The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

BUDGET
Senator Alexander, Chair
Senator Negron, Vice Chair

MEETING DATE: Thursday, March 31, 2011
TIME: 9:00 a.m.—6:00 p.m.
PLACE: *Pat Thomas Committee Room,* 412 Knott Building

MEMBERS: Senator Alexander, Chair; Senator Negron, Vice Chair; Senators Bennett, Altman, Benacquisto, Bogdanoff, Fasano, Flores, Gaetz, Hays, Joyner, Lynn, Margolis, Montford, Rich, Richter, Simmons, Siplin, Sobel, Thrasher, and Wise

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	**SPB 7084**	2011-2012 General Appropriations Act; Provides moneys for the annual period beginning July 1, 2011, and ending June 30, 2012, to pay salaries, and other expenses, capital outlay - buildings, and other improvements, and for other specified purposes of the various agencies of state government.	Submitted as Committee Bill
2	**SPB 7086**	Implementing 2011-2012 General Appropriations Act; Provides legislative intent. Incorporates by reference certain calculations of the Florida Education Finance Program for the 2011-2012 fiscal year. Authorizes the transfer of funds between appropriation categories to fund fixed capital outlay projects for public schools upon certain approval. Provides allocation requirements for specified funds appropriated for forensic mental health services. Provides requirements relating to implementing phase 3 of the Department of Health's Florida Onsite Sewage Nitrogen Reduction Strategies Study, etc.	Submitted as Committee Bill
3	**SPB 7128**	K-12 Education Funding; Authorizes the Department of Revenue to provide certain information regarding the gross receipts tax to the State Board of Education, the Division of Bond Finance, and the Office of Economic and Demographic Research. Requires that, for purposes of servicing public education capital outlay bonds, the State Board of Education disregard the effects on the gross receipts tax revenues collected during a tax period of a refund resulting from a specified settlement agreement, etc.	Submitted as Committee Bill
4	**SPB 7130**	Postsecondary Education Funding; Authorizes the Department of Revenue to provide certain information regarding the gross receipts tax to the State Board of Education, the Division of Bond Finance, and the Office of Economic and Demographic Research. Requires that, for purposes of servicing public education capital outlay bonds, the State Board of Education disregard the effects on the gross receipts tax revenues collected during a tax period of a refund resulting from a specified settlement agreement, etc.	Not Considered

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	**SPB 7118**	Juvenile Justice; Provides legislative intent. Defines the term "regional coordinating agency." Provides requirements for a regional coordinating agency. Requires the Department of Juvenile Justice to contract with regional coordinating agencies for specified services relating to juvenile justice. Gives hiring preference to current department employees who meet provider qualifications if they apply for employment with the regional coordinating agencies, etc.	Not Considered
6	**SPB 7120**	State Judicial System; Creates the Judicial Caseload Incentive Plan. Prescribes the purpose of the plan. Provides for performance goals for each judicial circuit. Authorizes financial awards to certain judges based on the performance of the circuit in meeting the goals. Authorizes each office of criminal conflict and civil regional counsel to create a direct-support organization. Prescribes requirements related to the creation and operation of the direct-support organization, etc.	Not Considered
7	**SPB 7122**	Criminal Justice; Repeals provisions relating to the Cybercrime Office within the Department of Legal Affairs. Limits the number of hours in the basic recruit training program required for correctional officers, unless the officer is otherwise exempt. Repeals provisions relating to the basic training program for youthful offenders within the Department of Corrections. Transfers and reassigns functions and responsibilities of the Cybercrime Office from the Department of Legal Affairs to the Department of Law Enforcement.	Temporarily Postponed
8	**SPB 7174**	Medicaid; Provides for funding the Medicaid reimbursement for certain persons age 65 or older while the optional program is being phased out. Renames the "medically needy" program as the "Medicaid nonpoverty medical subsidy." Limits certain categories of persons eligible for the subsidy to only physician services after a certain date. Deletes the hospitalist program. Revises the factors for calculating the maximum allowable fee for pharmaceutical ingredient costs. Directs the AHCA to establish reimbursement rates for the next fiscal year, etc.	Not Considered

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
9	**SPB 7176**	Department of Children and Family Services; Revises provisions relating to the department's duties with respect to domestic violence. Provides that annual certification of domestic violence centers depends on a favorable review by the Florida Coalition Against Domestic Violence. Authorizes the coalition to enter and inspect centers for monitoring purposes. Requires the department to contract with the coalition for the management of domestic violence service delivery and the monitoring of centers, etc.	Not Considered
10	**SPB 7178**	Agency for Persons with Disabilities; Prohibits the agency from expending funds above the amount appropriated in the General Appropriations Act. Requires that the agency monitor monthly program expenditures and provide quarterly reports to the Governor and Legislature.	Not Considered
11	**SPB 7134**	Consumer Protection; Removes the Division of Dairy Industry within the department. Requires the Department of Legal Affairs, rather than the Department of Agriculture and Consumer Services, to distribute free of charge a motor vehicle consumer's rights pamphlet. Provides for the state attorneys and the Department of Legal Affairs, rather than the Department of Agriculture and Consumer Services, to enforce the law prohibiting price gouging, etc.	Not Considered
12	**SPB 7136**	Department of Revenue; Removes the department's authority to approve the budget of the county property appraiser. Conforms provisions. Prohibits the department from supervising or having a role in any aspect of property tax administration not specifically required by law. Repeals provisions relating to the requirement that property appraisers and tax collectors submit budgets to the department. Extends from once every 2 years to once every 3 years the requirement that the department conduct an in-depth review of the assessment roll of each county, etc.	Not Considered
13	**SPB 7138**	Department of Management Services; Provides for the reimbursement to the department of actual costs for coordinating the Florida State Employee's Charitable Campaign. Requires the cost factors for a fixed capital outlay project to include an estimate for the finishing of interiors. Requires the standards for use of a project to include an analysis of the cost of the constructed space. Requires that cost savings realized when actual costs are less than the projected costs for a fixed capital outlay project be used to reduce the overall construction costs, etc.	Not Considered

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
14	**SPB 7140**	Public Employees Relations Commission; Requires that the commission be composed of a chair and two part-time members rather than two full-time members. Provides for the chair of the commission to remain as a full-time appointment. Prohibits the part-time members from engaging in any business, vocation, or employment that conflicts with their duties while in such office.	Not Considered
15	**SPB 7142**	Pollution Control; Revises requirements for the deposit of funds used in providing financial assistance for water pollution control. Requires that such funds be deposited into the department's Federal Grants Trust Fund rather than the department's Grants and Donations Trust Fund. Specifies additional uses of moneys deposited into the Federal Grants Trust Fund.	Not Considered
16	**SPB 7144**	Department of Financial Services; Repeals provisions relating to the Chief Financial Officer's authorization to operate a personal check-cashing service or a remote financial service unit at the capitol and to employ additional persons to assist in performing such services. Abolishes appropriations from the General Revenue Fund to pay the salaries of the additional employees. Revises the duties of the Division of Consumer Services. Revises the criteria for premiums charged to agencies and departments for purposes of the State Risk Management Trust Fund, etc.	Not Considered
17	**SPB 7146**	Citizens Property Insurance Corporation; Repeals provisions relating to the procurement of goods and services by the corporation. Provides standards for procurements by Citizens Property Insurance Corporation. Provides legislative intent. Provides definitions. Provides general purchasing rules for the procurement of goods or services by the Citizens Property Insurance Corporation. Requires the corporation's legal department and purchasing department to jointly prepare a contract for the procurement of goods or services, etc.	Not Considered
18	**SPB 7148**	Trust Funds; Creates the Federal Grants Trust Fund within the Department of Business and Professional Regulation. Provides for the purpose of the trust fund and sources of funds. Provides for future review and termination or re-creation of the trust fund.	Not Considered

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
19	**SPB 7150**	Cigarette, Tobacco, and Alcoholic Beverage Taxes; Revises the rights of certain employees in the Department of Business and Professional Regulation (DBPR). Defines the term "program." Transfers and reassigns functions and responsibilities for the administration of cigarette, tobacco, and alcoholic beverage taxes from the Division of Alcoholic Beverages and Tobacco of the DBPR to the General Tax Administration Program Office of the Department of Revenue, etc.	Not Considered
20	**SPB 7152**	Reports Required from Public Service Commission; Repeals a provision relating to Lifeline service subscriptions. Removes a requirement that certain consumer complaint information be included in the commission's annual report. Repeals a provision relating to random compliance investigations of certain operator services providers and call aggregators. Repeals provisions relating to a report to the Legislature on the status of telecommunications competition. Repeals a provision relating to the annual report on the operation of the telecommunications access system.	Not Considered
21	**SPB 7154**	Water Management Districts; Provides requirements with respect to revenues received by each water management district and the unexpended balances of a district's local account. Requires that each district's expenditure of funds be as provided the General Appropriations Act. Provides for a contingency if a court finds such restriction to be invalid. Provides that the Legislature may annually set the amount of revenue a district may raise through its ad valorem tax authority. Prohibits a district from imposing ad valorem taxes if the Legislature does not set the amount of revenue, etc.	Submitted as Committee Bill
22	**SPB 7198**	Transportation; Redefines the term "port" to include Port Citrus. Provides additional funds for 5 years to fund certain projects through the Florida Deepwater Seaport Program. Includes a representative of Port Citrus as a member of the Florida Seaport Transportation and Economic Development Council. Specifies that certain statutory provisions related to special matters to be considered in rule adoption do not apply to the adjustment of toll rates, etc.	Submitted as Committee Bill

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
23	**SPB 7200**	Florida Housing Finance Corporation; Deletes provisions on the distributions of documentary stamp tax revenues to the State Housing Trust Fund and the Local Government Housing Trust Fund. Conforms cross-references. Replaces references to the Department of Community Affairs with Jobs Florida. Provides for the deposit of certain moneys into the State Housing Trust Fund within the State Treasury. Replaces references to the Secretary of the Department of Community Affairs with the Commissioner of Jobs Florida, etc.	Not Considered
24	**SPB 7202**	Governmental Reorganization; Transfers the functions and trust funds of the Agency for Workforce Innovation to other agencies. Transfers the Office of Early Learning Services to the Department of Education. Transfers the Office of Unemployment Compensation to Jobs Florida. Transfers the Office of Workforce Services to Jobs Florida. Transfers the functions and trust funds of the Department of Community Affairs to other agencies. Transfers the Florida Housing Finance Corporation to Jobs Florida, etc.	Not Considered
25	**SPB 7204**	Effective Public Notices by Governmental Entities; Defines the term "publicly accessible website." Authorizes a local government to use its publicly accessible website for legally required advertisements and public notices. Provides conditions for such use. Provides for optional receipt of legally required advertisements and public notices by first-class mail or e-mail. Provides requirements for advertisements and public notices published on a publicly accessible website, etc.	Not Considered
26	**SPB 7206**	Department of Highway Safety and Motor Vehicles; Creates motor carrier weight inspection as an area of program responsibility within the Department of Transportation, which replaces motor carrier compliance. Revises the divisions within the Department of Highway Safety and Motor Vehicles. Creates the Office of Motor Carrier Compliance of the Division of the Florida Highway Patrol within the Department of Highway Safety and Motor Vehicles, etc.	Not Considered
27	**SPB 7208**	Trust Funds; Creates the Welfare Transition Trust Fund within the Department of Education. Provides for sources of funds and purposes. Provides for the annual carryforward of funds. Provides for future review and termination or re-creation of the trust fund.	Not Considered

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
28	**SPB 7088**	State Employees; Provides for the resolution of collective bargaining issues at impasse between the state and certified bargaining units of state employees.	Not Considered
29	**CS/SB 1738** Governmental Oversight and Accountability / Alexander (Similar H 1211)	State Financial Information; Requires the Auditor General to annually provide to the Legislature a list of school districts that have failed to comply with certain financial transparency requirements, as identified pursuant to audit. Establishes the Agency for Enterprise Business Services within the Department of Financial Services. Provides that the agency is headed by the Governor and Cabinet acting as the Financial Management Information Board. Establishes the Enterprise Financial Business Operations Council to act in an advisory capacity to the agency, etc. GO 03/17/2011 Fav/CS BC 03/31/2011 Not Considered	Not Considered
30	**SPB 7090**	State Financial Information; Requires the Auditor General to annually provide to the Legislature a list of school districts and water management districts that have failed to comply with certain financial transparency requirements, as identified pursuant to audit. Amends provisions relating to the Transparency Florida Act. Defines the term "department" to mean the Department of Financial Services. Removes the term "committee." Redefines the term "governmental entity" to include public schools rather than public school districts, etc.	Not Considered
31	**SPB 7092**	Consolidation/State Info. Technology Services; Establishes the Agency for Enterprise Information Technology in the Department of Management Services rather than the Executive Office of the Governor. Revises the duties of the agency to include the planning, project management, and implementation of the enterprise information technology services. Requires the agency to submit a plan to the Legislative Budget Commission for aggregating information technology purchases, etc.	Not Considered
32	**SPB 7094**	Retirement; Requires employee and employer contributions to the retirement system by a certain date. Redefines the terms "system," "prior service," "compensation," "average final compensation," "normal retirement date," "termination," "benefit," and "payee." Defines the term "division." Provides that special risk employee contributions be used, if applicable, when purchasing credit for past service, etc.	Submitted as Committee Bill

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
33	**SPB 7096**	Health Insurance Benefits for State Employees; Deletes references to TRICARE supplemental insurance plans. Deletes the definition of the term "state-contracted HMO." Deletes the Department of Management Services' authorization to contract with health maintenance organizations for participation in the state group insurance program. Authorizes the Department of Management Services to establish health maintenance incentive programs, etc.	Temporarily Postponed
34	**CS/SB 1292** Governmental Oversight and Accountability / Alexander (Similar H 977, Compare HJR 975, Link SJR 1276)	Chief Financial Officer; Provides definitions. Requires governmental and statutorily created entities to maintain their financial data in accordance with the requirements of the Chief Financial Officer, the Board of Governors, or the State Board of Education, or pursuant to ch. 1010, F.S., by a certain date. Requires the Chief Financial Officer to adopt charts of accounts that meet certain requirements by a certain date. Requires a review and update of the charts of accounts. Requires the Chief Financial Officer to adopt certain procedures relating to the charts of accounts, etc. GO 03/15/2011 Fav/CS BC 03/31/2011 Not Considered	Not Considered
35	**SPB 7098**	Office of Drug Control; Relocates the Statewide Office for Suicide Prevention into the Department of Children and Family Services. Requires the director of the Statewide Office for Suicide Prevention to employ a coordinator for the office. Requires revenues from grants accepted by the Statewide Office for Suicide Prevention to be deposited into the Grants and Donations Trust Fund within the Department of Children and Family Services rather than the Executive Office of the Governor, etc.	Not Considered
36	**SPB 7100**	Florida Energy and Climate Commission; Eliminates the Florida Energy and Climate Commission and transfers its duties with respect to a tax credit, an incentive program, and the state's renewable energy policy to the Department of Environmental Protection. Repeals provisions relating to Florida Energy and Climate Commission. Transfers the duties of the Florida Energy and Climate Commission with respect to planning and developing the state's energy policy and its duties under the Florida Energy and Climate Protection Act to the Department of Environmental Protection, etc.	Not Considered

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
37	**SPB 7102**	Welfare of Children; Repeals provisions relating to the Office of Adoption and Child Protection within the Executive Office of the Governor. Requires all state, county, and local agencies to cooperate, assist, and provide information to the Department of Children and Family Services rather than the Office of Adoption and Child Protection. Repeals provisions relating to the definition of the term "office" as it relates to the Office of Adoption and Child Protection, etc.	Not Considered
38	**SPB 7104**	Auditor General; Redefines the term "financial audit" to conform with applicable auditing standards. Defines the term "operational audit" to provide the objectives of such audits. Clarifies the requirement for the Auditor General to conduct financial audits of the accounts and records of all district school boards in counties of a specified size once every 3 years. Revises duties and responsibilities of the Auditor General, etc.	Not Considered
39	**SPB 7124**	Juvenile Detention Facilities; Exempts a county that covers the costs of detention care for pre-adjudicated juveniles within its jurisdiction or other jurisdictions from certain requirements for sharing the costs for juvenile detention. Provides that a county or county sheriff that meets certain prerequisites with respect to the operation of its juvenile detention facility is exempt from certain requirements of law governing the administration of such facilities. Authorizes a county or county sheriff to operate regional detention facilities, etc.	Not Considered
40	**CS/SB 1314** Governmental Oversight and Accountability / Alexander (Similar H 939)	State Financial Matters; Prohibits an agency or branch of state government, without legislative authority, from contracting to pay liquidated damages or early termination fees resulting from the breach or early termination of a contract or agreement, from paying interest because of insufficient budget authority to pay an obligation in the current year, from obligating the state to make future payments to cover unpaid payments, or from granting a party the right to collect fees or other revenues from nonparties. Provides that certain contracts are subject to transaction fees, etc. GO 03/17/2011 Fav/CS BC 03/31/2011 Not Considered	Not Considered

The consideration of the following bills is subject to a motion to waive Rule 2.6, which will be considered by the Senate on March 30, 2011. The amendment deadline for these bills is 2:00 p.m. March 30, 2011 and the deadline for the amendments to amendments and substitute amendments is 5:00 p.m. March 30, 2011.

For expedited consideration:

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
41	**CS/SB 138** Criminal Justice / Bennett (Compare H 17)	Military Veterans Convicted of Criminal Offenses; Provides that persons found to have committed criminal offenses who allege that the offenses resulted from posttraumatic stress disorder, traumatic brain injury, substance use disorder, or psychological problems stemming from service in a combat theater in the United States military may have a hearing on that issue before sentencing. Provides that defendants found to have committed offenses due to such causes and who are eligible for probation or community control may be placed in treatment programs, etc. CJ 02/22/2011 Temporarily Postponed CJ 03/09/2011 Fav/CS CF 03/14/2011 Favorable BC 03/31/2011 Favorable	Favorable Yeas 21 Nays 0
42	**SB 240** Joyner (Identical H 101)	Violations of Injunctions for Protection; Adds circumstances that violate an injunction for protection against repeat violence, sexual violence, or dating violence. CJ 03/14/2011 Favorable JU 03/22/2011 Favorable BC 03/31/2011 Favorable	Favorable Yeas 21 Nays 0
43	**CS/CS/SB 244** Health Regulation / Transportation / Bennett (Similar H 177)	Motor Vehicles/Highway Safety Act; Provides legislative intent relating to road rage and aggressive careless driving. Requires an operator of a motor vehicle to yield the left lane when being overtaken on a multilane highway. Specifies the amount of the fine and the allocation of moneys received from the increased fine imposed for aggressive careless driving. Requires the HSMV to provide information about the Highway Safety Act in driver's license educational materials, etc. TR 02/07/2011 Fav/CS HR 02/22/2011 Fav/CS BC 03/31/2011 Favorable	Favorable Yeas 21 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
44	**CS/SB 246** Health Regulation / Joyner (Compare H 477)	Human Trafficking; Requires operators of massage establishments to maintain valid work authorization documents on the premises for each employee who is not a United States citizen. Requires presentation of such documents upon request of a law enforcement officer. Prohibits the use of a massage establishment license for the purpose of lewdness, assignation, or prostitution. Provides criminal penalties. Includes within the severity ranking chart of the Criminal Punishment Code certain offenses prohibited by the act. HR 02/08/2011 Fav/CS CJ 03/14/2011 Favorable BC 03/31/2011 Favorable	Favorable Yeas 21 Nays 0
45	**CS/SB 312** Health Regulation / Richter (Similar H 483, Compare H 485, H 795, S 656, Link CS/S 314)	Practice of Dentistry; Requires persons who apply for licensure renewal as a dentist or dental hygienist to furnish certain information to the Department of Health in a dental workforce survey. Requires the department to serve as the coordinating body for the purpose of collecting, disseminating, and updating dental workforce data. Requires the department to maintain a database regarding the state's dental workforce. Authorizes certain business entities to pay for prescription drugs obtained by practitioners licensed under ch. 466, F.S., etc. HR 01/25/2011 Fav/CS GO 03/23/2011 Favorable BC 03/31/2011 Favorable	Favorable Yeas 21 Nays 0
46	**SB 330** Gaetz (Identical H 553)	Violations of the Florida Election Code; Provides that a candidate who, in a primary or other election, falsely represents that he or she served or is currently serving in the military, commits a violation of the Florida Election Code. Requires that the commission adopt rules to provide for an expedited hearing for complaints filed with the commission. Requires that the Director of the Division of Administrative Hearings assign an administrative law judge to provide an expedited hearing in certain cases, etc. EE 01/26/2011 Favorable RC 02/24/2011 Favorable MS 03/10/2011 Favorable GO 03/23/2011 Favorable BC 03/31/2011 Favorable	Favorable Yeas 21 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
47	**CS/SB 382** Budget Subcommittee on Finance and Tax / Bogdanoff (Compare H 161, CS/H 355, CS/S 478)	Property Taxation; Revises provisions relating to applications for tax deeds. Provides payment requirements. Authorizes the tax collector to charge a fee to cover the costs to the tax collector for electronic tax deed programs or services. CA 02/08/2011 Favorable BFT 03/11/2011 Fav/CS BC 03/31/2011 Favorable	Favorable Yeas 21 Nays 0
48	**CS/SB 400** Criminal Justice / Wise (Identical CS/H 81)	Treatment-based Drug Court Programs; Requires all offenders sentenced to a postadjudicatory drug court program who are drug court participants and who are the subject of a violation of probation or community control hearing under specified provisions to have the violation of probation or community control heard by the judge presiding over the drug court program. Increases the number of Criminal Punishment Code scoresheet total sentence points that a defendant may have and be eligible for a postadjudicatory treatment-based drug court program, etc. CJ 02/22/2011 Fav/CS JU 03/14/2011 Favorable BC 03/31/2011 Favorable	Favorable Yeas 21 Nays 0
49	**SB 464** Latvala (Identical CS/H 3)	Assault or Battery of a Law Enforcement Officer; Requires the Department of Law Enforcement to issue a blue alert if a law enforcement officer has been killed, suffered serious bodily injury, or been assaulted and the suspect has fled the scene, or if a law enforcement officer is missing while in the line of duty. Requires that the blue alert be disseminated on the emergency alert system through television, radio, and highway signs. Provides that emergency traffic information may take precedence over blue alert information. CJ 03/09/2011 Favorable TR 03/16/2011 Favorable BC 03/31/2011 Favorable	Favorable Yeas 21 Nays 0
50	**SB 514** Garcia (Identical H 347)	Vehicle Crashes Involving Death; Cites this act as the "Ashley Nicole Valdes Act." Requires a defendant who was arrested for leaving the scene of a crash involving death be held in custody until brought before a judge for admittance to bail in certain circumstances. Reenacts provision relating to the Criminal Punishment Code, to incorporate the amendments made to provision in a reference thereto. CJ 03/09/2011 Favorable JU 03/22/2011 Favorable BC 03/31/2011 Favorable	Favorable Yeas 21 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
51	**SB 626** Thrasher (Compare CS/H 395, S 1972)	Shands Teaching Hospital and Clinics, Inc.; Clarifies provisions relating to references to the corporation known as Shands Teaching Hospital and Clinics, Inc. Clarifies provisions regarding the purpose of the corporation. Authorizes the corporation to create corporate subsidiaries and affiliates. Provides that Shands Teaching Hospital and Clinics, Inc., Shands Jacksonville Medical Center, Inc., Shands Jacksonville Healthcare, Inc., and any not-for-profit subsidiary of such entities are instrumentalities of the state for purposes of sovereign immunity. HR 03/14/2011 Favorable HE 03/22/2011 Favorable BC 03/31/2011 Favorable	Favorable Yeas 21 Nays 0
52	**SB 634** Simmons (Identical H 4181)	Citizens Property Ins. Corp./Prohibited Activities; Repeals a provision relating to an obsolete prohibition against Citizens Property Insurance Corporation's use of certain amendments or transfers of funds for rate or assessment increase purposes. BI 02/22/2011 Favorable CA 03/14/2011 Favorable BC 03/31/2011 Favorable	Favorable Yeas 21 Nays 0
53	**SB 636** Simmons (Similar CS/H 4099, Identical H 4081, Compare H 1187, CS/S 1592)	Repeal of Obsolete Insurance Provisions; Deletes an obsolete requirement for the State Board of Administration to transfer to the Citizens Property Insurance Corporation certain funds of the Insurance Capital Build-Up Incentive Program. Deletes an obsolete presuit notice requirement for the Florida Automobile Joint Underwriting Association. Deletes an obsolete form filing deadline for sinkhole coverage. Deletes an obsolete reporting requirement for activities relating to the sinkhole database, etc. BI 03/09/2011 Favorable GO 03/15/2011 Favorable BC 03/31/2011 Favorable	Favorable Yeas 21 Nays 0
54	**SB 638** Simmons (Identical H 4129)	Residential Property/Evaluation Grant Program; Deletes an obsolete Citizens Property Insurance Corporation residential property structural soundness evaluation grant program. BI 02/22/2011 Favorable CA 03/14/2011 Favorable BC 03/31/2011 Favorable	Favorable Yeas 21 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
55	**SB 702** Flores (Compare H 471)	Umbilical Cord Blood Banking; Requires the Department of Health to post on its website certain resources and a website link to specified materials regarding umbilical cord blood banking. Requires the department to encourage certain health care providers to make available to their pregnant patients information related to umbilical cord blood banking. Provides that a health care provider or health care facility and its employees or agents are not liable for damages in a civil action, etc. HR 03/09/2011 Favorable JU 03/22/2011 Favorable BC 03/31/2011 Favorable	Favorable Yeas 21 Nays 0
56	**CS/SB 960** Environmental Preservation and Conservation / Bennett (Similar CS/H 709, Compare CS/CS/S 396)	Liquefied Petroleum Gas; Prohibits the Department of Agriculture and Consumer Services and other state agencies from requiring compliance with certain national standards for liquefied petroleum gas tanks unless the department or agencies require compliance with a specified edition of the national standards. Provides for future expiration of such requirements. Revises the term "propane" for purposes of the Florida Propane Gas Education, Safety, and Research Act, to incorporate changes to certain national standards in a reference thereto. EP 03/10/2011 Fav/CS CM 03/22/2011 Favorable BC 03/31/2011 Favorable	Favorable Yeas 21 Nays 0
57	**CS/SB 968** Environmental Preservation and Conservation / Dean	Boating Safety; Provides an exemption from the requirement that certain persons must possess a boating safety identification card while operating a motor vessel of a specified horsepower or greater. Requires liveries to require that a person present a valid boater safety identification card or provide proof that the person passed the boating education safety course or examination. EP 03/10/2011 Fav/CS CA 03/21/2011 Favorable BC 03/31/2011 Favorable	Favorable Yeas 21 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
58	**SB 1142** Dockery (Identical H 927, S 918)	Adverse Possession; Specifies that occupation and maintenance of property satisfies the requirements for possession for purposes of gaining title to property via adverse possession without color of title. Requires that the property appraiser add certain information related to the adverse possession claim to the parcel information on the tax roll and prescribing conditions for removal of that information. Excludes property subject to adverse possession claims without color of title from provisions authorizing the tax collector not to send a tax notice for minimum tax bills, etc. JU 03/09/2011 Favorable CA 03/21/2011 Favorable BC 03/31/2011 Favorable	Favorable Yeas 21 Nays 0

Florida Senate - 2011

SB7084

Committee	Amendment
BC	**1**

The Committee on Budget **(Alexander)** recommended the following amendment:

Section: 02 **On Page:** 006 **Spec App:** 15C	**EXPLANATION:** **Provides $3 Million for the News Journal Center in PECO from another project (Site/Facilities Acquisition-Alt Springs for Seminole State College)**

NET IMPACT ON:	Total Funds	General Revenue	Trust Funds
Recurring -	0	0	0
Non-Recurring -	0	0	0

	Positions & Amount DELETE	Positions & Amount INSERT

EDUCATION, DEPARTMENT OF
Program: Education - Fixed Capital Outlay *48150000*

In Section 02 On Page 006
15C Fixed Capital Outlay *089006*
Community College Projects *IOEL*

In Section 02 On Page 007

Immediately following Specific Appropriation 15C, DELETE the following proviso:

DAYTONA STATE COLLEGE
Remodel/Addition - News Journal Center Building part..... 5,000,000

SEMINOLE STATE COLLEGE OF FLORIDA
Site/Facilities Acquisition-Alt Springs (sp)..... 17,070,666

and insert in lieu thereof:

DAYTONA STATE COLLEGE
Remodel/Addition - News Journal Center Building part..... 8,000,000

SEMINOLE STATE COLLEGE OF FLORIDA
Site/Facilities Acquisition-Alt Springs (sp)..... 14,070,666

Line item amendments are accepted as part of the amendatory process. However, due to the necessity of using computerized systems this may entail a different placement within a budget entity or the renumbering of the specific appropriation items.

Florida Senate - 2011

SB7084

Committee	Amendment
BC	**2**

The Committee on Budget **(Alexander)** recommended the following amendment:

Section: 02 **On Page:** 006 **Spec App:** 15C	**EXPLANATION:** **Provides $2.4 Million in planning funds for the Theater Center Building PECO project at Daytona State College from another project (Site/Facilities Acquisition-Alt Springs at Seminole State College)**

NET IMPACT ON:	Total Funds	General Revenue	Trust Funds
Recurring -	0	0	0
Non-Recurring -	0	0	0

	Positions & Amount DELETE	Positions & Amount INSERT

EDUCATION, DEPARTMENT OF
Program: Education - Fixed Capital Outlay *48150000*

In Section 02 On Page 006
15C Fixed Capital Outlay *089006*
Community College Projects *IOEL*

In Section 02 On Page 007

Immediately following Specific Appropriation 15C, DELETE the following proviso:

SEMINOLE STATE COLLEGE OF FLORIDA
Site/Facilities Acquisition-Alt Springs (sp)..... 17,070,666

and insert in lieu thereof:

DAYTONA STATE COLLEGE
Theater Center (Building 220) 2,400,000
SEMINOLE STATE COLLEGE OF FLORIDA
Site/Facilities Acquisition-Alt Springs (sp)..... 14,670,666

Line item amendments are accepted as part of the amendatory process. However, due to the necessity of using computerized systems this may entail a different placement within a budget entity or the renumbering of the specific appropriation items.

Florida Senate - 2011

SB7084

Committee	Amendment
BC	**3**

The Committee on Budget **(Alexander)** recommended the following amendment:

Section: 02 **On Page:** 006 **Spec App:** 15C	**EXPLANATION:** **Provides $5 Million for the Rem/Ren Add Bldg 8 & 9, Library - Bradenton PECO project from funds provided to two projects ($2.5 Million from the Site/Facilities Acquisition-Alt Springs (sp) at Seminole State College and $2.5 Million from Rem/ren/New/Clsrms/Labs/Sup Svcs-West (pc)(ce) at Miami Dade College.**

NET IMPACT ON:	Total Funds	General Revenue	Trust Funds
Recurring -	0	0	0
Non-Recurring -	0	0	0

		Positions & Amount DELETE	Positions & Amount INSERT
	EDUCATION, DEPARTMENT OF		
	Program: Education - Fixed Capital Outlay *48150000*		
	In Section 02 On Page 006		
15C	**Fixed Capital Outlay** *089006*		
	Community College Projects *IOEL*		
	In Section 02 On Page 007		

Immediately following Specific Appropriation 15C, DELETE the following proviso:

MIAMI DADE COLLEGE
Rem/ren/add Clsrms/Labs/Supp Svcs Fac 2-Hialeah Complete... 21,200,000
SEMINOLE STATE COLLEGE OF FLORIDA
Site/Facilities Acquisition-Alt Springs (sp)..... 17,070,666

and insert in lieu thereof:

MANATEE-SARASOTA STATE COLLEGE
Rem/Ren/Add Bldg 8 & 9 Library - Bradenton (pce) 5,000,000
MIAMI DADE COLLEGE
Rem/ren/add Clsrms/Labs/Supp Svcs Fac 2-Hialeah Complete... 18,700,000
SEMINOLE STATE COLLEGE OF FLORIDA

Site/Facilities Acquisition-Alt Springs (sp)..... 14,570,666

Line item amendments are accepted as part of the amendatory process. However, due to the necessity of using computerized systems this may entail a different placement within a budget entity or the renumbering of the specific appropriation items.

Florida Senate - 2011

SB7084

Committee	Amendment
BEA	**4**

The Committee on Budget **(Margolis)** recommended the following amendment:

Section: 02 **On Page:** 018 **Spec App:** 68	**EXPLANATION:** **Creates proviso to direct school districts to receive written authorization from parents before a student is placed in an on-site virtual instruction program in a traditional classroom.**

NET IMPACT ON:	Total Funds	General Revenue	Trust Funds
Recurring -	0	0	0
Non-Recurring -	0	0	0

	Positions & Amount DELETE	Positions & Amount INSERT

EDUCATION, DEPARTMENT OF
Public Schools, Division Of
Program: State Grants/K-12 Program - FEFP *48250300*

In Section 02 On Page 018
68 Aid To Local Governments *050560*
Grants And Aids - Florida Educational Finance Program *IOEB*

At the end of existing proviso language, following Specific Appropriation 68, INSERT:

School districts may use funds in Specific Appropriations 6, 68, and 69 for on-site virtual instruction in the traditional classroom if the school district receives a written notice from the student's parent providing authorization.

Line item amendments are accepted as part of the amendatory process. However, due to the necessity of using computerized systems this may entail a different placement within a budget entity or the renumbering of the specific appropriation items.

Florida Senate - 2011

SB7084

Committee	Amendment
BEA	**4SA**

The Committee on Budget **(Margolis)** recommended the following LATE FILED SUBSTITUTE AMENDMENT for 4 (995013):

Section: 02 **On Page:** 018 **Spec App:** 68	**EXPLANATION:** **Creates proviso to direct school districts to receive written authorization from parents before a student is placed in an on-site virtual instruction program in a traditional classroom.**

NET IMPACT ON:	Total Funds	General Revenue	Trust Funds
Recurring -	0	0	0
Non-Recurring -	0	0	0

	Positions & Amount DELETE	Positions & Amount INSERT

EDUCATION, DEPARTMENT OF
Public Schools, Division Of
Program: State Grants/K-12 Program - FEFP *48250300*

In Section 02 On Page 018
68 Aid To Local Governments *050560*
Grants And Aids - Florida Educational Finance Program *IOEB*

At the end of existing proviso language, following Specific Appropriation 68, INSERT:

School districts may use funds in Specific Appropriations 6, 68, and 69 for on-site virtual instruction in the traditional classroom if the school district receives a written consent from the student's parent providing authorization.

Line item amendments are accepted as part of the amendatory process. However, due to the necessity of using computerized systems this may entail a different placement within a budget entity or the renumbering of the specific appropriation items.

Florida Senate - 2011

SB7084

Committee	Amendment
BEA	**5**

The Committee on Budget **(Wise)** recommended the following amendment:

Section: 02 **On Page:** 021 **Spec App:** 73	**EXPLANATION:** **Provides $20,000 for the Governor's Mentoring Initiative by reducing the Department of Education Data Processing Services, Educational Technology, and Information Services category.**

NET IMPACT ON:	Total Funds	General Revenue	Trust Funds
Recurring -	0	0	0
Non-Recurring -	0	0	0

		Positions & Amount DELETE	Positions & Amount INSERT
	EDUCATION, DEPARTMENT OF **Public Schools, Division Of** **Program: State Grants/K-12 Program - Non FEFP** *48250400*		
	In Section 02 On Page 021		
73	**Special Categories** *100295* **Grants And Aids - Mentoring/Student Assistance Initiatives** *IOEB*		
1000	**From General Revenue Fund** *CA 20,000 FSI1 20,000*	**8,939,822**	**8,959,822**

At the end of existing proviso language, following Specific Appropriation 73, INSERT:

Governor's Mentoring Initiative..... 20,000

	State Board Of Education *48800000*		
	In Section 02 On Page 033		
114	**Data Processing Services** *210020* **Education Technology And Information Services** *IOEA*		
1000	**From General Revenue Fund** *CA -20,000 FSI1 -20,000*	**3,428,151**	**3,408,151**

Line item amendments are accepted as part of the amendatory process. However, due to the necessity of using computerized systems this may entail a different placement within a budget entity or the renumbering of the specific appropriation items.

Florida Senate - 2011

SB7084

Committee	Amendment
BEA	**5SA**

The Committee on Budget **(Lynn and Wise)** recommended the following SUBSTITUTE AMENDMENT for 5 (995007):

Section: 02 **On Page:** 021 **Spec App:** 73	**EXPLANATION:** **Provides $20,000 for the Governor's Mentoring Initiative and $50,000 for FACTS.org by reducing the Department of Education Data Processing Services, Educational Technology, and Information Services category.**

NET IMPACT ON:	Total Funds	General Revenue	Trust Funds
Recurring -	0	0	0
Non-Recurring -	0	0	0

		Positions & Amount DELETE	Positions & Amount INSERT
	EDUCATION, DEPARTMENT OF **Public Schools, Division Of** **Program: State Grants/K-12 Program - Non FEFP** *48250400*		
	In Section 02 On Page 021		
73	**Special Categories** *100295* **Grants And Aids - Mentoring/Student Assistance Initiatives** *IOEB*		
1000	**From General Revenue Fund** *CA 20,000 FSI1 20,000*	**8,939,822**	**8,959,822**

At the end of existing proviso language, following Specific Appropriation 73, INSERT:

Governor's Mentoring Initiative..... 20,000

	State Board Of Education *48800000*		
	In Section 02 On Page 033		
114	**Data Processing Services** *210020* **Education Technology And Information Services** *IOEA*		

1000 **From General Revenue Fund** **3,428,151** **3,408,151**
CA -20,000 FSI1 -20,000

In Section 02 On Page 114

Following Specific Appropriation 114, INSERT:

From the funds in Specific Appropriations 114, $50,000 shall be allocated to the Florida Academic Counseling and Tracking for Students program (FACTS.org).

Line item amendments are accepted as part of the amendatory process. However, due to the necessity of using computerized systems this may entail a different placement within a budget entity or the renumbering of the specific appropriation items.

Florida Senate - 2011

SB7084

Committee	Amendment
BHI	**6**

The Committee on Budget **(Joyner)** recommended the following amendment:

Section: 02 **On Page:** 013 **Spec App:** 49	**EXPLANATION:** **Provides an additional $3,016,000 for for Historically Black Colleges and Universities by reducing funding for the University of Central Florida and Florida International University.**

NET IMPACT ON:	Total Funds	General Revenue	Trust Funds
Recurring -	0	0	0
Non-Recurring -	0	0	0

		Positions & Amount DELETE	Positions & Amount INSERT
	EDUCATION, DEPARTMENT OF **Program: Private Colleges And Universities** *48190000*		
	In Section 02 On Page 013		
49	**Special Categories** *101157* **Grants And Aids - Historically Black Private Colleges** *IOEB*		
1000	**From General Revenue Fund** *CA 3,016,000 FSI1 3,016,000*	**6,423,213**	**9,439,213**

Following Specific Appropriation 49, DELETE:

Funds in Specific Appropriation 49 from the General Revenue Fund shall be allocated as follows:

Bethune-Cookman University	**2,396,335**
Edward Waters College	**1,862,629**
Florida Memorial University	**2,075,045**
Library Resources	**89,204**

AND INSERT:

Funds in Specific Appropriation 49 from the General Revenue Fund shall be allocated as follows:

Bethune-Cookman University..... 3,521,526
Edward Waters College..... 2,737,221
Florida Memorial University..... 3,049,376
Library Resources..... 131,090

Universities, Division Of
Program: Educational And General Activities *48900100*

In Section 02 On Page 033
119 Aid To Local Governments *052310*
Grants And Aids - Education And General Activities *IOEB*

1000 **From General Revenue Fund 1,451,302,780 1,448,286,780**
CA -3,016,000 FSI1 -3,016,000

In Section 02 On Page 034

Following Specific Appropriation 119, DELETE:

University of Central Florida..... 173,316,168
Florida International University..... 136,030,252

AND INSERT:

University of Central Florida..... 171,808,168
Florida International University..... 134,522,252

Line item amendments are accepted as part of the amendatory process. However, due to the necessity of using computerized systems this may entail a different placement within a budget entity or the renumbering of the specific appropriation items.

Florida Senate - 2011

SB7084

Committee	Amendment
BHI	**7**

The Committee on Budget **(Lynn)** recommended the following amendment:

Section: 02 **On Page:** 037 **Spec App:** 121	**EXPLANATION:** **Creates proviso to require a minimum of $500,000 to be provided to the Interdisciplinary Center for Neuromusculoskeletal Research within the University of South Florida Medical Center category.**

NET IMPACT ON:	Total Funds	General Revenue	Trust Funds
Recurring -	0	0	0
Non-Recurring -	0	0	0

	Positions & Amount DELETE	Positions & Amount INSERT

EDUCATION, DEPARTMENT OF
Universities, Division Of
Program: Educational And General Activities *48900100*

In Section 02 On Page 037
121 Aid To Local Governments *052320*
Grants And Aids - University Of South Florida Medical Center *IOEB*

At the end of existing proviso language, following Specific Appropriation 121, INSERT:

From the funds in Specific Appropriation 121, the University of South Florida shall provide a minimum of $500,000 to continue support of the Interdisciplinary Center for Neuromusculoskeletal Research within the School of Physical Therepy and Rehabilitiation Sciences.

Line item amendments are accepted as part of the amendatory process. However, due to the necessity of using computerized systems this may entail a different placement within a budget entity or the renumbering of the specific appropriation items.

Florida Senate - 2011

SB7084

Committee	Amendment
BHA	**8**

The Committee on Budget **(Rich)** recommended the following amendment:

Section: 03 **On Page:** 063 **Spec App:** 231	**EXPLANATION:** **Appropriates $1,287,000 from the General Revenue Fund and $1,658,754 from the Operations and Maintenance Trust Fund to the Agency for Persons with Disabilities to restore rate reductions in the Home and Community Based Services Waiver category as a result of changes to the geographic differential in Southeast Florida and the Keys. Reduces $1,287,000 from the General Revenue Fund and $1,658,754 from the Medical Care Trust Fund in the Hospital Inpatient Services appropriation category within the Agency for Health Care Administration.**

NET IMPACT ON:	Total Funds	General Revenue	Trust Funds
Recurring -	0	0	0
Non-Recurring -	0	0	0

		Positions & Amount DELETE	Positions & Amount INSERT
	AGENCY FOR PERSONS WITH DISABILITIES **Program: Services To Persons With Disabilities** **Home And Community Services** *67100100*		
	In Section 03 On Page 063		
231	**Special Categories** *101555* **Home And Community Based Services Waiver** *IOEE*		
	In Section 03 On Page 046		
1000	**From General Revenue Fund** *CA 1,287,000 FSI2 1,287,000*	**34,324,550**	**35,611,550**
	In Section 03 On Page 063		
2516	**From Operations And Maintenance Trust Fund** *CA 1,658,754 FSI9 1,658,754*	**397,989,167**	**399,647,921**

AGENCY FOR HEALTH CARE ADMINISTRATION
Program: Health Care Services
Medicaid Services To Individuals *68501400*

In Section 03 On Page 046
177 **Special Categories** *101582*
Hospital Inpatient Services *IOEE*

1000	**From General Revenue Fund**	**34,324,550**	**33,037,550**
	CA -1,287,000 FSI2 -1,287,000		
2474	**From Medical Care Trust Fund**	**2,011,611,516**	**2,009,952,762**
	CA -1,658,754 FSI3 -1,658,754		

Line item amendments are accepted as part of the amendatory process. However, due to the necessity of using computerized systems this may entail a different placement within a budget entity or the renumbering of the specific appropriation items.

