:40:48 AM	Tab 11
8:41:56 AM	Roll Call
8:42:17 AM	Tab 12
8:42:34 AM	Senator Bennett
8:45:04 AM	Close by Senator Bennett

8:45:33 AM	Roll Call
8:45:59 AM	Tab 13
8:46:33 AM	Senator Bennett presents
8:48:34 AM	Mary Jean Yon
8:49:21 AM	David Cullen
8:52:42 AM	Stephen James
8:53:16 AM	Rick Tschantz
8:54:39 AM	Kurt Spitzer
8:55:53 AM	Keyna Cory
8:56:51 AM	Senator Storms question
8:59:20 AM	Senator Storms follows up
9:00:02 AM	Roll Call
9:00:36 AM	Tab 14
9:00:54 AM	Senator Bennett presents
9:01:31 AM	Keyna Cory
9:01:54 AM	Jack Corey
9:02:10 AM	Casey Cook
9:02:49 AM	Senator Wise
9:04:24 AM	Bennett responds
9:04:59 AM	On bill as amended
9:05:16 AM	Commissioner Ilene Lieberman speaks on bill (Broward County Commissioner)
9:11:39 AM	Senator Bennett
9:12:49 AM	Roll Call
9:13:17 AM	Tab 15
9:13:50 AM	Senator Bennett presents
9:15:54 AM	David Ludder
9:19:30 AM	Question by Senator Bennett of speaker
9:20:12 AM	Cynthia Harle
9:24:35 AM	Melissa Abernathy
9:28:17 AM	Jeff Doyle
9:31:21 AM	Stephen James
9:31:52 AM	Senator Gibson question for Stephen James
9:33:21 AM	Vivian Gotkin
9:37:25 AM	Rachael Reeves
9:39:57 AM	Senator Gibson question
9:40:30 AM	Response
9:42:22 AM	Follow up by Senator Gibson
9:43:13 AM	Answer
9:46:23 AM	Erika Leckington
9:50:28 AM	Sonya White
9:52:43 AM	Kate Macfall
9:54:40 AM	Senator Bennett takes chair
9:55:08 AM	Senator Thrasher
9:56:32 AM	Senator Richter
9:57:20 AM	Senator Norman
9:58:26 AM	Senator Gibson
9:59:20 AM	Close of meeting