Florida Senate - 2011

SB7084

Committee	Amendment
BHA	**9**

The Committee on Budget **(Rich)** recommended the following amendment:

Section: 03 **On Page:** 078 **Spec App:** 371	**EXPLANATION:** **Appropriates $2,518,905 from the General Revenue Fund to partially restore reductions to the Community Care for the Elderly program within the Department of Elder Affairs. Reduces $2,518,905 from the General Revenue Fund from the Hospital Inpatient Services appropriation category within the Agency for Health Care Administration.**

NET IMPACT ON:	Total Funds	General Revenue	Trust Funds
Recurring -	0	0	0
Non-Recurring -	0	0	0

		Positions & Amount DELETE	Positions & Amount INSERT
	ELDER AFFAIRS, DEPARTMENT OF **Program: Services To Elders Program** **Home And Community Services** *65100400*		
	In Section 03 On Page 078		
371	**Special Categories** *100547* **Grants And Aids - Community Care For The Elderly** *IOEB*		
1000	**From General Revenue Fund** *CA 2,518,905 FSI1 2,518,905*	**45,340,289**	**47,859,194**
	AGENCY FOR HEALTH CARE ADMINISTRATION **Program: Health Care Services** **Medicaid Services To Individuals** *68501400*		
	In Section 03 On Page 046		
177	**Special Categories** *101582* **Hospital Inpatient Services** *IOEE*		
1000	**From General Revenue Fund** *CA -2,518,905 FSI2 -2,518,905*	**34,324,550**	**31,805,645**

Line item amendments are accepted as part of the amendatory process. However, due to the necessity of using computerized systems this may entail a different placement within a budget entity or the renumbering of the specific appropriation items.

Florida Senate - 2011

SB7084

Committee	Amendment
BHA	**10**

The Committee on Budget **(Negron)** recommended the following amendment:

Section: 03 **On Page:** 085 **Spec App:** 434	**EXPLANATION:** **Appropriates $139,000 from the General Revenue Fund on a recurring basis to the Department of Health for the Heiken Children's Vision Program in Miami-Dade county. Reduces $139,000 from the General Revenue Fund in the Hospital Inpatient Services appropriation category within the Agency for Health Care Administration.**

NET IMPACT ON:	Total Funds	General Revenue	Trust Funds
Recurring -	0	0	0
Non-Recurring -	0	0	0

		Positions & Amount DELETE	Positions & Amount INSERT
	HEALTH, DEPARTMENT OF **Program: Community Public Health** **Family Health Outpatient And Nutrition Services** *64200300*		
	In Section 03 On Page 085		
434	**Special Categories** *100778* **Grants And Aids - Contracted Services** *IOEB*		
1000	**From General Revenue Fund** *CA 139,000 FSI2 139,000*	**3,325,284**	**3,464,284**

Following Specific Appropriation 434, INSERT:

From the funds in Specific Appropriations 434, $139,000 in recurring funds from the General Revenue Fund is provided for the Heiken Children's Vision Program in Miami-Dade county.

AGENCY FOR HEALTH CARE ADMINISTRATION
Program: Health Care Services
Medicaid Services To Individuals *68501400*

In Section 03 On Page 046
177 Special Categories *101582*

	Hospital Inpatient Services *IOEE*		
1000	**From General Revenue Fund**	**34,324,550**	**34,185,550**
	CA -139,000 FSI1 -139,000		

Line item amendments are accepted as part of the amendatory process. However, due to the necessity of using computerized systems this may entail a different placement within a budget entity or the renumbering of the specific appropriation items.

Florida Senate - 2011
SB7084

Committee	Amendment
BHA	**11**

The Committee on Budget **(Altman)** recommended the following amendment:

Section: 03 **On Page:** 053 **Spec App:** 180	**EXPLANATION:** **Adds proviso directing the Agency for Health Care Administration coordinate education and assessment efforts related to Medicaid patients with End Stage Renal Disease.**

NET IMPACT ON:	Total Funds	General Revenue	Trust Funds
Recurring -	0	0	0
Non-Recurring -	0	0	0

	Positions & Amount DELETE	Positions & Amount INSERT

AGENCY FOR HEALTH CARE ADMINISTRATION
Program: Health Care Services
Medicaid Services To Individuals *68501400*

In Section 03 On Page 053
180 Special Categories *101585*
Freestanding Dialysis Centers *IOEE*

At the end of existing proviso language, following Specific Appropriation 180, INSERT:

From the funds in Specific Appropriation 180, the Agency for Health Care Administration shall work with dialysis providers, managed care organizations, and physicians to ensure that all Medicaid patients with End Stage Renal Disease (ESRD) are educated and assessed by their physician and dialysis provider to determine their suitability for peritoneal dialysis (PD) as a modality choice. Further, the agency shall consult with the dialysis community concerning suitable voluntary reporting to the state Medicaid program on members' PD suitability.

Line item amendments are accepted as part of the amendatory process. However, due to the necessity of using computerized systems this may entail a different placement within a budget entity or the renumbering of the specific appropriation items.

Florida Senate - 2011

SB7084

Committee	Amendment
BHA	**12**

The Committee on Budget **(Negron)** recommended the following amendment:

Section: 03 **On Page:** 070 **Spec App:** 298	**EXPLANATION:** **Eliminates $643,404 from the General Revenue Fund and $862,158 from trust funds within the Department of Children and Family Services (department) for the Citrus County Sheriff's office to conduct child protective investigations. Appropriates like amounts to the department within the Contracted Services appropriation category to conduct child protective investigations.**

NET IMPACT ON:	Total Funds	General Revenue	Trust Funds
Recurring -	0	0	0
Non-Recurring -	0	0	0

		Positions & Amount DELETE	Positions & Amount INSERT
	CHILDREN AND FAMILY SERVICES, DEPARTMENT OF **Services** **Program: Family Safety Program** **Family Safety And Preservation Services** *60910310*		
	In Section 03 On Page 070		
298	**Special Categories** *100782* **Grants And Aids - Grants To Sheriffs For Protective Investigations** *IOEB*		
1000	**From General Revenue Fund** *CA -643,404 FSI2 -643,404*	**20,298,070**	**19,654,666**
2122	**From Tobacco Settlement Trust Fund** *CA -239,120 FSI2 -239,120*	**7,587,706**	**7,348,586**
2401	**From Welfare Transition Trust Fund** *CA -309,078 FSI3 -309,078*	**9,701,918**	**9,392,840**
2639	**From Social Services Block Grant Trust Fund** *CA -313,960 FSI3 -313,960*	**9,903,460**	**9,589,500**

Immediately following Specific Appropriation 298, DELETE:

The funds in Specific Appropriation 298 shall be used by the Department of Children and Family Services to award grants to the sheriffs of Manatee, Pasco, Pinellas, Broward, Seminole, Hillsborough and Citrus counties to conduct child protective investigations as mandated in section 39.3065, Florida Statutes. The funds shall be allocated as follows:

Manatee County Sheriff	**3,410,532**
Pasco County Sheriff	**4,591,619**
Pinellas County Sheriff	**10,040,024**
Broward County Sheriff	**12,565,620**
Hillsborough County Sheriff	**12,054,683**
Seminole County Sheriff	**3,323,114**
Citrus County Sheriff	**1,505,562**

AND INSERT:

The funds in Specific Appropriation 298 shall be used by the Department of Children and Family Services to award grants to the sheriffs of Manatee, Pasco, Pinellas, Broward, Seminole, and Hillsborough counties to conduct child protective investigations as mandated in section 39.3065, Florida Statutes. The funds shall be allocated as follows:

Manatee County Sheriff	**3,410,532**
Pasco County Sheriff	**4,591,619**
Pinellas County Sheriff	**10,040,024**
Broward County Sheriff	**12,565,620**
Hillsborough County Sheriff	**12,054,683**
Seminole County Sheriff	**3,323,114**

In Section 03 On Page 069

297	**Special Categories** *100777* **Contracted Services** *IOEA*		
1000	**From General Revenue Fund** *CA 643,404 FSI2 643,404*	**3,084,957**	**3,728,361**
2401	**From Welfare Transition Trust Fund** *CA 309,078 FSI3 309,078*	**1,079,187**	**1,388,265**
2122	**From Tobacco Settlement Trust Fund** *CA 239,120 FSI2 239,120*	**450,000**	**689,120**
2639	**From Social Services Block Grant Trust Fund** *CA 313,960 FSI3 313,960*	**805,784**	**1,119,744**

Line item amendments are accepted as part of the amendatory process. However, due to the necessity of using computerized systems this may entail a different placement within a budget entity or the renumbering of the specific appropriation items.

Florida Senate - 2011

SB7084

Committee	Amendment
BJA	**13**

The Committee on Budget **(Fasano)** recommended the following amendment:

Section: 04 **On Page:** 105 **Spec App:**	**EXPLANATION:** **This amendment restores Salaries and Benefits general revenue funding in the Security and Institutional Operations Program within the Department of Corrections to reverse the privatization of prisons in south Florida.**

NET IMPACT ON:	Total Funds	General Revenue	Trust Funds
Recurring -	0	0	0
Non-Recurring -	0	0	0

Positions & Amount	Positions & Amount
DELETE	**INSERT**

CORRECTIONS, DEPARTMENT OF
Program: Security And Institutional Operations *70030000*

In Section 04 On Page 105

DELETE the proviso immediately preceding Specific Appropriation 595:

From the funds in Specific Appropriations 570 through 759, the Department of Corrections shall assist the Department of Management Services in the issuance of a request for proposal (RFP), as defined in section 287.057(1)(b), Florida Statutes, for the management and operation of the correctional facilities and assigned correctional units, including annexes, work camps, road prisons and work release centers currently operated by the Department of Corrections in Manatee, Hardee, Indian River, Okeechobee, Highlands, St. Lucie, DeSoto, Sarasota, Charlotte, Glades, Martin, Palm Beach, Hendry, Lee, Collier, Broward, Dade and Monroe counties. The RFP shall require a contract commencement date of no later than January 1, 2012.

The contract shall achieve an overall savings of at least seven percent over the Fiscal Year 2009-2010 Department of Corrections actual operational costs totaling $390,576,585 which includes both direct and indirect costs for each facility, as identified below.

Adult Male Custody facilities:

Facility	ADP	Actual Operational Costs
DeSoto	1,896	$32,447,118
Glades	1,387	$33,305,921
Hardee	1,874	$27,921,978
Hendry	1,333	$24,683,065
Martin	1,500	$29,339,799
Okeechobee	1,636	$23,620,255

Adult and Youthful Offender Female Custody facilities:

Facility	ADP	Actual Operational Costs
Broward	727	$24,917,866
Homestead	666	$17,248,520

Reception Center:

Facility	ADP	Actual Operational Costs
South Florida	1,468	$58,477,392

Male Youthful Offender Custody facility:

Facility	ADP	Actual Operational Costs
Indian River	491	$12,539,943

Specialty Correctional Institutions:

Facility	ADP	Actual Operational Costs
Charlotte	1,082	$29,237,334
Dade	1,633	$36,084,298
Everglades	1,697	$31,024,981

Work Release Centers:

Facility	ADP	Actual Operational Costs
Fort Pierce	81	$1,280,444
Glades group	190	$2,317,825
SFRC group	439	$6,129,846

The Department of Management Services may contract for a term of three years. At a minimum, the contract shall require adherence to all applicable federal, state and local laws, as well as rules adopted by the Department of Management Services for private prison service providers. These facilities shall continue to operate at capacities set forth in section 944.023, Florida Statutes. Each facility's average daily population (ADP), as well as medical and psychological grade population percentages, shall remain substantially unchanged from the ADP calculated for FY 2009-2010. Funds received for these institutions from canteens, subsistence payments, and any other participation accounts shall continue to be remitted to the General Revenue Fund. Contracts shall include a provision that requires impacted employees to be given first consideration for employment with the private provider.

The contract between the Department of Management Services and the private provider must specify performance measures to ensure contractor performance and accountability. The required performance measures shall

include, but are not limited to: the number of batteries committed by inmates on one or more persons per 1,000 inmates; number of inmates receiving major disciplinary reports per 1,000 inmates; percentage of random inmate drug tests that are negative; percentage of reported criminal incidents investigated by the proper authorities; number of escapes from the secure perimeter of major institutions; percentage of inmates placed in a facility that provides at least one of the inmate's primary program needs; number of transition plans completed for inmates released from prison; number of release plans completed for inmates released from prison; percentage of release plans completed for inmates released from prison; percentage of inmates needing programs who successfully complete Drug Abuse Education/Treatment programs; number of inmates who are receiving substance abuse services; percentage of inmates completing mandatory literacy programs who score at or above 6th grade level on next Tests of Adult Basic Education (TABE); percentage of inmates who successfully complete mandatory literacy programs; percentage of inmates who successfully complete GED education programs; percentage of inmates needing special education programs who participate in special education (federal law) programs; percentage of inmates who successfully complete vocational education programs; average increase in grade level achieved by inmates participating in educational programs per 3-month instructional period; and percentage of inmates who successfully complete transition, rehabilitation, or support programs without subsequent recommitment to community supervision or prison for 24 months after release. The Department of Management Services shall provide quarterly reports to the chairs of the Senate Budget Committee and the House Appropriations Committee on the performance of the private prison provider under contract with the department using the required performance measures and other performance measures contained in the contracts.

In order to provide for the transition of these facilities from state operations to private provider operations, the Department of Corrections shall submit a budget amendment to the Legislative Budget Commission, accompanied by a plan for transitioning staff and operations. The budget amendment shall place positions in reserve and transfer funds to the proper appropriation categories in accordance with the provisions of chapter 216, Florida Statutes. Additional budget amendments may be submitted by the Department of Corrections and the Department of Management Services during the 2011-2012 fiscal year as necessary for the proper alignment of budget and positions.

Adult Male Custody Operations *70031100*

In Section 04 On Page 108

595 **Salaries And Benefits** *010000* *IOEA*

1000 **From General Revenue Fund** **361,738,121** **447,397,189**
CA 85,659,068 FSI1 85,659,068

In Section 04 On Page 109

605 Special Categories *105235*
Private Prison Operations *IOEA*

1000 **From General Revenue Fund** **199,414,807** **119,751,873**
CA -79,662,934 FSI1 -79,662,934

Adult And Youthful Offender Female Custody Operations *70031200*

607 Salaries And Benefits *010000* *IOEA*

1000 **From General Revenue Fund** **35,246,732** **56,329,925**
CA 21,083,193 FSI1 21,083,193

In Section 04 On Page 110

616 Special Categories *105235*
Private Prison Operations *IOEA*

1000 **From General Revenue Fund** **45,112,635** **25,505,266**
CA -19,607,369 FSI1 -19,607,369

Male Youthful Offender Custody Operations *70031300*

618 Salaries And Benefits *010000* *IOEA*

1000 **From General Revenue Fund** **29,924,454** **36,194,426**
CA 6,269,972 FSI1 6,269,972

In Section 04 On Page 111

628 Special Categories *105235*
Private Prison Operations *IOEA*

1000 **From General Revenue Fund** **25,165,851** **19,334,777**
CA -5,831,074 FSI1 -5,831,074

Specialty Correctional Institution Operations *70031400*

630 Salaries And Benefits *010000* *IOEA*

1000 **From General Revenue Fund** **215,403,995** **263,577,302**
CA 48,173,307 FSI1 48,173,307

638A Special Categories *105235*
Private Prison Operations *IOEA*

1000 **From General Revenue Fund** **44,801,175** **0**
CA -44,801,175 FSI1 -44,801,175

Reception Center Operations *70031500*

In Section 04 On Page 112

640 Salaries And Benefits *010000* *IOEA*

1000 **From General Revenue Fund** **76,221,399** **105,460,095**
CA 29,238,696 FSI1 29,238,696

649A Special Categories *105235*
Private Prison Operations *IOEA*

1000 **From General Revenue Fund** **27,191,987** **0**
CA -27,191,987 FSI1 -27,191,987

Public Service Worksquads And Work Release Transition *70031600*

In Section 04 On Page 113

651 Salaries And Benefits *010000* *IOEA*

1000 **From General Revenue Fund** **33,662,775** **38,526,833**
CA 4,864,058 FSI1 4,864,058

660A Special Categories *105235*
Private Prison Operations *IOEA*

1000 **From General Revenue Fund** **4,523,574** **0**
CA -4,523,574 FSI1 -4,523,574

JUVENILE JUSTICE, DEPARTMENT OF
Program: Residential Corrections Program
Non-Secure Residential Commitment *80800100*

In Section 04 On Page 169

1121 Special Categories *100778*
Grants And Aids - Contracted Services *IOEB*

1000 **From General Revenue Fund** **87,545,743** **73,875,562**
CA -13,670,181 FSI1 -13,670,181

Line item amendments are accepted as part of the amendatory process. However, due to the necessity of using computerized systems this may entail a different placement within a budget entity or the renumbering of the specific appropriation items.

Florida Senate - 2011

SB7084

Committee	Amendment
BJA	**14**

The Committee on Budget **(Fasano)** recommended the following amendment:

Section: 04 **On Page:** 121 **Spec App:** 726	**EXPLANATION:** **Requires the Department of Corrections to privatize their dental health services independently of medical and mental health services statewide in FY 2011-12.**

NET IMPACT ON:	Total Funds	General Revenue	Trust Funds
Recurring -	0	0	0
Non-Recurring -	0	0	0

	Positions & Amount DELETE	Positions & Amount INSERT

CORRECTIONS, DEPARTMENT OF
Program: Health Services
Inmate Health Services *70251000*

In Section 04 On Page 121
726 Salaries And Benefits *010000* *IOEA*

At the top of Specific Appropriations 726 insert the following::

From the funds in Specific Appropriation 726 through 741, the department of Corrections shall issue a request for proposal, as defined in section 287.057(1)(b), F.S., for the provision of dental health services to inmates in the custody of the department, excluding those inmates housed in institution authorized under the provisions of chapter 957, Florida Statutes.

Line item amendments are accepted as part of the amendatory process. However, due to the necessity of using computerized systems this may entail a different placement within a budget entity or the renumbering of the specific appropriation items.

Florida Senate - 2011

SB7084

Committee	Amendment
BJA	**14SA**

The Committee on Budget **(Fasano)** recommended the following LATE FILED SUBSTITUTE AMENDMENT for 14 (995017):

Section: 04 **On Page:** 120 **Spec App:**	**EXPLANATION:** **This amendment requires that privatized health services contracts providing for medical care, mental health care and dental care in the Department of Corrections be awarded to two or more service providers.**

NET IMPACT ON:	Total Funds	General Revenue	Trust Funds
Recurring -	0	0	0
Non-Recurring -	0	0	0

	Positions & Amount	Positions & Amount
	DELETE	**INSERT**

CORRECTIONS, DEPARTMENT OF
Program: Health Services *70250000*

In Section 04 On Page 120

In Section 04, on Page 120, DELETE the following:

From the funds in Specific Appropriations 726 through 741, the Department of Corrections shall issue a request for proposal, as defined in section 287.057(1)(b), F.S., for the provision of comprehensive health care services to inmates in the custody of the department, excluding those inmates housed in institutions authorized under the provisions of chapter 957, Florida Statutes. Comprehensive health care services shall include physical health care services and dental services, and excludes mental health services and pharmacy services.

From the funds in Specific Appropriation 726 through 741, the Department of Corrections shall issue a request for proposal, as defined in section 287.057(1)(b), F.S., for the provision of mental health care services to inmates in the custody of the department, excluding those inmates housed in institutions authorized under the provisions of chapter 957, Florida Statutes.

The department is authorized to award a bid or bids to one or more private companies for the provision of services that are compatible to

standard Medicaid service levels at a cost of at least 18 percent less than the department's Fiscal Year 2009-2010 health care expenditures. The department may contract for services on a regional basis or may contract for services on a statewide basis to achieve the greatest efficiencies and cost savings.

The department shall notify the Governor's Office of Policy and Budget and the chairs of the Senate Budget Committee and House Appropriations Committee no later than September 1, 2011, of its intent to award a contract.

The contracts for health services and mental health services shall be effective no later than October 1, 2011, for a term of three years. Contractors shall be responsible for maintaining electronic medical files of each patient's health information and for providing that information to the department upon request. Contractors shall report utilization and encounter data to the department on a quarterly basis in a format that is acceptable to the department.

In order to implement these privatization efforts, the department shall submit a budget amendment to the Legislative Budget Commission, as well as a plan for transitioning staff and operations. The budget amendment shall place positions in reserve and transfer funds to the proper appropriation categories in accordance with the provisions of chapter 216, Florida Statutes. Additional budget amendments may be submitted during the 2011-2012 fiscal year as necessary for the proper alignment of budget and positions.

From the funds in Specific Appropriation 726 through 741, the Department of Corrections, or its designee, shall establish a pilot in the Health Services Program to use a supply chain management company for the purchase of health care products and supplies for facilities that are operated by the department in Pinellas, Hillsborough, Manatee, Pasco, Charlotte, DeSoto, Lee, Manatee, and Sarasota counties. The department shall issue a request for proposal, as defined in section 287.057(1)(b), Florida Statutes, to contract with a company for these services. The department shall report any budget savings to the chairs of the Senate Budget Committee and the House Appropriations Committee by February 1, 2012.

From the funds in Specific Appropriations 726 and 741, and in order to reduce costs, the department may execute interagency agreements with the Florida Department of Health or with county health departments (CHDs) for the care and treatment of, and the dispensing of prescriptions for inmates with HIV/AIDS or other Sexually Transmitted Diseases (STDs). In areas that are not supported by a CHD, the Department of Corrections may contract with federally qualified health care centers (FQHC) or disproportionate share hospitals (DSH) for treatment and prescription services for these inmates. If the department determines that a CHD, FQHC or DSH can provide treatment and/or prescription services for other

medical conditions at a lower cost, the department may authorize the CHD, FQHC or DSH to provide such services.

AND INSERT:

From the funds in Specific Appropriation 726 through 741, the Department of Corrections shall issue a request for proposals, as defined in s. 287.057(1)(b), F.S. for the provision of comprehensive health care services to inmates in the custody of the department, excluding those inmates housed in institutions authorized under the provisions of chapter 957, F.S. Comprehensive health care services shall include physical health care services, dental services, and mental health services.

The department is authorized to award bids to private companies for the provision of services that are compatible to standard Medicaid service levels at a cost of at least 7 percent less than the department's fiscal year 2009-2010 health care expenditures. The department shall contract for services on a regional basis with a minimum of 3 regions to achieve the greatest efficiencies and cost savings and to promote competition among vendors. The department shall not award more than one regional contract to any one vendor in order to protect the state from the risk of non-performance, cancellation or vendor attempts to renegotiate the price after a contract is awarded and signed.

The department shall notify the Governor's Office of Policy and Budget and the chairs of the Senate Budget Committee and the House Appropriations Committee no later than September 1, 2011 of its intent to award contracts.

The contracts for health services and mental health services shall be effective no later than October 1, 2011 for a term of 5 years. Contractors shall be responsible for maintaining electronic medical files that are nationally certified by the Credentialing Committee for Health Information Technology (CCHIT) for each patient's health information and for providing that information to the department upon request. Contractors shall report utilization and encounter data to the department on a quarterly basis in a format that is acceptable to the department. From these electronic health records the department shall maintain a single statewide electronic health records system.

In order to implement these privatization efforts, the department shall submit budget amendments to the Legislative Budget Commission as well as a plan for transitioning staff and operations. The budget amendments shall place department positions in reserve and transfer funds to the proper appropriation categories in accordance with the provisions of chapter 216, F.S. Additional budget amendments may be submitted during the 2011-2012 fiscal year as necessary for the proper alignment of budget and positions.

From the funds in Specific Appropriation 726 through 741, the Department of Corrections, or its designee, shall establish a pilot in the Health Services Program to use a supply chain management company for the purchase of health care products and supplies for facilities that are operated by the department in Pinellas, Hillsborough, Manatee, Pasco, Charlotte, DeSoto, Lee, Manatee, and Sarasota counties. The department shall issue a request for proposal, as defined in section 287.057(1)(b), Florida Statutes, to contract with a company for these services. The department shall report any budget savings to the chairs of the Senate Budget Committee and the House Appropriations Committee by February 1, 2012.

From the funds in Specific Appropriations 726 and 741, and in order to reduce costs, the department may execute interagency agreements with the Florida Department of Health or with county health departments (CHDs) for the care and treatment of, and the dispensing of prescriptions for inmates with HIV/AIDS or other Sexually Transmitted Diseases (STDs). In areas that are not supported by a CHD, the Department of Corrections may contract with federally qualified health care centers (FQHC) or disproportionate share hospitals (DSH) for treatment and prescription services for these inmates. If the department determines that a CHD, FQHC or DSH can provide treatment and/or prescription services for other medical conditions at a lower cost, the department may authorize the CHD, FQHC or DSH to provide such services.

Line item amendments are accepted as part of the amendatory process. However, due to the necessity of using computerized systems this may entail a different placement within a budget entity or the renumbering of the specific appropriation items.

Florida Senate - 2011

SB7084

Committee	Amendment
BJA	**15**

The Committee on Budget **(Joyner)** recommended the following amendment:

Section: 04 **On Page:** 165 **Spec App:** 1083	**EXPLANATION:** **Provides $2,000,000 in recurring general revenue to fund the Prodigy Program in the Department of Juvenile Justice.**

NET IMPACT ON:	Total Funds	General Revenue	Trust Funds
Recurring -	0	0	0
Non-Recurring -	0	0	0

		Positions & Amount DELETE	Positions & Amount INSERT
	JUVENILE JUSTICE, DEPARTMENT OF **Program: Probation And Community Corrections Program** **Aftercare Services - Conditional Release** *80700100*		
	In Section 04 On Page 165		
1083	**Special Categories** *106666* **Prodigy** *IOEA*		
1000	**From General Revenue Fund** *CA 2,000,000 FSI1 2,000,000*	**1,000,000**	**3,000,000**
	Program: Residential Corrections Program **Non-Secure Residential Commitment** *80800100*		
	In Section 04 On Page 169		
1121	**Special Categories** *100778* **Grants And Aids - Contracted Services** *IOEB*		
1000	**From General Revenue Fund** *CA -2,000,000 FSI1 -2,000,000*	**87,545,743**	**85,545,743**

Line item amendments are accepted as part of the amendatory process. However, due to the necessity of using computerized systems this may entail a different placement within a budget entity or the renumbering of the specific appropriation items.

Florida Senate - 2011

SB7084

Committee	Amendment
BJA	**16**

The Committee on Budget **(Joyner)** recommended the following amendment:

Section: 04 **On Page:** 171 **Spec App:** 1142	**EXPLANATION:** **Provides $1,000,000 in recurriing general revenue in the Department of Juvenile Justice to fund jobs for at-risk youth in Pinellas, Hillsborough, Manatee, and Saraasota counties.**

NET IMPACT ON:	Total Funds	General Revenue	Trust Funds
Recurring -	0	0	0
Non-Recurring -	0	0	0

		Positions & Amount DELETE	Positions & Amount INSERT
	JUVENILE JUSTICE, DEPARTMENT OF		
	Program: Prevention And Victim Services		
	Delinquency Prevention And Diversion *80900100*		
	In Section 04 On Page 171		
1142	**Special Categories** *100279*		
	Legislative Initiatives To Reduce And Prevent Juvenile Crime *IOEB*		
1000	**From General Revenue Fund**	**827,920**	**1,827,920**
	CA 1,000,000 FSI1 1,000,000		

At the end of existing proviso language, following Specific Appropriation 1142, INSERT:

From the funds in Specific Appropriation 1142, $1,000,000 from recurring general revenue is provided to continue to develop a pilot program to provide jobs to at-risk youth. The department shall contract with non-profit or faith-based organization that have experience in providing services to at-risk youth and community involvement in the counties of Pinellas, Hillsborough, Manaatee, and Sarasota.

Program: Residential Corrections Program
Non-Secure Residential Commitment *80800100*

In Section 04 On Page 169
1121 Special Categories *100778*

	Grants And Aids - Contracted Services *IOEB*		
1000	**From General Revenue Fund**	**87,545,743**	**86,545,743**
	CA -1,000,000 FSI1 -1,000,000		

Line item amendments are accepted as part of the amendatory process. However, due to the necessity of using computerized systems this may entail a different placement within a budget entity or the renumbering of the specific appropriation items.

Florida Senate - 2011

SB7084

Committee	Amendment
BJA	**17**

The Committee on Budget **(Fasano)** recommended the following amendment:

Section: 04 **On Page:** 176 **Spec App:** 1190	**EXPLANATION:** **This amendment restores a reduction in the Department of Law Enforcement's Executive Branch Security Detail of $656,651 in recurring general revenue and 8 FTEs.**

NET IMPACT ON:	Total Funds	General Revenue	Trust Funds
Recurring -	0	0	0
Non-Recurring -	0	0	0

			Positions & Amount DELETE	Positions & Amount INSERT
	LAW ENFORCEMENT, DEPARTMENT OF			
	Program: Investigations And Forensic Science Program			
	Provide Investigative Services	*71600200*		
	In Section 04 On Page 176			
1190	**Salaries And Benefits**	*010000* *IOEA*		
	Positions:		**558**	**561**
1000	**From General Revenue Fund**		**35,680,999**	**35,931,448**
	CA 250,449 FSI1 250,449			
	Mutual Aid And Prevention Services	*71600300*		
	In Section 04 On Page 177			
1204	**Salaries And Benefits**	*010000* *IOEA*		
	Positions:		**13**	**18**
1000	**From General Revenue Fund**		**1,093,404**	**1,499,606**
	CA 406,202 FSI1 406,202			
	JUVENILE JUSTICE, DEPARTMENT OF			
	Program: Residential Corrections Program			
	Secure Residential Commitment	*80800200*		
	In Section 04 On Page 170			
1132	**Special Categories**	*100778*		

	Grants And Aids - Contracted Services *IOEB*		
1000	**From General Revenue Fund**	**12,725,809**	**12,069,158**
	CA -656,651 FSI1 -656,651		

Line item amendments are accepted as part of the amendatory process. However, due to the necessity of using computerized systems this may entail a different placement within a budget entity or the renumbering of the specific appropriation items.

Florida Senate - 2011

SB7084

Committee	Amendment
BTA	**18**

The Committee on Budget **(Richter)** recommended the following amendment:

Section: 06 **On Page:** 310 **Spec App:** 2438AB	**EXPLANATION:** **Earmarks $925,000 of the trust funds provided in Specific Appropriation 2438AB for hurricane loss mitigation to be used to fund the Building Code Compliance and Mitigation program pursuant to section 553.841, Florida Statutes.**

NET IMPACT ON:	Total Funds	General Revenue	Trust Funds
Recurring -	0	0	0
Non-Recurring -	0	0	0

	Positions & Amount DELETE	Positions & Amount INSERT

GOVERNOR, EXECUTIVE OFFICE OF THE
Program: Emergency Management
Emergency Prevention, Preparedness And Response *31700100*

In Section 06 On Page 310
2438AB Special Categories *105860*
Grants And Aids - Hurricane Loss Mitigation *IOEB*

DELETE the proviso immediately following Specific Appropriation 2438AB:

Funds in Specific Appropriation 2438A in the amount of $66,414; Specific Appropriation 2438C in the amount of $16,908; Specific Appropriation 2438AD in the amount of $399; Specific Appropriation 2438G in the amount of $689; Specific Appropriation 2438E in the amount of $1,000; Specific Appropriation 2438W in the amount of $717; Specific Appropriation 2438AB in the amount of $6,892,389, and indirect costs of $21,484 funded from the Grants and Donations Trust Fund, reflect the transfer of $7,000,000 of mitigation funds from the Florida Hurricane Catastrophe Fund pursuant to section 215.555(7), Florida Statutes. These funds shall be utilized for Hurricane Loss Mitigation programs as specified in section 215.559(2)(a), Florida Statutes. The moneys allocated in section 215.559(3)(a), Florida Statutes, shall be distributed directly to Tallahassee Community College for the uses set forth in section 215.559(3)(a), Florida Statutes.

Following Specific Appropriation 2438AB, INSERT:

Funds in Specific Appropriation 2438A in the amount of $66,414; Specific Appropriation 2438C in the amount of $16,908; Specific Appropriation 2438AD in the amount of $399; Specific Appropriation 2438G in the amount of $689; Specific Appropriation 2438E in the amount of $1,000; Specific Appropriation 2438W in the amount of $717; Specific Appropriation 2438AB in the amount of $6,892,389, and indirect costs of $21,484 funded from the Grants and Donations Trust Fund, reflect the transfer of $7,000,000 of mitigation funds from the Florida Hurricane Catastrophe Fund pursuant to section 215.555(7), Florida Statutes. These funds shall be utilized for Hurricane Loss Mitigation programs as specified in section 215.559(2)(a), Florida Statutes; and after the provisions of Section 215.559 (3)(a) and (4), Florida Statutes, $925,000 shall fund the Building Code Compliance and Mitigation program pursuant to section 553.841, Florida Statutes. The moneys allocated in section 215.559(3)(a), Florida Statutes, shall be distributed directly to Tallahassee Community College for the uses set forth in section 215.559(3)(a), Florida Statutes.

Line item amendments are accepted as part of the amendatory process. However, due to the necessity of using computerized systems this may entail a different placement within a budget entity or the renumbering of the specific appropriation items.

Florida Senate - 2011

SB7084

Committee	Amendment
BTA	**19**

The Committee on Budget **(Margolis)** recommended the following amendment:

Section: 06 **On Page:** 323 **Spec App:** 2535AGA	**EXPLANATION:** **Reduces the economic development funds provided in a Qualified Expenditure Catogory to Jobs Florida (formerly the Office of Tourism, Trade and Economic Development (OTTED)) by $200,000 general revenue fund; and uses the funds to provide $100,000 to the CAMACOL Florida Trade and Exhibition Center and $100,000 for the CAMACOL Film and Entertainment Industry Development Program, both of which are to be funded in Jobs Florida.**

NET IMPACT ON:	Total Funds	General Revenue	Trust Funds
Recurring -	0	0	0
Non-Recurring -	0	0	0

	Positions & Amount DELETE	Positions & Amount INSERT

JOBS FLORIDA
Division Of Strategic Business Development *85500000*

In Section 06 On Page 323
2535AGA Special Categories *100562*
Economic Development Projects *IOEA*

1000 **From General Revenue Fund** **200,000**
CA 200,000 FSI1NR 200,000

Following Specific Appropriation 2535AGA, INSERT:

Funds in Specific Appropriation 2535AGA shall be allocated as follows:

CAMACOL Florida Trade and Exhibition Center.....$100,000
CAMACOL Film and Entertainment Industry Development Program....$100,000

In Section 06 On Page 324
2535AM Qualified Expenditure Category *200005*
Qualified Expenditure Category - Economic Development Tools *IOEB*

1000	**From General Revenue Fund**	**10,000,000**	**9,800,000**
	CA -200,000 FSI1NR -200,000		

Line item amendments are accepted as part of the amendatory process. However, due to the necessity of using computerized systems this may entail a different placement within a budget entity or the renumbering of the specific appropriation items.

Florida Senate - 2011
SB7084

Committee	Amendment
BTA	**20**

The Committee on Budget **(Altman)** recommended the following amendment:

Section: 06 **On Page:** 324 **Spec App:** 2535AH	**EXPLANATION:** **Adds proviso to Specific Appropriation 2535AH to allow the $5 million of earmarked funds to be used to support the mission of the Florida Council on Military Base and Mission Support.**

NET IMPACT ON:	Total Funds	General Revenue	Trust Funds
Recurring -	0	0	0
Non-Recurring -	0	0	0

	Positions & Amount DELETE	Positions & Amount INSERT

JOBS FLORIDA
Division Of Strategic Business Development *85500000*

In Section 06 On Page 324
2535AH Special Categories *102026*
Grants And Aids - Military Base Protection *IOEA*

DELETE the proviso immediately following Specific Appropriation 2535AH that reads:

From the funds provided in Specific Appropriation 2535AH, $5,000,000 from nonrecurring general revenue fund is provided for the Florida Base Realignment and Closure Commission as created in law. Jobs Florida shall contract with the Commission for expenditure of these funds, which may be used by the Commission for economic and product research and development, joint planning with host communities to accommodate military missions and to prevent base encroachment, advocacy on the state's behalf with federal civilian and military officials, assistance to school districts in providing smooth transition of large numbers of additional incoming military-related students, job training and placement for military spouses in communities with high proportions of active duty military personnel, and promotion of the state to military and related contractors and employers. The Commission may expend up to $200,000 of these funds for staffing and administrative expenses of the Commission, including travel and per diem costs of the Commission

members not otherwise eligible for state reimbursement.

At the end of existing proviso language, following Specific Appropriation 2535AH, INSERT:

From the funds provided in Specific Appropriation 2535AH, $5,000,000 from nonrecurring general revenue fund is provided for the Florida Base Realignment and Closure Commission as created in law and the Florida Council on Military Base and Mission Support. Jobs Florida shall contract with the Commission and the Council for expenditure of these funds, which may be used by the Commission and the Council for economic and product research and development, joint planning with host communities to accommodate military missions and to prevent base encroachment, advocacy on the state's behalf with federal civilian and military officials, assistance to school districts in providing smooth transition of large numbers of additional incoming military-related students, job training and placement for military spouses in communities with high proportions of active duty military personnel, and promotion of the state to military and related contractors and employers, and to support the mission of the Florida Council on Military Base and Mission Support as provided in section 288.984, Florida Statutes. The Commission and the Council may expend up to $200,000 of these funds for shared staffing and administrative expenses of the Commission and the Council, including travel and per diem costs of the Commission and Council members not otherwise eligible for state reimbursement.

Line item amendments are accepted as part of the amendatory process. However, due to the necessity of using computerized systems this may entail a different placement within a budget entity or the renumbering of the specific appropriation items.

Florida Senate - 2011

SB7084

Committee	Amendment
BTA	**21**

The Committee on Budget **(Margolis)** recommended the following amendment:

Section: 06 **On Page:** 324 **Spec App:** 2535AM	**EXPLANATION:** **Reduces the economic development funds provided in a Qualified Expenditure Catogory to Jobs Florida (formerly the Office of Tourism, Trade and Economic Development (OTTED)) by $350,000 general revenue fund; and uses the funds for a grant to the Florida Humanities Council.**

NET IMPACT ON:	Total Funds	General Revenue	Trust Funds
Recurring -	0	0	0
Non-Recurring -	0	0	0

		Positions & Amount DELETE	Positions & Amount INSERT
	JOBS FLORIDA **Division Of Strategic Business Development** *85500000*		
	In Section 06 On Page 324		
2535AM	**Qualified Expenditure Category** *200005* **Qualified Expenditure Category - Economic Development Tools** *IOEB*		
1000	**From General Revenue Fund** *CA -350,000 FSI1NR -350,000*	**10,000,000**	**9,650,000**
	STATE, DEPARTMENT OF **Program: Cultural Affairs** **Cultural Affairs** *45500300*		
	In Section 06 On Page 371		
2974A	**Special Categories** *100163* **Florida Endowment For The Humanities** *IOEA*		
1000	**From General Revenue Fund** *CA 350,000 FSI1NR 350,000*		**350,000**

Following Specific Appropriation 2974A, INSERT:

Funds provided in Specific Appropriation 2974A are provided for the Florida Humanities Council.

Line item amendments are accepted as part of the amendatory process. However, due to the necessity of using computerized systems this may entail a different placement within a budget entity or the renumbering of the specific appropriation items.

Florida Senate - 2011

SB7084

Committee	Amendment
BGA	**22**

The Committee on Budget **(Hays)** recommended the following LATE FILED amendment:

Section: 06 **On Page:** 358 **Spec App:** 2831	**EXPLANATION:** **Restores three positions and $150,000 in the Department of Revenue for property tax oversight of the tax collector's and property appraiser's budgets and reduces expenses by $150,000 in the Property Tax Program.**

NET IMPACT ON:	Total Funds	General Revenue	Trust Funds
Recurring -	0	0	0
Non-Recurring -	0	0	0

		Positions & Amount DELETE	Positions & Amount INSERT
	REVENUE, DEPARTMENT OF		
	Program: Property Tax Oversight Program		
	Compliance Determination *73200500*		
	In Section 06 On Page 358		
2831	**Salaries And Benefits** *010000 IOEA*		
	Positions:	**73**	**76**
1000	**From General Revenue Fund**	**4,502,074**	**4,652,074**
	CA 150,000 FSI1 150,000		
2833	**Expenses** *040000 IOEA*		
1000	**From General Revenue Fund**	**957,574**	**807,574**
	CA -150,000 FSI1 -150,000		

Line item amendments are accepted as part of the amendatory process. However, due to the necessity of using computerized systems this may entail a different placement within a budget entity or the renumbering of the specific appropriation items.

Florida Senate - 2011

SB7084

Committee	Amendment
BJA	**23**

The Committee on Budget **(Joyner)** recommended the following LATE FILED amendment:

Section: 04 **On Page:** 108 **Spec App:** 595	**EXPLANATION:** **Requires that private vendors must adhere to the provisions set forth in section 119.01,F.S. to ensure that any nongovernmental entity contracting with the Department of Management Services for the management and operations of correctional facilities shall have the same duty to release information about the management and operations of their facilities. Also, requires private vendors to prepare a business case for outsourcing.**

NET IMPACT ON:	Total Funds	General Revenue	Trust Funds
Recurring -	0	0	0
Non-Recurring -	0	0	0

	Positions & Amount DELETE	Positions & Amount INSERT

CORRECTIONS, DEPARTMENT OF
Program: Security And Institutional Operations
Adult Male Custody Operations *70031100*

In Section 04 On Page 108
595 Salaries And Benefits *010000* *IOEA*

In Section 04, on Page 107, INSERT the following:

The contract between the Department of Management Services and the private provider shall specifically require adherence to the requirements set forth in section 119.01,F.S.,to ensure that any nongovernmental entity contracting with the Department of Management Services for the management and operations of correctional facilities and services shall have the same duty to release information about the management and operation of a correctional facility and services as a state agency managing and operating such a facility and services would have under section 119.01, F.S. The contract between the Department of Management Services and the private provider shall be required to adhere to the provisions provided in section 287.0571, F.S.,regardless of any

exemptions.

Line item amendments are accepted as part of the amendatory process. However, due to the necessity of using computerized systems this may entail a different placement within a budget entity or the renumbering of the specific appropriation items.

Florida Senate - 2011

SB7084

Committee	Amendment
BHI	**24**

The Committee on Budget **(Lynn)** recommended the following LATE FILED amendment:

Section: 02 **On Page:** 028 **Spec App:** 99	**EXPLANATION:** **Requires public school workforce and Florida colleges to strive to offer classes during the evening and weekends to accomodate working students.**

NET IMPACT ON:	Total Funds	General Revenue	Trust Funds
Recurring -	0	0	0
Non-Recurring -	0	0	0

	Positions & Amount DELETE	Positions & Amount INSERT

EDUCATION, DEPARTMENT OF
Florida Colleges, Division Of
Program: Florida Colleges *48400600*

In Section 02 On Page 028
99 Aid To Local Governments *050217*
Grants And Aids - Community Colleges
Program Fund *IOEB*

In Section 02 On Page 029

At the end of existing proviso language, following Specific Appropriation 99, INSERT:

From the funds in Specific Appropriation 99, each Florida College shall strive to increase the availability of evening and weekend classes for workforce programs to increase access for working students and maximize the utilization of existing facilities. Each college shall report to the Commissioner of Education the actions taken to comply with this requirement by January 31, 2012.

Public Schools, Division Of
Program: Workforce Education *48250800*

In Section 02 On Page 026
96 Aid To Local Governments *050562*
Workforce Development *IOEB*

In Section 02 On Page 027

At the end of existing proviso language, following Specific Appropriation 96, INSERT:

From the funds in Specific Appropriation 99, each workforce education program shall strive to increase the availability of evening and weekend classes for workforce programs to increase access for working students and maximize the utilization of existing facilities. Each school district shall report to the Commissioner of Education the actions taken to comply with this requirement by January 31, 2012.

Line item amendments are accepted as part of the amendatory process. However, due to the necessity of using computerized systems this may entail a different placement within a budget entity or the renumbering of the specific appropriation items.

Florida Senate - 2011

SB7084

Committee	Amendment
BTA	**25**

The Committee on Budget **(Gaetz)** recommended the following LATE FILED amendment:

Section:	**EXPLANATION:**
On Page: 000	**Adds proviso to Specific Appropriation 2535AH to allow a portion of the $5 million of earmarked funds to be used for staffing support of the Florida Council on Military Base and Mission Support.**
Spec App: 2535AH	

NET IMPACT ON:	Total Funds	General Revenue	Trust Funds
Recurring -	0	0	0
Non-Recurring -	0	0	0

	Positions & Amount DELETE	Positions & Amount INSERT
In Section On Page 000		
2535AH *000000 IOE*		
In Section On Page 324		

DELETE the proviso immediately following Specific Appropriation 2535AH:

From the funds provided in Specific Appropriation 2535AH, $5,000,000 from nonrecurring general revenue fund is provided for the Florida Base Realignment and Closure Commission as created in law. Jobs Florida shall contract with the Commission for expenditure of these funds, which may be used by the Commission for economic and product research and development, joint planning with host communities to accommodate military missions and to prevent base encroachment, advocacy on the state's behalf with federal civilian and military officials, assistance to school districts in providing smooth transition of large numbers of additional incoming military-related students, job training and placement for military spouses in communities with high proportions of active duty military personnel, and promotion of the state to military and related contractors and employers. The Commission may expend up to $200,000 of these funds for staffing and administrative expenses of the Commission, including travel and per diem costs of the Commission members not otherwise eligible for state reimbursement.

Insert proviso immediately following Specific Appropriation 2535AH:

From the funds provided in Specific Appropriation 2535AH, $5,000,000 from nonrecurring general revenue fund is provided for the Florida Base Realignment and Closure Commission as created in law. Jobs Florida shall contract with the Commission for expenditure of these funds, which may be used by the Commission for economic and product research and development, joint planning with host communities to accommodate military missions and to prevent base encroachment, advocacy on the state's behalf with federal civilian and military officials, assistance to school districts in providing smooth transition of large numbers of additional incoming military-related students, job training and placement for military spouses in communities with high proportions of active duty military personnel, and promotion of the state to military and related contractors and employers. The Commission may expend up to $200,000 of these funds for staffing and administrative expenses of the Commission, including travel and per diem costs of the Commission members not otherwise eligible for state reimbursement. Staff funded from these funds may also be assigned by the Commission to support the Florida Council on Military Base and Mission Support as established in section 288.984, Florida Statutes.

Line item amendments are accepted as part of the amendatory process. However, due to the necessity of using computerized systems this may entail a different placement within a budget entity or the renumbering of the specific appropriation items.

Florida Senate - 2011

SB7084

Committee	Amendment
BJA	**26**

The Committee on Budget **(Siplin)** recommended the following LATE FILED amendment:

Section: 04 **On Page:** 132 **Spec App:** 803	**EXPLANATION:** **This amendment transfers $300,000 in recurring general revenue from the State Attorney, 2nd Circuit, to the Department of Legal Affairs for compensation of individuals wrongfully incarcerated.**

NET IMPACT ON:	Total Funds	General Revenue	Trust Funds
Recurring -	0	0	0
Non-Recurring -	0	0	0

			Positions & Amount DELETE	Positions & Amount INSERT
	JUSTICE ADMINISTRATION			
	State Attorneys			
	Program: State Attorneys - Second Judicial Circuit *21500200*			
	In Section 04 On Page 132			
803	**Salaries And Benefits** *010000*	*IOEA*		
	Positions:		**111**	**105**
1000	**From General Revenue Fund**		**6,206,845**	**5,906,845**
	CA -300,000 FSI1 -300,000			
	LEGAL AFFAIRS, DEPARTMENT OF, AND ATTORNEY GENERAL			
	Program: Office Of Attorney General Criminal And Civil Litigation Defense *41100300*			
	In Section 04 On Page 184			
1276	**Expenses** *040000*	*IOEA*		
1000	**From General Revenue Fund**		**1,356,374**	**1,656,374**
	CA 300,000 FSI1 300,000			

Immediately following Specific Appropriation 1276, INSERT:

From the funds in Specific Appropriation 1276, $300,000 from general

revenue is provided to compensate individuals wrongfully incarcerated pursuant to s. 961.06, F.S.

Line item amendments are accepted as part of the amendatory process. However, due to the necessity of using computerized systems this may entail a different placement within a budget entity or the renumbering of the specific appropriation items.

Florida Senate - 2011

SB7084

Committee	Amendment
BJA	**27**

The Committee on Budget **(Joyner)** recommended the following LATE FILED amendment:

Section: 04 **On Page:** 108 **Spec App:** 595	**EXPLANATION:** **This amendment requires private contractors to give first preference to displaced department employees when hiring staff under the private contracts authorized for the Department of Corrections in the General Appropriations Act.**

NET IMPACT ON:	Total Funds	General Revenue	Trust Funds
Recurring -	0	0	0
Non-Recurring -	0	0	0

	Positions & Amount DELETE	Positions & Amount INSERT

CORRECTIONS, DEPARTMENT OF
Program: Security And Institutional Operations
Adult Male Custody Operations *70031100*

In Section 04 On Page 108

595 **Salaries And Benefits** *010000* *IOEA*

In Section 04, on Page 107, DELETE the following:

Contracts shall include a provision that requires impacted employees to be given first consideration for employment with the private provider.

AND INSERT:

Current Department of Corrections employees who are affected by the health services and prison privatization initiatives shall be given first preference for continued employment by the contractors. The department shall make reasonable efforts to find a suitable job placement for employees who wish to remain state employees.

Program: Health Services
Inmate Health Services *70251000*

In Section 04 On Page 121

726 Salaries And Benefits *010000* *IOEA*

In Section 04, on Page 121, INSERT the following:

Current Department of Corrections employees who are affected by the health services and prison privatization initiatives shall be given first preference for continued employment by the contractors. The department shall make reasonable efforts to find a suitable job placement for employees who wish to remain state employees.

Line item amendments are accepted as part of the amendatory process. However, due to the necessity of using computerized systems this may entail a different placement within a budget entity or the renumbering of the specific appropriation items.

Florida Senate - 2011

SB7084

Committee	Amendment
BGA	**28**

The Committee on Budget **(Alexander)** recommended the following LATE FILED amendment:

Section: 02 **On Page:** 006 **Spec App:** 15C	**EXPLANATION:** **Provides $750,000 to a PECO project for Santa Fe College for Law Enforcement Labs & Library-Kirkpatrick (p) from another project (Rem/ren/New/Clsrms/Labs/Sup Svcs-West (pc)(ce) for Miami Dade College).**

NET IMPACT ON:	Total Funds	General Revenue	Trust Funds
Recurring -	0	0	0
Non-Recurring -	0	0	0

		Positions & Amount DELETE	Positions & Amount INSERT
	EDUCATION, DEPARTMENT OF		
	Program: Education - Fixed Capital Outlay *48150000*		
	In Section 02 On Page 006		
15C	**Fixed Capital Outlay** *089006*		
	Community College Projects *IOEL*		
	In Section 02 On Page 007		

Immediately following Specific Appropriation 15C, DELETE:

MIAMI DADE COLLEGE
Rem/ren/add Clsrms/Labs/Supp Svcs Fac 2-Hialeah Complete... 21,200,000

and insert in lieu thereof:

MIAMI DADE COLLEGE
Rem/ren/add Clsrms/Labs/Supp Svcs Fac 2-Hialeah Complete... 20,450,000
SANTA FE COLLEGE
Law Enforcement Labs & Library-Kirkpatrick (p)..... 750,000

Line item amendments are accepted as part of the amendatory process. However, due to the necessity of using computerized systems this may entail a different placement within a budget entity or the renumbering of the specific appropriation items.

Florida Senate - 2011

SB7084

Committee	Amendment
BHA	**29**

The Committee on Budget **(Negron)** recommended the following LATE FILED amendment:

Section: 03 **On Page:** 062 **Spec App:** 230	**EXPLANATION:** **Appropriates $500,000 from the General Revenue Fund on a nonrecurring basis to the Agency for Persons with Disabilities for the Dan Marino Foundation Florida Vocational College in Broward County. Reduces $500,000 from the General Revenue Fund in the Hospital Inpatient Services appropriation category within the Agency for Health Care Administration.**

NET IMPACT ON:	Total Funds	General Revenue	Trust Funds
Recurring -	0	0	0
Non-Recurring -	0	0	0

		Positions & Amount DELETE	Positions & Amount INSERT
	AGENCY FOR PERSONS WITH DISABILITIES **Program: Services To Persons With Disabilities** **Home And Community Services** *67100100*		
	In Section 03 On Page 062		
230	**Special Categories** *100778* **Grants And Aids - Contracted Services** *IOEB*		
1000	**From General Revenue Fund** *CA 500,000 FSI1NR 500,000*	**735,346**	**1,235,346**

Insert proviso immediately following Specific Appropriation 230:

From the funds in Specific Appropriations 230, $500,000 in nonrecurring funds from the General Revenue Fund is provided for the Dan Marino Foundation Florida Vocational College in Broward County.

AGENCY FOR HEALTH CARE ADMINISTRATION
Program: Health Care Services
Medicaid Services To Individuals *68501400*

In Section 03 On Page 046

177 **Special Categories** *101582*
Hospital Inpatient Services *IOEE*

1000	**From General Revenue Fund**	**34,324,550**	**33,824,550**
	CA -500,000 FSI2NR -500,000		

Line item amendments are accepted as part of the amendatory process. However, due to the necessity of using computerized systems this may entail a different placement within a budget entity or the renumbering of the specific appropriation items.

Florida Senate - 2011

SB7084

Committee	Amendment
BHA	**30**

The Committee on Budget **(Negron)** recommended the following LATE FILED amendment:

Section: 03 **On Page:** 062 **Spec App:** 230	**EXPLANATION:** **Appropriates $500,000 from the General Revenue Fund on a nonrecurring basis to the Agency for Persons with Disabilities for the Loveland Center, Inc., in Sarasota County. Reduces $500,000 from the General Revenue Fund in the Hospital Inpatient Services appropriation category within the Agency for Health Care Administration.**

NET IMPACT ON:	Total Funds	General Revenue	Trust Funds
Recurring -	0	0	0
Non-Recurring -	0	0	0

		Positions & Amount DELETE	Positions & Amount INSERT
	AGENCY FOR PERSONS WITH DISABILITIES **Program: Services To Persons With Disabilities** **Home And Community Services** *67100100*		
	In Section 03 On Page 062		
230	**Special Categories** *100778* **Grants And Aids - Contracted Services** *IOEB*		
1000	**From General Revenue Fund** *CA 500,000 FSI1NR 500,000*	**735,346**	**1,235,346**

Insert proviso immediately following Specific Appropriation 230:

From the funds in Specific Appropriations 230, $500,000 in nonrecurring funds from the General Revenue Fund is provided for the Loveland Center, Inc., in Sarasota County.

AGENCY FOR HEALTH CARE ADMINISTRATION
Program: Health Care Services
Medicaid Services To Individuals *68501400*

In Section 03 On Page 046

177 Special Categories *101582*
Hospital Inpatient Services *IOEE*

1000	**From General Revenue Fund**	**34,324,550**	**33,824,550**
	CA -500,000 FSI2NR -500,000		

Line item amendments are accepted as part of the amendatory process. However, due to the necessity of using computerized systems this may entail a different placement within a budget entity or the renumbering of the specific appropriation items.

Florida Senate - 2011

SB7084

Committee	Amendment
BGA	**31**

The Committee on Budget **(Hays)** recommended the following LATE FILED amendment:

Section: 05 **On Page:** 200 **Spec App:** 1431A	**EXPLANATION:** **Provides additional funding for the Farm Share Program and the Florida Association of Food Banks in the Department of Agriculture and Consumer Services.**

NET IMPACT ON:	Total Funds	General Revenue	Trust Funds
Recurring -	0	0	0
Non-Recurring -	0	0	0

		Positions & Amount DELETE	Positions & Amount INSERT
	AGRICULTURE AND CONSUMER SERVICES, DEPARTMENT OF, AND COMMISSIONER OF AGRICULTURE		
	Program: Agricultural Economic Development		
	Agricultural Products Marketing *42170200*		
	In Section 05 On Page 200		
1431A	**Special Categories** *100449*		
	Support For Food Bank *IOEB*		
1000	**From General Revenue Fund**		**200,000**
	CA 200,000 FSI1NR 200,000		
1433B	**Special Categories** *101278*		
	Farm Share Program *IOEB*		
1000	**From General Revenue Fund**		**200,000**
	CA 200,000 FSI1NR 200,000		
	JOBS FLORIDA		
	Division Of Strategic Business Development *85500000*		
	In Section 06 On Page 323		
2535AF	**Special Categories** *100259*		
	Quick Action Closing Fund *IOEA*		

1000	**From General Revenue Fund**	**47,542,262**	**47,142,262**
	CA -400,000 FSI1NR -400,000		

Line item amendments are accepted as part of the amendatory process. However, due to the necessity of using computerized systems this may entail a different placement within a budget entity or the renumbering of the specific appropriation items.

Florida Senate - 2011

SB7084

Committee	Amendment
BTA	**32**

The Committee on Budget **(Gaetz)** recommended the following LATE FILED amendment:

Section: 06 **On Page:** 323 **Spec App:** 2535AF	**EXPLANATION:** **Reduces the Quick Action Closing Fund provided in Jobs Florida (formerly the Office of Tourism, Trade and Economic Development (OTTED)) by $860,000 general revenue fund; and uses the funds to provide $280,000 to the Exponica Trade Summit, and $580,000 to Exponica International.**

NET IMPACT ON:	Total Funds	General Revenue	Trust Funds
Recurring -	0	0	0
Non-Recurring -	0	0	0

		Positions & Amount DELETE	Positions & Amount INSERT
	JOBS FLORIDA **Division Of Strategic Business Development** *85500000*		
	In Section 06 On Page 323		
2535AF	**Special Categories** *100259* **Quick Action Closing Fund** *IOEA*		
1000	**From General Revenue Fund** *CA -860,000 FSI1NR -860,000*	**47,542,262**	**46,682,262**
2535AGA	**Special Categories** *100562* **Economic Development Projects** *IOEA*		
1000	**From General Revenue Fund** *CA 860,000 FSI1NR 860,000*		**860,000**

Following NEW Specific Appropriation 2535AGA, INSERT:

From the funds in Specific Appropriation 2535AGA, $580,000 from nonrecurring General Revenue Fund is provided for Exponica International, and $280,000 from nonrecurring General Revenue Fund is provided for Exponica Trade Summit.

Line item amendments are accepted as part of the amendatory process. However, due to the necessity of using computerized systems this may entail a different placement within a budget entity or the renumbering of the specific appropriation items.

Florida Senate - 2011

SB7084

Committee	Amendment
BHA	**33**

The Committee on Budget **(Negron)** recommended the following LATE FILED amendment:

Section: 06 **On Page:** 323 **Spec App:** 2535AF	**EXPLANATION:** **Appropriates $300,000 in nonrecurring general revenue funds to the Department of Elder Affairs for the Little Havana Activities and Nutrition Centers of Dade County. Reduces $300,000 in nonrecurring general revenue funds from the Quick Action Closing Fund in Jobs Florida.**

NET IMPACT ON:	Total Funds	General Revenue	Trust Funds
Recurring -	0	0	0
Non-Recurring -	0	0	0

		Positions & Amount DELETE	Positions & Amount INSERT
	JOBS FLORIDA **Division Of Strategic Business Development** *85500000*		
	In Section 06 On Page 323		
2535AF	**Special Categories** *100259* **Quick Action Closing Fund** *IOEA*		
1000	**From General Revenue Fund** *CA -300,000 FSI1NR -300,000*	**47,542,262**	**47,242,262**
	ELDER AFFAIRS, DEPARTMENT OF **Program: Services To Elders Program** **Home And Community Services** *65100400*		
	In Section 03 On Page 079		
378	**Special Categories** *102011* **Grants And Aids - Local Services Programs** *IOEB*		
1000	**From General Revenue Fund** *CA 300,000 FSI1NR 300,000*	**7,465,811**	**7,765,811**

Insert proviso immediately following Specific Appropriation 378:

In addition to the existing projects, the following project in Specific Appropriation 378 is funded from nonrecurring general revenue funds:

Little Havana Activities and Nutrition Centers of Dade County..... $300,000

Line item amendments are accepted as part of the amendatory process. However, due to the necessity of using computerized systems this may entail a different placement within a budget entity or the renumbering of the specific appropriation items.

Florida Senate - 2011

SB7084

Committee	Amendment
BHA	**34**

The Committee on Budget **(Negron)** recommended the following LATE FILED amendment:

Section: 06 **On Page:** 323 **Spec App:** 2535AF	**EXPLANATION:** **Appropriates $430,298 in nonrecurring general revenue funds to the Department of Elder Affairs for the DeAllapattah Community Center Hot Meals Program. Reduces $430,298 in nonrecurring general revenue funds from the Quick Action Closing Fund in Jobs Florida.**

NET IMPACT ON:	Total Funds	General Revenue	Trust Funds
Recurring -	0	0	0
Non-Recurring -	0	0	0

		Positions & Amount DELETE	Positions & Amount INSERT
	JOBS FLORIDA **Division Of Strategic Business Development** *85500000*		
	In Section 06 On Page 323		
2535AF	**Special Categories** *100259* **Quick Action Closing Fund** *IOEA*		
1000	**From General Revenue Fund** *CA -430,298 FSI1NR -430,298*	**47,542,262**	**47,111,964**
	ELDER AFFAIRS, DEPARTMENT OF **Program: Services To Elders Program** **Home And Community Services** *65100400*		
	In Section 03 On Page 079		
378	**Special Categories** *102011* **Grants And Aids - Local Services Programs** *IOEB*		
1000	**From General Revenue Fund** *CA 430,298 FSI1NR 430,298*	**7,465,811**	**7,896,109**

Insert proviso immediately following Specific Appropriation 378:

In addition to the existing projects, the following project in Specific Appropriation 378 is funded from nonrecurring general revenue funds:

DeAllapattah Community Center Hot Meals Program..... $430,298

Line item amendments are accepted as part of the amendatory process. However, due to the necessity of using computerized systems this may entail a different placement within a budget entity or the renumbering of the specific appropriation items.

LEGISLATIVE ACTION

Senate . House

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The Committee on Budget (Hays) recommended the following:

Senate Amendment (with title amendment)

Delete lines 551 - 571

and insert:

Section 26. In order to implement Specific Appropriation 1578A of the 2011-2012 General Appropriations Act, and notwithstanding ss. 253.034, 253.0341, and 259.041, Florida Statutes, the disposition of state-owned lands is exempt from appraisal requirements under s. 253.034(6)(g)1., Florida Statutes, and disposition requirements under s. 253.034(15), Florida Statutes, if the proceeds of such conveyance will be used to purchase state-owned lands for preservation, conservation, or recreation purposes. On or before October 1,

955194

2011, all agencies shall submit a list of state-owned lands to the Board of Trustees of the Internal Improvement Trust Fund, to which the lands are titled, which are immediately available for lease or are surplus lands. Proceeds from the sale of such lands shall be deposited into the Florida Forever Trust Fund created by s. 259.1051, Florida Statutes, and used to acquire lands for preservation, conservation, or recreation purposes pursuant to the requirements of s. 259.105, Florida Statutes. The board of trustees shall ensure that, where appropriate, surplus or leased conservation lands are subject to perpetual conservation easements or other such restrictive covenants that run with the land and are duly recorded in the same manner as any other instrument affecting title to real property. This section expires 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 lines 78 - 79

and insert:

that the disposition of state-owned lands is exempt from appraisal requirements and disposition requirements under certain circumstances;

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 Budget Committee

BILL:	SPB 7086
INTRODUCER:	For consideration by the Budget Committee
SUBJECT:	Implementing Bill
DATE:	March 28, 2011
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hendon	Meyer, C.		**Pre-meeting**
2.				
3.				
4.				
5.				
6.				

I. Summary:

The bill provides the statutory authority necessary to implement and execute the General Appropriations Act for Fiscal Year 2011-2012. Statutory changes are temporary and expire on July 1, 2012.

The bill substantially amends ss. 44.108, 110.123, 112.24, 215.32, 215.5601, 216.262, 216.292, 253.034, 282.709, 339.08, 373.59, 394.908, 403.7095, 445.009, 932.7055, and, 945.025, Florida Statutes. The bill reenacts s. 110.12315, Florida Statutes.

II. Present Situation:

In the past, substantive language was included in proviso or in separate sections of the General Appropriations Act to clarify how funds contained in the act were to be expended. However, decisions such as Brown v. Firestone, 382 So. 2d 654 (Fla. 1980), and Graham v. Firestone, Circuit Court of the Second Judicial Circuit, #82-1703, Leon County Florida, 1982, have found such proviso language in the annual General Appropriations Act to be unconstitutional and void.

III. Effect of Proposed Changes:

Section 1 provides legislative intent.

Section 2 incorporates the Florida Education Finance Program workpapers by reference for the purpose of displaying the calculations used by the legislature for K-12 funding.

Section 3 amends s. 216.292, F.S., to provide for the transfer of funds provided for university developmental research schools from a fixed capital outlay category to another fixed capital category for public school maintenance.

Section 4 amends s. 394.908, F.S., to require that funds appropriated for mental health treatment services in forensic institutions be allocated to the areas of the state having the greatest demand for services and treatment capacity.

Section 5 prohibits any state agency from implementing any rule or policy mandating or establishing new nitrogen-reduction limits that apply to existing or new onsite sewage treatment systems, have the effect of requiring the use of performance based treatment systems, or increase the cost of treatment for nitrogen reduction from onsite systems before completion of phase 3 of the Department of Health's Florida Onsite Sewage Nitrogen Reduction Strategies Study.

Section 6 requires that funds appropriated to the Department of Health only be transferred to the FAMU for the Crestview Center through a budget amendment with 14 days notice.

Section 7 prohibits the Department of Children and Families from paying for any leased space after the secretary has notified in writing that the space in no longer needed due to reductions in department functions or positions.

Section 8 authorizes the Department of Corrections and the Department of Juvenile Justice to use appropriated funds to make expenditures to defray costs incurred by a municipality or county for facilities operated under the authority of each department. The payment may not exceed one percent of the construction costs, less any building impact fees paid to the local government.

Section 9 amends s. 216.262, F.S., to allow the Executive Office of the Governor to request additional positions and other resources, including fixed capital outlay, for the Department of Corrections, if the Criminal Justice Estimating Conference projects a certain increase in the inmate population. All increases must be approved by the Legislative Budget Commission.

Section 10 requires the Department of Corrections to get approval of both the Executive Office of the Governor and the Legislative Budget Commission prior to closing, changing the purpose of, or reducing the size, of any state prison.

Section 11 authorizes the Department of Legal Affairs to transfer specified funds in the Operating Trust Fund to salaries and benefits.

Section 12 authorizes the Department of Legal Affairs to spend specified funds on the same programs and in the same method as was done in the prior fiscal year unless specifically prohibited.

Section 13 amends s. 932.7055, F.S. to extend for another year the authorization for a municipality to expend funds in a special law enforcement trust fund to reimburse the general fund of the municipality for funds advanced from the general fund to the special law enforcement trust fund prior to October 1, 2001.

Section 14 limits the amount the Department of Juvenile Justice may pay for health care services. If no contract exists between the department and the health care provider, the payment cannot exceed 110% of the allowable Medicare rate for that service. The department may continue to pay the rates established under current contracts but must adjust the compensation at the next execution, renewal or extension of a contract related to health care services.

Section 15 amends s. 44.108, F.S. to authorize funds in the Mediation and Arbitration Trust Fund to be used as specified in General Appropriations Act.

Section 16 notwithstanding s. 215.18, F.S., requiring the state court system to pay back funds loaned from the Mediation and Arbitration and Court Education Trust Funds. Loans from these trust funds were made to the state court system to assist in resolving the fiscal year 2010-2011 projected deficit in the State Courts Revenue Trust Fund.

Section 17 allows the Chief Justice to request a loan from unallocated general revenue when the revenues received in the State Courts Revenue Trust Fund equal 98% or less than the official revenue estimate during the fiscal year 2011-2012.

Section 18 creates the Judicial Caseload Incentive Plan to assist in resolving civil disputes in a timely manner and reducing legal costs. The plan allows judges that preside over civil cases to earn a nonrecurring award of $12,000 if certain performance goals are met relating to timely disposition of specified case types. The annual performance goals for specific case types and funding for the plan are provided in the proposed Senate budget.

Section 19 amends s. 282.709, F.S., to allow the funds in the State Agency Law Enforcement Radio System Trust Fund to be used for the maintenance and sustainment of the Mutual Aid portion of the Florida Interoperability Network.

Section 20 requires the Department of Management Services to issue a competitive solicitation for the operation of the Statewide Law Enforcement Radio System. The current contract is null and void on or before June 30, 2012.

Section 21 provides for a study of factors affecting costs and potential assessments on consumers, and availability, of personal lines property and casualty insurance in Florida by the Florida Catastrophic Storm Risk Management Center at Florida State University as originally provided in s. 164 of chapter 2004-390, Laws of Florida.

Section 22 amends s. 253.034, F.S., to authorize the Department of Citrus to deposit funds derived from the sale of property into the Citrus Advertising Trust Fund.

Section 23 amends s. 373.59, F.S., to distribute certain funds in the Water Management Lands Trust Fund within the Department of Environmental Protection to the Suwannee River Water Management District in fiscal year 2011-2012.

Section 24 amends s. 403.7095, F.S., to permit the Department of Environmental Protection to award grants equally to certain small counties for solid waste programs.

Section 25 allows the Department of Agriculture and Consumer Services to extend, revise, or renew a contract pursuant to chapter 2006-25, Laws of Florida, related to the promotion of agriculture.

Section 26 notwithstanding ss. 253.04 and 259.041, F.S., the disposition and acquisition of state-owned lands are exempt from the appraisal requirements when the proceeds are deposited in the Florida Forever Trust Fund for the purchase of lands for preservation, conservation, or recreation purposes. Requires agencies to submit a list of surplus lands for disposition by October 1, 2011 to the Board of Trustees of the Internal Improvement Trust Fund.

Section 27 authorizes the Executive Office of the Governor to submit budget amendments to the Legislative Budget Commission to transfer funds and positions from specified agencies to implement the creation of the Department of Jobs Florida and other agency reorganizations approved by the 2011 legislature.

Section 28 amends s. 339.08, F.S., to extend the authority for funds in the State Transportation Trust Fund to be used for administrative expenses of a multicounty transportation or expressway authority created under chapters 343 and 348 of the Florida Statutes, where jurisdiction for the authority includes a portion of the State Highway System.

Section 29 requires $80 million from the State Transportation Trust Fund to be used for the County Incentive Grant Program projects within the Department of Transportation as specified in s. 339.2817, F.S.

Section 30 requires $42.4 million from the State Transportation Trust Fund to be used for the Small County Outreach Program projects within the Department of Transportation as specified in s. 339.2818, F.S.

Section 31 requires $72.2 million from the State Transportation Trust Fund to be used for the Transportation Regional Incentive Program projects within the Department of Transportation as specified in s. 339.2819, F.S.

Section 32 requires $19 million from the State Transportation Trust Fund to be used for the transportation projects within the Department of Transportation specified under s. 339.2821, F.S., as created by the 2011 legislature.

Section 33 exempts the Department of Highway Safety and Motor Vehicles from paying the titling and registration fees required under chapters 319 and 320, Florida Statutes, when the Office of Motor Carrier Compliance is transferred from the Department of Transportation to the Department of Highway Safety and Motor Vehicles.

Section 34 amends s. 445.009, F.S., to allow participants in an adult or youth work program sponsored by Agency for Workforce Innovation to be covered for workers' compensation through the state's risk management pool.

Section 35 creates the Florida Base Realignment and Closure Task Force housed within the Department of Jobs Florida, to prepare the state for any federal base realignment and closure

actions, to support research and development related to the military, and to improve the environment for active and retired members of the military and their dependents, and for businesses that create military related jobs.

Section 36 authorizes the Executive Office of the Governor to transfer funds appropriated for the payment of risk management insurance premiums between departments. The amendments to the approved operating budget are subject to the notice and objection procedures of s. 216.177, F.S.

Section 37 authorizes the Executive Office of the Governor to transfer funds appropriated for the payment of the statewide human resource management services contract between departments. The amendment to the approved operating budget is subject to the notice and objection procedures of s. 216.177, F.S.

Section 38 notwithstanding the provisions of paragraph 110.123(3)(f), F.S., requiring uniform contributions, and for the 2011-2012 fiscal year only, the state contribution toward the cost of any plan in the state group insurance plan shall be the difference between the overall premium and the employee contribution.

Section 39 amends s. 112.24, F.S., to extend the authorization to assign an employee from one agency to another agency if recommended by the Governor and approved by the chairs of the respective legislative appropriations committees.

Section 40 maintains the salaries of the members of the legislature at the fiscal year 2009-2010 levels by reducing the June 30, 2010 salaries by 7 percent.

Section 41 reenacts s. 215.32, F.S., to authorize the legislature to transfer unencumbered trust fund balances into the General Revenue Fund or the Budget Stabilization Fund as specified in the General Appropriations Act.

Section 42 reenacts s. 215.5601, F.S., relating to investment objectives of the Lawton Chiles Endowment Fund that specifies that the investment objective shall be long-term preservation of the real value of the net contributed principal and a specified regular annual cash outflow for appropriation, as nonrecurring revenue and that withdrawals other than specified regular cash outflow shall be considered reductions in contributed principal for the purposes of this subsection.

Section 43 provides a legislative finding that the authorization and issuance of state debt during the 2011-2012 fiscal year is in the best interests of the state and is necessary to address a critical state emergency.

Section 44 provides that funds appropriated for travel by state employees shall be limited to travel for activities that are critical to each state agency's mission. The bill prohibits funds from being used to travel to foreign countries, other states, conferences, staff-training or other administrative functions unless agency head approves in writing. The bill requires agency heads to consider the use of teleconferencing and electronic communication to meet needs of activity before approving travel.

Section 45 allows the Executive Office of the Governor to transfer funds appropriated to different agencies to pay for data processing services from primary data centers between state agencies in cases in which an agency's use of a data center service has increased relative to the other agency users of the service.

Section 46 authorizes budget amendments for agencies scheduled to consolidate computing services in future years that wish to begin implementation ahead of schedule in fiscal year 2011-2012.

Section 47 authorizes agencies to transfer funds in appropriation categories that fund the implementation of the statewide e-mail system to the original agency appropriation categories necessary to support agency specific e-mail systems until the e-mail services are provided by the statewide e-mail system.

Section 48 authorizes the Executive Office of the Governor to transfer funds in the Expense Appropriation Category between agencies in order to allocate any budget reduction for agency SUNCOM services.

Section 49 amends s. 216.292, F.S., to grant authority to the Executive Office of the Governor to transfer funds appropriated for the American Recovery and Reinvestment Act of 2009 to specific operating categories established to track the expenditure of such funds.

Section 50 amends s. 216.292, F.S., to provide that Governor may recommend the initiation of fixed capital outlay projects funded by grants awarded by the Federal Government through the American Recovery and Reinvestment Act of 2009 or any other federal economic stimulus grant funding. Such actions are subject to review and approval of the Legislative Budget Commission.

Section 51 reenacts s. 110.12315, F.S., to modify prescription drug copayments for state employees under the State Group Health Plan to be consistent with appropriations in the proposed Senate budget.

Section 52 requires the Department of Management Services to utilize a tenant broker to renegotiate all multi state agency leases. Any savings from such negotiations shall be reported to the Legislative Budget Commission by September 30, 2011. The department may propose budget amendments to place savings in reserve or transfer such funds to another appropriation category pursuant to chapter 216, Florida Statutes. All leases that do not comply with the Florida State Constitution or Florida law on September 30, 2012 are null and void.

Section 53 requires the Department of Management Services to begin lease renegotiations for all leases with an expiration date of June 30, 2013, or sooner to achieve a reduction in costs in future years. The department must provide a report by March 1, 2012, to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the status of the negotiations and savings achieved.

Section 54 requires the Department of Management Services to issue a solicitation for the Minnesota Multistate Contracting Alliance for Pharmacy (MMCAP) as a state term contract by

September 1, 2011. The department shall award the contract to one group purchasing organization or vendor and must use generic drugs when feasible.

Section 55 requires the Agency for Health Care Administration to renegotiate a Florida Discount Drug Card Program. Requirements of the successful vendor are specified. Revenues generated as a result of the contract must be deposited in the agency's Grants and Donations Trust Fund and be used to reduce the cost of Medicaid pharmacy services.

Section 56 specifies that no section of this bill will take effect if the appropriations and proviso to which it relates are vetoed.

Section 57 provides that a permanent change made by another law to any of the same statutes amended by this bill takes precedence over the provision in this bill.

Section 58 provides a severability clause.

Section 59 provides an effective date of July 1, 2011.

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:

Although the provisions of this bill allow specific budget decisions to be effective, actual appropriations are made in the proposed Senate budget.

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.

604356

LEGISLATIVE ACTION

Senate . House

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The Committee on Budget (Flores) recommended the following:

Senate Amendment (with directory and title amendments)

Between lines 223 and 224
insert:

(5) The board of directors of a regional consortium service organization may use various means to generate revenue in support of its activities. The board of directors may acquire, enjoy, use, and dispose of patents, copyrights, and trademarks and any licenses and other rights or interests thereunder or therein. Ownership of all such patents, copyrights, trademarks, licenses, and rights or interests thereunder or therein shall vest in the state, with the board of directors having full right of use and full right to retain the revenues derived therefrom.

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Any funds realized from patents, copyrights, trademarks, or licenses shall be considered internal funds as provided in s. 1011.07. Such funds shall be used to support the organization's marketing and research and development activities in order to improve and increase services to its member districts.

====== D I R E C T O R Y C L A U S E A M E N D M E N T ======
And the directory clause is amended as follows:

Delete lines 206 - 207

and insert:

Section 6. Paragraph (a) of subsection (2) of section 1001.451, Florida Statutes, is amended, and subsection (5) is added to that section, to read:

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

Delete line 27

and insert:

organizations; authorizing regional consortium service organizations to use various means to generate revenue for future activities; amending s. 1002.33, F.S.; revising

LEGISLATIVE ACTION

Senate . House

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The Committee on Budget (Gaetz) recommended the following:

Senate Amendment (with title amendment)

Delete lines 224 - 229

and insert:

Section 7. Paragraph (e) of subsection (10) and subsection (19) of section 1002.33, Florida Statutes, are amended, present subsections (25) and (26) of that section are redesignated as subsections (26) and (27), respectively, and a new subsection (25) is added to that section, to read:

1002.33 Charter schools.—

(10) ELIGIBLE STUDENTS.—

(e) A charter school may limit the enrollment process only to target the following student populations:

1. Students within specific age groups or grade levels.

2. Students considered at risk of dropping out of school or academic failure. Such students shall include exceptional education students.

3. Students enrolling in a charter school-in-the-workplace or charter school-in-a-municipality established pursuant to subsection (15).

4. Students residing within a reasonable distance of the charter school, as described in paragraph (20)(c). Such students shall be subject to a random lottery and to the racial/ethnic balance provisions described in subparagraph (7)(a)8. or any federal provisions that require a school to achieve a racial/ethnic balance reflective of the community it serves or within the racial/ethnic range of other public schools in the same school district.

5. Students who meet reasonable academic, artistic, or other eligibility standards established by the charter school and included in the charter school application and charter or, in the case of existing charter schools, standards that are consistent with the school's mission and purpose. Such standards shall be in accordance with current state law and practice in public schools and may not discriminate against otherwise qualified individuals.

6. Students articulating from one charter school to another pursuant to an articulation agreement between the charter schools that has been approved by the sponsor.

7. Students living in a development in which a business entity provides the school facility and related property having an appraised value of at least $10 million to be used as a

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charter school for the development. Students living in the development shall be entitled to 50 percent of the student stations in the charter school. The students who are eligible for enrollment are subject to a random lottery, the racial/ethnic balance provisions, or any federal provisions, as described in subparagraph 4. The remainder of the student stations shall be filled in accordance with subparagraph 4.

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

And the title is amended as follows:

Delete line 28

and insert:

provisions relating to charter schools; providing for an additional student population to be included for enrollment in a charter school; providing that

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 Budget Committee

BILL:	SPB 7128
INTRODUCER:	For consideration by the Budget Committee.
SUBJECT:	K-12 Education Funding
DATE:	March 28, 2011 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hamon	Meyer, C.		**Pre-meeting**
2.				
3.				
4.				
5.				
6.				

I. Summary:

This bill conforms applicable statutes to the appropriations provided in the Senate proposed budget which makes appropriations for Prekindergarten through grade 12 education for the 2011-2012 fiscal year.

The bill:

- Authorizes the Department of Revenue to provide information regarding gross receipts taxes to the State Board of Education, the Division of Bond Finance and the Office of Economic and Demographic Research. In making the determination of the amount of bonds that can be serviced by gross receipts tax, the State Board of Education is to disregard the effects of a 2010 nonrecurring refund.
- Provides that certain charter school systems may be designated a local education agency for the purpose of receiving federal funds.
- Authorizes each school district to create pilot digital instructional materials schools with additional flexibility to make the transition to digital. Districts shall report the results of the pilot schools.
- Redefines the term “core curricula courses” for the purpose of designating classes subject to maximum class size requirements.
- Provides flexibility for school districts to implement class size requirements when additional students enroll in a school after the October survey and for grades 4 to 8 students who take high school courses. Clarifies the use of class size reduction funds.
- Adjusts industry certified bonus weights based on rigor and employment value of the certification; revised weights remain within existing funding levels.

- Removes provisions relating to the coenrollment of high school students in adult education courses.
- Authorizes interdistrict transfer of FEFP funds when students in Department of Juvenile Justice facilities are transferred between student membership surveys.
- Allows 16 districts that passed a referendum in the 2010 general election to levy 0.25 mills for the authorized two years and for eligible districts to receive state compression adjustment funds for two more years. Authorization for school boards to levy by supermajority vote, following referendum, an additional 0.25 mills for critical operations or capital outlay expires on June 30, 2011.
- Provides that state funding for the Merit Award Program will be discontinued after payment of the 2010-2011 awards.
- Clarifies prior legislation and authorizes the expenditure of PECO funds by a charter-school-in-the-work-place prior to July 1, 2010.
- Expands the class size reduction lottery bond program to include other educational facilities.
- Provides the Department of Education (DOE) with flexibility to provide Florida Knowledge Network materials and other educational services online or by other electronic media, instead of primarily through television broadcast. Updates and clarifies DOE responsibilities for the Florida Information Resource Network.
- Provides that education consortia funds are to be determined as provided in the General Appropriations Act.
- Provides recurring flexibility, after March 1 of each year, for instructional materials funds to be used to purchase hardware for student instruction.
- Adopts by reference, alternative compliance calculation amounts to the class size operating categorical allocation for the 2010-2011 fiscal year.

This bill substantially amends sections 213.053, 215.61, 1001.25, 1001.271, 1001.28, 1001.451, 1002.33, 1002.34, 1003.01, 1003.03, 1004.02, 1011.62, 1011.685, 1011.71, 1012.225, 1013.737, and creates sections 1006.282, and 1011.621, of the Florida Statutes.

II. Present Situation:

Gross Receipts Tax

Section 9 of Article XII of the Constitution requires that all of the proceeds of the revenues derived from the gross receipts taxes collected pursuant to the provisions of chapter 203, Florida Statutes, be placed in a trust fund to be known as the "public education capital outlay and debt service trust fund" in the state treasury. Monies in the trust fund may only be used to fund capital projects for the state education system. The trust fund is administered by the state board of education.

State bonds pledging the full faith and credit of the state may be issued pursuant to law to finance or refinance capital projects authorized by the legislature, for the state system of public education. The bonds are primarily payable from revenues derived from gross receipts taxes, and are additionally secured by the full faith and credit of the state.

Section 9 of Article XII of the Constitution states that "No such bonds shall ever be issued in an amount exceeding ninety percent of the amount which the state board determines can be serviced by the revenues derived from the gross receipts taxes . . .."

Section 215.61, F.S., provides that in determining the amount of bonds which can be serviced by the gross receipts tax, the State Board of Education shall use the average annual amount of revenue collected for the tax periods during the 24 months immediately preceding the most recent collection date before the date of issuance of any such bonds, adjusted to reflect revenues that would have been collected had legislation enacted into law before the date of determination been in effect during the 24-month period. Such adjustment shall be based on the assumption that the provisions of the enacted legislation had become effective 24 months before the dates contemplated in the legislation.

In August, 2010, AT&T Mobility LLC (AT&T) entered into a settlement agreement with a number of plaintiffs which, if finally approved by the court, will require AT&T to request refunds of Florida communications services taxes, including gross receipts taxes, paid on charges for wireless data services.[1] The potential refunds are for the period from November 5, 2005 to September 7, 2010. At this time, it is anticipated that any refunds paid to AT&T will be paid in the first half of Fiscal Year 2010-2011.

Under current practice for making the determination required by section 215.61, F.S., of the amount of bonds that can be serviced by the gross receipts tax, the effect of the refunds will be to reduce the amount of bonds that may be issued for 24 months following the payment of a refund.

Local Educational Agency

Each school district is a local education agency. As a local education agency the school district receives state, local, and federal funds allocated for all public school students in the district, including funds for school district schools and charter schools. The school district provides to each charter school its per student share of each source of funds, state local and federal, as provided by law. The school district has the responsibility for all local educational agency requirements, assuring compliance with federal laws and regulations, submitting required information and reports, and federal audits. The charter school receives its per student share of federal funds received by the school district, but the school district, not the charter school, is responsible for performing all of the local education agency requirements.

Instructional Materials

As provided in s. 1006.28, Florida Statutes, district school boards have the duty to provide adequate instructional materials for all students. The term "adequate instructional materials" means a sufficient number of textbooks or sets of materials that are available in bound, unbound, kit, or package form and may consist of hard-backed or soft-backed textbooks, electronic content, consumables, learning laboratories, manipulatives, electronic media, and computer courseware or software that serve as the basis for instruction for each student in the core courses of mathematics, language arts, social studies, science, reading, and literature, except for instruction for which the school advisory council approves the use of a program that does not include a textbook as a major tool of instruction. Instructional materials do not include computer hardware.

[1] Information regarding the case can be obtained at: www.attmsettlement.com.

To ensure that all school districts have equitable access to digitally rich instructional materials, districts are encouraged to provide access to an electronic learning management system that allows teachers, students, and parents to access, organize, and use electronically available instructional materials and teaching and learning tools and resources, and that enables teachers to manage, assess, and track student learning.

In addition, as provided in s. 1006.40, Florida Statutes, school boards are required to purchase instructional materials for core courses within the first two years of an adoption. The adoption cycle for a subject is six years.

Class Size

For the purpose of designating classes subject to maximum class size requirements "Core-curricula courses" are courses defined by the Department of Education as mathematics, language arts/reading, science, social studies, foreign languages, English for Speakers of Other Languages, exceptional education, and courses taught in traditional self-contained elementary school classrooms.

In November 2002, s. 1, Art. IX of the State Constitution was amended to provide that by the beginning of the 2010 school year, the maximum number of students assigned to a teacher who teaches core-curricula courses in public school classrooms shall be as follows:

- For prekindergarten through grade 3, the number of students may not exceed 18;
- For grades 4 through 8, the number of students may not exceed 22; and
- For grades 9 through 12, the number of students may not exceed 25.

The amendment required that, beginning with the 2003-2004 fiscal year, the Legislature must provide sufficient funds to reduce the average number of students in each classroom by at least two students per year until the number of students per classroom does not exceed the maximum required by the beginning of the 2010 school year.

Section 1003.03(2)(b), F.S., establishes an implementation schedule for reducing the average number of students per classroom by at least two students per year as follows:

- 2003-2004 through 2005-2006 at the district level;
- 2006-2007 through 2009-2010[2] at the school level; and
- 2010-2011 and thereafter, at the classroom level.

To implement the class size reduction provisions of the constitutional amendment, the Legislature created an operating categorical fund for the following district purposes:[3]

- to meet the constitutional maximums specified, or to reduce its class size by the required average two students per year toward the constitutional maximums; or
- for any lawful operating expenditure. Priority, however, is to be given to increase the salaries of classroom teachers.

[2] ch. 2009-59, L.O.F.
[3] s. 3, ch. 2003-391, L.O.F., codified in s. 1011.685, F.S.

The Legislature has appropriated over $16 billion in the Class Size Reduction categorical for operations and $2.5 billion for facilities funding for the Classrooms for Kids program.[4]

Also, s. 1003.03(4) provides for school district class size reduction accountability. Districts and charter schools are required to meet the constitutional maximums, and if they are not successful, their class size reduction funds are adjusted based on the additional students over the maximum for each classroom (for charter schools, the additional students over the maximum on a school average basis). Funds are reduced for the excess students from the class size reduction categorical plus 50 percent of the base student allocation. The resulting adjustment amount for 2010-2011 is $40,795,637 ($2,292,191 for charter schools).

Once the initial calculation is made, the Commissioner may recommend an alternate calculation for those districts not in compliance. For the current year, the recommended alternate calculation took into account data reporting errors and unintended student growth and the resulting amount was $31,305,124. This amount is then to be brought to the Legislative Budget Commission for approval. If this amount is approved, then, non-compliant districts may earn back 75 percent of the reduction amount if they submit a plan by February 15 describing specific actions to be in compliance by the October survey of the subsequent school year. For the current year, all non-compliant districts submitted such a plan and $23.5 million will be restored. In addition, the compliant districts may earn a bonus of up to 5 percent, but no more than 25 percent of the non-compliant district adjustment amount; for the current year, this amount is $7.8 million. The same calculation methodology also applies to charter schools. For the current year, the Legislative Budget Commission has not yet acted on the recommended alternate calculation.

Industry Certified Career and Professional Academy

A bonus value of 0.3 full-time equivalent student membership is provided in the FEFP as incentive funding to a school district for each high school student who receives industry certification as part of an Industry Certified Career and Professional Academy (CAPE) program and a high school diploma. In 2010-2011, there are 1,298 CAPE academies with 102,430 students, with 8.4 percent of CAPE students having earned at least one industry certification. Industry certifications increased from 803 in 2007-2008 to 8,629 in 2009-2010. Industry Certification bonus FTE funding in the FEFP is roughly $4 million for 2010-2011.[5] The same 0.3 FTE bonus is earned by the student regardless of the difficulty or employment value of the certification.

Coenrollment in Adult General Education

Adult education programs currently serve high school students who are enrolled in the K-12 system; these students are often referred to as coenrolled students. These students often take courses in adult education to improve the grade of a previously completed course or because they are behind in the number of credits completed in order to graduate on schedule. The definition of an "adult student' includes high school students who are taking an adult education course required for high school graduation. A majority of school districts' adult education programs

[4] DOE presentation to the Senate Pre-K–12 Education Appropriations Committee, January 21, 2010, on file with the committee.

[5] DOE presentation to the Senate Pre-K – 12 Education Appropriations Committee, March 15, 2010, on file with the committee.

offer the coenrollment option to high school students, some more significantly than others. Funds for Workforce education, including adult education, are not to be used by school districts for their K-12 programs.

FEFP Funding for Department of Juvenile Justice Students
Students in Department of Juvenile Justice (DJJ) programs are reported as FTE for FEFP funding in a manner similar to students in other district education programs. However, because of the unique nature of these programs, there are some exceptions made for FTE reporting and funding, e.g., DJJ FTE may be reported and funded on a year-long basis and DJJ programs also receive a funding supplement because they are not eligible for class size reduction funds. Also, if a new DJJ facility is opened in a district, the district is eligible for an alternate FTE survey for funding for the increase in FTE. Similarly, there have been instances of programs or providers relocating their efforts from one district to another with no corresponding adjustment in funding.

District Discretionary School Tax
The Legislature authorized district school boards, by a super majority vote, to levy discretionary millage up to 0.25 mill for critical operating or capital outlay needs in 2009-2010 and 2010-2011. For the board to continue the levy by super majority board vote beyond the 2010-2011 fiscal year, voters had to give permission in the 2010 general election. If a district levies this millage for operations and the levy generates an amount of funds per weighted FTE for the district that is less than the state average, the district may receive in the FEFP a state-funded discretionary millage compression adjustment in an amount per FTE that, when added to the funds per FTE generated by the levy, is equal to the state average.

In 2010-2011, 53 districts levied the .25 mill for operations and 1 district levied it for capital outlay. In 2010-2011, the 53 districts that levied this millage for operations generated more than $227 million in local funds and received more than $33 million in the FEFP for the discretionary millage compression adjustment.

In the 2010 general election, 32 districts asked the voters for permission to continue the 0.25 levy for operations and 2 districts for capital outlay. Seventeen of the 34 were approved: sixteen for operations and 1 for capital outlay.

In addition, in the 2010 general election, 5 districts asked the voters to approve millage for operations for 4 years; three were successful. Historically, revenues from voted millage are not included in the FEFP.

Merit Award Program
The Merit Award Program was established by the legislature in 2007. Each Merit Award Program plan must designate the top instructional personnel and school-based administrators as outstanding and must provide for payment to each such employee, by October 1 of the following school year, a merit-based supplement of at least 5 percent, but no more than 10 percent, of the average teacher's salary for that school district. The amount of a merit award may not be based on length of service or base salary. Pay supplements are to be funded from moneys appropriated by the Legislature and from any additional funds that are designated by the district for the Merit Award Program.

The district school board may not require instructional personnel or school-based administrators to apply for an award, or make any presentation, in order to be assessed for or receive a merit award. A plan is subject to negotiation as provided in chapter 447. School districts are not required to implement this section unless the program is specifically funded by the Legislature.

For 2009-10, 3 school districts, the Florida Virtual School, and a number of charter schools had approved plans with awards funded by the 2010-2011 appropriation in the amount of $20 million.

Class Size Reduction Lottery Revenue Bond Program
The class size reduction lottery revenue bond program was established by the Legislature in section 1013.737, F. .S., in 2003 to provide additional facilities to meet a constitutionally required reduction in public school class size by the beginning of the 2010-2011 school year. The bond proceeds were used to finance or refinance the construction, acquisition, reconstruction, or renovation of educational facilities. The bonds were issued pursuant to, and in compliance with, the provisions of s. 11(d), Art. VII of the State Constitution, the provisions of the State Bond Act, sections 215.57-215.83, F.S., as amended, and the provisions of section 1013.737, F.S. The bonds are payable from, and secured by a first lien on the first lottery revenues transferred to the Educational Enhancement Trust Fund each fiscal year, as provided by section 24.121(2), F.S., and do not constitute a general obligation of, or a pledge of the full faith and credit of the state.

Florida Knowledge Network
The Florida Knowledge Network is the instructional television broadcast service of the Florida Department of Education. The network is a partnership of the Department of Education, Florida school districts, and Florida public television stations. The network provides broadcasts on digital channels of the Florida satellite transponder of educational video programs that support Florida's K-12 curriculum and professional development programming. Programming is primarily distributed over digital multicast by Florida's public television stations.

Florida Information Resource Network
The Florida Information Resource Network (FIRN) was created to provide electronic information transmission for school districts and the DOE. Formerly, the DOE provided equipment and access to districts for these services. In addition, the legislature annually provided centralized line item funding for FIRN and the DOE coordinated federal e-rate discount funds for broadband access. In 2009, the Department of Management Services took the lead in managing "FIRN2" and coordinating the provision of internet access and services for school districts, colleges, and universities that wished to participate.

Regional Consortium Service Organizations
Regional Consortia exist for the provision of services to school districts with enrollments of 20,000 students or less. Currently, there are three: the Northeast Florida Education Consortium, the Panhandle Area Education Consortium and the Heartlands Consortium. Statute provides an incentive grant for the delivery of services to each in the amount of $50,000 per member.

III. Effect of Proposed Changes

The bill makes the following revisions:

Gross Receipts Tax

- Amends section 215.61, F.S, to direct the State Board of Education to disregard the effects on gross receipts tax collections of refunds paid as a direct result of the settlement reached in *In re: AT&T Mobility Wireless Data Services Sales Litigation, 270 F.R.D. 330* (August 11, 2010), when making the determination required by section 215.61, F.S..
- Allows the Department of Revenue to share information regarding the amount of any refunds with the State Board of Education, the Division of Bond Finance, and the Office of Economic and Demographic Research.
- Removes the effects of the refunds on the amount of bonds that can be issued and serve to provide a more accurate estimate of the amount of future bonds that can be serviced by the gross receipts tax.

Local Educational Agency Designation for Certain Charter School Systems

- Provides additional fiscal autonomy by allowing for the designation of a charter school system as a local educational agency for the purpose of receiving federal funds, the same as though the charter school system were a school district, if the charter school system governing board has adopted and filed a resolution with its sponsoring district school board and the Department of Education in which the charter board accepts full responsibility for all local education agency requirements and the charter school system meets all of the following:
  - includes both conversion charter schools and no conversion charter schools;
  - has all schools located in the same county;
  - has a total enrollment exceeding the total enrollment of at least one school district in the state;
  - has the same governing board; and
  - does not contract with a for-profit service provider for management of school operations.

Electronic and Digital Instructional Materials Pilot Schools

- Authorizes school districts to designate pilot schools to implement the transition to instructional materials that are in electronic or digital format.
- School boards may designate pilot schools only if the school district:
  - Has implemented a learning management system pursuant to s. 1006.281;
  - Requests only the electronic format of the specimen copies of instructional materials submitted pursuant to s. 1006.33, F.S.; and
  - Uses at least 50 percent of the pilot school's annual allocation from the district for the purchase of electronic or digital instructional materials included on the state-adopted list.
- Provides fiscal flexibility for schools designated as pilot schools by the school board to be exempt from section 1006.40(2)(a), F.S., relating to the purchase of instructional materials for core courses within the first two years of the adoption cycle, if the school provides comprehensive electronic or digital instructional materials to the students within the pilot school, and section 1006.37, F.S., relating to the requisition of instructional materials from the state depository.
- Requires that each district that designates a pilot school provide to the Department of Education the name of each pilot school; the grade or grades and associated course or courses included in the pilot; a description of the type of technological tool or tools that will be used

to access the electronic or digital instructional materials included in the pilot; and the projected costs, including cost savings or cost avoidances, associated with the pilot.

- Requires that each district review each pilot school's implementation to identify successful practices; lessons learned; level of investment and cost-effectiveness; and impacts on student performance.

Class Size

- Provides flexibility by redefining "core-curricula courses". Under current law, the courses are defined by the Department of Education as mathematics, language arts/reading, science, social studies, foreign language, English for Speakers of Other Languages, exceptional student education, and course taught in traditional, self-contained elementary school classrooms.[6] Under the bill, the courses are specified by grade levels, subjects measured by state assessments, high school graduation requirements, and subgroups of students as follows:
  - Language arts/reading, mathematics, and science courses in prekindergarten through grade 3;
  - Courses in grades 4 through 8 in subjects that are measured by state assessment at any grade level;
  - Courses in grades 9 through 12 in subjects that are measured by state assessment at any grade level;
  - Courses that are specifically identified by name in statute as required for high school graduation and that are not measured by state assessments, excluding any extracurricular courses;
  - Exceptional student education courses; and
  - English for Speakers of Other Languages courses.
- Provides flexibility by redefining "extracurricular courses" to include courses that may result in college credit. Current law specifies that these courses include physical education, fine arts, performing fine arts, and career education.
- Provides flexibility by allowing a maximum class size of 25 for a core-curricula high school course in which a student in grades 4 through 8 is enrolled for high school graduation credit.
- There will be relatively little change in the core courses for students in grades K-3 and no change in core courses for ESE and ESOL students. The DOE notes that in 2010-2011, there were approximately 849 core courses in Kindergarten through Grade 12. Under the bill, there would be approximately 288 core courses. The decrease would primarily be due to courses that have much lower student enrollment such as foreign languages, honors and advanced courses at secondary grade levels, courses without state assessments, and courses that are not required for graduation at the middle and high school level.
- Provides districts with additional flexibility after the October survey by allowing them to increase class enrollment at a school by up to three students in Prekindergarten to Grade 3 and five students in Grades 4 to 12 if additional students enroll and the school board determines that it would be impractical, educationally unsound, or disruptive to not do so, and the board provides a plan for compliance by the subsequent October survey.

[6] Courses offered under ss. 1002.37 (the Florida Virtual School), 1002.415 (the K-8 Virtual School Program), and 1002.45 (the school district virtual instruction (VIP) programs), F.S., are excluded.

Industry Certified Career and Professional Academy

- Adjusts the bonus FTE value for each student who receives industry certification for completing an Industry Certified Career and Professional Academy program and a high school diploma by creating bonus FTE values of 0.1, 0.2, and 0.3. The Department will assign the value to each certification with 50 percent based on rigor and the remaining 50 percent on employment value. Three different values will provide a bonus FTE that is more appropriate to different certifications. The maximum bonus FTE for any student will remain at 0.3.

Coenrollment in Adult General Education

- Removes provisions relating to the coenrollment of high school students in adult education courses to be consistent with SPB 7130 in which a student who is coenrolled in a K-12 education program and also in an adult general education course may not be reported for funding in the workforce or college adult general education program. The effect of this change is to reduce workforce education funding. In the budget, the funds reduced by the elimination of coenrollment FTE are reallocated with an emphasis on equity for other adult or career education programs.

Transfer of FTE for DJJ Students

- Authorizes an equitable transfer of FEFP funds between school districts when students in Department of Juvenile Justice facilities are transferred between student membership surveys. Each school district is to receive a pro rata share of the funds based on the amount of time the student is enrolled in each district.

District Discretionary School Tax

- Provides for the expiration of the authority for school boards to levy an additional 0.25 mills for critical operations or capital outlay on June 30, 2011, except for the 16 districts in which the voters in the 2010 general election gave permission for the millage to be levied for two additional years;
- Excludes local funds generated by the additional 0.25 mills and state funds provided pursuant to s. 1011.62 (5) from the calculation of the Florida Education Finance Program in 2011-2012 or any subsequent year and excludes the same funding from the calculation of any hold-harmless or other component of the Florida Education Finance Program in any year, except that, during 2011-2012 and 2012-2013, a district that levies this voter-approved 0.25 mills for operations may be eligible for a compression adjustment pursuant to s. 1011.62 (5) if the adjustment is calculated and added to the district's FEFP allocation, subject to determination in the General Appropriations Act.

Merit Award Program

- Discontinues funding for the Merit Award Program following payment of awards for the 2010-2011 fiscal year.

Class Size Reduction and Educational Facilities Lottery Revenue Bond Program

- Expands the class size reduction lottery revenue bond program as provided in section 1013.727, F.S., to include educational facilities in addition to facilities required to reduce

class size. Issuance of any bonds and the use of any bond proceeds under this statute requires prior authorization by the Legislature.

Charter School-in-the-Workplace

- Clarifies prior year conforming bill legislation and authorizes the expenditure of PECO funds prior to July 1, 2010 by a charter-school-in-the-work-place.

Florida Knowledge Network and Florida Information Resource Network

- Provides flexibility for the Department of Education to provide the Florida Knowledge Network and other materials online or through other electronic media, instead of primarily through television broadcast, updates obsolete language, and clarifies DOE responsibilities for coordinating district access to "FIRN2".

Regional Educational Consortia

- Provides that regional education consortia funds are to be determined in the General Appropriations Act.

Instructional Materials

- Clarifies current law that provides a flexible opportunity after March 1 for instructional materials funds to be used for other urgent classroom expenditures or the purchase of computer hardware for student instruction.

Class Size Operating Categorical

- Adopts by reference the alternative compliance calculation amounts for the class size operating categorical allocation that were submitted to the Legislative Budget Commission on March 2, 2011. Adopting the alternative compliance calculation amounts by reference expedites the provisions of section 1003.03 (4) (c), F.S., for implementation during the 2010-2011 fiscal year.

Other Potential Implications:

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:

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill conforms the statutes to the Pre-K -12 public schools budget. The bill provides school districts and other entities with additional fiscal flexibility; provides for potential future cost savings and cost avoidance; provides funding equity; provides additional fiscal opportunity; eliminates or reduces improper or unnecessary expenditures; provides fiscal autonomy; eliminates obsolete and clarifies fiscal provisions; expedites payments; and promotes fiscal efficiency.

Specifically, the bill modifies education bonding programs by broadening the uses of bond proceeds by expanding the Class Size Reduction lottery bond program and by increasing PECO bond capacity by disregarding the effects of a 2010 refund. The lottery bond program has approximately $30 million in available bond capacity and the change in PECO creates additional capacity of approximately $130 million.

In addition, the bill provides school districts with additional flexibility regarding implementation of Class Size provisions by redefining core courses and allowing schools to adjust class sizes by three for Prekindergarten to Grade 3 and by five for Grades 4 to 12 if additional students enroll at a school after the October survey. In order to have this opportunity, districts will have to submit a plan for compliance for the subsequent October.

The bill also removes the authority for districts to levy the 0.25 discretionary millage for critical operations or capital, effective June 30, 2011, except for the 17 districts that have a current two-year voter authorization. In addition, the 0.25 discretionary local funds are removed from the FEFP calculation along with related calculations, except for the 0.25 mill discretionary compression, as provided in s. 1011.62, F.S., for the same 16 districts, who may be eligible for the state supplement.

Finally, the bill adopts by reference the recommended Class Size Reduction alternative calculation so that funds may flow accordingly and additional adjustments and repayments may take place in a timely manner.

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.

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LEGISLATIVE ACTION

Senate . House

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The Committee on Budget (Lynn) recommended the following:

Senate Amendment (with title amendment)

Delete lines 408 - 454

and insert:

Section 8. Paragraph (c) of subsection (3) of section 1009.22, Florida Statutes, is amended, present subsection (12) of that section is redesignated as subsection (13), and a new subsection (12) is added to that section, to read:

1009.22 Workforce education postsecondary student fees.—

(3)

(c) Effective July 1, 2011, for programs leading to a career certificate or an applied technology diploma, the standard tuition shall be $2.22 per contact hour for residents

and nonresidents and the out-of-state fee shall be $6.66 per contact hour. For adult general education programs, a block tuition of $45 per half year shall be assessed for residents and nonresidents, and the out-of-state fee shall be $135 per half year. ~~Effective January 1, 2008, standard tuition shall be $1.67 per contact hour for programs leading to a career certificate or an applied technology diploma and 83 cents for adult general education programs. The out-of-state fee per contact hour shall be three times the standard tuition per contact hour.~~

(12)(a) The Board of Trustees of Santa Fe College may establish a transportation access fee. Revenue from the fee may be used only to provide or improve access to transportation services for students enrolled at Santa Fe College. The fee may not exceed $6 per credit hour. An increase in the transportation access fee may occur only once each fiscal year and must be implemented beginning with the fall term. A referendum must be held by the student government to approve the application of the fee.

(b) Notwithstanding ss. 1009.534, 1009.535, and 1009.536, the transportation access fee authorized under paragraph (a) may not be included in calculating the amount a student receives for a Florida Academic Scholars award, a Florida Medallion Scholars award, or a Florida Gold Seal Vocational Scholars award.

Section 9. Paragraphs (a) and (b) of subsection (3) of section 1009.23, Florida Statutes, are amended, present subsection (17) of that section is redesignated as subsection (19), and new subsections (17) and (18) are added to that section, to read:

1009.23 Community college student fees.—


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(3)(a) Effective July 1, 2011 ~~January 1, 2008~~, for advanced and professional, postsecondary vocational, college preparatory, and educator preparation institute programs, the following tuition and fee rates shall apply~~:~~

~~1.~~ the standard tuition shall be $68.56 per credit hour for residents and nonresidents, and the out-of-state fee shall be $205.82 per credit hour ~~$51.35 per credit hour for students who are residents for tuition purposes~~.

~~2. The standard tuition shall be $51.35 per credit hour and the out-of-state fee shall be $154.14 per credit hour for students who are nonresidents for tuition purposes.~~

(b) Effective July 1, 2011 ~~January 1, 2008~~, for baccalaureate degree programs, the following tuition and fee rates shall apply:

1. The tuition shall be $87.42 ~~$65.47~~ per credit hour for students who are residents for tuition purposes.

2. The sum of the tuition and the out-of-state fee per credit hour for students who are nonresidents for tuition purposes shall be no more than 85 percent of the sum of the tuition and the out-of-state fee at the state university nearest the community college.

(17) Each college may assess a transient student fee not to exceed $5 per distance learning course for processing the transient student admissions application pursuant to s. 1004.091.

(18)(a) The Board of Trustees of Santa Fe College may establish a transportation access fee. Revenue from the fee may be used only to provide or improve access to transportation services for students enrolled at Santa Fe College. The fee may

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not exceed $6 per credit hour. An increase in the transportation access fee may occur only once each fiscal year and must be implemented beginning with the fall term. A referendum must be held by the student government to approve the application of the fee.

(b) Notwithstanding ss. 1009.534, 1009.535, and 1009.536, the transportation access fee authorized under paragraph (a) may not be included in calculating the amount a student receives for a Florida Academic Scholars award, a Florida Medallion Scholars award, or a Florida Gold Seal Vocational Scholars award.

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

And the title is amended as follows:

Delete lines 61 - 67

and insert:

adult general education programs; authorizing the Board of Trustees of Santa Fe College to establish a transportation access fee for students enrolled at Santa Fe College; requiring that revenue from the fee be used only to provide or improve access to transportation services; limiting the amount of the fee; providing a timeframe for a fee increase and implementation of an increase; requiring that a referendum be held by the student government to approve the application of the fee; prohibiting the inclusion of the fee in calculating the amount a student receives under Florida Bright Futures Scholarship Program awards; amending s. 1009.23, F.S.; revising provisions relating to community college

student fees, including the standard tuition for residents and nonresidents and the out-of-state fee; authorizing each college to assess a transient student fee that does not exceed a specified amount per distance learning course; authorizing the Board of Trustees of Santa Fe College to establish a transportation access fee for students enrolled at Santa Fe College; requiring that revenue from the fee be used only to provide or improve access to transportation services; limiting the amount of the fee; providing a timeframe for a fee increase and implementation of an increase; requiring that a referendum be held by the student government to approve the application of the fee; prohibiting the inclusion of the fee in calculating the amount a student receives under Florida Bright Futures Scholarship Program awards; amending s. 1009.24,

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 Budget Committee

BILL:	SPB 7130
INTRODUCER:	For Consideration by the Budget Committee
SUBJECT:	Postsecondary Education Funding
DATE:	March 31, 2011
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hamon	Meyer	BC	**Pre-meeting**
2.				
3.				
4.				
5.				
6.				

I. Summary:

This bill conforms applicable statutes to the appropriations provided in the Senate proposed budget which makes appropriations for higher education for the 2011-2012 fiscal year.

The bill:

- Authorizes the Department of Revenue to provide information regarding gross receipts taxes to the State Board of Education, the Division of Bond Finance and the Office of Economic and Demographic Research. In making the determination of the amount of bonds that can be serviced by gross receipts tax the State Board of Education is to disregard the effects of a 2010 nonrecurring refund.
- Provides an exemption from the 30 percent need based expenditure requirement from the tuition differential fee if the university has covered the entire tuition and fee costs of all need-based students.
- Authorizes spring and summer term student enrollment in universities that would be limited to spring and summer on campus classes. Authorizes Bright Futures scholarships in the summer for these students.
- Temporarily suspends the state match for the facilities and operating challenge grant programs for colleges and universities. Existing eligible donations will remain eligible for future match.
- Suspends for the 2011-2012 fiscal year the sale of Florida Prepaid College individual purchase contracts, except for STARS contracts and program completion purchases by existing participants.
- Requires 100 percent tuition surcharge for hours over 115 percent of degree requirements.

- Updates the 2008 provisions related to tuition and out-of-state fees for postsecondary students in workforce and college education programs to include 2011-2012 tuition. Requires a block tuition charge of $45.00 and corresponding out-of-state fee per half year for students enrolled in adult general education courses. Removes fee exemptions for certain students enrolled in adult basic, adult secondary and career-preparatory instruction.
- Prohibits funding for coenrollment in public schools and college adult general education programs.
- Creates a scholarship for students with demonstrated financial need if the student takes upper division courses in the STEM fields (Science, Technology, Engineering, and Mathematics).
- Provides that funding for the Florida Resident Access Grant and Access to Better Learning and Education Grant programs funding distribution shall be as determined in the General Appropriations Act.
- Streamlines transient registration and credit transfers for distance learning courses taken by students enrolled in another state institution. Authorizes a student fee of $5.00 for each course registration through the distance learning catalog to cover costs.
- Streamlines library operations and increases efficiency through consolidation and joint purchasing. Requires creation of a union catalog for higher education.
- Prohibits foundations, direct service organizations, or similar organizations for the Board of Governors. Prohibits any BOG employee from receiving salary or any other compensation from a foundation, direct support organization, or other similar source.
- Prioritizes state student financial aid to the neediest (Pell eligible) students, up to the full cost of tuition and fees.
- Expands the class size reduction lottery bond program to include other educational facilities.
- Provides that funding for state scholarship programs, tuition assistance programs, and the First Accredited Medical School shall be as specified in the General Appropriations Act.
- Codifies current proviso that prohibits the use of workforce education for prison inmate education.

This bill substantially amends sections 213.053, 215.61, 1001.706, 1004.091, 1006.72, 1007.28, 1009.22, 1009.23, 1009.24, 1009.25, 1009.286, 1009.55, 1009.56, 1009.57, 1009.60, 1009.69, 1009.701, 1009.73, 1009.74, 1009.77, 1009.891, 1011.32, 1011.52, 1011.61, 1011.80, 1011.81, 1011.85, 1011.94, 1013.737, 1013.79, and creates sections 1009.215, 1009.251, and 1009.985 of the Florida Statutes.

II. Present Situation:

Gross Receipts Tax

Section 9 of Article XII of the Constitution requires that all of the proceeds of the revenues derived from the gross receipts taxes collected pursuant to the provisions of chapter 203, Florida Statutes, be placed in a trust fund to be known as the "public education capital outlay and debt service trust fund" in the state treasury. Monies in the trust fund may only be used to fund capital projects for the state education system. The trust fund is administered by the state board of education.

State bonds pledging the full faith and credit of the state may be issued pursuant to law to finance or refinance capital projects authorized by the legislature, for the state system of public

education. The bonds are primarily payable from revenues derived from gross receipts taxes, and are additionally secured by the full faith and credit of the state.

Section 9 of Article XII of the Constitution states that "No such bonds shall ever be issued in an amount exceeding ninety percent of the amount which the state board determines can be serviced by the revenues derived from the gross receipts taxes . . .."

Section 215.61, F.S., provides that in determining the amount of bonds which can be serviced by the gross receipts tax, the State Board of Education shall use the average annual amount of revenue collected for the tax periods during the 24 months immediately preceding the most recent collection date before the date of issuance of any such bonds, adjusted to reflect revenues that would have been collected had legislation enacted into law before the date of determination been in effect during the 24-month period. Such adjustment shall be based on the assumption that the provisions of the enacted legislation had become effective 24 months before the dates contemplated in the legislation.

In August, 2010, AT&T Mobility LLC (AT&T) entered into a settlement agreement with a number of plaintiffs which, if finally approved by the court, will require AT&T to request refunds of Florida communications services taxes, including gross receipts taxes, paid on charges for wireless data services.[1] The potential refunds are for the period from November 5, 2005 to September 7, 2010. At this time, it is anticipated that any refunds paid to AT&T will be paid in the first half of Fiscal Year 2010-2011.

Under current practice for making the determination required by Section 215.61, F.S., of the amount of bonds that can be serviced by the gross receipts tax, the effect of the refunds will be to reduce the amount of bonds that may be issued for 24 months following the payment of a refund.

Distance Learning Consortium

In FY 2010-2011, legislation required the Florida Distance Learning Consortium, in consultation with the Florida College System (FCS) and State University System (SUS), to develop a plan and submit recommendations to the Board of Governors, State Board of Education, the Governor, the President of the Senate and the Speaker of the House of Representatives for implementation of a streamlined, automated, online registration process for students who wish to enroll in courses listed in the Florida Higher Education Distance Learning catalog; particularly for those students who attend more than one institution in pursuit of a degree. This process is required to be implemented by the 2011-2012 academic year.

The implementation plan was also required to address the following substantive and fiscal policy issues:

- Student financial aid issues;
- Variations in fees among institutions;
- Admission and readmission;
- Registration prioritization issues;
- Transfer of credit; and
- Graduation requirements.

[1] Information regarding the case can be obtained at: www.attmsettlement.com.

Florida has established a single, statewide, computer-assisted student advising system (FACTS.org) which provides all Florida students with advising, registration, and grade certification for graduation the system was developed to facilitate the progression of students towards their postsecondary educational goals. The system provides 24/7 access to students, and provides information related to career descriptions; assists students in determining courses needed to complete a degree; and provides corresponding educational requirements, admissions requirements and sources of financial assistance. Students may retrieve reports which document THEIR status toward completion of a degree, and obtain verification that requirements have been completed for graduation.

The Florida Distance Learning Consortium's plan for implementing a streamlined, automated, online registration process for students who wish to enroll in courses listed in the Florida Higher Education Distance Learning catalog, particularly those students who attend more than one institution in pursuit of a degree, recommended utilizing the transient student application process already available in FACTS.org. The consortium's plan also recommended the inclusion of a few additional data elements in FACTS.org transient student application process that would help to facilitate the streamlined registration process.

Electronic Library Resources
To ensure that electronic library resources were acquired in the most cost-efficient and cost-effective manner, legislation was passed in 2010 that requires the Florida colleges and state universities to collaborate with school districts and public libraries in the identification and acquisition of electronic library resources. It also requires the Florida Center for Library Automation (FCLA) and the College Center for Library Automation (CCLA) to collaborate on the licensing of electronic library resources that are acquired through funds appropriated to FCLA and CCLA for this purpose**.**

Spring and Summer Student Enrollment
Although demand for enrollment in the state university system is high, many state universities have a higher enrollment in the fall than in the spring and summer terms.

Block Tuition for Adult General Education
The General Appropriations Act sets the standard tuition rate for residents and non-residents for students enrolled in adult general education programs. Few students enrolled in these programs pay any cost for this education because they are exempt under s. 1009.25(1), F.S.
Students currently exempt from paying tuition and fees include:

- A student who does not have a high school diploma or its equivalent, and
- A student who has a high school diploma, but has academic skills at or below the eighth grade level as measured by a test administered in the English language and approved by the Department of Education, even if the student has skills above that level when tested in the student's native language.

Tuition Differential Fee for Need-Based Financial Aid
Section 1009.24(16), F.S., authorizes each university board to trustees to establish a tuition differential fee for undergraduate courses upon approval from the Board of Governors. The

combination of base tuition and tuition differential fee cannot increase more than 15 percent over the prior year, or exceed the national average. Seventy percent of the revenues from the tuition differential fee must be expended for the purposes of undergraduate education. The remaining 30 percent of the tuition differential fee must be used to provide financial assistance to undergraduate students who exhibit financial need.

Excess Hour Tuition Surcharge
Section 1009.286, F.S., requires a surcharge of up to 50 percent of tuition be assessed for each credit hour in excess of 120 percent of the number of credit hours required for completion of the students' registered degree program.

STEM Scholarship Program
Currently the state does not have a dedicated scholarship program to encourage students to enroll in high demand STEM (Science, Technology, Engineering, Math) areas.

Florida Resident Access Grant Program and
Access to Better Learning and Education Grant Program
The state provides tuition assistance for Florida students attending nonprofit independent colleges and universities through the Florida Resident Access Grant (FRAG) program. The State also provides tuition assistance to Florida students attending independent for profit colleges and universities through the Access to Better Learning and Education (ABLE) program.

Matching Grant Programs
The legislature authorized universities and colleges to establish matching grant programs for facilities and for operations for which state funds are appropriated to match private donations.

The University Major Gifts Program enables each university to provide donors with an incentive in the form of matching grants for donations for the establishment of permanent endowments and sales tax exemption matching funds received pursuant to s. 212.08(5) (j), F.S., which must be invested, with the proceeds of the investment used to support libraries and instruction and research programs, as defined by the Board of Governors. The Board of Governors shall specify the process for submission, documentation, and approval of requests for matching funds, accountability for endowments and proceeds of endowments, allocations to universities, restrictions on the use of the proceeds from endowments, and criteria used in determining the value of donations. The Board of Governors shall allocate the amount appropriated to each university based on the amount of the donation and the restrictions applied to the donation. Donations for a specific purpose must be matched in the following manner:

- Each university that raises at least $100,000 but no more than $599,999 from a private source must receive a matching grant equal to 50 percent of the private contribution.
- Each university that raises a contribution of at least $600,000 but no more than $1 million from a private source must receive a matching grant equal to 70 percent of the private contribution.
- Each university that raises a contribution in excess of $1 million but no more than $1.5 million from a private source must receive a matching grant equal to 75 percent of the private contribution.

- Each university that raises a contribution in excess of $1.5 million but no more than $2 million from a private source must receive a matching grant equal to 80 percent of the private contribution.
- Each university that raises a contribution in excess of $2 million from a private source must receive a matching grant equal to 100 percent of the private contribution.
- A donation of at least $600,000 and associated state matching funds may be used to designate an Eminent Scholar Endowed Chair pursuant to procedures specified by the Board of Governors.
- The donations, state matching funds, or proceeds from endowments established under this section may not be expended for the construction, renovation, or maintenance of facilities or for the support of intercollegiate athletics.

The foundation serving a university has the responsibility for the maintenance and investment of its challenge grant account and for the administration of the program on behalf of the university, pursuant to procedures specified by the Board of Governors. Each foundation shall include in its annual report to the Board of Governors information concerning collection and investment of matching gifts and donations and investment of the account.

The Dr. Phillip Benjamin Matching Grant Program for Community Colleges enables each college to provide donors with an incentive in the form of matching grants for donations for:

- Scientific and technical equipment.
- Scholarships, loans, or need-based grants.
- Other activities that will benefit future students as well as students currently enrolled at the community college, will improve the quality of education at the community college, or will enhance economic development in the community.

The matching ratio under the Dr. Phillip Benjamin Matching Grant Program for donations that are specifically designated to support scholarships, including scholarships for first-generation-in-college students, student loans, or need-based grants shall be $1 of state funds to $1 of local private funds. Otherwise, funds shall be proportionately allocated to the community colleges on the basis of matching each $6 of local or private funds with $4 of state funds. To be eligible, a minimum of $4,500 must be raised from private sources.

The University Facility Enhancement Challenge Grant Program is for the purpose of assisting universities to build high priority instructional and research-related capital facilities, including common areas connecting such facilities. The associated foundations that serve the universities solicit gifts from private sources to provide matching funds for capital facilities. The matching ratio for this program is $1 of state funds to $1 of local private funds. For the purposes of this act, private sources of funds do not include any federal, state, or local government funds that a university may receive.

The Community College Facility Enhancement Challenge Grant Program is for the purpose of assisting the community colleges in building high priority instructional and community-related capital facilities consistent with including common areas connecting such facilities. The direct-support organizations that serve the community colleges solicit gifts from private sources to provide matching funds for capital facilities. The matching ratio for this program is $1 of state

funds to $1 of local private funds. Private sources of funds do not include any federal or state government funds that a community college may receive.

Prepaid College Program
Section 1009.98, F.S., creates the Stanley G. Tate Florida Prepaid College Program to provide a medium through which the cost of registration and dormitory residence may be paid in advance of enrollment in a state postsecondary institution at a rate lower than the projected corresponding cost at the time of actual enrollment. Such payments are combined and invested in a manner that yields, at a minimum, sufficient interest to generate the difference between the prepaid amount and the cost of registration and dormitory residence at the time of actual enrollment.

Coenrollment in Adult General Education
Current law allows adult education programs to serve currently enrolled high school students. The definition of an "adult student' includes high school students who are taking an adult education course required for high school graduation. The majority of school districts' adult education programs offer the coenrollment option to high school students. In the 2008-2009 school year, 60,000 high school students were also taking adult education courses. In the 2008-2009 school year, 33 of 56 districts providing adult education programs had 10 or more co-enrolled high school students. These 33 school districts spent approximately $29 million on these programs.

The Division of Career and Adult Education within the Department of Education conducted a survey on district adult high school coenrollment policies. The reasons for providing the coenrollment option varied among districts. School districts reported that coenrollment was offered as a dropout prevention measure, providing credit recovery to meet graduation requirements; or as grade replacement, which could also provide assistance to students in meeting Bright Futures eligibility requirements. Some districts limit the total number and type of courses, while others do not. Some districts limit participation by grade levels. Fifty two percent of the districts who responded allow course hours over standard diploma requirements.

Class Size Reduction Lottery Revenue Bond Program
The class size reduction lottery revenue bond program was established by the Legislature in Section 1013.727, F. S., in 2003 to provide additional facilities to meet a constitutionally required reduction in public school class size by the beginning of the 2010-2011 school year. The bond proceeds were used to finance or refinance the construction, acquisition, reconstruction, or renovation of educational facilities. The bonds were issued pursuant to, and in compliance with, the provisions of s. 11(d), Art. VII of the State Constitution, the provisions of the State Bond Act, Sections 215.57-215.83, F. S., as amended, and the provisions of Section 1013.727, F. S. The bonds are payable from, and secured by a first lien on, the first lottery revenues transferred to the Educational Enhancement Trust Fund each fiscal year, as provided by Section 24.121(2), F. S., and do not constitute a general obligation of, or a pledge of the full faith and credit of, the state.

Sunlink Transfer to College Center for Library Automation
In the Fiscal Year 2010-2011 General Appropriations Act, Specific Appropriation 80 appropriated $100,000 with proviso that directed $50,000 each to the College Center for Library Automation (CCLA) and the Department of Education to transfer the Sunlink bibliographic

database to the CCLA for inclusion in its online discovery tool product and made publicly searchable by school district students, staff, and parents. As of this date, the transfer has not been completed and the Sunlink bibliographic database is not available to school district students, staff, or parents.

Single Postsecondary Education Union Catalog
In the Fiscal Year 2010-2011 General Appropriations Act, proviso required the Florida Center for Library Automation (FCLA) and the College Center for Library Automation (CCLA) to expand their online discovery tool products to allow a user to search simultaneously the combined holdings and applicable electronic resources of FCLA and CCLA. In addition, library holdings currently available in Sunlink, as well as library holdings available in standard machine readable bibliographic records of the State Library of Florida and the public libraries should be included when and where feasible. FCLA and CCLA completed the expanded search function by the required September 1, 2010, deadline.

Establishment of Joint Library Technology Organizational Structure
The Florida Center for Library Automation (FCLA) is the library automation system for the state universities and assists the libraries in their support of teaching, learning, and research. FCLA implements and centrally supports the systems that help libraries acquire, manage, and provide access to information resources. Specifically FCLA provides the following services:

- Online catalog of all holdings and electronic resources of the state universities;
- Library management system;
- Acquisition of electronic databases and resources; and
- System administration.

The College Center for Library Automation (CCLA) is the library automation system for the institutions in the Florida College System. CCLA provides similar services to colleges and community colleges that FCLA provides to the state universities.

The Chancellors of the State University System and the Florida College System jointly established the Task Force on the Future of Academic Libraries in Florida and charged the task force to determine a vision and develop a strategic plan for the future of academic library access, resources and services in Florida that encompasses emerging trends and changing realities in the areas of instruction, research, technology and public services within the context of the academic mission. Recently the Chancellors expanded this charge to include recommendations for the establishment of a joint library technology organizational structure that will meet the needs of academic libraries in both the Florida College System and the State University System in a manner that must be more cost effective than the current organizational structure that includes FCLA and CCLA.

Student Financial Assistance
Although the State has a variety of financial aid programs, there is no uniform requirement that preference be given to need based students first.

III. Effect of Proposed Changes:

Gross receipts tax
The bill amends section 215.61, F.S, to direct the State Board of Education to disregard the effects on gross receipts tax collections of refunds paid as a direct result of the settlement reached in *In re: AT&T Mobility Wireless Data Services Sales Litigation, 270 F.R.D. 330* (August 11, 2010), when making the determination required by Section 215.61, F.S.

The bill also allows the Department of Revenue to share information regarding the amount of any refunds with the State Board of Education, the Division of Bond Finance, and the Office of Economic and Demographic Research.

The provisions of the bill remove the effects of the refunds on the amount of bonds that can be issued and serve to provide a more accurate estimate of the amount of future bonds that can be serviced by the gross receipts tax.

Distance Learning Consortium
The bill requires the Distance Learning Consortium, beginning with the 2011-2012 academic year, to implement a streamlined, automated on-line registration process for transient students. For purposes of this section, a transient student is defined as a student currently enrolled and pursuing a degree at a public postsecondary educational institution who wants to enroll in a course listed in the Florida Higher Education Distance Learning Catalog that is offered by a public postsecondary educational institution that is not the student's degree-granting institution. The consortium must work with the Florida College System (FCS) and State University System (SUS) to implement the application process which requires FCS and SUS institutions to:

- Use one standard transient student admissions application form, available through the Florida Academic Counseling and Tracking for Students system (FACTS.org);
- Implement financial aid procedures required by the transient student admissions application process;
- Transfer credit awarded by an institution offering the distance learning course to the transient student's degree-granting institution;
- Interface FCS and SUS systems, no later than July 1, 2012, to the FACTS.org system to electronically send, receive and process the transient admissions application; and
- Authorize a transient student fee of up to $5.00 per distance learning course.

The bill amends current law to require that the FACTS.org system include the transient student application process and that this application process allows for the electronic transfer and receipt of information and records for admissions and readmissions, financial aid, and transfer of credit awarded by the institution offering the distance learning course to the student's degree-granting institution.

Additionally, the bill clarifies that the central instructional content repository is for both public school and postsecondary educational users to search, locate, use, and contribute digital and electronic instructional resources and content, including open access textbooks.

Electronic Library Resources

The bill requires the chancellors of the Florida College System and the State University System to annually report to the Governor and chairs of the House and Senate legislative appropriations committees the cost savings realized as a result of the collaborative licensing process required in 2010.

Spring and Summer Student Enrollment
Subject to approval by the Board of Governors, each university is authorized to develop and implement a student enrollment plan for the spring and summer terms for the purpose of aligning on-campus student enrollment and the availability of instructional facilities. The plan shall provide for a student cohort that is limited to on-campus enrollment during the spring and summer terms. Students in this cohort would not eligible for on-campus enrollment during the fall term. Students who are enrolled for the spring and summer terms and who are eligible to receive Bright Futures Scholarships under ss. 1009.53-1009.536 are eligible to receive the scholarship award for attendance during the spring and summer terms but are not eligible to receive the scholarship for attendance during the fall terms.

Block Tuition Adult General Education
The bill provides for a $45 block tuition and an out-of-state fee of $135 per half year for students enrolled in adult general education courses. All funds received from the block tuition must be used for adult general education programs only.

The fee exemptions set forth in s. 1009.25(1), F.S., for students enrolled in adult basic, adult secondary, and career-preparatory instruction from payment of tuition and fees, are repealed.

Tuition Differential Fee for Need-Based Financial Aid
If the entire tuition and fee costs have been met for all need-based students who have applied for and received Pell Grant funds and a university has excess funds remaining from the 30 percent of the revenues from the tuition differential fee required to be used to assist students who exhibit financial need, the university may expend the excess portion of the 30 percent to enhance instruction in the same manner as required for the other 70 percent of the tuition differential fee revenue.

Excess Hour Tuition Surcharge
The bill increases the tuition surcharge for excess credit hours from 50 percent of tuition for students who reach 120 percent of the credit hours required for their degree to 100 percent of tuition for students who reach 115 percent of the credit hours required for their degree. Students enrolling in these additional courses will be assessed an increased fee in an effort to encourage students to complete the necessary degree requirements and enter the job force in a timely manner.

STEM Scholarship Program
The STEM Scholarship Program is created for students who are accepted and enrolled in an eligible major in programs of study in the fields of physical science, life science, computer science, technology, engineering, or mathematics. The purpose of the STEM Scholarship Program is to help eligible junior and senior undergraduate students who demonstrate need and are pursuing eligible majors to meet the cost of their postsecondary education. The program shall

be administered by the participating institutions in accordance with rules of the State Board of Education.

Grants to students through the program may be made only to baccalaureate, degree-seeking, Florida residents who are accepted and enroll in an eligible Florida postsecondary institution full-time, at least 12 semester hours or the equivalent per term, and who meet the general requirements for student eligibility as provided in s. 1009.40, except as otherwise provided. In addition the student:

- Must be enrolled in a state university or Florida college authorized by Florida law.
- Must be enrolled in a program of study leading to a baccalaureate degree in the field of physical, life, or computer sciences, mathematics, technology, or engineering.
- Must apply for the Pell Grant. The Pell Grant entitlement shall be considered when conducting an assessment of the financial resources available to each student. The first priority of funding shall be given to students having the lowest total family resources and who demonstrate need by qualifying and receiving federal Pell Grant funds. The amount of the STEM Scholarship award shall supplement the Pell Grant amount at least, but not limited to, up to the full cost of tuition and fees per term, not to exceed the maximum term award. An institution may not impose additional criteria to determine a student's eligibility to receive a grant award.
- Must earn an initial minimum cumulative grade point average of 2.75 on a 4.0 scale prior to applying.
- Must earn a minimum cumulative grade point average of 2.75 on a 4.0 scale for renewal.

A student is eligible to receive an annual STEM Scholarship award during the student's junior and senior academic years in all eligible programs for a maximum of 6 terms. The annual award amount shall be $1,000 per student or an amount as specified in the General Appropriations Act

Florida Resident Access Grant Program and
Access to Better Learning and Education Grant Program
The bill specifies that the funding for FRAG and ABLE for eligible institutions shall be as provided in the General Appropriations Act.

Matching Grant Programs
The bill temporarily suspends the state match for the facilities enhancement and operating challenge grant programs for universities and colleges for donations received after June 30, 2011. Existing eligible donations received before July 1, 2011, will remain eligible for future match.

Prepaid College Program
The bill suspends for the 2011-2012 fiscal year the sale of Florida Prepaid College contracts, except for STARS contracts and program completion purchases by existing participants. Contracts entered into before the effective date of this section may be continued in accordance with the terms of the contract.

Coenrollment in Adult General Education

A student who is coenrolled in K-12 education program and also in an adult general education course may not be reported for funding in the workforce adult general education program. The effect of this change is a reduction in the funds for workforce education.

Class Size Reduction and Educational Facilities Lottery Revenue Bond Program
The class size reduction lottery revenue bond program as provided in Section 1013.737, F. S., is expanded to include educational facilities in addition to facilities required to reduce class size. Issuance of any bonds and the use of any bond proceeds under this statute require prior authorization by the Legislature.

Sunlink Transfer to College Center for Library Automation
The bill requires the transfer of the Sunlink bibliographic database to the CCLA by September 1, 2011.

Single Postsecondary Education Union Catalog
The bill requires FCLA and CCLA to develop and submit a plan by December 1, 2011, for establishing a single postsecondary education union catalog that includes the combined holdings and electronic resources of all state universities and institutions in the Florida College System. The plan must include projected costs for the development and ongoing maintenance of the union catalog and projected cost savings resulting from FCLA and CCLA no longer being required to maintain separate online discovery tool products and associated resources

Establishment of Joint Library Technology Organizational Structure
The bill requires the Task Force on the Future of Academic Libraries in Florida to develop and submit the plan for the establishment of a joint library technology organizational structure to the chairs of the appropriations committees of the Senate and the House of Representatives and the Executive Office of the Governor by January 1, 2012

Student Financial Assistance
The bill prioritizes state student financial assistance to the neediest (Pell eligible) students, up to the full cost of tuition and fees.

Other Funding Provisions
The bill provides that funding for state scholarship programs, tuition assistance programs, and the First Accredited Medical School shall be as specified in the General Appropriations Act. It also includes current proviso language that prohibits the use of workforce education funds for prison inmate education. The bill also updates student fee language for the Florida College System and the Workforce Development Program.

Other Potential Implications:

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:

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The bill authorizes a nominal (up to $5) fee per distance learning course for processing transient admissions applications. This is part of a plan to streamline and automate the distance learning admissions process and to cover the cost of processing the electronic admission applications. In the current year, there were about 44,541 transient applications sent through FACTS.org. Should these students all meet the criteria outlined in the bill for electronic registration, (registered undergraduate student seeking a class through the Distance Learning Catalogue at another public institution) and if all institutions levied the maximum fee, an additional $222,750 would be available to the State Universities and the Florida College System.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Bonding - The bill modifies education bonding programs by broadening the uses of bond proceeds by expanding the Class Size Reduction lottery bond program and by increasing PECO bond capacity by disregarding the effects of a 2010 refund. The lottery bond program has approximately $30 million in available bond capacity and the change in PECO creates additional capacity of approximately $130 million.

Spring and summer student enrollment – Many state universities have a higher enrollment in the fall than in the spring and summer terms. Once a university is allowed to accept a group of students limited to these latter terms, better and more efficient use of university facilities and resources is anticipated.

Tuition differential fee for need-based aid – For a university which has met the requirement for need-based aid for students from the tuition differential, the changes will allow for more flexible utilization of the remaining differential funds.

Increase in tuition surcharge for excess hours from 50% to 100% - There is a potential for additional revenue of up to $52 million for the university system. However changes in student behavior (more students may probably graduate sooner rather than pay the higher fees), may negate a significant portion of this potential revenue. Should a significant number of affected students graduate sooner, this would contribute to the efficiency of the system by freeing up capacity and increasing graduation rates.

STEM scholarships – The amount of $3.4 million is included in the proposed Senate Budget for this scholarship.

Temporary suspension of state matching for Challenge Grants – The state share of the unmatched Challenge Grants now totals $517 million. The suspension will freeze state commitments to donations received by June 30, 2011.

Prohibition of funding for coenrollment –The budget makes reductions of $699,792 in the Florida Colleges and $28 million in Public School Workforce Programs for this population. However these amounts are added back to their respective budgets to be reallocated to existing programs.

Tuition increase for workforce, college, and adult general education – The proposed Senate budget includes an 8% tuition increase for the Florida colleges and Workforce Development. This will yield an additional $67.7 million and $2.9 million respectively for the two systems. In addition, the new block tuition for adult general education is expected to yield revenue of $12.7 million at current enrollment levels in district Workforce Programs and the Florida Colleges.

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.

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 Budget Committee

BILL:	SPB 7118
INTRODUCER:	For consideration by the Budget Committee
SUBJECT:	Juvenile Justice
DATE:	March 29, 2011 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sadberry	Meyer, C.		**Pre-meeting**
2.				
3.				
4.				
5.				
6.				

I. Summary:

The bill requires the Department of Juvenile Justice (DJJ), beginning in the 2012-2013 fiscal year, to establish a minimum of two pilot sites where a community-based juvenile justice system will be implemented for two years. The pilot sites must be in the following judicial circuits: the Sixth (Pasco and Pinellas counties), and the Ninth (Orange and Osceola counties).

The bill defines the term "regional coordinating agency" (RCA) as a single nonprofit or county government agency with which DJJ must contract for the provision of juvenile justice services in a community that consists of at least one entire county. The bill also sets forth various requirements that an RCA must meet.

The bill requires DJJ, by January 1, 2013, to contract with an RCA for the delivery, administration, and management of the following juvenile justice services: intervention, prevention, assessment centers, diversion programs, civil citation, and home detention, alternatives to detention, community-based services, probation, day treatment, independent living, evidenced-based programs, residential programming, and detention.

DJJ is required to transfer all administrative and operational funding associated with these services to the RCA (less those funds that are necessary to provide and coordinate management of quality assurance and oversight). The bill requires RCAs to contract with providers that meet current DJJ standards and to comply with statutory requirements and agency regulations in providing contractual services.

The bill specifies that DJJ remains responsible for the quality of contracted services and programs and requires DJJ to ensure that such services are delivered in accordance with

applicable federal and state statutes and regulations. The bill specifies that DJJ must coordinate inspections of program offices pursuant to the approval of the applicable RCA.

The bill also requires DJJ to do the following:

- Establish a quality assurance program for community-based juvenile justice.
- Establish and operate a comprehensive system to measure the outcomes and effectiveness of the services that are part of an RCA's community-based juvenile justice service programs.
- Establish minimum thresholds for each component of service.
- Annually evaluate each RCA under the provisions of the quality assurance program and annually submit the evaluation to specified entities, beginning in 2013.

This bill creates section 985.665 of the Florida Statutes.

The bill also amends s. 985.441, F.S., to provide that a juvenile judge may not commit an adjudicated delinquent youth whose underlying offense is a misdemeanor to a restrictiveness level other than minimum-risk nonresidential if the youth is adjudicated with a misdemeanor or probation violation for a misdemeanor, other than a new law violation constituting a felony.

II. Present Situation:

Department of Juvenile Justice - Organization
Currently, DJJ is organized in five program areas - Administrative Services, Prevention and Victim Services, Probation and Community Intervention, Detention Services, and Residential Services.

Administrative Services
The Administrative Services program area (also referred to as Executive Direction and Support) serves as the administrative support arm of DJJ. It is comprised of the following offices:

- Chief of Staff
- Deputy Secretary
- Office of General Counsel
- Office of the Inspector General
- Administrative Services
- Staff Development and Training
- Program Accountability
- Legislative Affairs
- Communications

Prevention and Victim Services

DJJ provides delinquency prevention services through the Office of Prevention and Victim Services. Prevention services target at-risk youth who exhibit problem behaviors (such as ungovernability, truancy, running away from home, and other pre-delinquent behaviors) before they result in more serious crimes. DJJ addresses these problem behaviors by contracting for delinquency prevention services and awarding grants to local providers throughout the state.

Probation and Community Intervention

Every youth under the age of 18 charged with a crime in Florida is referred to DJJ. A referral is similar to an arrest in the adult criminal justice system. Once referred, DJJ assesses the youth and recommends to the state attorney and the court appropriate sanctions and services for the youth. When making a recommendation, DJJ has several options that allow the youth to remain in his or her home community.

One option is diversion, which uses alternatives to the formal juvenile justice system for youth who have been charged with a minor crime. Diversion programs include Intensive Delinquency Diversion Services (IDDS), Community Arbitration, the Juvenile Alternative Services Program (JASP), Teen Court, Civil Citation, Boy and Girl Scouts, Boys and Girls Clubs, mentoring programs, and alternative schools. These programs employ a variety of non-judicial sanctions, including:

- Restitution (payment) to the victim(s);
- Community service hours;
- Letter of apology to the victim(s);
- Curfew;
- Forfeiture of driver's license;
- Encouragement to avoid contact with co-defendants, friends, or acquaintances who are deemed to be inappropriate associations;
- Referrals to local social service agencies; and
- Substance abuse or mental health counseling.

If the court places a youth on probation, he or she must complete court-ordered sanctions and services (e.g., community service, restitution, curfew, substance abuse or mental health counseling, etc.). Each youth is assigned a juvenile probation officer who monitors compliance and helps the youth connect with service providers. If the youth does not comply with the terms of probation, the youth may be ordered to live in a residential commitment facility for a period of time. According to DJJ, the redirection program is one of the most important resources for families under supervision. Redirection provides intensive family focused intervention for youth at high risk of reoffending and being placed in more expensive residential commitment facilities.

Probation and Community Intervention is also responsible for aftercare services when a youth is released from a commitment facility. When a youth is discharged from a commitment facility, he or she is usually placed on conditional release (similar to parole in the adult criminal justice system). Conditional release is designed to provide monitoring and services to those youth who are transitioning back to the community after being in a residential program. These youth have court-ordered sanctions and services that they must complete.

Detention Services

Detention is the custody status for youth who are held pursuant to a court order, or following arrest for a violation of the law. In Florida, a youth may be detained only when specific statutory criteria, outlined in s. 985.215, F.S., are met. Criteria for detention include current offenses, prior history, legal status, and any aggravating or mitigating factors. Detention screening is performed at Juvenile Assessment Centers (JACs) or by juvenile probation staff using a standardized Detention Risk Assessment Instrument. Juvenile detention consists of two types - secure detention and home detention.

Residential Services

Delinquent youth in Florida can be ordered by the court to serve time in a juvenile residential or detention facility depending on the severity of his or her crime and behavior. DJJ either contracts for or directly operates more than 116 residential programs with a total of approximately 4,200 beds.

DJJ commitment managers conduct multidisciplinary commitment conferences for all youth considered for commitment to DJJ for juvenile or adult court. After a comprehensive evaluation of the youth and receiving input from conference participants, the commitment manager establishes DJJ's commitment recommendation to the court. Primary consideration for commitment recommendations is public safety, meeting the individual treatment needs of the youth, and ensuring no other options are viable at a less restrictive level to reduce or eliminate the youth's threat to public safety. Once the court has ordered the youth to a specific restrictiveness level, it is the responsibility of DJJ to determine the most appropriate placement available within that restrictiveness level.

Consistent with s. 985.03(44), F.S., DJJ's residential commitment programs are grouped into five custody classifications based on the assessed risk to public safety. The restrictiveness levels represent increasing restriction on youths' movement and freedom. The least restrictive, or minimum-risk level, is non-residential and falls under the jurisdiction of Probation and Community Control rather than Residential Services. The remaining four restrictiveness levels of commitment are as follows:

- Low-risk residential (may allow youth unsupervised access to the community);
- Moderate-risk residential (may allow youth supervised access to the community);
- High-risk residential (does not allow youth access to the community, except as approved for limited reasons); and
- Maximum-risk residential (does not allow youth to have access to the community).

Residential programs provide differing levels of programming to address the supervision, custody, care, and treatment needs of committed children. In residential programs, delinquent youth receive educational and vocational services and complete an individually designed treatment plan, based on their rehabilitative needs. In addition, all residential programs provide medical, mental health, substance abuse, and developmental disability services.

Private providers operate most of the residential facilities for juveniles in Florida under contracts with DJJ. The providers are regularly monitored and evaluated through the DJJ's Quality

Assurance program. DJJ's Inspector General investigates incidents at programs involving staff or youth.

Currently, Florida has a budgeted capacity of 4,146 residential commitment beds for juvenile youths with approximately two-thirds of those providing special needs services. The current utilization rate hovers around 90 percent of the number of operational beds. In FY 2008-2009, there were 6,402 new admissions of juveniles to residential programs, representing a 3 percent reduction from FY 2007-08 (6,587) and a five-year overall reduction of 28 percent (8,897) in new admissions to residential programs.

III. Effect of Proposed Changes:

The bill creates s. 985.665, F.S., entitled "Community-Based Juvenile Justice." It requires DJJ, beginning in the 2011-2012 fiscal year, to establish a minimum of two pilot sites where a community-based juvenile justice system will be implemented for two years. The pilot sites must be in the following judicial circuits: the Sixth (Pasco and Pinellas counties), and the Ninth (Orange and Osceola counties).

The bill requires DJJ, by January 1, 2013, to contract with a regional coordinating agency (RCA) for the delivery, administration, and management of the following juvenile justice services: intervention, prevention, assessment centers, diversion programs, civil citation, home detention, alternatives to detention, community-based services, probation, day treatment, independent living, evidenced-based programs, residential programming, and detention.

DJJ is required to transfer all administrative and operational funding associated with these services to the RCA (less those funds that are necessary to provide and coordinate management of quality assurance and oversight). RCAs are required to thoroughly analyze and report the complete direct and indirect costs of delivering the above-described services through DJJ and the full cost of community-based juvenile justice, including the cost of monitoring and evaluating the contracted services. The bill specifies that RCAs shall be selected from the request for proposal process, pursuant to s. 287.057(1)(b), F.S., but requires them to be established organizations within the judicial circuit. The bill requires RCAs to contract with providers that meet current DJJ standards and to comply with statutory requirements and agency regulations in providing contractual services.

The bill specifies that DJJ will remain responsible for the quality of contracted services and programs and requires DJJ to ensure that such services are delivered in accordance with applicable federal and state statutes and regulations. The bill specifies that DJJ must coordinate inspections of program offices pursuant to the approval of the applicable RCA.

The bill requires DJJ, in partnership with an objective, competent entity, to establish a quality assurance program for community-based juvenile justice that includes national standards for each specific component of services. The bill also requires DJJ, in consultation with the RCAs, to establish minimum thresholds for each component of service. DJJ, or an objective, competent entity designated by DJJ, must annually evaluate each RCA under the provisions of the quality assurance program. Beginning in 2014, DJJ must annually submit the evaluation regarding quality performance, outcome measure attainment, and cost efficiency to the President of the

Senate, Speaker of the House of Representatives, the minority leaders of the Senate and the House of Representatives, and the Governor.

The bill requires DJJ to establish and operate a comprehensive system to measure the outcomes and effectiveness of the services that are part of the RCAs' community-based juvenile justice service programs. DJJ must use these findings in making recommendations to the Governor and the Legislature for future program and funding priorities.

The bill defines the term "regional coordinating agency" as a single nonprofit or county government agency with which DJJ must contract for the provision of juvenile justice services in a community that consists of at least one entire county. The requirements for an RCA include, but are not limited to:

- The organizational infrastructure and financial capacity to coordinate, integrate, and manage all juvenile justice services in the designated community in cooperation with law enforcement and the judiciary.
- The ability to ensure continuity of care from entry to exit for all juveniles referred to the agency by law enforcement agencies, the court system, and other referral services.
- The ability to contract with providers to create a local network of juvenile justice services.
- The willingness to accept accountability for meeting the outcomes and performance standards related to juvenile justice established by the Legislature and the federal government.
- The capacity and willingness to serve all juveniles referred to the agency by law enforcement agencies and the court system with funding from DJJ.

The bill requires operations of an RCA to be governed by a local board of directors, of which 75 percent of the membership must be comprised of persons residing within the RCA's service area. The bill specifies that with respect to the treatment of juvenile offenders, RCAs and contracted providers will be treated as the state and its agencies and subdivisions for liability purposes under s. 768.28, F.S.

In addition, the bill prohibits a juvenile court judge from committing a juvenile misdemeanant (a youth adjudicated delinquent solely for a misdemeanor or a misdemeanor probation violation) to a restrictiveness level higher than minimum-risk nonresidential, except under certain circumstances. The bill amends s. 985.441, F.S., to provide that a juvenile judge may not commit an adjudicated delinquent youth whose underlying offense is a misdemeanor to a restrictiveness level other than minimum-risk nonresidential if the youth is adjudicated with a misdemeanor or probation violation for a misdemeanor, other than a new law violation constituting a felony.

However, the court may commit the youth to a low-risk or moderate-risk residential placement if the youth:

- Has previously been adjudicated or had adjudication withheld for a felony;
- Has previously been adjudicated or had adjudication withheld for two or more misdemeanors;

- Is before the court for committing the misdemeanor offense of animal cruelty, arson, or exposure of sexual organs;
- Proves to be unsuitable for a nonresidential program because of his or her refusal to follow the court's order, program requirements, or the DJJ's treatment plan.

Furthermore, the bill provides that the court may commit a youth who has previously been committed to a moderate-risk residential program to any restrictiveness level. The bill also specifies that the DJJ may not administratively transfer a youth adjudicated solely for a misdemeanor to a residential program except as provided above.

Finally, the bill adds monitoring for substance abuse and electronic monitoring to the list of statutorily authorized purposes for exercising active control over a youth who is committed to the DJJ.

Sections 3, 4, and 5 are amended to conform cross-references in the bill.

Section 6 provides for an effective date of July 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may have a positive fiscal impact on juvenile justice service providers as well as private entities that are selected to serve as an RCA.

C. Government Sector Impact:

The bill requires DJJ to transfer all administrative and operational funding associated with community-based juvenile justice services to the RCA in each pilot site (less those funds that are necessary to provide and coordinate management of quality assurance and oversight).

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.

426454

LEGISLATIVE ACTION

Senate . House

. . . . .

The Committee on Budget (Alexander) recommended the following:

Senate Amendment (with title amendment)

Delete lines 265 - 277.

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

And the title is amended as follows:

Delete lines 17 - 20

and insert:

appropriated to the office for that purpose; amending s.

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 Budget Committee

BILL:	SPB 7120
INTRODUCER:	For consideration by the Budget Committee
SUBJECT:	State Judicial System
DATE:	March 29, 2011 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hendon	Meyer, C.		**Pre-meeting**
2.				
3.				
4.				
5.				
6.				

I. Summary:

The bill makes conforming changes to the Florida Statutes necessary to implement the proposed Senate budget in the criminal and civil justice area. The bill contains provisions to create the Judicial Caseload Incentive Plan to resolve certain civil disputes in a timely manner by setting performance goals and making nonrecurring financial awards to judges. The bill authorizes a Direct Service Organization for the regional conflict counsels to allow them to raise private funds to support the work of the offices. The bill provides that the Office of State Court Administrator will pay court appointed counsel attorney fees when the court orders payments above the rate set in law. The bill contains provisions to redirect a portion of fine revenues from the Public Records Modernization Trust Fund to the Clerks of Court Trust Fund. The bill requires the Clerks of Court Operations Corporation to collect existing clerk of court reports on county use of fees to support court facilities and submit them to the chief judge, the Governor, the President of the Senate, and the Speaker of the House of Representatives. The bill has an effective date of July 1, 2011. The bill is expected to have a positive fiscal impact to the state. Provisions to create the Judicial Caseload Incentive Plan are dependent on appropriations and could reduce costs to the state court system if cases are processed in a more timely manner. Provisions to require the Office of State Court Administrator to pay court appointed counsel attorney fees when the court orders payments above the rate set in law are expected to reduce costs to the state.

This bill substantially amends the following sections of the Florida Statutes: 27.511, 27.5304, 28.37, and 318.18.

II. Present Situation:

State Judicial System

In 1998, Florida voters approved Revision 7 to Article V of the State Constitution, which required the state to pay certain costs in the judicial system that had previously been county responsibilities. These changes were effective July 1, 2004. Under Revision 7 to Article V, the counties continue to fund the cost of facilities, security, and communications, including information technology for the trial courts, state attorneys, and public defenders. The state pays for the due process costs of these entities, including the cost of court appointed counsel for certain persons in criminal and civil matters. Funds for due process costs are appropriated to the Justice Administrative Commission, the agency that administratively houses state attorneys, public defenders, and other court-related entities.

Funding for judges and support staff have remained a state responsibility. Trial courts hear criminal and civil cases at the county and circuit level. When civil disputes take significant judicial time to resolve, the state's costs, as well as those of private litigants, increase. Chief judges in each circuit use a variety of ways to manage the caseload. Currently, judges are compensated at a level specified in law regardless of how long cases take to dispose.

To assist the counties in funding the cost of one of their remaining responsibilities, court facilities, the legislature authorized an additional surcharge on traffic infractions to be retained locally. The individual clerks of court provide a quarterly report to the chief judge, the Governor, the President of the Senate, and the Speaker of the House of Representatives on these revenues and expenditures.

Clerk of Court Funding

The constitutional amendment also required the 67 county clerks of court to fund their offices using revenues derived from service charges, court costs, filing fees, and fines assessed in civil and criminal proceedings. The legislature set the amount of some service charges, court costs, and filing fees. In other cases, the legislature set a cap on the amounts. Except for certain specified local and state uses, the vast majority of service charges, court costs, filing fees, and fines support the budgets of the clerks and the state courts. Current law allows the clerk of court to retain ten percent of all fines collected to be used to support their court related functions. These funds are deposited in the clerk's Public Records Modernization Trust Fund. This trust fund is retained locally and the state is not allowed to appropriate these funds. The amount of fines deposited into the Public Records Modernization Trust Fund is unknown, but was estimated to be approximately $26 million after legislation was passed in 2009 to authorize the retention of these revenues locally. The remaining revenues derived from service charges, court costs, filing fees, and fines are deposited in the Clerks of Court Trust Fund to be used to fund the clerks offices in the General Appropriations Act. The Revenue Estimating Conference on February 14, 2011 for Article V Fees and Transfers estimated that $470.9 million in revenues would be deposited into the Clerks of Court Trust Fund in the fiscal year 2011-12. After paying the statutorily required service charge to the General Revenue Fund, $433.9 million would be available in the Clerks of Court Trust Fund to fund the court related operations of the clerks. The appropriation for the clerks in the proposed Senate budget for fiscal year 2011-12 is $445

million. The estimated revenue available in the Clerks of Court Trust Fund is insufficient to support the appropriation to the clerks in the proposed Senate budget.

Criminal and Civil Conflict Regional Counsels (Regional Conflict Counsels)

The 2007 legislature created five regional conflict counsels to take criminal cases that the public defender could not take due to ethical conflicts and certain other civil cases for persons entitled to representation by law. Civil cases include providing legal representation to indigent parents in dependency and termination of parental rights.

A direct-support organization (DSO) is typically created as a not-for-profit corporation to give a governmental entity or program the flexibility to seek an additional funding source. Numerous DSOs are provided for in statute.

Payment of Court Appointed Counsel

Prior to July 1, 2007, all criminal conflict cases and certain civil cases were handled exclusively by private, court appointed counsel. While the legislature created the regional conflict counsels to take most of these cases, if the regional conflict counsels have an ethical conflict, the case must be handled by private, court appointed attorneys. The chief judge in each circuit maintains a registry of qualified attorneys and these attorneys sign a contract with the Justice Administrative Commission (JAC) to receive payment based on a flat fee. If a court finds that the case warrants a fee in excess of the flat fee, the court may double the amount. If that is still not sufficient, the court may order the JAC to pay the attorney an hourly amount. The number of times the court orders payments above the cap have increased over time. In fiscal year 2008-2009, the court ordered payments over the flat fee in 161 cases for an additional cost of $940,263. In fiscal year 2009-2010, the court ordered such payments in 294 cases for an additional cost of $2,612,618. In the first half of fiscal year 2010-2011, the court ordered payments over the flat fee in 208 cases for an additional cost of $2,079,141. These costs are paid from the Criminal Conflict Appropriation Category. The costs of criminal conflict counsel, including court ordered payments above the flat fee, have exceeded original appropriations in the last several years. To resolve these projected deficits, the legislature has had to transfer funds from other due process categories in the Justice Administrative Commission and make supplemental appropriations from unallocated general revenue. The proposed Senate budget increases funding for this function by approximately $17 million for fiscal year 2011-2012.

III. Effect of Proposed Changes:

Section 1 creates the Judicial Caseload Incentive Plan to assist in resolving civil disputes in a timely manner and reducing legal costs. The plan allows judges that preside over civil cases to earn a nonrecurring award of $12,000 if certain performance goals are met relating to timely disposition of cases. The annual performance goals and the specific case types are stated in the General Appropriations Act each year. The Office of State Courts Administrator tracks performance on a quarterly basis and makes quarterly payments of the award to judges presiding over certain case types when quarterly performance goals are met. Funds are to be appropriated in the General Appropriations Act for this purpose.

Section 2 amends s. 27.511, F.S., to authorize the five regional conflict counsels to create and contract with a not-for-profit direct-support organization (DSO) to conduct programs and activities, raise funds, and make expenditures for the benefit of the office. The bill specifies that any moneys acquired by the DSO may be held in a separate depository account in the name of the organization and subject to a contract with the office. The DSO must also provide for an annual financial audit.

Section 3 amends s. 27.5304, F.S., to require the Office of State Courts Administrator to pay court appointed counsel fees when the court orders payment above the flat fees set in the Florida Statutes and the General Appropriations Act. Under the bill, the Justice Administrative Commission would pay the flat fee and the Office of State Courts Administrator would pay the amount ordered by the court to be paid in addition to the flat fee.

Section 4 amends s. 28.37, F.S., to delete provisions allowing the clerk of court to retain ten percent of all fines collected locally in the Public Records Modernization Trust Fund to support court related functions. The bill redirects these revenues to the Clerks of Court Trust Fund in order to fully fund the clerks at the amount proposed in the proposed Senate budget.

Section 5 amends s. 318.18, F.S., to require the Clerk of Court Operations Corporation to collect a quarterly report from the clerks of court on a local surcharge on traffic infractions. This surcharge helps counties fund their responsibility to provide court facilities. The corporation will collect and submit the reports in an electronic format to the chief judge, the Governor, the President of the Senate, and the Speaker of the House of Representatives.

Section 6 provides an effective date of July 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Private litigants may see their legal costs decrease if the court processes cases in a more timely manner. Private individuals will be able to make charitable donations to the regional conflict counsel offices.

C. Government Sector Impact:

The bill is expected to have a positive fiscal impact to the state. Provisions to create the Judicial Caseload Incentive Plan are dependent on appropriations and could reduce costs to the state court system if cases are processed in a more timely manner. Provisions to require the Office of State Court Administrator to pay court appointed counsel attorney fees when the court orders payments above the rate set in law are expected to reduce costs to the state.

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.

411640

LEGISLATIVE ACTION

Senate . House

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The Committee on Budget (Bogdanoff) recommended the following:

Senate Amendment (with title amendment)

Between lines 59 and 60
insert:

Section 6. Section 938.25, Florida Statutes, is transferred, renumbered as section 938.055, Florida Statutes, and amended to read:

938.055 ~~938.25~~ Operating Trust Fund of the Department of Law Enforcement.—Notwithstanding any provision to the contrary of the laws of this state, the court shall ~~may~~ assess any defendant who pleads guilty or nolo contendere to, or is convicted of, a violation of any provision of chapters 775-896 ~~s. 893.13~~, without regard to whether adjudication was withheld,

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in addition to any fine and other penalty provided or authorized by law, an amount of $100, to be paid to the clerk of the court, who shall forward it to the Department of Revenue for deposit in the Operating Trust Fund of the Department of Law Enforcement to be used by the statewide criminal analysis laboratory system for the purposes specified in s. 943.361. This amount shall be assessed when the services of any criminal analysis laboratory, as designated in s. 943.32, is used in connection with the investigation or prosecution of a violation of any provision of chapters 775-896. The court may not waive this assessment ~~is authorized to order a defendant to pay an additional assessment if it finds that the defendant has the ability to pay the fine and the additional assessment and will not be prevented thereby from being rehabilitated or from making restitution~~.

Section 7. Paragraph (l) of subsection (1) of section 921.187, Florida Statutes, is amended to read:

921.187 Disposition and sentencing; alternatives; restitution.—

(1) The alternatives provided in this section for the disposition of criminal cases shall be used in a manner that will best serve the needs of society, punish criminal offenders, and provide the opportunity for rehabilitation. If the offender does not receive a state prison sentence, the court may:

(l)1. Require the offender who violates any criminal provision of chapter 893 to pay an additional assessment in an amount up to the amount of any fine imposed, pursuant to ss. 938.21 and 938.23.

2. Require the offender who violates any provision of s. 893.13 to pay an additional assessment in an amount of $100,

411640

pursuant to ss. 938.055 ~~938.25~~ and 943.361.

Section 8. Section 943.361, Florida Statutes, is amended to read:

943.361 Statewide criminal analysis laboratory system; funding through fine surcharges.—

(1) Funds deposited pursuant to ss. 938.07 and 938.055 ~~938.25~~ for the statewide criminal analysis laboratory system shall be used for state reimbursements to local county-operated crime laboratories enumerated in s. 943.35(1), and for the equipment, health, safety, and training of member crime laboratories of the statewide criminal analysis laboratory system.

(2) Moneys deposited pursuant to ss. 938.07 and 938.055 ~~938.25~~ for the statewide criminal analysis laboratory system shall be appropriated by the Legislature in accordance with the provisions of chapter 216 and with the purposes stated in subsection (1).

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

And the title is amended as follows:

Delete line 14

and insert:

Enforcement; transferring, renumbering, and amending s. 938.25, F.S.; requiring a court to assess an additional amount against a defendant who pleads guilty or nolo contendere to, or who is convicted of, violating certain specified offenses, and the services of a criminal analysis laboratory are used in the

411640

investigation of the offense; providing for the proceeds of the assessment to be deposited into the Operating Trust Fund of the Department of Law Enforcement and used by the statewide criminal analysis laboratory system; prohibiting the court from waiving the assessment; amending ss. 921.187 and 943.361, F.S.; conforming cross-references; providing an effective date.

245946

LEGISLATIVE ACTION

Senate . House

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The Committee on Budget (Fasano) recommended the following:

Senate Amendment (with title amendment)

Between lines 48 and 49

insert:

Section 3. Section 943.0415, Florida Statutes, is created to read:

943.0415 Cybercrime Office.—There is created within the Department of Law Enforcement the Cybercrime Office. The office may investigate violations of state law pertaining to the sexual exploitation of children which are facilitated by or connected to the use of any device capable of storing electronic data.

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

And the title is amended as follows:

245946

Between lines 7 and 8

insert:

creating s. 943.0415, F.S.; creating the Cybercrime Office within the Department of Law Enforcement to investigate certain violations of state law pertaining to the sexual exploitation of children;

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 Budget Committee

BILL:	SPB 7122
INTRODUCER:	For consideration by the Budget Committee
SUBJECT:	Criminal Justice
DATE:	March 29, 2011
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sneed	Meyer, C.		**Pre-meeting**
2.				
3.				
4.				
5.				
6.				

I. Summary:

The bill makes conforming changes to the Florida Statutes necessary to implement the Senate's proposed budget for Fiscal Year 2011-12. The bill eliminates the Cybercrime Office in the Department of Legal Affairs (DLA) and transfers its duties, responsibilities and resources to the Florida Department of Law Enforcement (FDLE) by a type two transfer. The bill limits the number of basic recruit training hours necessary to be a certified correctional officer to 360 hours. In addition, the bill eliminates the Department of Correction's authority to operate the Basic Training Program (aka: boot camps) for youthful offenders. The bill has an effective date of July 1, 2011.

The bill is expected to have a positive fiscal impact to the state. It eliminates a duplicative function by providing for the transfer of DLA's cybercrime investigative staff to FDLE where it will be combined with FDLE's computer crimes unit. The bill eliminates the Department of Correction's Basic Training Program for youthful offenders. The bill is expected to reduce the salary and training costs for the Department of Corrections and for private entities that operate prisons for the state.

The bill substantially amends section 943.13 and repeals sections 16.61, 951.231(1)(c), and 958.045 of the Florida Statutes.

II. Present Situation:

Department of Legal Affairs, Cybercrime Office

Section 16.61, F.S., created the Cybercrime Office in the Department of Legal Affairs in 2006. The office is charged with investigating violations of state law pertaining to the sexual

exploitation of children over the Internet and other electronic devices. The office currently employs 34 full-time equivalent (FTE) positions and has a budget of $2.5 million.

The Florida Department of Law Enforcement has a computer crimes unit that has been in existence since 1998 and handles computer cybercrime investigations, including those involving child predators. The unit currently employs 14 FTE and has a budget of $1.4 million.

Correctional Officer Recruit Training

As required in s. 943.13, F.S., the minimum qualifications for correctional officers include completing the basic recruit training course and eligibility for, or possession of, a current employment certificate of compliance issued by the Florida Criminal Justice Standards and Training Commission. The Commission is housed within the Department of Law Enforcement. Typical applicants with the Department of Corrections have not had the required training to be a correctional officer. The department hires new recruits at a salary of $28,007, plus benefits, and pays for their academy training, including tuition, books and materials, ammunition, and uniforms. When a trainee completes basic training and passes the certification exam, the department increases his salary to $30,808 annually, which is the entry-level salary for a certified officer.

According to a recent OPPAGA analysis, the department paid $3.1 million in Fiscal Year 2009-10 in tuition costs for 2,144 trainees to attend correctional officer academies, plus $18 million in salaries to trainees while they attended the academy training. In the northern part of the state the department primarily uses in-house staff to train recruits at a reported cost of $905 per trainee. In the central and southern regions of the state, the department must rely primarily on community colleges and technical centers to provide the training at an average cost of $2,376 per trainee.

The state's Correctional Officer Basic Recruit Training established by the Florida Criminal Justice Standards and Training Commission currently requires each correctional officer recruit to take 552 hours of classroom training and pass a final exam to become certified. The curriculum has 11 components including: Criminal Justice Legal I and II (68 hours); Criminal Justice Communications (42 hours); Interpersonal Skills (112 hours); Criminal Justice Defensive Tactics (80 hours); Firearms (80 hours); First Aid (40 hours); Emergency Preparedness (26 hours); Correctional Operations (64 hours); and Physical Fitness Training (40 hours). The course typically takes 16 weeks to complete.

OPPAGA found that many states require fewer correctional officer recruit training hours. For example, Georgia requires 4 weeks, California requires 4 ½ weeks, Texas requires 5 weeks, New York requires 8 weeks, and Alabama requires 12 weeks of training.

Department of Corrections Youthful Offender Basic Training Program

One purpose of Florida's Youthful Offender Act (ch. 958, F.S.) is to provide sentencing alternatives to improve a youthful offender's chances for rehabilitation. Section 958.04, F.S., provides the following sentencing options for a court-adjudicated youthful offender:

(1) probation or community control;
(2) up to 364 days of incarceration as a condition of probation or community control;
(3) a split sentence of incarceration followed by probation or community control; or
(4) custody by the Department of Corrections.

In cases where the court has elected adult adjudication and sentencing, the Department of Corrections may administratively classify someone as a youthful offender if that person is between 18 and 24 years old or has been transferred for criminal prosecution pursuant to chapter 985, F.S.; has not been previously sentenced as a youthful offender by a court; and has received a sentence of less than 10 years.

Unlike court adjudication which results in a limited sentence length and the sealing of court records, the department's youthful offender classification only determines the correctional facilities and programs a youthful offender may be placed.

The Department of Corrections has two programming tracks for youthful offenders:

- *Basic Training Program* for offenders approved to participate by the court
- *Extended Day Program* created by the department for offenders who are not assigned to a Basic Training Program

Basic Training Program
This is a statutorily mandated, structured, disciplinary program that lasts a minimum of 120 days and is based upon a military basic training model with marching drills, calisthenics, a rigid dress code, manual labor assignments, and physical training with obstacle courses. In addition, the program includes training in decision making and personal development, along with the required general education courses, drug counseling, and other rehabilitation. Successful completion results in modification of the youthful offender's sentence. A participant who fails the program is placed in the general youthful offender population.

Candidates are selected by the department from the entire youthful offender population and are not limited to just offenders recommended by the courts. Candidates must be able to engage in strenuous physical activities, and have never been imprisoned in a state or federal facility. The department's selection process must also include review of the candidate's criminal history and assessment of the potential rehabilitative benefits of the boot camp. If a youthful offender meets these qualifications and is selected for participation, the department must seek permission from the sentencing court to place him or her in the program.

The department operates the following *Basic Training Programs*:

- A 28-bed boot camp for females located at Lowell Correctional Institution in Marion County. There are currently 4 inmates housed at this boot camp. Inmates are supervised by a staff of 14.
- A 112-bed boot camp for males located at Sumter Correctional Institution in Bushnell, Florida. Currently, there are 77 inmates housed at this boot camp. Inmates are supervised by a staff of 36.

Approximately two-thirds of the 1,147 youthful offenders who entered the Basic Training Program from 2005 through 2009 completed the program and had the remainder of their sentences modified.

Extended Day Program (EDP)
Only a small percentage of youthful offenders can take part in this basic training program, but the Legislature mandates that enhanced program services be provided to all youthful offenders. The EDP was created by the department to fulfill this mandate in a structured way. EDP is a regimented program that takes up 16 hours a day Monday through Saturday with work, academic and vocational counseling, personal development, and self-betterment programs. Sunday is used for religious services, visitation, parental support, and independent activities.

EDP consists of 3 phases, with participants in each phase distinguished by the color of their cap:

- The Orange Cap phase is a two-week orientation to familiarize the youthful offender with what is expected of him or her. It is a basic training phase characterized by physical training, regimented discipline, and constant supervision. An Orange Cap must pass an evaluation on the orientation materials in order to advance to Phase II.

- The Red Cap phase requires the youthful offender to participate in vocational, academic, and betterment programs and assumes a standard work assignment. Rigid discipline and structured physical training continues six days a week, but Red Caps have less personal supervision than Orange Caps and they may also be allowed limited privileges. It takes at least 4 months to complete the Red Cap phase.

- A youthful offender who is promoted to Blue Cap status is a role model for other youthful offenders and is expected to be a positive example to his or her peers. Blue Caps are continuously evaluated to ensure that they are maintaining performance in responsibility, drill, work assignments, and education programs. Blue Caps can become peer facilitators and assist staff with certain activities. Approximately 241 youthful offenders are currently in Blue Cap status.

Youthful Offender Recidivism Rates
In 2009, the department reported that the overall 36-month recidivism rate for inmates released from 2001 to 2008 is 33.1 percent. Inmates who are under 25 years old at the time of release have the highest recidivism rate of any age group, increasing to 36 percent recidivism after 36 months and reaching beyond 50 percent before five years elapse.

The department recently calculated the three year recidivism rates for male youthful offenders released from 2001 to 2008 that either successfully completed BTP or EDP participants who reached the final level in EDP. The data reflected that the youthful offenders who had reached the final level of EDP prior to release had a recidivism rate that was approximately 5 percent lower than the youthful offenders who graduated from BTP.

III. Effect of Proposed Changes:

Section 1 repeals section 16.61, Florida Statutes, which established the Cybercrime Office within the Department of Legal Affairs and authorized it to perform specific investigative functions.

Section 2 amends section 943.13(9), Florida Statutes, provides for a 35 percent reduction in the number of correctional officer recruit training hours required for certification by the Florida Criminal Justice Standards and Training Commission. Reducing the number of training hours

from 552 to 360 hours will result in a costs savings for training and salaries for the Department of Corrections and for private entities that operate correctional facilities under ch. 957, F.S. The adjustment brings Florida more in line with the certified correctional officer training required by more populated states and adjoining states.

Section 3 repeals section 951.231(1)(c), Florida Statutes, to eliminate a cross-reference for the Department of Corrections youthful offender Basic Training Program.

Section 4 repeals section 958.045, Florida Statutes, to eliminate authorization for the Department of Corrections, Basic Training Program for youthful offenders, otherwise known as "boot camps." Elimination of the program will be a cost savings for the state. Low inmate enrollment and a high staffing ratio make this boot camp-style program less efficient to operate than other programs. In addition, the program has a negligible impact on offender recidivism rates. Youthful offenders that are currently enrolled in the program will be transferred to the Extended Day Program.

Section 5 authorizes a type two transfer of the Cybercrime Office's staff and functions from the Department of Legal Affairs to the Department of Law Enforcement. The merger will result in a cost savings. A total of 15 FTE and $611,523 of general revenue funding and $404,272 in trust fund budget authority is being transferred to FDLE. The remaining 19 FTE and $1,419,936 of general revenue in the Department of Legal Affairs are eliminated in the Senate proposed budget.

Section 6 provides an effective date of July 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill provides for a reduction in the Department of Corrections of $8,300,000 of recurring general revenue for salaries and expenses related to correctional officer training. SPB 7122 also provides for the transfer of 15 FTE and $611,523 from the General Revenue Fund and $404,272 in trust fund authority from the Department of Legal Affairs to FDLE. A reduction of the remaining Cybercrime Office staff (19 FTE) and $1,419,936 of recurring general revenue is also included in the Senate's proposed budget. In addition, the bill provides for the reduction of 50 FTEs in the Department of Corrections and $2,702,881 in general revenue due to the elimination of the Basic Training Program for youthful offenders, otherwise known as "boot camps."

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.

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 Budget Committee

BILL:	SPB 7174
INTRODUCER:	For consideration by the Budget Committee
SUBJECT:	Medicaid
DATE:	March 29, 2011
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kynoch	Meyer, C.	BC	**Pre-meeting**
2.				
3.				
4.				
5.				
6.				

I. Summary:

The bill makes the following changes to the Medicaid program:

- Renames the Medically Needy program as the Medicaid nonpoverty medical subsidy. Effective April 1, 2012, benefits for the program are limited to physician services only, except for pregnant women and children, who will continue to receive the full range of Medicaid benefits with the exception of services in skilled nursing facilities and intermediate care facilities for the developmentally disabled;
- Eliminates a requirement for a hospitalist program in nonteaching hospitals and makes optional instead of mandatory the electronic access of Medicaid prescription refill data and information relating to the preferred drug list by health care providers;
- Revises the Medicaid program formula for determining the amount prescribed drug providers will be paid for pharmaceuticals;
- Repeals the sunset date related to the freeze on Medicaid institutional unit cost, specifies reimbursement rates shall be as provided in the General Appropriations Act (GAA) for the 2011-2012 fiscal year, and deletes obsolete language;
- Authorizes the amount of quality assessments on nursing home facilities to increase to the maximum percentage of the total aggregate net patient services revenue as permitted under federal regulations; and
- Revises the years of audited data used in determining Medicaid and charity care days for each hospital in the Disproportionate Share Hospital (DSH) program; continues for the 2011-2012 fiscal year, the prohibition on funding for the regional perinatal intensive care centers DSH program and the primary care DSH program; and authorizes payment for the DSH program for teaching hospitals for the 2011-2012 fiscal year.

The Senate's proposed General Appropriations Act (GAA) for the 2011-2012 fiscal year reflects the following reductions to comport with the provisions of the bill:

- Non-poverty Medical Subsidy program - $230.2 million to reflect the revision of the program to provide physician only services for adults effective April 1, 2012;
- Medicaid Aged and Disabled (MEDS-AD) program – $224.4 million to reflect the elimination of the program effective April 1, 2012;
- Institutional Reimbursement Rates – $346.7 million to reflect the policy of establishing rates at a level that ensures no increase in statewide expenditures resulting from a change in unit cost;
- Various contracts eliminations relating to a hospitalist program and electronic access of Medicaid prescription refill and preferred drug list information – $9.6 million; and
- Pharmaceutical Formula – $29.7 million.

This bill substantially amends, creates, or repeals the following sections of the Florida Statutes: ss. 409.904; 409.905; 409.908; 409.9082; 409.911; 409.9112; 409.9113; 409.9117; 409.912; 409.9122; 409.915; and 409.9301, F.S.

II. Present Situation:

Medically Needy Program

The Medically Needy eligibility category is an optional eligibility group authorized under Section 409.904, F.S. Title XIX of the Social Security Act specifies categories of individuals that the federal government gives state Medicaid programs the choice of covering (optional coverage groups) under their state plan. If states choose to implement a program they are required to cover, at minimum, some level of ambulatory service and must provide prenatal and delivery services to pregnant women. States can chose to provide one or more ambulatory service, although states must provide all medically necessary services to children. Currently, Florida's program includes all Medicaid covered services with the exception of services in skilled nursing facilities and intermediate care facilities for the developmentally disabled.

The Medically Needy program covers persons who have experienced a catastrophic illness and either have no health insurance, or have exhausted their benefits. The program provides Medicaid coverage for those persons who qualify categorically for Medicaid except that their income or assets are greater than the level allowed under other Medicaid programs. There is no limit to the monthly income an individual can have; however, there is an asset limit, which varies based upon the family's size. To be eligible, the individual must incur enough medical bills to offset his or her income to the income level that would qualify the individual for the Medically Needy program, 24% of the federal poverty level (FPL). Qualifying individuals have a monthly share of cost similar to an insurance deductible; the amount varies depending on the family's size and income.

Once a person is determined eligible for the program and their share of cost has been set by the Department of Children and Families (DCF), accumulated and on-going medical bills that meet allowable medical expense criteria must be submitted to the DCF. After the share of cost is met; the individual can receive full Medicaid benefits for the remainder of the month in which their

share of cost has been met with the exception of services in a skilled nursing facility, an intermediate care facility for the developmentally disabled, or home and community-based services.

For the 2011-2012 fiscal year, the estimated average monthly caseload for the Medically Needy program is 46,096[1].

Medicaid Aged and Disabled Program

The Medicaid Aged and Disabled Program (Meds AD) was implemented January 1, 2006, upon approval by the Federal Centers for Medicare and Medicaid Services of the Agency for Health Care Administration's request for an 1115 demonstration waiver. Subsequently, the waiver was renewed on January 1, 2011. The Meds AD program is an optional Medicaid eligibility group under s. 409.904(1), F.S., that provides Medicaid coverage to individuals who are elderly or disabled, whose incomes are under 88 percent of the federal poverty level and meet asset limits. The waiver seeks to show that by allowing this population access to Medicaid services and by providing pharmacy case review services to a sample of the population, hospitalization rates and institutionalization can be reduced or delayed.

The waiver functions more as an eligibility expansion than a service-delivery waiver. Qualifying individuals receive all state plan Medicaid services or home and community based services if enrolled. Medicaid is required to provide Medicare "buy-in" coverage for aged and disabled individuals who are Medicare beneficiaries; hence Medicaid remits payment on behalf of these individuals for Medicare premiums, deductibles, and coinsurance.

Payments for services to individuals in optional eligibility categories are subject to the availability of monies and any limitations established by the General Appropriations Act or chapter 216, F.S. For the 2011-2012 fiscal year, the estimated average monthly caseload for the Meds AD program is 42,115.[2]

Nursing Home Quality Assessment

Chapter 2009-4, L.O.F, created s. 409.9082, F.S., to provide for a quality assessment on nursing home facility providers and required the assessment to be imposed beginning April 1, 2009. The assessment may not exceed the federal ceiling of 5.5 percent of the total aggregate net patient service revenue. The bill required the agency to calculate the assessment annually on a per-resident-day basis, exclusive of those days funded by the Medicare program. The purpose of the nursing home quality assessment is to assure continued quality of care and that the collected assessments are to be used to obtain federal financial participation through the Medicaid program in order to make Medicaid payments for nursing home facility services up to the amount of nursing home facility Medicaid rates as calculated in accordance with the approved state Medicaid plan in effect on December 31, 2007. Effective October 1, 2011, federal regulations will allow the total aggregate amount of assessment for all nursing home facilities to increase to 6.0%.

[1] January 2011 Social Services Estimating Conference (SSEC) - Medicaid Caseloads.
[2] January 2011 SSEC – Medicaid Caseloads

Disproportionate Share Hospital (DSH) Program

There are currently five separate Medicaid disproportionate share programs that are operational in Florida. The programs are as follows: the original program established in s. 409.911, F.S.; the Teaching Hospitals program established in s. 409.9113, F.S.; the Mental Health Hospital program established in s. 409.9115, F.S.; the Rural Hospital/Financial Assistance program established in s. 409.9116, F.S.; and the Specialty Hospital program established in s. 409.9118, F.S.

Additionally, there are three separate Medicaid DSH programs that are listed in law but are not operational at this time. The programs are as follows: the Regional Perinatal Intensive Care Center (RPICC) program established in s. 409.9112, F.S.; the Primary Care program established in s. 409.9117, F.S.; and the Specialty Hospitals for Children program established in s. 409.9119, F.S.

Chapter 2005-358, L.O.F., directed the agency to create the Medicaid Low Income Pool (LIP) Council, codified in s. 409.911(9), F.S. Annually, the council makes recommendations on the financing and distribution of the LIP and the DSH funds, advises the agency on the development of the LIP plan required by the Centers for Medicare and Medicaid Services waiver, and advises the agency on the distribution of hospital funds used to adjust inpatient hospital rates, rebase rates, or otherwise exempt hospitals from reimbursement limits as financed by intergovernmental transfers (IGT's). Though the council is required to submit its findings and recommendations to the Governor and Legislature each year, by February 1, the legislature delineates how the funds will be distributed.

Medicaid Reimbursement for Prescribed Drugs Services

Reimbursement for prescribed drug claims is made in accordance with the provisions of 42 CFR 447.512-516; and ss. 409.906(20), 409.908, 409.912(39) (a), F.S. The current reimbursement for covered drugs dispensed by a licensed pharmacy, approved as a Medicaid provider, or an enrolled dispensing physician filling his own prescriptions, is the lesser of:

- Average Wholesale Price (AWP) minus 16.4%, plus a dispensing fee of $3.73, or;
- Wholesaler Acquisition Cost (WAC) plus 4.75%, plus a dispensing fee of $3.73, or;
- The Federal Upper Limit (FUL) established by the CMS, plus a dispensing fee of $3.73, or;
- The State Maximum Allowable Cost (SMAC), plus a dispensing fee of $3.73, or;
- The provider's Usual and Customary (UAC) charge, inclusive of dispensing fee.

AWP and WAC are published by First Data Bank (FDB) as reference prices for pharmaceuticals. AWP is a "list price" and is higher than the cost wholesalers actually pay. WAC is slightly more representative of costs actually paid by wholesalers, and is more accurate with respect to branded pharmaceuticals than generics. Third party payors and State Medicaid Programs use these published prices (AWP and WAC) in their retail pharmacy reimbursement calculations.

On March 30, 2009, the U.S. District Court for the District of Massachusetts entered a Final Order and Judgment approving a class action settlement that involved two major publishers of drug pricing information, FDB and Medi-Span. The Plaintiffs in this case alleged that FDB's

and Medi-Span's policies and practices caused them to pay inflated prices for certain pharmaceutical products.

The settlement requires FDB and Medi-Span to reduce the AWP mark-up factor to a standard ceiling of 120 percent of WAC on all National Drug Codes (NDCs). This change took effect on September 26, 2009, and will affect all prescriptions where the reimbursement calculation was based on AWP. With respect to Florida Medicaid, 25.39 percent of prescriptions are reimbursed based on AWP. These are primarily branded pharmaceuticals still under patent. Both FDB and Medi-Span have independently announced plans to discontinue publishing AWP by March, 2011. Under current pricing logic, if AWP is no longer reported, then the pricing default for branded pharmaceuticals becomes WAC + 4.75%

Reimbursement Rates for Medicaid Providers

Currently, Medicaid reimburses Medicaid providers in one of the following 3 ways:

Capitated Rate Setting - Capitated reimbursement is provided for in ss. 409.9124, and 409.91211. F.S, and is a methodology used for managed care providers.

- Fee-For-Service Method -
  Capitated rates are set annually based upon two years of fee-for-service claims and financial data for all recipients eligible for enrollment in a health maintenance organization (HMO) plan, and must be actuarially sound for comparable recipients. Thus, current rates are based upon data from State Fiscal Years 2007-2008 and 2008-2009, and are based upon 25 different service categories, such as hospital inpatient, laboratory, x-ray, etc. Actuarially sound rates are established for recipient categories, such as TANF, SSI without Medicare, SSI with Medicare Parts A and B, and SSI with Medicare Part B only; in all 11 AHCA areas for age/gender bands (birth to 2 months; 3-11 months, 1-5 years, 6-13 years, 14-20 years female; 14-20 years male; 21-54 years female; 21-54 years male; and 55+). Age and gender bands are only utilized in non-reform rate setting. Reform has composite rates.

- Financial/Encounter Data Method -
  In addition to the Fee-for-Service data, plan financial data for Calendar Years 2008 and 2009 for non-pharmacy services was used. The non-pharmacy encounter data was used as a source for validation of the plan specific financial reporting. The Financial Data Method receives 24 percent weight for Non-Reform rates and 50 percent for Reform rates for non-pharmacy services in rate calculation for the TANF and SSI without Medicare categories for Fiscal Year 2010-2011.

- Pharmacy Encounter Data Method –
  Pharmacy encounter data was used from State Fiscal Year 2008-2009. The pharmacy encounter data was submitted by the HMOs to develop the pharmacy component of the capitation rates. The Pharmacy Encounter Data Method received 100% weight for pharmacy services in the rate calculation for the TANF and SSI without Medicare categories.

- Risk Adjustment –
  The Reform Area final rates are risk adjusted for age, gender, medical conditions and diagnosis.

Fee-For-Service - Fee-for-service reimbursement is accomplished through the assignment of an established fee for each service provided by specific Medicaid provider types, which is established by Medicaid based upon funding provided in the GAA. The types of services typically reimbursed through a fee for service payment are physician, nursing care, dental services, pharmaceuticals, laboratory services, durable medical equipment and supplies, home health agency services, dialysis center services, and emergency transportation services. Reimbursement rates for physicians are set for periodic adjustment pursuant to federal directive, which is based upon updates to the Resource Based Relative Value Scale that requires budget neutrality as part of adjustments.

Cost-based Reimbursement - Cost-based reimbursement is accomplished through periodically establishing fees for each provider type based upon the provider type's historic cost of providing services, which, for institutional providers, is generally indexed to pre-determined health care inflation indices (price level increases). AHCA collects the cost data from individual providers to use in calculating and setting cost-based reimbursement rates. Nursing homes, hospitals, intermediate care facilities for the developmentally disabled, rural health clinics, county health departments, hospices, and federally qualified health centers are the types of providers that are reimbursed using cost-based methodologies, and provider types may be subject to specified reimbursement ceilings and targets.

Section 5, chapter 2008-143, L.O.F., directed the agency to establish provider rates for hospitals, nursing homes, community intermediate care facilities for the developmentally disabled and county health departments in a manner that would result in the elimination of automatic cost-based rate increases for a period of two fiscal years. The unit cost rate freeze is set to expire July 1, 2011.

Modifications in Contractual Arrangements

Wireless Handheld Devices – Pursuant to s. 409.912 (16)(b), F.S., the agency was directed to contract with an entity in the state to implement a wireless handheld clinical pharmacology drug information database for practitioners. The device was envisioned to provide continuous updates of clinical pharmacology information, reference to the Medicaid Preferred Drug List (PDL), specific patient medication history, and ongoing education and support. Initially, the vendor provided a pilot group of 1,000 high volume practitioners with the wireless handheld device. The objective with this pilot group was to prevent duplicate prescribing and improve clinical outcomes. The device gave the practitioners a specific patient drug profile and access to clinical drug information at the point of care. The 2004 Legislature expanded the program to 3,000 devices. In 2005, e-prescribing capability was added giving practitioners access to continuous updates of clinical pharmacology information, reference to the Medicaid PDL and specific patient medication history at the point of care. Prescriptions could also be submitted electronically to the patient's pharmacy of choice. However, utilization remained at less than capacity. In 2009, the number of handheld devices was reduced to 1,000 due to low utilization by

practitioners. Currently, the vendor provides 555 handheld devices to high volume practitioners to support e-prescribing.

Therapy Management Contract (Prescribed Drugs) - The 2005 Legislature directed the AHCA to implement a prescription drug management system with various components to reduce costs, waste, and fraud, while improving recipient safety. The drug management system implemented must rely on cooperation between physician and pharmacist to determine appropriate practice patterns and clinical guidelines to improve prescribing, dispensing, and medication usage for recipients in the Medicaid program. The AHCA entered into a contractual arrangement to reduce clinical risk, lower prescribed drug costs and the rate of inappropriate spending for certain Medicaid prescription drugs.

There are over 4,000 pharmacy providers in Florida. There are 841 pharmacies enrolled in the program and 200 of those pharmacies are actively participating in the program.

Hospitalist Program Replacement of Existing Utilization Review - The 2004 Legislature created paragraph (d) of subsection (5) of s. 409.905, F. S., to implement a Medicaid hospitalist program. The program became operational on May 1, 2007, and was implemented to manage the inpatient hospital length and readmission rates of stay for fee-for-service and MediPass Medicaid recipients while also replacing the existing utilization management program. Hospitals were chosen to participate in the program by calculating a case mix adjusted average length of stay (ALOS) for each county. Any hospital with an ALOS higher than the county average was selected as a participant.

The agency is not able to eliminate the current utilization management program for inpatient services, per federal guidelines and at the direction of the Centers for Medicare and Medicaid Services (*See 42 U.S.C. 1396(a)(30))*. Currently the agency has two contracts that manage the length of stay for inpatient services.

III. Effect of Proposed Changes:

Section1 amends 409.904, F.S., to rename the Medically Needy program as the Medicaid nonpoverty medical subsidy. Effective April 1, 2012, benefits for the program are limited to physician services only, except for pregnant women and children, who will continue to receive the full range of Medicaid benefits with the exception of services in skilled nursing facilities and intermediate care facilities for the developmentally disabled.

Section 2 amends s. 409.905, F.S., to eliminate a requirement for a hospitalist program in nonteaching hospitals.

Section 3 amends s. 409.908, F.S., to modify reimbursement for prescribed drugs to the lowest of the wholesaler acquisition cost plus 1.5 percent, the federal upper limit, the state maximum allowable cost, or the usual and customary charge billed by the provider.

Section 4 amends ss. 409.9082(2); F.S., to authorize an increase in the nursing home quality assessment not to exceed the maximum percentage of the total aggregate net patient services revenue of assessed facilities allowed under federal law.

Sections 5 through 8 amends s. 409.911(2)(a), and 409.912, 409.9113, and 409.9117, F.S., relating to hospital disproportionate share, to update the dates in the DSH program; to continue for the 2011-2012 fiscal year, the prohibition on funding for the regional perinatal intensive care centers DSH program and the primary care DSH program; and to authorize payment for the DSH program for teaching hospitals for the 2011-2012 fiscal year.

Section 9 amends s. 409.912 (16)(b) and (39)(a), F.S., to make optional instead of mandatory the provision of electronic access of Medicaid prescription refill data and information relating to the preferred drug list by health care providers and makes technical and conforming changes. Specifically it eliminates certain components of the prescription drug management system, but continues general authority that allows the agency to implement a drug management system. Further, the bill removes the requirement for the agency to implement a wireless handheld program and grants the agency authority to provide electronic access to pharmacology drug information to Medicaid providers to ensure adequate access to e-prescribing in the most cost effective manner.

Section 10 through 12 amends ss. 409.9122(2)(a), 409.915(1)(a), and 409.9301(1) and (2), F.S., to make technical and conforming changes relating to the Medicaid nonpoverty medical subsidy program.

Section 13 provides an effective date of June 30, 2011.

Other Potential Implications:
All of these amendments to statute are necessary in order to achieve the budget policy for the Medicaid program proposed in Senate Proposed Bill 7084.

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:

The provisions of this 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.

C. Trust Funds Restrictions:

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.

D. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Hospitals providing a disproportionate share of Medicaid or charity care services will receive additional reimbursements towards the cost of providing care to uninsured individuals. The nursing home facility providers will be able to restore a portion of reductions to the reimbursement rates through the quality assessments.

C. Government Sector Impact:

The Senate's proposed General Appropriations Act (GAA) for the 2011-2012 fiscal year reflects the following reductions to comport with the provisions of the bill:

- Non-poverty Medical Subsidy program - Total reduction: $230.2 million ($96.2 million general revenue and $134.0 million trust funds) to reflect the revision of the program to provide physician only services for adults effective April 1, 2012;
- Medicaid Aged and Disabled (MEDS-AD) program – Total reduction: $224.4 million ($97.7 million general revenue and $126.7 million trust funds) to reflect the elimination of the program effective April 1, 2012;
- Institutional Reimbursement Rates – Total reduction: $346.7 million ($115.4 million general revenue and $231.3 million trust funds) to reflect the policy of establishing rates at a level that ensures no increase in statewide expenditures resulting from a change in unit cost;
- Various contracts eliminations relating to a hospitalist program and electronic access of Medicaid prescription refill and preferred drug list information – Total reduction: $9.6 million ($3.9 million general revenue and $5.7 million trust funds); and
- Pharmaceutical Formula – Total reduction: $29.7 million ($13.1 million general revenue and $16.6 million trust funds).

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.

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 Budget Committee

BILL:	SPB 7176
INTRODUCER:	For consideration by the Budget Committee
SUBJECT:	Department of Children and Family Services
DATE:	March 29, 2011 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Carpenter	Meyer, C.	BC	**Pre-meeting**
2.				
3.				
4.				
5.				
6.				

I. Summary:

Senate Proposed Bill 7176 shifts the following responsibilities from the Department of Children and Families to the Florida Coalition Against Domestic Violence: annual certification reviews of existing domestic violence centers, the annual report to Legislature on domestic violence, and the domestic violence fatality review teams.

In addition, the bill does the following:

- Removes responsibility from the department for certifying and monitoring Batterer's Intervention Programs and repeals language authorizing the department to assess and collect annual certification fees from these programs;
- Specifies that the department shall contract with the Florida Coalition Against Domestic Violence as well as the Florida Council Against Sexual Violence relating to contracts and grants associated with the implement of the state's STOP Violence Against Women Grant Program;
- Permits the Department of Children and Families to terminate contracts with mental health and substance abuse providers with 24 hour notice should the appropriations supporting such contracts be reduced or eliminated; and
- Requires that for Fiscal Year 2011-12, 25 percent of recurring funds and all new funds for community-based care lead agencies operating under contract with the department be allocated according to an equity model, delineates the factors included in the model with definitions and weights, and specifies the funds exempted from the equity model.

This bill has no direct fiscal impact but these statutory changes are needed in order to implement the budget changes contained in SPB 7084.

This bill substantially amends sections 39.903, 39.904, 39.905, 394.76, 397.321, 741.281, 741.316, 741.32, 741.325, 394.76, 397.321, creates section 409.16713, and repeals section 741.327 of the Florida Statutes:

II. Present Situation:

Domestic Violence Centers

The state of Florida has provided funding for services to victims of domestic violence and their dependent children since 1979 when the Department of Health and Rehabilitative Services entered into contract with 12 programs to provide domestic violence services in 67 counties. Because of the growing need for domestic violence services, the number of centers has increased from 12 to 42, serving nearly 15,000 women and children in Fiscal Year 2008-09. The Florida Coalition Against Domestic Violence serves as the professional association for the state's certified domestic violence centers and is the primary representative of battered women and their children in the public policy arena. The coalition formed in 1977, when12 domestic violence centers formed a network of battered women's advocates. In 2003, the direct responsibility for managing the domestic violence center contracts shifted from the Department of Children and Families to the Florida Coalition Against Domestic Violence. The coalition became responsible for administering contracts for the domestic violence centers as well as for contract monitoring and program quality assurance.

Part XIII of ch. 39, F.S., specifies the responsibilities of the Department of Children and Family Services for the domestic violence program. These responsibilities include administration and oversight of state and federal funding for the program; regulation and certifying domestic violence centers; serving as a clearinghouse for domestic violence information, submitting an annual report to the Legislature on domestic violence, and contracting with a statewide association. The statewide association's primary purpose is to represent and provide technical assistance to certified domestic violence centers, administer, and evaluate all services provided by these, and approve or reject applications for funding of domestic violence centers.

Batterer's Intervention Program

The Legislature established a batterer's intervention program to protect the victims of domestic violence and their children and hold the perpetrators of domestic violence responsible for their acts. The Department of Children and Families is responsible for certifying and monitoring the batterer's intervention programs in Florida (s. 741.32, F.S.). The goals of the programs are to increase victim safety, eliminate violence in intimate relationships, and stop other forms of abusive behavior. Persons found guilty of an act of domestic violence or persons for whom an injunction or protection against domestic violence has been entered can be ordered to attend and participate in the batterer's intervention program

Domestic Violence Fatality Review Teams

In 2002, the Legislature established domestic violence fatality review teams for reviewing at the state, local, or regional level fatal and near fatal incidents of domestic violence, related domestic

violence matters, and suicides (section 741.316, F.S.). The membership of a domestic violence review team includes representatives from such organizations as law enforcement, state attorney, medical examiner, certified domestic violence center, child protection services, child death review team, county probation or corrections, or any other person with knowledge regarding domestic violence fatalities, nonlethal incidents of domestic violence, or suicide (s. 741.316(1), F.S.) Domestic violence fatality review teams are administratively placed in the Department of Children and Family Services. The Department of Law Enforcement is charged with using the data provided by the teams to prepare an annual report on domestic violence fatalities operation.

Mental Health and Substance Abuse Contracts

Section 394.74(1), F.S., authorizes the Department of Children and Families to contract for the establishment and operation of local substance abuse and mental health programs with any appropriate service providers when funds are available. Department contracts currently contain termination clauses addressing termination by mutual agreement, termination due to funds becoming unavailable, and termination for non-performance. Contract termination in the event funds for contract payment become unavailable must be made in writing to the provider within 24 hours. However, the department does not have specific statutory authority to terminate contracts due to reductions or eliminations in appropriations.

Community-Base Care Lead Agency Equity Funding

Florida Statutes currently does not require the Department of Children and Families to allocate recurring or new funds to community-base care lead agencies based upon an equity model. Section 409.1671, F.S., which directs the outsourcing of foster care and related services, does not specifically address the equitable distribution of state and federal funds to community-based care lead agencies. Section 409.1671(7), F.S., allows the development and implementation of a risk pool to mitigate financial risk to lead agencies due to changes in the number of clients eligible to receive services; changes in the services that are eligible for reimbursement; the failure, discontinuance of service, or financial misconduct by a lead agency; or changes in the mix of available funds. In the past, the allocation of new state or federal funds to lead agencies was based primarily on the number of children in care with direction to the department through proviso language in the General Appropriations Act. For Fiscal Year 2010-11, the allocation was based on four weighted factors: number of children in poverty (30 percent); number of reports to the Abuse Hotline that are either referred for investigation or whose findings have been verified (30 percent); number of children in out-of-home care (30 percent); and contribution to a safe reduction in out-of-home care (10 percent).

III. Effect of Proposed Changes:

The Florida Coalition Against Domestic Violence will assume the following additional management responsibilities from the Department of Children and Families:

- Annual certification reviews of existing domestic violence centers, with responsibility for approving or rejecting initial certification and issuing recertification of domestic violence centers remaining with the department.
- An annual report to Legislature on the status of domestic violence in the state.

- Domestic violence fatality review teams.
- Management of service delivery of the state's domestic violence program, including administration of contracts and grants associated with the STOP Violence Against Women Grant Program implementation plan, and the implantation of other federal grants as directed by the department.

The department is required to contract with the Florida Coalition Against Domestic Violence as well as the Florida Council Against Sexual Violence relating to contracts and grants associated with the implement of the state's STOP Violence Against Women Grant Program. The department remains responsible for coordinating the state STOP Violence Against Women Grant Program implementation plan and applying for relevant federal grants. Responsibility for certifying and monitoring the Batterer's Intervention Programs is removed from the Department of Children and Families, and language authorizing the department to assess and collect annual certification fees from these programs is repealed.

The bill strengthens the Department of Children and Families ability to terminate contracts with community substance abuse and mental health providers by amending s. 394.76(2) and 397.321(4). These amendments include language specifying that the department may terminate contracts after a minimum of 24 hours' written notice to the providers if funds for contracts become unavailable due to the reduction or elimination of appropriations supporting such contracts.

Other Potential Implications:

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:

The provisions of this 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.

C. Trust Funds Restrictions:

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

D. Other Constitutional Issues:

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None

C. Government Sector Impact:

This bill has no direct fiscal impact but these statutory changes are needed in order to implement the budget changes contained in SPB 7084. Specifically, SPB 7084 eliminates funding for 8 of the 11 FTEs in the Domestic Violence Program currently managing and administering the program necessitating the transfer responsibility for major functions and funding to the Florida Coalition Against Domestic Violence. Funding is also reduced or eliminated for substance abuse and mental health services; therefore, the Department of Children and Families needs the statutory authority to cancel contracts with providers within 24 hours with written notice. To ensure that community-based lead agencies under contract with the Department of Children and Families receive a fair share of new or recurring funding, the bill places in statute an equity model that realigns funding for these agencies over time.

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.

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 Budget Committee

BILL:	SPB 7178
INTRODUCER:	For consideration by the Budget Committee
SUBJECT:	Agency for Persons with Disabilities
DATE:	March 29, 2011 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bradford	Meyer, C.	BC	**Pre-meeting**
2.				
3.				
4.				
5.				
6.				

I. Summary:

This bill prohibits the Agency for Persons with Disabilities (APD) from expending funds for Medicaid Waiver services above the amount of funds appropriated in the General Appropriations Act.

There is a potential impact to service providers and residential providers if rates have to be reduced to curtail deficit spending. Some clients on the waiver may have to be placed in institutions if providers are not able to maintain service levels at an increased cost to the state. These increased costs to the public sector and the state are indeterminate.

There is a positive fiscal impact to the state projected to be over $50 million annually from the General Revenue Fund by not incurring additional costs related to ongoing deficits.

II. Present Situation:

Historically the APD has overspent their appropriations in the Home and Community Based Services Waiver within the Home and Community Services Program. The Department of Elder Affairs and Department of Children and Families both have similar waiver programs and have implemented procedures to maintain expenditures with their appropriations.

Each month, the Agency for Persons with Disabilities (APD) serves approximately 30,000 people across Florida who have autism, mental retardation, spina bifida, cerebral palsy, or Prader-Willi syndrome, or who are children aged 3 to 5 at high risk of being diagnosed with a

developmental disability. The great majority of APD's services are provided through four Medicaid waivers administered by the agency.

The agency has long had problems keeping waiver spending in line with its appropriation. In Fiscal Year 2005-2006, APD was required[1] to provide quarterly reports to the Executive Office of the Governor, the chair of the Senate Ways and Means Committee, and the chair of the House Fiscal Council regarding the financial status of the home and community based services waivers. In addition, APD was notified that:

> If at any time, based upon an analysis by the agency, the cost of waiver services are expected to exceed the appropriated amount, based on the current rates as implemented November 1, 2003, the agency shall implement any adjustment necessary . . . , to stay within the appropriation. . . . [The agency is to] continue to design and implement edits in the Florida Medicaid Management Information System, institute other system controls, and work to establish billing controls and claims reconciliation processes needed to properly manage the developmental services waivers.[2]

In October 2008, in a presentation on its 2009-2010 Legislative Budget Request, the agency reported "significant progress" in managing the waivers. In early 2007, the projected deficit was over $150 million; as of June 30, 2008, the deficit was "virtually eliminated."[3]

Despite that projection, by March 2009, the agency requested $26 million to cover the remaining Medicaid waiver deficit.[4] In February 2010, APD's budget recommendation included a request for $100 million to eliminate the projected deficit in the Medicaid waiver.[5]

In its most latest quarterly report, the agency's Fiscal Year 2010-11 Waiver Budget Forecast projects a $35.9 million deficit (after accounting for $76 million in anticipated savings associated with certain policy changes).[6] The most recent deficit calculated in March is nearing $169.3, of which $59.6 million is General Revenue, because some of the assumptions made by the agency did not occur.

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[1] Chapter 2005-70 and Chapter 2005-71, L.O.F. The next year, the Legislature codified the requirement for quarterly reports in s. 393.0611(8), F.S.
[2] To implement Specific Appropriations 604 through 614, Chapter 2005-70, L.O.F.
[3] Legislative Budget Request Fiscal Year 2009-10, Agency for Persons with Disabilities, presentation by Jim DeBeaugrine, October 31, 2009. Available at http://www.apd.myflorida.com/publications/reports/docs/lbr-presentation-10-30-2008.pdf (last visited March 29, 2011).
[4] Message from the Director, *The Champion Stakeholder Newsletter*, March 2009. Available at http://apd.myflorida.com/champion/2009/march/ (last visited March 29, 2011).
[5] Message from the Director, *The Champion Stakeholder Newsletter*, February 2010. Available at http://apd.myflorida.com/champion/2010/february/ (last visited March 29, 2011).
[6] Quarterly Report on Agency Services to Floridians with Developmental Disabilities and Their Costs, Second Quarter Fiscal Year 2010/2011(October, November, and December 2010). Submitted February 2011. Available at http://www.apd.myflorida.com/publications/reports/docs/2010-2011-quarterly-report-2.pdf (February, 2011).

III. Effect of Proposed Changes:

Section 1. Prohibits the Agency for Persons with Disabilities (APD) from expending funds for Medicaid services above the amount of funds appropriated. In order to accomplish this the agency is to work with AHCA, program support coordinators and residential providers to manage individual cost plans and enrollment. A quarterly surplus-deficit report is to be provided to the Governor's Office and the Legislature that outlines the status of waiver expenditures. If a deficit is projected a corrective action plan is to be submitted with the quarterly report outlining what actions the agency plans to take to bring the expenditures within appropriations.

Other Potential Implications:

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:

The provisions of this 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.

C. Trust Funds Restrictions:

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.

D. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Depending on the corrective action plans developed by the APD there is a potential impact to service providers and residential providers if rates have to be reduced to curtail deficit spending. Some clients on the waiver may have to be placed in institutions if providers are not able to maintain service levels. Another impact may be an increased number of individuals requesting waiver services staying on the waiting list if enrollment is restricted.

C. Government Sector Impact:

In past years the deficit has been reduced by paying for services through a combination of surplus trust fund cash, agency realignment of funds from other operating categories, and additional General Revenue appropriations. Even with the attempt to reduce the deficit an amount has been carried forward into the next fiscal year resulting in a reduced amount of funds to provide services to individuals. Potential savings to the state may vary but will be substantial.

Deficits in each of the last fiscal 4 years (these amounts include deficits carried over from previous years):

Fiscal Year	*General Revenue*	*Trust Fund*	*Total*
2006-2007	$ (13,098,672)	$ (18,671,088)	$ (31,769,760)
2008-2009	$ (8,670,493)	$ (18,123,366)	$ (26,793,859)
2009-2010	$ (25,693,662)	$ (53,705,787)	$ (79,399,449)
2010-2011	$ (59,557,011)	$ (109,735,230)	$ (169,292,241)

I. Technical Deficiencies:

None.

II. Related Issues:

None.

III. 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.

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 Budget Committee

BILL:	SPB 7134
INTRODUCER:	For consideration by the Budget Committee
SUBJECT:	Department of Agriculture and Consumer Services
DATE:	March 28, 2011 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Blizzard	Meyer, C.		**Pre-meeting**
2.				
3.				
4.				
5.				
6.				

I. Summary:

This bill consolidates the Division of Dairy Industry into the Division of Food Safety within the Department of Agriculture and Consumer Services (DACS). Inspections of dairy farms, milk plants, and milk product plants and other specified functions of the Division of Dairy Industry will be conducted by the Division of Food Safety.

The bill transfers authority for the regulation and enforcement of the state Lemon Law and the price gouging program entirely to the Department of Legal Affairs (DLA). Currently, a portion of these activities is conducted by the Division of Consumer Services within the DACS.

The consolidation of the Division of Dairy Industry into the Division of Food Safety provides a recurring cost savings of $239,496 in general revenue. The elimination of activities by the Division of Consumer Services relating to the Lemon Law and the price gouging program provides a recurring cost savings to the General Inspection Trust Fund within the DACS of $386,415.

This bill substantially amends the following sections of the Florida Statutes: 20.14, 320.90, 501.160, 570.18, 570.29, 570.40, 570.41, 570.50, 601.15, 681.103, 681.108, 681.109, 681.1096, 681.110, 681.112, 681.114, 681.117 and 681.118.

This bill repeals section 681.102(7), Florida Statutes.

II. Present Situation:

Division of Dairy

The Division of Dairy Industry conducts the dairy regulatory program under ch. 502 and 503, F.S. The division is responsible for the inspection of dairy farms, including inspection of dairy cattle, milk plants, milk product plants, and facilities engaged in the manufacture and distribution of frozen desserts. The division collects and tests samples from dairy farms and processing plants for compliance with established product quality standards. In addition, the division regulates the interstate shipment of milk. Currently, the division is funded by general revenue and trust funds. Dairy inspections and license fees generate revenue of approximately $20,250 annually.

Lemon Law

The state Motor Vehicle Warranty Enforcement Act, known as the Lemon Law, applies to new or demonstration motor vehicles purchased or leased in Florida for personal use that has a manufacturing defect or non-conformity which substantially impairs the vehicle's value, use, or safety. The Lemon Law period ends two years after the date of original delivery of the motor vehicle.

The Division of Consumer Services currently has the responsibility under ch. 681, F.S., for maintaining a toll free number that consumers can contact to obtain information regarding the consumer's rights and obligations. The division reviews each manufacturer's certified procedure at least once a year and prepares an annual report. In addition to adopting rules to implement s. 681.108, F.S., the division is responsible for screening all requests for eligibility prior to arbitration before the Florida New Motor Vehicle Arbitration Board. The Florida New Motor Vehicle Arbitration Board is established within the Department of Legal Affairs to resolve warranty disputes between consumers and new motor vehicle manufacturers under the Lemon Law.

Pursuant to s. 320.90, F.S., the division also develops and distributes a free motor vehicle consumer's rights pamphlet in order to educate consumers. The pamphlet contains information relating to odometer fraud and provides a summary of the rights and remedies available to all purchasers of motor vehicles.

Price Gouging

Section 501.160(8), F.S., prohibits the imposition of unconscionable prices in the rental or sale of essential commodities, commonly known as price gouging, during a declared state of emergency. Currently, the DLA, the office of the state attorney, and the DACS have concurrent jurisdiction to enforce violations of this law. This tends to create confusion among consumers during a declared state of emergency, regarding which state agency to contact to file complaints. Many consumers end up filing complaints with both the DLA and the DACS. This action requires both departments to initiate investigations, which results in duplicative activities.

Citrus Box Tax

The Florida Citrus Commission (commission) serves in the capacity of a board of directors for the Florida Department of Citrus (FDOC). The commission oversees and guides the activities of the FDOC. It is responsible for setting the annual amount of the excise tax as well as quality standards for all citrus grown, packed or processed in Florida. Upon an affirmative vote of a majority of its members and by an order entered by it prior to November 1 of any year, the commission may set the tax rates up to the maximum rates specified in s. 601.15, F.S.

III. Effect of Proposed Changes:

Section 1 amends s. 20.14, F.S., to remove reference to the Division of Dairy Industry as a separate division within the DACS.

Section 2 amends s. 320.90, F.S., to transfer responsibility for the development and distribution of the motor vehicle consumer's rights pamphlet from the DACS to the DLA.

Section 3 amends s. 501.160, F.S., to remove authority of the DACS to enforce the law prohibiting price gouging. The DLA and the office of the state attorney continue to have responsibility for the enforcement of the prohibition.

Section 4 reenacts s. 501.18, F.S., relating to the organization of the DACS.

Section 5 amends s. 570.20, F.S., to remove the time limitations on provisions authorizing funds in the General Inspection Trust Fund to be used for programs operated by the DACS.

Section 6 amends s. 570.29, F.S., to eliminate the Division of Dairy Industry and makes a technical correction to establish the Division of Licensing as a division within the DACS.

Section 7 repeals ss. 570.40 and 570.41, F.S., relating to the powers and duties of the Division of Dairy Industry.

Section 8 amends s. 570.50, F.S., adding the inspection of dairy farms, milk plants, milk product plants and other specified functions to the duties of the Division of Food Safety within the DACS.

Section 9 amends s. 601.15, F.S., requiring review and approval by the Legislative Budget Commission of any proposal by the Florida Citrus Commission to increase the box tax rate.

Section 10 repeals s. 681.102(7), F.S., relating to the definition of the term "division."

Sections 11 through 20 amend ss. 681.103, 681.108, 681.109, 681.1095, 681.1096, 681.110, 681.112, 681.114, 681.117, and 681.118, F.S., providing for the Department of Legal Affairs, rather than the Division of Consumer Services, to enforce the state Lemon Law and consolidates enforcement duties under the Motor Vehicle Warranty Enforcement Act within the Department of Legal Affairs.

Section 21 provides an effective date of July 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The current consumer fee of $2 collected from motor vehicle dealers for administration of the Lemon Law will continue to be deposited into the Motor Vehicle Warranty Trust Fund within the DLA. One-fourth of this fee will no longer be transferred from the Motor Vehicle Warranty Trust Fund within the DLA to the General Inspection Trust Fund within the DACS for services performed to carry out the Lemon Law.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Division of Dairy Industry

Consolidation of the Division of Dairy Industry into the Division of Food Safety within the DACS provides a recurring cost savings of $239,465 in general revenue. Inspections of dairy farms, milk plants, milk product plants, and other specified functions of the Division of Dairy Industry will continue to be conducted by the Division of Food Safety.

Lemon Law and Price Gouging

Consolidation of the Lemon Law and Price Gouging Programs into the Department of Legal Affairs provides a recurring cost savings of $386,415 in the General Inspection Trust Fund within the DACS. In addition, implementation of this bill provides a recurring general revenue savings of $58,667. Recurring revenues within the General Inspection Trust Fund will be reduced by $248,617.

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.

LEGISLATIVE ACTION

Senate . House

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The Committee on Budget (Thrasher) recommended the following:

Senate Amendment (with title amendment)

Between lines 460 and 461
insert:

Section 11. Paragraph (h) of subsection (1) of section 212.05, Florida Statutes, is amended to read:

212.05 Sales, storage, use tax.—It is hereby declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of selling tangible personal property at retail in this state, including the business of making mail order sales, or who rents or furnishes any of the things or services taxable under this chapter, or who stores for use or consumption in this state any item or article

of tangible personal property as defined herein and who leases or rents such property within the state.

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

(h)1.a. Except as provided in subparagraph b., a tax is imposed at the rate of 4 percent on the charges for the use of coin-operated amusement machines. The tax shall be calculated by dividing the gross receipts from such charges for the applicable reporting period by a divisor, determined as provided in this subparagraph, to compute gross taxable sales, and then subtracting gross taxable sales from gross receipts to arrive at the amount of tax due. For counties that do not impose a discretionary sales surtax, the divisor is equal to 1.04; for counties that impose a 0.5 percent discretionary sales surtax, the divisor is equal to 1.045; for counties that impose a 1 percent discretionary sales surtax, the divisor is equal to 1.050; and for counties that impose a 2 percent sales surtax, the divisor is equal to 1.060. If a county imposes a discretionary sales surtax that is not listed in this subparagraph, the department shall make the applicable divisor available in an electronic format or otherwise. Additional divisors shall bear the same mathematical relationship to the next higher and next lower divisors as the new surtax rate bears to the next higher and next lower surtax rates for which divisors have been established. When a machine is activated by a slug, token, coupon, or any similar device which has been purchased, the tax is on the price paid by the user of the device for such device.

b. A tax is imposed at the rate of 1 percent on the charges for the use of coin-operated amusement machines operated on the licensed premises of a pari-mutuel facility located in a city or county that chooses to license the use of such machines and imposes an additional licensing fee or other fees on the operator or the machines located at pari-mutuel facilities within the jurisdiction of the county or city. The tax shall be calculated by dividing the gross receipts from such charges for the applicable reporting period by a divisor, determined as provided in this sub-subparagraph, to compute gross taxable sales, and then subtracting gross taxable sales from gross receipts to arrive at the amount of tax due. For this sub-subparagraph, the divisor is equal to 1.01.

2. As used in this paragraph, the term "operator" means any person who possesses a coin-operated amusement machine for the purpose of generating sales through that machine and who is responsible for removing the receipts from the machine.

a. If the owner of the machine is also the operator of it, he or she shall be liable for payment of the tax without any deduction for rent or a license fee paid to a location owner for the use of any real property on which the machine is located.

b. If the owner or lessee of the machine is also its operator, he or she shall be liable for payment of the tax on the purchase or lease of the machine, as well as the tax on sales generated through the machine.

c. If the proprietor of the business where the machine is located does not own the machine, he or she shall be deemed to be the lessee and operator of the machine and is responsible for the payment of the tax on sales, unless such responsibility is

otherwise provided for in a written agreement between him or her and the machine owner.

3.a. An operator of a coin-operated amusement machine may not operate or cause to be operated in this state any such machine until the operator has registered with the department and has conspicuously displayed an identifying certificate issued by the department. The identifying certificate shall be issued by the department upon application from the operator. The identifying certificate shall include a unique number, and the certificate shall be permanently marked with the operator's name, the operator's sales tax number, and the maximum number of machines to be operated under the certificate. An identifying certificate shall not be transferred from one operator to another. The identifying certificate must be conspicuously displayed on the premises where the coin-operated amusement machines are being operated.

b. The operator of the machine must obtain an identifying certificate before the machine is first operated in the state and by July 1 of each year thereafter. The annual fee for each certificate shall be based on the number of machines identified on the application times $30 and is due and payable upon application for the identifying device. The application shall contain the operator's name, sales tax number, business address where the machines are being operated, and the number of machines in operation at that place of business by the operator. No operator may operate more machines than are listed on the certificate. A new certificate is required if more machines are being operated at that location than are listed on the certificate. The fee for the new certificate shall be based on

the number of additional machines identified on the application form times $30.

c. A penalty of $250 per machine is imposed on the operator for failing to properly obtain and display the required identifying certificate. A penalty of $250 is imposed on the lessee of any machine placed in a place of business without a proper current identifying certificate. Such penalties shall apply in addition to all other applicable taxes, interest, and penalties.

d. Operators of coin-operated amusement machines must obtain a separate sales and use tax certificate of registration for each county in which such machines are located. One sales and use tax certificate of registration is sufficient for all of the operator’s machines within a single county.

4. The provisions of this paragraph do not apply to coin-operated amusement machines owned and operated by churches or synagogues.

5. In addition to any other penalties imposed by this chapter, a person who knowingly and willfully violates any provision of this paragraph commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

6. The department may adopt rules necessary to administer the provisions of this paragraph.

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

And the title is amended as follows:

Delete line 41

and insert:

review erroneous tax certificates; amending s. 212.05,


273154

F.S.; imposing a tax on the charges for the use of coin-operated amusement machines operated on the licensed premises of a pari-mutuel facility located in certain cities or counties; amending s. 213.69

716166

LEGISLATIVE ACTION

Senate . House

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The Committee on Budget (Hays) recommended the following:

Senate Amendment (with title amendment)

Delete lines 48 - 87.

Delete lines 220 - 460.

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

And the title is amended as follows:

Delete lines 3 - 11.

Delete lines 21 - 41

and insert:

amending s. 213.69,

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 Budget Committee

BILL:	SPB 7136
INTRODUCER:	For consideration by the Budget Committee
SUBJECT:	Department of Revenue
DATE:	March 28, 2011 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Blizzard	Meyer, C.		**Pre-meeting**
2.				
3.				
4.				
5.				
6.				

I. Summary:

This bill removes the requirement of the Department of Revenue (department) to approve the budgets of county property appraisers and tax collectors. The bill removes the requirement of the department to approve property tax refunds and the correction or cancellation of tax certificates. In addition, the bill changes the department's in-depth review cycle of county assessment rolls from at least once every two years to at least once every three years. The bill clarifies the requirement that the department shall only review classes of property that constitute at least five percent of the total assessed value of real property in a county on the previous assessment roll. In addition, the bill exempts the department from paying service charges imposed by the clerks of court for recording tax liens.

The implementation of the provisions in this bill provides a recurring cost savings of $2,931,819 in general revenue and reduces staffing needs by 49 full-time equivalent positions.

This bill substantially amends the following sections of the Florida Statutes: 192.091, 195.002, 195.096, 197.122, 197.182, 197.2301, 197.323, 197.4325, and 197.443.

This bill repeals s.195.087.

II. Present Situation:

Currently, s. 195.002(1), F.S., provides the department with general supervisory responsibility over the assessment and valuation of property, tax collection, and all other aspects of the administration of such taxes. Pursuant to s. 195.087, F.S., the department is required to review and approve each county property appraiser's annual budget and the annual budgets of all tax

collectors (currently 51 of 67), who do not budget with the Board of County Commissioners. The department is also required to review and approve all budget amendments for the property appraisers and tax collectors.

Property Appraiser Budget Process

By June 1 of each year, property appraisers submit their proposed budgets to the department in a manner and form prescribed by the department. A copy of the proposed budget is sent to the Board of County Commissioners. On or before July 15, the department notifies the property appraisers and the Boards of County Commissioners of its tentative budget amendments and changes. Property appraisers and boards have until August 14 to submit additional information to the department regarding the proposed budget. The department makes its final determination of the property appraisers' budgets by August 15.

Tax Collector Budget Process

On or before August 1 of each year, the 51 tax collectors who do not budget with the Board of County Commissioners are required to submit to the department a proposed budget for the upcoming fiscal year, in a manner and form prescribed by the department. A copy of the proposed budget is sent to the Board of County Commissioners. The department reviews the tax collector budgets to determine whether they are adequate to carry out the required duties and make any adjustments that may be necessary. Tax collector budgets are finalized by the department on or before September 15.

Assessment Roll Review

Pursuant to s. 195.096, F.S., the department is required to conduct an in-depth review of each county's assessment roll once every two years. The department's current practice is to review and approve each county's assessment roll every year, with half of the counties subject to an in-depth review. The department analyzes levels of assessment, equity, and uniformity for each classification of property that comprises at least five percent of the assessed value of the county's tax roll. Each classification of property must have a level of assessment of at least 90 percent in order to be considered in substantial compliance.

In conducting its review, the department evaluates recent sales of properties and compares these selling prices to the values listed on the assessment roll by the property appraiser. However, in many counties there are too few sales in some property classifications, particularly commercial and industrial, for the department to conduct a statistically reliable review. Therefore, the department uses field appraisers to develop estimated valuations for these properties. These estimated values are then compared with the property appraiser's values. For those counties not subject to an in-depth review, the department conducts a high-level, general review of the assessment roll without studying each property classification or evaluating the equity and uniformity of assessments within the county. No appraisals are used for this study. Instead, the department relies on any sales data that is available, as well as econometric and statistical models developed by outside consultants to estimate levels of assessment.

Property Tax Refunds

Pursuant to s. 197.182, F.S., the department is required to review and order property tax refunds in excess of $400. The department processes roughly 3,000 requests for refunds in excess of $400 each year, with approximately 94 percent of these approved.

Taxpayers may be eligible for a full or partial refund of property tax payments. Reasons for refunds include: taxes paid when none was due; overpayment of taxes; the assessed value of the property was reduced by the property appraiser to correct an error or add an exemption; or the value adjustment board or a court may have ordered a reduced valuation.

In cases of overpayment in which there is no change made by or required of the property appraiser, the tax collector handles the entire process. Certain situations require the property appraiser to make changes to the tax roll and submit a certificate of correction to the tax collector. The tax collector then issues a refund for any difference in taxes already paid versus the corrected amount. If this refund exceeds $400, the tax collector is required to submit the refund to the department for review and approval. The department has thirty days to issue a decision. If approved by the department, the tax collector issues the refund. If denied by the department, the tax collector notifies the property owner and property appraiser of the department's denial.

Tax Certificates

The tax collector generally sells a tax certificate through an open auction when a property has delinquent taxes due. After a tax certificate is issued, the property owner has two years to pay the certificate holder the face amount of the certificate plus interest. If the tax certificate has not been paid within two years, a tax deed may be issued to the holder of the tax certificate. Tax certificates may need to be corrected or cancelled for a variety of reasons, including spelling errors, incorrect owner names or property addresses, incorrect tax amounts due, or certificates erroneously issued on properties in which taxes had been paid in full or were exempt from ad valorem taxation. Currently, the department is required to review and approve all corrections or cancellations of tax certificates. The department processes an estimated 2,000 corrections and cancellations each year. A small percentage of the requested changes or corrections are denied by the department.

Clerk of Court Recording Charges

Pursuant to s. 28.24, F.S., the clerks of the courts charge for services rendered in recording documents and instruments. Currently, s. 220.823, F.S., exempts the department from paying a fee for filing liens against corporate income and emergency excise taxes. However, the department continues to pay clerks of the court a service charge for filing liens against sales tax, surtaxes, fees, and surcharges administered by the department.

III. Effect of Proposed Changes:

Section 1 amends s. 192.091, F.S., to remove language referring to the department's review and approval of property appraiser budgets.

Section 2 amends s. 195.002, F.S., to remove the requirement of the department relating to the review and approval of property appraiser and tax collector budgets, refunds, and tax certificates.

Section 3 repeals s. 195.087, F.S., relating to the requirement that property appraisers and tax collectors submit their budgets to the department.

Section 4 amends s. 195.096, F.S., to extend the department's in-depth review cycle of county assessment rolls to once every three years. This section also clarifies that the department will no longer study or review property classes that constitute less than five percent of the total assessed value of real property in the county on the previous assessment roll.

Section 5 repeals s. 197.122, F.S., to remove the requirement of the department to review refunds resulting from the correction of a material mistake of fact.

Section 6 amends s. 197.182, F.S., to remove the requirement of the department relating to refunds. This section also provides for direct payment of refunds by the county tax collector.

Section 7 amends s. 197.2301, F.S., to remove the department's authority to review certain refunds related to the overpayment of estimated taxes.

Sections 8 amends s. 197.323, F.S., to remove the requirement of the department to review certain refunds resulting from value adjustment board actions.

Section 9 amends s. 197.4325, F.S., to remove the requirement of the department to approve the cancellation and resale of tax certificates that were originally purchased with a dishonored check.

Section 10 amends s. 197.443, F.S., to remove the requirement of the department to approve all cancellations or corrections to tax certificates.

Section 11 amends s. 213.69, F.S., to exempt the department from paying charges imposed by the clerks of the court for recording tax liens.

Section 12 provides an effective date of July 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Section 18, Art. VII of the State Constitution provides that, except upon approval by two-thirds of the members of each house, the Legislature may not enact, amend, or repeal any general law if the anticipated effect of doing so would reduce the authority that municipalities or counties have to raise revenues in the aggregate, as such authority exists on February 1, 1989.

Section 18(d) of Article VII of the State Constitution exempts laws that have insignificant fiscal impact on cities and counties from the requirements of subsection (a). The impact of this legislation relating to the clerks of court service charge for recording tax liens is $320,000, therefore is insignificant.

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:

In many cases, removing the department's authority to approve property tax refunds may allow citizens and businesses to receive their refund sooner.

C. Government Sector Impact:

Reducing the department's role in approving and reviewing property appraiser and tax collector budgets will result in a recurring cost savings of $2,611,819 in general revenue, and reduce staffing needs by forty nine full-time equivalent positions. Exempting the department from the requirement to pay the service charge imposed by the clerks of court for recording tax liens will result in a recurring general revenue savings of $320,000.

Revenues to the clerks of the court will be reduced due to the elimination of the service charge for recording tax liens issued for any tax by the department.

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.

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LEGISLATIVE ACTION

Senate . House

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The Committee on Budget (Hays) recommended the following:

Senate Amendment (with title amendment)

Delete lines 201 - 211.

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

And the title is amended as follows:

Delete lines 28 - 33

and insert:

agency by the department; amending s. 273.055,

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 Budget Committee

BILL:	SPB 7138
INTRODUCER:	For consideration by the Budget Committee
SUBJECT:	Department of Management Services
DATE:	March 28, 2011 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Betta	Meyer, C.		**Pre-meeting**
2.				
3.				
4.				
5.				
6.				

I. Summary:

This bill includes the following provisions relating to the Department of Management Services (DMS).

- Eliminates the Executive Aircraft Program administered by the DMS.
- Implements recommended changes by the Chief Financial Officer regarding public building construction, to incorporate internal furnishings of facilities into the budgeting process, to provide a definition of "art," and to provide criteria for what can be purchased for the finishing of facility interiors. The bill also prohibits the use of construction management entities for projects exceeding $2 million.
- Extends the $3 fee on all noncriminal moving traffic violations for the purpose of supporting the Statewide Law Enforcement Radio System (SLERS) until 2021.
- Deletes the one percent reimbursement limit on the Florida State Employees Charitable Campaign to ensure the DMS is fully reimbursed for costs associated with administering the campaign.
- Provides direction for the DMS's Division of Telecommunications to manage and provision SUNCOM[1] services, including the MyFloridaNet contract, and to develop options for leveraging other existing telecommunications networks to potentially reduce the cost of services to state agencies by reprocuring network services.
- Enacts a $200 filing fee for aggrieved persons to appeal no-cause determinations by the Florida Commission on Human Relations to the Division of Administrative Hearings.

[1] SUNCOM is the brand name under which the Department of Management Services provides voice, data, and conferencing communications to customers.

This bill substantially amends the following sections of the Florida Statutes: 110.181, 216.0158, 216.043, 216.182, 216.301, 255.043, 255.29; 255.30, 255.32, 273.055, 282.0041, 282.702, 282.703, 287.16, 287.17, 318.18, 318.21.

The bill creates section 760.12, Florida Statutes.

The bill repeals section 287.161, Florida Statutes.

II. Present Situation:

Executive Aircraft Program

The Executive Aircraft Program, authorized in s. 287.161, F.S., is responsible for providing the state's executives with on-demand air travel. The DMS has sold the state's two aircraft that made up the aircraft pool, and the program is no longer in operation. The DMS employed 12 staff persons to handle the aircraft operations, including pilots and administration.

Construction of State Buildings

Chapter 255, F.S., governs publicly owned buildings and the construction of those buildings. Currently, there is no definition of "art" outlined in chapter 255, F.S. The limitation on the amount that can be spent on art in the construction of a state facility is 0.5 percent of the appropriation, with a maximum of $100,000. Without a statutory definition of "art," there is a potential to exceed the maximum allotment for art by purchasing items as internal furnishings that would otherwise be designated as art.

Sections 216.0158, 216.043, 216.182, and 216.30, F.S., govern the budgeting for buildings. Under these sections, the fixed capital outlay plans must be approved by the Executive Office of the Governor. The sections specify the certified forward process for encumbered funds as well as the reversion of funds not encumbered. Specifically, s. 216.301, F.S., permits 19 months for a fixed capital outlay appropriation to be expended, contracted, or committed. The amount not expended, contracted, or committed after 19 months, must be reverted.

The use of construction managers by governmental entities allows a single contact for the governmental entity and shifts the risk of project timelines and liabilities to the construction manager. Once a construction manager is selected through a competitive procurement, the manager assists the governmental entity in all matters relating to the project. The construction manager assumes all the risk relating to the cost of the project.

Statewide Law Enforcement Radio System

The base revenue of the State Agency Law Enforcement Radio System Trust Fund within the DMS is a $1 fee on boat and vehicle registrations, which funds the base contract relating to the Statewide Law Enforcement Radio System.

Sections 318.18 and 318.20, F.S., provides a $3 fee on all noncriminal moving traffic violations for the purpose of supporting the SLERS. The additional revenue supports the administrative functions and enhancements to the system, such as radio replacements. This fee is not for the

contract payment relating to the build-out of the system. This fee is set to expire on June 30, 2012.

Florida State Employees Charitable Campaign

Section 110.181, F.S., requires the DMS to establish and maintain, in coordination with the Department of Financial Services, an annual Florida State Employees' Charitable Campaign. This includes procuring the services of a fiscal agent to receive, account for, and distribute charitable contributions among participating charitable organizations. Further, this section limits the amount that the DMS may be reimbursed for the costs of administering the campaign to one percent of the total gross proceeds. The administration of the program costs approximately $150,000 per year, while the reimbursement is approximately $50,000 per year.

Telecommunications Networks

MyFloridaNet (MFN)

The Division of Telecommunications (DivTel) within the DMS is responsible for the procurement and management of various telecommunication services on an enterprise basis for Florida's state government agencies, local units of government, and certain non-profit organizations. MFN is the current network solution providing the enterprise communications infrastructure for broadband data services. MFN serves approximately 150,000 users.

The MFN contract, signed in 2006, includes a base period of five years, with an additional five year renewal. In December 2010, DivTel approved a contract amendment, which renewed the MFN contract through September 2017. The contract also contains provisions to allow termination for convenience with six months notice.

Within the State of Florida, there are numerous autonomous independent federal, state, and local government networks that have not fully leveraged the procurement of telecommunications services to achieve the greatest economies of scale. These include the following:

Florida Lambda Rail (FLR)

The Florida Lambda Rail is a 1,540 mile optical fiber network developed as a branch of the National Lambda Rail, an $80 million federal initiative. The FLR was built and is operated by a consortium of nine state universities and three private universities.[2] These institutions are equity members that provide an annual investment for the operation and maintenance of the FLR.

The FLR provides nearly limitless bandwidth for scientific research and the clinical and educational goals of its owners and other educational and governmental institutions. It provides access to supercomputing centers and other academic institutions across the nation. However,

[2] Florida Atlantic University, Florida Gulf Coast University, Florida International University, Florida State University, University of Central Florida, University of Florida, University of North Florida, University of South Florida, and University of West Florida; and Florida Institute of Technology, Nova Southeastern University, and University of Miami

estimates of five percent utilization indicate extensive capacity available for use by education and governmental entities.

Florida Department of Transportation (DOT) Intelligent Transportation Systems (ITS)

The DOT Intelligent Transportation Systems network is a fiber and microwave network that supports communication between the Traffic Management Centers in six DOT districts and the Florida Turnpike. The current system has 1,022 miles of fiber optic cable. The ITS network is not managed as a statewide asset. Most existing ITS systems operate in a single county or DOT district. Formal agreements are not in place to cover the exchange of incident and other traffic data between traffic operations centers and Traffic Management Centers in different districts.

The ITS systems have been built and supported in part with Federal Highway Administration (FHWA) funds since 1993. The use of federal funds for ITS construction limits the use of the infrastructure for non-transportation purposes unless determined as surplus by the DOT. *Title 23 CFR Section 710.409* requires the state transportation department to specify procedures for determining when a real property interest is no longer needed. It requires fair market value or rent for use or disposal of these assets, except if it is in the "overall public interest for social, environmental, or economic purposes (or) nonproprietary governmental use…" The DOT has not developed such procedures that would enable the state to potentially leverage excess ITS resources.

Other Metropolitan Area Networks

The Northwest Regional Data Center (NWRDC) at Florida State University owns and manages a 14.3 mile fiber optic loop surrounding the Tallahassee Metropolitan Area, known as the Tallahassee Fiber Loop. Through its affiliation with Florida State University, this metropolitan area network provides NWRDC customers with up to ten gigabyte bandwidth and connectivity to the FLR and Internet2.[3] The NWRDC has been designated as a state primary data center pursuant to s. 282.201(2)(f), F.S.

Florida Commission on Human Relations

Chapter 760, F.S., authorizes the Florida Commission on Human Relations to resolve discrimination cases relating the Equal Employment Opportunity Commission and the U.S. Department of Housing and Urban Development discrimination. If the commission issues a no cause determination relating to a specific complaint, the aggrieved person may appeal to the Division of Administrative Hearings for a de novo review. The division indicates that it confirms commission's determination in over 95 percent of the appeals.

[3] Internet2 is a not-for-profit U.S. networking consortium led by members from the research and education communities, industry, and government.

III. Effect of Proposed Changes:

Executive Aircraft Program

The bill eliminates the Executive Aircraft Program administered by the DMS by deleting s. 287.161, F.S.

Construction of State Buildings

The bill implements recommended changes by the Chief Financial Officer regarding public building construction. The bill incorporates internal furnishings of facilities into the budgeting process, provides a definition of "art," and provides criteria for what can be purchased for decorating facilities. The term "art" is defined for this section as "an original object or work produced by an artist and includes bas-relief, ceramic, craft, environmental piece, fiber, fountain, glass, kinetic, light sculpture, mixed media, mobile, mosaic, mural, photography, print, sculpture, tapestry, wall hanging, digital media, or framed drawing intended to be displayed for the decoration of a public area of a state building."

The bill requires the standards for use of a building to include an analysis of the cost per square foot. The internal furnishings to be purchased must include a cost analysis of the materials and components proposed and the cost savings over time to justify such materials. The specification and use of a material that does not meet the standards adopted by the DMS must include written justification and an analysis of the benefits of using such a material.

The bill requires appropriations not spent for the purpose of a project to revert to the fund from which it was appropriated and prohibits the use of construction management entities for projects exceeding $2 million.

Statewide Law Enforcement Radio System

The bill extends the $3 fee on all noncriminal moving traffic violations for the purpose of supporting enhancements to the Statewide Law Enforcement Radio System until 2021.

Florida State Employees Charitable Campaign

The bill deletes the one percent reimbursement limit on the Florida State Employees Charitable Campaign, which allows the DMS to be reimbursed for all actual costs. Currently, the DMS absorbs approximately $100,000 per year in administration costs not covered by the reimbursement.

Telecommunications Networks

The bill includes the following requirements related to telecommunications networks.

- The DMS must annually report its service costs, competitive rate comparisons, and recommendations for improving the efficiency and effectiveness of the SUNCOM Network services.

- The DMS must coordinate with Agency for Enterprise Information Technology to study the technical and economic feasibility of using existing resources, such as Florida Lambda Rail, the unused DOT fiber-optics capacity, and the Tallahassee Fiber Loop. A feasibility analysis is due by March 1, 2012, to the Governor, President of the Senate, and Speaker of the House of Representatives.
- The DOT must provide inventory and utilization of fiber used by Intelligent Traffic Systems and establish criteria and a procedure to allow other public-interest use of ITS resources.
- The DMS must develop a competitive solicitation for end-to-end network services, with the primary objective being the reduction of telecommunications services costs.
  - The solicitation must be issued by September 1, 2012.
  - Vendor responses are required by November 1, 2012.
  - Transition to selected statewide network service must take place no later than June 30, 2014.

In addition, the bill reinforces the need for centralized cost-effective decision making regarding the purchase, lease, acquisition, and use of telecommunications equipment, software, and services to leverage the purchase power of the state to reduce costs.

Florida Commission on Human Relations

The bill creates s. 760.12, F.S., authorizing a $200 filing fee to appeal a no-cause determination by the Florida Commission on Human Relations to the Division on Administrative Hearings. Based on the division's number of hearing hours relating to these appeals, the filing fee would need to be approximately $4,600 for full cost recovery. As a filing fee of that magnitude could prevent the appeal from being a viable option, the filing fee is proposed at $200 that may discourage frivolous appeals while providing an opportunity for individuals with legitimate cases to reasonably seek an appeal before the division.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The bill extends the $3 fee on all noncriminal moving traffic violations for the purpose of supporting enhancements to the Statewide Law Enforcement Radio System until 2021.

The fee generates over $5 million annually for the trust fund to support the administrative functions and enhancements to the system, such as radio replacements.

The bill creates a $200 filing fee to appeal a no-cause determination by the Florida Human Relations Commission to the Division of Administrative Hearings. The estimated revenue from this fee is unknown, as the fee is anticipated to cause a decrease in frivolous appeals. However, based on the average of 160 appeals per year, the amount collected would be $32,000.

B. Private Sector Impact:

Individuals receiving a noncriminal moving traffic violation will continue to be assessed a $3 surcharge to support the SLERS.

Individuals appealing a no-cause determination by the Florida Commission on Human Relations to the Division of Administrative Hearings will be required to pay a filing fee of $200.

C. Government Sector Impact:

The bill extends the $3 fee on all noncriminal moving traffic violations for the purpose of supporting enhancements to the Statewide Law Enforcement Radio System until 2021. The fee generates over $5 million annually for the trust fund to support the administrative functions and enhancements to the system, such as radio replacements.

The bill creates a $200 filing fee to appeal a no-cause determination by the Florida Commission on Human Relations to the Division of Administrative Hearings. The estimated revenue from this fee is unknown, as the fee is anticipated to cause a decrease in frivolous appeals. However, based on the average of 160 appeals per year, the amount collected would be $32,000.

According to the DMS, the inability to utilize construction management entities to oversee construction projects with a cost of more than $2 million would have a major workload impact and adequate resources are not available. The amount of the workload increase is indeterminate.

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.

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 Budget Committee

BILL:	SPB 7140
INTRODUCER:	For consideration by the Budget Committee
SUBJECT:	Public Employees Relations Commission
DATE:	March 25, 2011 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Betta	Meyer, C.		**Pre-meeting**
2.				
3.				
4.				
5.				
6.				

I. Summary:

This bill changes two members of the Public Employees Relations Commission (commission) from full time to part time, which provides a recurring cost savings of $125,652 to the Public Employees Relations Commission Trust Fund within the commission. The bill permits the part-time members to engage in other employment activities, provided that they do not conflict with their commission duties.

This bill substantially amends section 447.205, Florida Statutes.

II. Present Situation:

The Public Employees Relations Commission is a quasi-judicial agency created in 1975. Its purpose is to resolve public sector labor and employment disputes and to enforce the state's labor policy of promoting harmonious and cooperative relationships between government and its employees.

The commission is composed of a total of 28 employees, which include a chair and two full time commissioners appointed by the Governor, subject to Senate confirmation, for overlapping terms of four years. The chair, as agency head, is responsible for the administrative and operational functions of the agency. The commission's hearing officers hold formal evidentiary hearings throughout the state on public sector labor and employment disputes and issue recommended orders to the commission. The hearing officers must be members of the Florida Bar for at least five years. The commission reviews the record in each case to determine whether there is competent, substantial evidence to support the hearing officer's factual findings and whether the

law was applied correctly by the hearing officer. The commission then issues a final order, which can be appealed directly to a state district court of appeal.

The commission's funding is 47.5 percent appropriated from the General Revenue Fund and 52.5 percent from its Public Employees Relations Commission Trust Fund. The revenue source for the commission's trust fund is mainly 0.1 percent of 8.814 percent of the Local Government Half-Cent Sales Tax.

III. Effect of Proposed Changes:

This bill requires that the Public Employees Relations Commission be composed of a chair and two part-time members rather than two full-time members. The bill permits the part-time members to engage in other employment activities, provided that they do not conflict with their commission duties.

The bill provides a cost savings of $125,652 and has been reduced in the salaries and benefits appropriation category from the commission's budget within the General Appropriations Act. This reduction helps alleviate a trust fund shortage.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None

C. Government Sector Impact:

The bill changes two members of the Public Employees Relations Commission from full time to part time, which provides a recurring cost savings of $125,652 to the Public Employees Relations Commission Trust Fund within the commission. According to the

commission, part-time commissioners are sufficient to meet the workload demands with little to no impact on the ability to hear cases.

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.

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 Budget Committee

BILL:	SPB 7142
INTRODUCER:	For consideration by the Budget Committee
SUBJECT:	Pollution Control
DATE:	March 28, 2011 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Pigott	Meyer, C.		**Pre-meeting**
2.				
3.				
4.				
5.				
6.				

I. Summary:

This bill expands the use of existing service fees in the Federal Water Pollution Control Act to include other water quality activites administered by the Department of Environmental Protection (department). The bill also changes the deposit of revenues from the Grants and Donations Trust Fund to the Federal Grants Trust Fund within the department.

This bill has a recurring positive state fiscal impact of $1.8 million to the General Revenue Fund and $300,000 to the Permit Fee Trust Fund within the department.

This bill substantially amends section 403.1835, Florida Statutes.

II. Present Situation:

Through the Water Pollution Control Financial Assistance program, the department provides low-interest loans and grants to local government agencies for the purposes of planning, design, construction, and implementation of wastewater management systems, stormwater management systems, nonpoint source pollution management systems, and estuary conservation and management. Funds to establish or capitalize the Water Pollution Control Financial Assistance program are provided through federal government grants and state matching funds. Repayments from earlier loans are returned to the program to make new loans, allowing the program to operate in perpetuity.

Section 403.1835, F.S., authorizes the department to assess loan recipients a service fee, which is currently restricted to support program administration. The revenues are deposited into the department's Grants and Donations Trust Fund. Under the Federal Water Pollution Control Act,

service fees may be used for other water quality activities, as well as administration of the program.

III. Effect of Proposed Changes:

The bill aligns state law with federal authorization by expanding the use of service fees collected through the Water Pollution Control Financial Assistance program to offset costs related to other water quality activities. These activities include monitoring, developing total maximum daily loads, watershed restoration best management practices, and source water assessments.

The expanded use of these service fees allows the department to reduce appropriations from the General Revenue Fund and the Permit Fee Trust Fund to the Federal Grants Trust Fund. In addition, the bill directs that all future service fee revenue be deposited into the Federal Grants Trust Fund within the department.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill has a recurring positive fiscal impact of $1.8 million to the General Revenue Fund and $300,000 to the Permit Fee Trust Fund by transferring costs associated with water quality activities from the General Revenue Fund and the Permit Fee Trust Fund to the Federal Grants Trust Fund. This bill may reduce the amount of funding available for loans or grants to local governments.

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.

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 Budget Committee

BILL:	SPB 7144
INTRODUCER:	For consideration by the Budget Committee
SUBJECT:	Department of Financial Services
DATE:	March 28, 2011 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Frederick	Meyer, C.		**Pre-meeting**
2.				
3.				
4.				
5.				
6.				

I. Summary:

This bill provides cost-saving measures for the state's self-insurance program, administered by the Division of Risk Management (division) within the Department of Financial Services (department). The bill includes provisions to increase agency participation in the return-to-work program. Under the bill, the division is required to: monitor and evaluate state agencies' loss prevention programs; make recommendations for improvement to the programs; provide reports to agency heads; and use the results as criteria for calculating risk management premium assessments in order to incentivize loss prevention activities with the agencies.

The bill revises requirements for determining the reimbursement amount for repackaged or relabeled prescription medications for workers' compensation claimants, regardless of the dispensing location or provider.

The bill requires that all unencumbered and undisbursed funds, transferred from the Workers' Compensation Administration Trust Fund within the department to other state agencies for program activities, revert to the fund at the end of each year.

The bill eliminates the Chief Financial Officer's authority to operate a check cashing service at the state capitol.

The department estimates that, for Fiscal Year 2011-2012, a cost savings of $500,000 to the State Risk Management Trust Fund within the department will be realized, as a result of implementing the return-to-work provisions, additional loss prevention measures, and the new reimbursment methodology for prescription drugs for workers' compensation claimants, as provided in the bill.

Additionally, elimination of the check cashing service in the Capitol will provide a recurring cost savings of $129,022, which includes a reduction of three full-time equivalent positions.

This bill substantially amends the following sections of the Florida Statutes: 20.121, 284.01, 284.36, 284.42, 284.50, 440.13, and 440.50.

The bill repeals sections 17.53 and 17.556, Florida Statutes.

II. Present Situation:

State Risk Management Program

The Division of Risk Management is responsible for ensuring that state agencies and universities participating in the state's self-insurance program receive quality coverage for workers' compensation, general liability, federal civil rights, auto liability, and property insurance at reasonable rates. The division's operations and the state's insurance coverage are funded by annual agency assessments, which are deposited into the State Risk Management Trust Fund. Agency premiums are based on loss experience, exposure, and a prorated share of the division's operating budget. Projected costs are derived from actuarial studies of the division's cash flow needs for claims and program expenses.

The Bureau of Loss Prevention within the division is charged with providing professional safety training, quality evaluation tools, and other loss prevention and cost control programs for agencies participating in the state's self-insurance program. In recent years, the division has seen a rapid increase in the cost of workers' compensation. In Fiscal Year 2004-2005, workers' compensation expenditures from the State Risk Management Trust Fund were $91.3 million.[1] In Fiscal Year 2008-2009, workers' compensation expenditures totaled $116.1 million, representing a 27 percent increase in four years. The March 1, 2010, Risk Management Estimating Conference projected that workers' compensation costs would grow to $139.2 million by Fiscal Year 2011-2012, which is a nearly 20 percent increase over two years.[2]

While lost-time workers' compensation claims account for only ten percent of the self-insurance program, these claims account for 80 percent of workers' compensation claims cost. Current law does not provide agencies with incentives to reduce workers' compensation claims costs or return injured workers to work.[3] The primary goal of a return-to-work program is to enable injured workers to remain at work or return to work to perform job duties within the physical and mental functional limitations and restrictions established by the treating physician. Section 216.251(2)(b) 2., F.S., allows but does not require agencies and state universities to maintain return-to-work programs. In addition, agency participants in the self-insurance program are not required to engage in loss prevention activities, including the return-to-work program. While some state agencies have return-to-work programs in place, there is no accountability or

[1] Department of Financial Services Risk Management – Non-operating Budget FY 2005-2009, on file with the Government Operations Appropriations Committee.
[2] Risk Management Revenue Estimating Conference – March 1, 2010.
[3] Department of Financial Services - Division of Risk Management Bill Analysis and Fiscal Impact Statement dated March 8, 2010 on file with the Government Operations Appropriation Committee.

evaluation of these programs. The department reports that other states, such as Texas and Georgia, have required all state agencies to maintain return-to-work programs.[4]

Workers' Compensation Programs

The Division of Workers' Compensation within the department administers the workers' compensation program in Florida. The Workers' Compensation Administration Trust Fund (WCATF) is used for the payment of expenses related to the administration of the program.[5] Total WCATF expenses are approximately $95 to $98 million annually. Operating expenses for the division are $25 to $27 million annually, or about 27 percent of the total expenses.

The major revenue source for the WCATF (other than fines imposed by the division) is assessments on workers' compensation insurance premiums, as provided in s. 440.51(1), F.S. By July 1 of each year, the department is required to notify insurance carriers and self-insurers of the assessment rate necessary for the administration of ch. 440, F.S. The assessment rate is effective the following January 1st.

Each fiscal year, funds are appropriated from the WCATF as a transfer to other agencies to support workers' compensation related programs. These include the Department of Education, the Agency for Health Care Administration, the Department of Business and Professional Regulation, the Division of Administrative Hearings (housed within the Department of Management Services), the First District Court of Appeal, and the Justice Administration Commission. Currently, there is no statutory requirement or mechanism by which agencies must return to the WCATF cash that has been transferred and which remains unobligated and unspent at the end of a fiscal year. For example, at the conclusion of the 2008-2009 fiscal year, it was estimated that more than $2.5 million in WCATF cash remained unobligated and unspent in the agencies to which it had been transferred.

Balances in the WCATF from 2006 through 2009 were substantial. During this period, the division was involved in several assessment-related lawsuits, which would have obligated a significant expenditure from the WCATF if the division had not prevailed. After the lawsuits were concluded in the division's favor, there was no longer a need to maintain the WCATF balance at an elevated level. Consequently, assessment rates were set lower than what was required to fully fund the expenses of the workers' compensation, in order to gradually drawn down the fund balance to an appropriate level. However, the phased reduction of the balance was unexpectedly accelerated due to a dramatic reduction in the premium base, which resulted from a reduction in payroll growth and workers' compensation rates.

In recent years, the cash balance of the WCATF has declined considerably as expenditures have exceeded revenues. Expenditures exceeded revenues by $41.1 million in Fiscal Year 2008-2009 and $57.7 million in Fiscal Year 2009-2010. The revenue forecast for Fiscal Year 2010-2011 indicates expenditures will exceed revenues by $35.0 million.[6] In June, 2009, the Chief Financial Officer increased the assessment on workers' compensation insurers and self-insurers

[4] Division of Risk Management Presentation to the Florida House of Representatives Government Appropriations Committee, dated February 10, 2010.
[5] Section 440.50, Florida Statutes.
[6] Department of Financial Services, Schedule I of the Workers' Compensation Administration Trust Fund - submitted with the Amended Legislative Budget Request dated March 3, 2010.

premiums from 0.25 percent to 0.80 percent, in order to ensure that sufficient cash would be available to support continued program appropriations.[7] For the current calendar year, the assessment rate is 0.98 percent. The statutory cap is set at 2.75 percent.

In a January 2010 report to the Legislature, the division identified the major cost driver attributed to increasing costs in the state's self-insurance program as "increasing workers' compensation medical costs, including the escalating costs of prescription drugs." According to a study of prescription drugs performed by the Workers' Compensation Research Institute, Inc., (WCRI), the average payment per claim for prescription drugs in Florida is 38 percent higher than the median of the other 16 states in its study. The study further indicated that the dispensing of repackaged medications by physicians is the primary cause for the increased costs for prescription drugs and has become a common practice in Florida. Physician dispensing is also on the rise in other states, and several of those states have recently enacted laws or are in the process of revising their laws to address this issue.

Currently, prescription drugs are reimbursed at the average wholesale price plus a $4.18 dispensing fee, or a contract rate, whichever is lower. Average wholesale price ("AWP") is not defined by Florida law, nor is there a customary national definition. Mechanically, the AWP of a drug is set by its original manufacturer. Manufacturers obtain a National Drug Code for each drug produced, and then sell the drug directly to a physician, pharmacy, or repackager or relabeler. Repackagers and relabelers do not alter a drug; rather, they sell the drug in different quantities.[8] As part of that process, a repackager or relabeler obtains a new National Drug Code, which allows it to then assign a new, and often different, AWP. In the 2009-2010 fiscal year, there were 22 licensed prescription drug repackagers in Florida.[9]

Check Cashing Services

The Chief Financial Officer has the authority under ss. 17.53 and 17.556, F.S., to "operate a personal check-cashing service or a remote financial service unit at the capitol for the benefit of state employees or other responsible persons who properly identify themselves."[10] Presently, the check cashing service located in the state capitol is assigned three full-time employee positions. The recurring cost to provide this service is $129,022 from the State Treasury Administrative and Investment Trust Fund within the department. Due to the increase in the use of debit and credit cards, the need for a check cashing service has diminished.

III. Effect of Proposed Changes:

State Risk Management Program

This bill requires participating state agencies with 3,000 or more employees to establish and maintain return-to-work programs for injured employees. Return-to-work programs are intended to reduce lost time costs and to return employees to work sooner in jobs that are matched to their

[7] Assessment Rate Order for Worker's Compensation Administration Trust Fund, June 26, 2009 (Case No. 105011-09-WC).
[8] United States Government Accountability Office, "Brand-Name Prescription Drug Pricing: Lack of Therapeutically Equivalent Drugs and Limited Competition May Contribute to Extraordinary Price Increases" (GAO-10-201, December 2009), pg. 5, available at: http://www.gao.gov/products/GAO-10-201 (last accessed March 4, 2011).
[9] Florida Department of Health, Resource Manual, A Compilation of the Department of Health's Offices and Programs, Fiscal Year 2009-2010, pg. 330.
[10] Section 17.53, Florida Statutes.

recovery level. The bill requires the Division of Risk Management to monitor and evaluate state agencies' loss prevention programs, make recommendations for improvement, provide reports to agency heads, and use the evaluation results as criteria for calculating risk management premium assessments.

Worker's Compensation

This bill requires all unencumbered and undisbursed funds transferred from the WCATF to other state agencies for program activities, to revert to the fund at the end of each fiscal year. This action will minimize the need to increase premium assessments to support workers compensation programs by returning unused balances to the fund.

The bill revises requirements for determining the reimbursement amount for repackaged or relabeled prescription medications for workers' compensation claimants, regardless of the dispensing location or provider. The proposal limits the reimbursement amount for a drug that has been repackaged or relabeled by multiplying the number of units dispensed by the per-unit average wholesale price set by the original manufacturer of the underlying drug, plus a $4.18 dispensing fee or the contracted rate negotiated by the Department of Management Services, whichever is lower.[11]

The $4.18 dispensing fee is the currently authorized maximum pharmacy dispensing rate for workers' compensation medications. The National Council on Compensation Insurance, Inc., (NCCI) estimates that the reimbursement methodology provided for repackaged drugs included in the bill will reduce total workers' compensation costs by 2.5 percent, which equates to more than $62 million in savings for Florida employers in the first year. If the lower of $4.18 or the contracted price is substituted for $4.18 across the board, it is likely that the projected cost savings will increase.

This bill does not inhibit the ability of any certified physician to dispense prescription drugs to workers' compensation claimants; rather, it only addresses the allowable cost of doing so. Physician dispensing authority is provided within s. 465.0276, F.S., which is not amended by this bill.

Check Cashing Services

The bill repeals ss. 17.53 and 17.556, F.S., to remove the Chief Financial Officer's authority to operate a personal check cashing unit within the state capitol and to employ additional staff to perform the service. This will eliminate three full-time employee positions and provided a recurring cost savings of $129,022 to the State TreasuryAdministrative and Investment Trust Fund.

[11] Pursuant to Section 110.12315(2)(c), Florida Statutes, the Department of Management Services administers the state employees' prescription drug program. Attendant to this requirement, the Department of Management Services establishes the reimbursement schedule for prescription pharmaceuticals dispensed under the program.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The National Council on Compensation Insurance, Inc., ("NCCI") has issued cost estimates for repackaging/relabeling reforms. Their calculations are based on comparisons between the cost of repackaged drugs as compared to the cost of drugs dispensed in their original (manufacturer) packaging. On March 7, 2011, the NCCI found that assigning a $4.18 dispensing fee to repackaged/relabeled drugs would result in a 57 percent reduction in prescription drug costs. The total estimated reduction in Florida's workers' compensation costs, based on the AWP as set by the drug's original manufacturer, would be 2.5 percent, or $62 million.

C. Government Sector Impact:

The Department of Financial Services estimates that approximately $300,000 in cost savings to the State Risk Management Trust Fund in Fiscal Year 2011-2012 can be realized with the implementation of return-to-work and other loss prevention programs contained in the bill. The department estimates that the change in reimbursment methodology provided for repackaged and or relabeled drugs will reduce state workers' compensation costs by $200,000. Additionally, the elimination of the check cashing service in the capitol will result in the elimination of three full-time positions and provide a cost savings of $129,022.

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.

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 Budget Committee

BILL:	SPB 7146
INTRODUCER:	For consideration by the Budget Committee
SUBJECT:	Citizens Property Insurance Corporation
DATE:	March 28, 2011 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Frederick	Meyer, C.		**Pre-meeting**
2.				
3.				
4.				
5.				
6.				

I. Summary:

This bill establishes standards for the competitive procurement of goods and services by the Citizens Property Insurance Corporation (Citizens) within the statutes.

This bill substantially amends section 838.014(6), Florida Statutes.

The bill creates section 627.3514, Florida Statutes.

The bill repeals section 627.351(6)(e) and (f), Florida Statutes.

II. Present Situation:

Citizens is a not-for-profit, tax-exempt government corporation whose public purpose is to provide insurance protection to Florida property owners whom are unable to find coverage in the voluntary admitted market. Citizens operates in accordance with the provisions in s. 627.351(6), F.S., and is governed by an eight member Board of Governors (board) that administers its Plan of Operations, which is reviewed and approved by the Financial Services Commission. The Governor, President of the Senate, Speaker of the House of Representatives, and Chief Financial Officer each appoints two members to the board. Citizens is subject to regulation by the Florida Office of Insurance Regulation.

Currently, Citizens operates pursuant to the purchasing requirements set forth in s. 627.351(6)(e), F.S., which requires:

> Purchases that equal or exceed $2,500, but are less than $25,000, shall be made by receipt of written quotes, written record of telephone quotes, or informal bids, whenever practical. The procurement of goods or services valued at or over $25,000 shall be subject to competitive solicitation, except in situations where the goods or services are provided by a sole source or are deemed an emergency purchase; the services are exempted from competitive solicitation requirements under s. 287.057(3)(f); or the procurement of services is subject to s. 627.3513. Justification for the sole-sourcing or emergency procurement must be documented. Contracts for goods or services valued at or over $100,000 are subject to approval by the board.

In implementing these requirements, Citizens follows policies and procedures as approved by the board, which govern the implementation of the statute. These policies and procedures provide the following.

- Citizens' Purchasing and General Services Department is responsible for overseeing the procedures related to the purchase of goods and services.
- All management staff must ensure reasonable and prudent spending within their areas in accordance with fiscal sufficiency.
- Specific procedures for purchases made in amounts above and below $25,000.
- Specific procedures to govern the evaluation and vendor selection process.
- An appeal process for award of a contract by the board.
- Purchases that are exempt from competitive solicitation.
- Requires that all qualified emergency purchases be approved by the President, in consultation with the Chairman or Vice Chairman of the board, prior to execution.
- Requires that all qualified sole source purchases be posted to the website for seven business days prior to execution.
- Requirements for disclosing conflicts of interest for employees, board members of the corporation, and vendors.
- Requirements for the recognition of Florida Small Business Enterprises, Minority Business Enterprises, and Florida Business Enterprises.

III. Effect of Proposed Changes:

This bill creates a process within the statutes which establishes standards for the competitive procurement of goods and services by the Citizens Property Insurance Corporation. The bill includes the following provisions.

- Requires competitive solicitation of goods and services valued at or above $35,000, except office space, which is subject to the public property and publicly owned building statutes.
- Requires that purchases of goods or services over $10 million include a business case review before review and approval by the Citizens Board of Governors. (These projects are generally multi-year, enterprise, information technology projects.)
- Prohibits the division of goods or services to circumvent the provisions of the bill.

- Specifies under which circumstances a competitive solicitation shall use each of the following methods: Invitation to Bid (ITB); request for proposal (RFP); invitation to negotiate (ITN); or reverse auction. The bill outlines the criteria that must be used for evaluating ITBs, RFPs and ITNs.
- Requires that all contracts executed on or after January 1, 2012, be posted electronically on Citizens' website for public access.
- Requires that all qualified sole source purchases be posted to the website for ten business days prior to execution.
- Requires that Citizens' purchasing policy include procedures for protecting against any conflicts of interest by Citizens Board members, employees, and other expert consultants who are acting as evaluators in the purchasing process.
- Prohibits solicitation respondents from communicating with board members, employees, or any public official, officer, or employee of the executive or legislative branch concerning any aspect of the solicitation.
- Provides that Citizens shall strive to increase business with minority business enterprises and with Florida small business enterprises.
- Requires the board to annually review and adopt the purchasing policy of the corporation to ensure compliance with this section and to submit a copy of the policy to the Office of Insurance Regulation.
- Provides the Auditor General with access to any Citizens procurement documents and related material.

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:

Additional expenses will be incurred by Citizens to post all executed contracts on its website for public access beginning January 1, 2012. However, these costs can be absorbed within existing 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.)

None.

B. Amendments:

None.

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 Budget Committee

BILL:	SPB 7148
INTRODUCER:	For consideration by the Budget Committee
SUBJECT:	Federal Grants Trust Fund, Department of Business and Professional Regulation
DATE:	March 25, 2011 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Frederick	Meyer, C.		**Pre-meeting**
2.				
3.				
4.				
5.				
6.				

I. Summary:

This bill creates the Federal Grants Trust Fund within the Department of Business and Professional Regulation, effective July 1, 2011. This trust fund is established to be used for allowable grant activities funded by restricted program revenues. Funds that will be credited to the Federal Grants Trust Fund will consist of grants and funding from the federal government, interest earnings, and cash advances from other trust funds, pursuant to s. 215.32 (2) (b), F.S. The trust fund will accommodate the federal revenues that are being transferred with the Florida Building Commission from the Department of Community Affairs, the Underage Drinking Laws Federal Block Grant Program from the Executive Office of the Governor, and the Drugs, Devices, and Cosmetics Program from the Department of Health.

This bill creates section 455.1165, Florida Statutes.

II. Present Situation:

Section 19(f), Art. III of the State Constitution requires that every trust fund be created by a three-fifths vote of the membership in each house of the legislature in a separate bill for the sole purpose of creating that trust fund. The Constitution also provides that all newly created trust funds terminate not more than four years after the initial creation unless re-created.

In order to meet accounting standards established by the Government Accounting Standards Board, s. 215.32, F.S., requires that agencies have trust funds for day-to-day operations. One of the required trust funds is a federal grants trust fund. The department currently does not have a federal grants trust fund. The creation of this trust fund complies with s. 215.32, F.S.

III. Effect of Proposed Changes:

The creation of this trust fund will allow the department to separately account for funds from grants and funding from the federal government, interest earnings, and cash advances from other trust funds. The department will use this trust fund as a depository for funds to be used for allowable grant activities funded by restricted program revenues from federal sources. Specifically, the trust fund will accommodate the federal revenues that are being transferred with the Florida Building Commission from the Department of Community Affairs, the Underage Drinking Laws Federal Block Grant Program from the Executive Office of the Governor, and the Drugs, Devices, and Cosmetics Program from the Department of Health.

The creation of this trust fund will align agency account with the requirements of s. 215.32, F.S.

The trust fund will terminate in four years, on July 1, 2015, pursuant to s. 19(f)(2), Art. III of the State Constitution, unless terminated sooner or re-created by the Legislature.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

This bill, creating a new trust fund, must pass by a three-fifths vote of the membership of each house of the legislature to become law pursuant to s. 19(f)(2), Art. III of the State Constitution.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Creation of the Federal Grants Trust Fund within the department will allow for improved segregation of funds and accounting records.

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.

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 Budget Committee

BILL:	PCB 7150
INTRODUCER:	For consideration by the Budget Committee
SUBJECT:	Cigarette, Tobacco, and Alcoholic Beverage Taxes
DATE:	March 28, 2011 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Frederick/Blizzard	Meyer, C.		**Pre-meeting**
2.				
3.				
4.				
5.				
6.				

I. Summary:

The bill transfers the tax collection and audit functions for cigarettes, other tobacco products, and alcoholic beverages from the Division of Alcoholic Beverage and Tobacco (division) within the Department of Business and Professional Regulation (DBPR) to the General Tax Administration Program (program) within the Department of Revenue (DOR).

The bill transfers the DBPR's rules that are in effect immediately before the effective date of this bill, relating to the collection and audit of taxes on cigarettes, to the DOR. The bill authorizes the DOR to adopt rules to administer the tax collection and audit provisions that are transferred to it. It also authorizes the division and program to adopt emergency rules to administer the provisions of this bill.

The bill includes the following provisions relating to cigarettes and other tobacco products:

- Requires cigarettes wholesale dealers and tobacco products dealers who have paid $20,000 or more in taxes during the previous year to remit payments by electronic funds transfer.
- Deletes provisions for affixing and paying taxes through metering machines, which the DBPR indicates are no longer used by the industry.
- Requires that wholesale dealers of cigarettes and other tobacco products report the specified information regarding sales to retail dealers.

The bill provides for the regulation of manufacturers and importers of other tobacco under Part II of ch. 210, F.S., by providing record keeping requirements and inspection requirements.

The bill provides for the regulation of cigarettes distribution and sale by the two agencies and requires that the agencies exercise regulatory authority in concert, including the following circumstances.

- The division will appoint dealers in cigarettes as agents to buy and affix tax stamps, while the program will approve such appointments.
- If a dealer fails to file a tax return, the dealer may apply to the program for a hearing with the division after the program has made a final determination of the amount of tax due.
- Both agencies are authorized to inspect records and issue subpoenas.

The bill includes the following provisions relating to the regulation of alcoholic beverages.

- Requires dealers who have paid $20,000 or more in taxes during the previous year to remit payments by electronic funds transfer.
- Requires manufacturers, distributors, brokers, sales agents, importers, and exporters to provide the program with specified information regarding sales to the retail dealers.
- Permits manufacturers, distributors, and vendors to make deliveries in vehicles which are not owned or leased by the licensee.
- Permits manufacturers, distributors, and vendors to receive orders by electronic mail.

Regarding alcoholic beverage regulation, the bill also provides several instances in which the two agencies will be granted dual authority to exercise regulatory authority, including the following.

- The division may accept a surety bond that is less or greater than the required bond for each manufacturer and distributor. The program may accept from brewers a surety bond of less than or greater than the required bond.
- Both agencies are authorized to search persons, places, and conveyances and to enter any buildings or places where beverages subject to taxation are manufactured or brought into the state.
- Both agencies are authorized to conduct annual audits of malt beverage manufacturers for compliance with the container tracking provisions in s. 563.06(5)(a), F.S.
- Both agencies may ascertain whether all applicable taxes have been paid when a court orders the sale of alcoholic beverages after a conviction for a violation of the Beverage Law during which the beverages were confiscated.
- Both agencies may inspect licensed premises without a search warrant.

The bill provides an effective date of July 1, 2011.

This bill substantially amends the following sections of the Florida Statutes: 20.165, 210.01, 210.11, 210.02, 210.021, 210.04, 210.05, 210.06, 210.07, 210.08, 210.09, 210.095, 210.11, 210.12, 210.13, 210.14, 210.15, 210.16, 210.1605, 210.161, 210.18, 210.1801, 210.185, 210.20, 210.19, 210.25, 210.31, 210.35, 210.40, 210.45, 210.50, 210.51, 210.55, 210.60, 210.65, 210.70, 559.79, 561.01, 561.051, 561.08, 561.11, 561.111, 561.15, 561.221, 561.25, 561.27, 561.29, 561.37, 561.41, 561.49, 561.50, 561.55, 561.57, 562.16, 562.20, 562.25, 562.41, 563.01, 564.01,

565.01, 563.06, 563.07, 564.06, 565.02, 565.12, 565.13, 568.10, 569.004, 569.002, 569.009, and 213.05.

This bill creates section 561.024, Florida Statutes. This bill creates unnumbered sections of the Florida Statutes.

II. Present Situation:

Regulation and Taxation of Cigarettes and Other Tobacco Products

The Division of Alcoholic Beverages and Tobacco oversees the collection of excise taxes from the sale of cigarettes and other tobacco products. Part I, ch. 210, F.S., consisting of ss. 210.01-210.22, F.S., provides for the taxation of cigarettes. Part II, ch.210, F.S., consisting of ss. 210.25-210.75, F.S., provides for the taxation of tobacco products other than cigarettes and cigars. The retail sale and delivery of tobacco is governed by the division under the provisions of ch. 569, F.S.

Cigarette Regulation and Taxation

Section 210.15(1)(a), F.S., requires a permit issued by the division before any person, firm, or corporation may engage in business as a manufacturer, importer, exporter, distributing agent, or wholesale dealer of cigarettes. A separate application and permit is required for each place of business located within the state or, in the absence of such place of business in this state, for wherever its principal place of business is located.

Section 210.01(1), defines the term "cigarette" to mean:

> Any roll for smoking, except one of which the tobacco is fully naturally fermented, without regard to the kind of tobacco or other substances used in the inner roll or the nature or composition of the material in which the roll is wrapped, which is made wholly or in part of tobacco irrespective of size or shape and whether such tobacco is flavored, adulterated or mixed with any other ingredient.

The current excise tax in Florida ranges from 16.95 cents per package to 67.8 cents per package, depending on the number of cigarettes per package.[1] The current excise tax is 33.9 cents per standard 20-cigarette pack cigarettes.[2]

A "distributing agent" is defined as any person, firm, or corporation who receives cigarettes and distributes them to wholesalers or other distributing agents inside or outside the state.[3] An "agent" is defines as any person authorized by the division to purchase and affix adhesive or meter stamps under Part I of ch. 210, F.S.[4] A "wholesale dealer" sells cigarettes to retail dealers

[1] Section 210.02(3) and (4), F.S.
[2] Section 210.02(3)(b), F.S.
[3] Section 210.01(14), F.S.
[4] Section 210.01(9), F.S.

for resale only or operates cigarette vending machines in more than one place of business.[5] An "exporter" is a person who transports tax-exempt cigarettes into Florida under bond for delivery beyond state borders.[6]

Section 210.06, F.S., requires that every dealer affix a tax stamp as evidence that the excise tax has been paid before the cigarettes can be offered for sale in this state. Sections 210.02 and 210.04, F.S., provide that excise taxes must be paid by the wholesale dealer upon the first sale or transaction within this state, whether or not such sale or transfer is to the ultimate purchaser or consumer. Because wholesalers may purchase cigarettes from other wholesalers, only the first sale is taxed. Distributing agents, acting as agents to the manufacturers, are not required to pay taxes for the distribution of cigarettes to wholesalers. Collected excise taxes are paid to the division. Stamps representing various denominations of tax are purchased in bulk by wholesale dealers and are affixed to packages as proof of payment.[7] Cigarettes that are not properly stamped may not be sold in Florida.[8] The amount of the tax then becomes a part of the price of the cigarettes to be paid by the purchaser or consumer.

Cigarette manufacturers report information pertaining to the tobacco settlement agreement[9] to the Attorney General's Office rather than to the division. Section 210.09(2), F.S., requires a monthly report by "any distributing agent, wholesale dealer, retail dealer, common carrier, or any other person handling, transporting or possessing cigarettes for sale or distribution within the state." All manufacturers must report to the division the amount of cigarettes, by invoice total, shipped to Florida cigarette stamping wholesalers, i.e., distributors.

Cigarette distributing agents file a monthly report with the division detailing the number of cigarettes shipped through their warehouse for the preceding month, including all cigarettes received from manufacturers and delivered to each stamping agent. Stamping agents file a monthly report listing all stamp purchases and usage for the preceding month, including ending and beginning inventories. Wholesale distributors that are not stamping agents file a similar report of all purchases and sales inside and outside the state for the preceding month, including ending and beginning inventories. Sales of cigarettes out-of-state are reported on a wholesale dealer's monthly report as exempt from the excise tax because the tax applies only to sales in Florida. The monthly report details the number of cigarette packages, but does not include any information about the quantity of each brand. There are no reporting requirements for retailers.

Revenues from the taxes as well as the license fees are then distributed by the Bureau of Auditing within the division to the statutorily designated recipients on a monthly or quarterly basis.

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[5] Section 210.01(6), F.S.
[6] Section 210.01(17), F.S.
[7] Sections 210.05 and 210.06, F.S.
[8] Section 210.06, F.S.
[9] As provided in s. 215.56005(1)(f), F.S., the "tobacco settlement agreement" means the settlement, as amended, in the case of *State v. American Tobacco Co. et al.*, No. 95-1466AH (Fla. 15th Cir. Ct. 1996). The settling manufacturers are Phillip Morris, Inc. R.J. Reynolds Tobacco Company, Brown and Williamson Tobacco Corp., and Lorillard Tobacco Company. The purpose of the information provided is to verify the settlement payments made pursuant to the settlement agreement. The provided information is confidential and exempt from s. 119.07(1), F.S., and s. 24(a) of Art. I of the State Constitution under s. 569.215, F.S.

Regulation and Taxation of Other Tobacco Products

Section 210.25(11), F.S., defines the term "tobacco products" to mean:

> Loose tobacco suitable for smoking; snuff; snuff flour; cavendish; plug and twist tobacco; fine cuts and other chewing tobaccos; shorts; refuse scraps; clippings, cuttings, and sweepings of tobacco, and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing; but "tobacco products" does not include cigarettes, as defined by s. 210.01(1), or cigars.

There is no definition for cigars in ch. 210, F.S.[10]

The term "other tobacco products" or OTP refers to all tobacco products except cigarettes and cigars. Part I of ch. 210, F.S., provides for the taxation of cigarettes. Part II of ch. 210, F.S., provides for the taxation of other tobacco products. Cigarettes are taxed in a different manner from other tobacco products. Cigars are not subject to an excise tax. Tobacco products, including cigars and cigarettes, are subject to the sales tax.

All OTP are taxed at the same rate. "Other tobacco products" are taxed on an *ad valorem* basis at the rate of 25 percent of the wholesale sales price of the tobacco product.[11] The tax is imposed at the time the distributor:

> (a) Brings or causes to be brought into this state from without the state tobacco products for sale;
> (b) Makes, manufactures, or fabricates tobacco products in this state for sale in this state; or
> (c) Ships or transports tobacco products to retailers in this state, to be sold by those retailers.[12]

Section 210.35, F.S., requires a license for distributors of OTP under Part II of ch. 210, F.S. Manufacturers and importers of OTP are not required to be licensed. According to the DBPR, manufacturers, currently report to the division on a monthly basis what they sell into Florida or to Florida-licensed distributors, as required under the Prevent All Cigarette Trafficking Act (PACT Act), which took effect on June 29, 2010.[13]

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[10] Section 381.84, F.S., includes cigars in the definition of "tobacco." Section 386.203, F.S., includes cigars in the definition of "smoking."
[11] Section 210.30, F.S.
[12] *Id.*
[13] *Prevent All Cigarette Trafficking Act*, P.L. 111-154 (2010), requires sellers of tobacco products to comply with certain requirements regarding reporting, shipping, recordkeeping, and collecting taxes. The act applies businesses that sell or deliver tobacco products purchased online, by catalog, or by phone. It prohibits importers and interstate sellers of tobacco from selling cigarettes produced by companies that are not in full compliance with the terms of the tobacco settlement agreement between states and tobacco.

Regulation and Taxation of Alcoholic Beverages

Alcoholic beverages are regulated by ch. 561, 562, 563, 564, 565, 567, and 568, F.S., known as the Beverage Law. [14] These provisions regulate the manufacture, distribution, and sale of wine, beer, and liquor via manufacturers, distributors, and vendors.[15] The division is authorized to administer and enforce the Beverage Law.

Section 561.50(1), F.S., provides that there shall be only one state tax paid as to each gallon or fraction thereof of beverage sold under the Beverage Law. No other excise tax shall be levied directly or indirectly. Generally, the applicable excise taxes, which vary depending on the volume and percentage of alcohol, are:

- The malt beverages excise tax ranges from 48 cents per gallon for bulk, kegs, or barrels to 6 cents for beverages in containers of less than 1 gallon;[16]
- The wine excise tax ranges from $2.25 per gallon for wines containing between 0.5 percent and 17.259 percent alcohol by volume to $3.50 for natural sparkling wines.[17]
- The liquors excise tax ranges from $6.50 per gallon for beverages with between 17.259 percent and 55.780 percent of alcohol by volume to $9.53 per gallon for beverages with more than 55.780 percent of alcohol by volume.[18]

These taxes are paid by the distributor and collected by the division, paid into the State Treasury, and disbursed in the following manner:

- Two percent is deposited into the Alcoholic Beverage and Tobacco Trust Fund to meet the division's appropriation for the state fiscal year.
- The remainder is credited to the General Revenue Fund.[19]

Deliveries of Alcoholic Beverages by Licensees

Section 561.57(1), F.S., provides that manufacturers, distributors, and vendors may make deliveries only in vehicles which are owned or leased by the licensee. As a condition of the alcoholic beverage license, such vehicles are subject to inspection and search without a search warrant. Vendors are required to attach a vehicle permit to any vehicles used to transport alcoholic beverage from a distributor's place of business. However, s. 561.57(6), F.S., provides that common carriers are not required to have vehicle permits to transport alcoholic beverages. According to the DBPR, it is a common practice in the state for manufacturers, distributors, and vendors to make deliveries by common carrier, including retail sales by wineries in this state that are made directly to consumers.

[14] Section 561.01(6), F.S., defines the term "The Beverage Law" to mean chs. 561, 562, 563, 564, 565, 567, and 568, F.S.
[15] *See* s. 561.14, F.S.
[16] Section 563.05, F.S.
[17] Section 564.06, F.S.
[18] Section 565.12, F.S.
[19] Section, 561.121, F.S.

Division of Alcoholic Beverage and Tobacco

The division enforces the provisions of the alcoholic beverage, cigarette, and tobacco laws, rules, and regulations. The division has three distinct functions, which include: licensing of the industry; collecting and auditing taxes and fees paid by the licensees; and enforcing the laws and regulations of the alcoholic beverage and tobacco industries. The division's Bureau of Licensing is responsible for the issuance or denial of all alcoholic beverage licenses and cigarette or other tobacco product permits. The division is also responsible for the maintenance of all records pertaining to these licenses throughout the state. The division's Bureau of Auditing is responsible for the collection of excise tax revenues levied upon alcoholic beverages, cigarettes, and tobacco products sold in Florida, the collection of surcharge on cigarettes and tobacco products sold in Florida, and the determination of the adherence to regulatory requirements by manufacturers, importers, distributors, distributing agents, exporters, and retail dealers licensed or permitted by the division. The division's Bureau of Law Enforcement is responsible for the management of the division's law enforcement and investigation programs. It conducts license discipline investigations; provides guidance, direction, and leadership to licensees; conducts criminal investigations pursuant to beverage and cigarette laws; provides assistance in the collection of authorized taxes and fees; and determines the need for using extraordinary emergency suspension powers when a business licensed by the division has become an immediate danger to the health, safety, and welfare of Florida citizens.

Department of Revenue

The Department of Revenue is created in s. 20.21, F.S. The General Tax Administration Program within the DOR administers and collects 32 taxes and fees, including sales and use tax, unemployment tax, communications services tax, corporate income tax, and fuel tax. The Governor and Cabinet oversee the DOR.

Type Two Transfers

Section 20.104(2), F.S., provides for a type-two transfer as follows.

> A type two transfer is the merging into another agency or department of an existing agency or department or a program, activity, or function thereof or, if certain identifiable units or subunits, programs, activities, or functions are removed from the existing agency or department, or are abolished, it is the merging into an agency or department of the existing agency or department with the certain identifiable units or subunits, programs, activities, or functions removed therefrom or abolished.
>
> (a) Any agency or department or a program, activity, or function thereof transferred by a type two transfer has all its statutory powers, duties, and functions, and its records, personnel, property, and unexpended balances of appropriations, allocations, or other funds, except those transferred elsewhere or abolished, transferred to the agency or department to which it is transferred, unless otherwise provided by law. The transfer of

> segregated funds must be made in such a manner that the relation between program and revenue source as provided by law is retained.
> (b) Unless otherwise provided by law, the head of the agency or department to which an existing agency or department or a program, activity, or function thereof is transferred is authorized to establish units or subunits to which the agency or department is assigned, and to assign administrative authority for identifiable programs, activities, or functions, to the extent authorized in this chapter.
> (c) Unless otherwise provided by law, the administrative rules of any agency or department involved in the transfer which are in effect immediately before the transfer remain in effect until specifically changed in the manner provided by law.

III. Effect of Proposed Changes:

The bill transfers the tax collection and audit functions for cigarettes, other tobacco products, and alcoholic beverages from the division to the General Tax Administration Program within the DOR.

Section 3 of the bill provides for a Type II transfer of the tax collection and audit functions for cigarette and other tobacco products taxes under ch. 210, F.S., from the division to the DOR. Section 41 of the bill provides for a Type II transfer of the tax collection and audit functions for alcoholic beverage taxes under ch. 210, F.S., from the division to the DOR, effective July 1, 2011.

The bill authorizes the executive director of the DOR to establish, abolish, or consolidate bureaus, sections, or subsections within the DOR. The executive director is also authorized to reallocate duties and functions within the program to promote effective and efficient operation of the program. Any such organizational changes after July 1, 2012, would require action by the Legislature.

Subsection (6) of section 3 and subsection (6) of section 42 also apply the DOR's general provisions in ch. 213, F.S., for administering the state's revenue laws to ch. 210 and 561, F.S. However, the bill does not apply the provisions in ch. 213, F.S., to the relevant tax provisions in ch. 567 and 568, F.S.

Rulemaking

Subsections (4) of section 3 and subsection (4) of section 41 transfer the DBPR's rules, which were in effect before the effective date of this act, relating to the collection and audit of taxes on cigarettes to the DOR. Such rules would remain in effect until amended or repealed by the DOR. It also amends ss. 210.75(2) and 569.009, F.S., F.S., to authorize the program to adopt rules to collect and audit taxes under part II of ch. 210, F.S. It amends s. 569.009, F.S., to authorize the program to adopt any rules necessary for the collection and audit of taxes and surcharges on tobacco products.

The bill amends s. 561.08, F.S., to authorize the program to prescribe forms, reports, and records to be kept for the collection and audit of the Beverage Law and cigarettes tax law. It also amends s. 565.12, F.S., to authorize the program to adopt rules to administer the excise tax on liquors and beverages.

Section 75 of the bill authorizes the division and program to adopt emergency rules to administer the provisions of this bill for the collection of taxes.

Regulation and Taxation of Cigarettes and Other Tobacco Products

The bill amends several provisions throughout parts I and II of ch. 210, F.S., to effectuate the transfer by replacing references to the division with references with the program. In general, it provides for the program to perform the functions currently being performed by the division that relate to the process of tax auditing and tax collections, including reporting requirements for the licensees.

Subsection 5 of section 3 and subsection 5 of section 41 authorize the division to enforce any rules adopted by the state agency providing collection and auditing services for taxes relating to cigarette, tobacco products, and alcoholic beverages, and for the program to adopt rules.

The bill does not affect division's authority to issue permits and licenses under s. 210.015, F.S., for manufacturers, importers, exporters, distributing agents, and wholesale dealers of cigarette and under ch. 569, F.S., for the retail sale of tobacco products.

The bill also makes several changes to ch. 210, F.S., which substantively revise provisions that do not directly relate to transferring the division's tax audit and collection functions. These include:

- Sections 210.021(1) and 210.31, F.S., are amended to require cigarettes dealers and tobacco products dealers, respectively, who have paid $20,000 or more in taxes during the previous year, to remit payments by electronic funds transfer. It deletes the current provision that authorizes the Secretary of the DBPR to require payment by certified check or electronic funds transfer if the taxpayer's payments in the prior year amounted to $50,000 or more.
- Section 210.021(2), F.S., is amended to remove the requirement that dealers and agents remit tax payments by certified check or electronic funds transfer during a period not to exceed 12 months.
- Section 210.07(1), F.S., is amended to delete the provision for the affixing and payment of taxes through metering machines. According to the DBPR, metering machines are no longer used by the industry.
- Section 210.09(6), F.S., is created to require wholesale dealers of cigarettes to provide the program with information regarding sales to the retail dealers, including the names, addresses, retail tobacco products dealer permit number, resale certificate number, invoice number, the dates the products were sold, the quantity of each type of product sold, and the sales price of each type of product sold on their monthly returns.
- Sections 210.15(1)(i) and 210.35(3), F.S., are created to prohibit the division from issuing a permit or license to an applicant who is not a registered dealer with the program or who has an outstanding tax warrant for more than three months.

- Sections 210.16(6) and 210.50, F.S., are created to authorize the division to suspend or revoke a permit or license if the DOR tax warrant against the permit or license holder has been outstanding for more than three months.
- Sections 210.1605(2), F.S., are created, relating to the renewal of cigarette permits and licenses, respectively, to authorize the division to deny an application to renew a permit or license if the DOR tax warrant against the permit or license holder has been outstanding for more than three months.
- Section 210.51(2), F.S., is created, relating to the renewal of tobacco products permits and licenses, to require that the permit or license holder must be in good standing with the program for sales tax purposes for sales tax purposes.
- Section 210.55(8), F.S., is created to require wholesale dealers of tobacco products to provide the program with information regarding sales to the retail dealers, including the names, addresses, retail tobacco products dealer permit number, resale certificate number, invoice number, the dates the products were sold, the quantity of each type of product sold, and the sales price of each type of product sold on their monthly returns.

The bill also provides for the regulation of manufacturers and importers of OTP under Part II of ch. 210, F.S. Although the bill does not provide a license requirement, it amends s. 210.50, F.S., to include manufacturers and importers under the division authority to suspend or revoke licenses.

The bill amends s. 210.55, F.S., to include importers and manufacturers in the monthly reporting requirement provided in this section. The bill also amends s. 210.60, F.S., to include importers and manufacturers in the record keeping requirements and inspection requirements in this section.

The bill provides several instances in which the two agencies are granted dual authority to administer ch. 210, F.S., or to exercise regulatory authority in concert, including the following.

- Section 210.05(2), F.S., is amended to give the program the authority to prescribe, prepare and furnish tax stamps, it maintains the division's authority to appoint dealers in cigarettes as agents to buy and affix tax stamps. However, it requires that the program approve such appointments. It also gives the division, upon the program's discretion, the authority to revoke the agent's authority.
- Section 210.13, F.S., relating to a wholesale dealer's failure to file a tax return, is amended to provide that the dealer may apply to the program for a hearing with the division after the program has made a final determination of the amount of tax due.
- Section 210.161, F.S., is amended to grant the division and the program the authority to inspect records and issue subpoenas.
- Section 559.79, F.S., which provides the application process for issuance and renewal of licenses by the DBPR, is amended to require the DBPR and the DOR to work cooperatively to establish an automated method for periodically disclosing information relating to licensees. The bill does not specify the licensee information that would be subject to disclosure or provide a purpose for such disclosure.

Regulation and Taxation of Alcoholic Beverages

The bill replaces references to the division with references with the program throughout the Beverage Law to effectuate the transfer. In general, it provides for the program to perform the functions currently being performed by the division that relate to the process of tax auditing and tax collections, including reporting requirements for licensees and the authority to require bonds for the payment of taxes as provided in s. 561.37, F.S.

Section 561.024(5), F.S., is created to authorize the program to adopt rules providing collection and auditing services for taxes relating to cigarette, tobacco products, and alcoholic beverages. This section also authorizes the division to enforce any rules adopted by the program.

The bill does not affect division's jurisdiction relating to the authority to issue licenses under the Beverage Law.

The bill makes several changes to the Beverage Law that substantively revise provisions that do not directly relate to transferring the division's tax audit and collection functions. These include:

- Section 561.111, F.S., is amended to require dealers who have paid $20,000 or more in taxes imposed under ch. 563, 564, and 565, F.S., during the previous year to remit payments by electronic funds transfer. However, the term "dealers" is not defined in the Beverage Law. The bill deletes the provision that authorizes the Secretary of the DBPR to require manufacturers or distributors of alcoholic beverages to pay taxes imposed under ch. 563, 564, and 565, F.S., by certified check or electronic funds transfer, if the taxpayer's payments in the prior year amounted to $50,000 or more.
- Section 561.15(5), F.S., is created to prohibit the division from issuing a permit or license to an applicant who is not a registered dealer with the program or who has an outstanding tax warrant for more than three months.
- Section 561.27(3), F.S., relating to the renewal of alcoholic beverage licenses, is created to authorize the division to deny an application to renew a permit or license if the DOR tax warrant against the permit or license holder has been outstanding for more than three months.
- Section 561.55(5), F.S., is created to require manufacturers, distributors, brokers, sales agents, importers, and exporters to provide the program with information regarding sales to the retail dealers, including the names, addresses, retail beverage license number, and business partner number; the invoice number; the dates the products were sold; the quantity of each type of product sold; and the sales price of each type of product sold on its monthly returns.
- Section 561.57(2), F.S., is amended to delete the limitation that provides that manufacturers, distributors, and vendors may make deliveries only in vehicles which are owned or leased by the licensee. It also permits manufacturers, distributors, and vendors to receive order by electronic mail.

The bill provides several instances in which the two agencies are granted dual authority to administer the Beverage Law, or to exercise regulatory authority in concert, including the following:

- The bill maintains the current requirement in s. 561.37, F.S., that each manufacturer and distributor file a surety bond with the division in the amount of $25,000 and that permits the division in its discretion to accept a lesser bond. However, the bill amends s. 561.37, F.S., to grant the program the discretion to accept a surety bond of less than or greater than the $20,000 required for brewers.
- Section 562.41, F.S., is amended to provide that the division and the program have the authority to search persons, places, and conveyances, and to enter any buildings or places where beverage subject to taxation are manufactured or brought into the state.
- Section 563.06(5)(b), F.S., is amended to permit the division and the program to conduct annual audits of malt beverage manufacturers for compliance with the container tracking provisions in s. 563.06(5)(a), F.S.
- Section 568.10, F.S., is amended to require that the division or the program must ascertain whether all applicable taxes have been paid when a court orders the sale of alcoholic beverages after a conviction for a violation of the Beverage Law during which the beverages were confiscated.
- Section 569.004, F.S., is amended to authorize the division and the program to inspect licensed premises without a search warrant.

Effective Date

The bill provides an effective date of July 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill provides for the regulation of manufacturers and importers of other tobacco under Part II of ch. 210, F.S., by providing record keeping requirements and inspection requirements. The bill requires dealers of cigarettes, other tobacco products, and alcoholic beverage who have paid $20,000 or more in taxes during the previous year to

remit payments by electronic funds transfer. However, the term "dealers" is not defined in the Beverage Law. Currently, wholesale dealers of other tobacco products and alcoholic beverage manufacturers and distributor may be required to pay by electronic funds transfer if tax payments in the prior year amounted to $50,000 or more. The bill extends this provision to wholesale dealer of cigarettes.

C. Government Sector Impact:

The DOR does not anticipate a significant operational impact. The DBPR has advised that it will transfer 65 FTE and the associated budget authority of $5,034,883 to the DOR to handle the tax collection and auditing workloads. The DBPR advises that it has submitted a reduction issue for $20,011 related to annual training in the Bureau of Auditing. If this reduction is taken, the expense amount transferred to DOR will be reduced by $20,011.

The DOR has years of experience with electronic filing and procedures in place to support both electronic data interchange and web based filing. The department received over two million tax returns electronically and received over $26 billion dollars in tax collections during fiscal year 2009-10. The DOR has an automated call center and would have access to outstanding liabilities across all taxes for individual companies. This would result in a huge benefit to the state in preventing companies with outstanding delinquencies from receiving a new license for alcohol or tobacco products. In addition, the DOR has already developed a sophisticated audit case management system to route, manage and download tax information to support audit functions across the country. Utilizing the department's data warehouse will resolve inventory discrepancies and route cases for audit exceptions, resulting in fewer audits and concentrated efforts on non-compliant cases.

The state of Texas implemented legislation in 2007, to require retailers, wholesalers, and dealers to submit monthly electronic sales reports including quantities and units on tobacco and alcoholic beverages. The legislation enabled the state of Texas to uncover more than $230 million in unreported sales tax. The creation of an inventory tracking system will provide the same detailed information, if applied to Florida.

VI. Technical Deficiencies:

The bill amends s. 210.50, F.S., which relates to the regulation of other tobacco products under part II of ch. 210, F.S., to include manufacturers and importers under the division's authority to suspend or revoke licenses. However, the bill does not require a license that could be revoked for manufacturers and importers for other tobacco products under part II of ch. 210, F.S. It also amends s. 210.60, F.S., to require the unlicensed importers and manufacturers to comply with the record keeping and inspection requirements in this section.

The bill amends s. 559.79, F.S., which provides the application process for issuance and renewal of licenses by the DBPR to require the DBPR and the DOR to work cooperatively to establish an automated method for periodically disclosing information relating to licensees. The bill does not

specify the type of licensee information that would be subject to disclosure or provide a purpose for such disclosure.

The bill amends s. 561.111, F.S., to require dealers who have paid $20,000 or more in taxes imposed under chs. 563, 564, and 565, F.S., during the previous year to remit payments by electronic funds transfer. However, the term "dealers" is not defined in the Beverage Law. Currently, alcoholic beverage manufacturers and distributor may be required to pay by electronic funds transfer if tax payments in the prior year amounted to $50,000 or more. It is not clear whether the term "dealers" is intended to mean manufactures or distributors or both license classifications.

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.

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LEGISLATIVE ACTION

Senate . House

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The Committee on Budget (Simmons) recommended the following:

Senate Amendment (with title amendment)

Delete line 36.

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

And the title is amended as follows:

Delete lines 10 - 12

and insert:

aggregators; repealing s.

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 Budget Committee

BILL:	SPB 7152
INTRODUCER:	For consideration by the Budget Committee
SUBJECT:	Reports Required from the Public Service Commission
DATE:	March 29, 2011 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Pigott	Meyer, C.		**Pre-meeting**
2.				
3.				
4.				
5.				
6.				

I. Summary:

This bill removes annual reporting requirements conducted by the Public Service Commission (commission) as it relates to Lifeline service subscriptions and telecommunications competition and access. The bill also removes the requirement that the commission perform compliance investigations of operator service providers and call aggregators.

The elimination of the reporting and service evaluation requirements of the commission will result in an estimated cost savings of $327,210 and reduce staffing needs by five full-time equivalent positions.

This bill substantially amends section 364.161(4), Florida Statutes.

The bill repeals the following sections of the Florida Statutes: 364.10(3)(i), 364.386, and 427.704(9).

II. Present Situation:

Annual Reports

Currently, the commission prepares reports on the status of competition in the telecommunications market, the Lifeline service, and the Telecommunications Relay Access System Act (TASA), which are provided to the Legislature annually.

Section 364.386, F.S., requires the commission to prepare an annual report on the status of competition in the telecommunications industry that includes the following information.

- The overall impact of local exchange telecommunications competition on the continued availability of universal service.
- The ability of competitive providers to make functionally equivalent local exchange services available to both residential and business customers at competitive rates, terms, and conditions.
- The ability of consumers to obtain functionally equivalent services at comparable rates, terms, and conditions.
- The overall impact of price regulation on the maintenance of reasonably affordable and reliable high-quality telecommunications services.
- What additional services, if any, should be included in the definition of basic local telecommunications services, taking into account advances in technology and market demand.
- Any other information and recommendations which may be in the public interest.
- Complaints by competitive local exchange telecommunications companies against local exchange telecommunications companies regarding timeliness and adequacy of service.

Much of the information provided in this report is not public information and is filed on a confidential basis to be aggregated.

Section 364.10(3)(i) requires the commission to prepare an annual report on the Lifeline service, which provides the number of customers who are subscribing to Lifeline service and an evaluation of the effectiveness of any procedures to promote participation.

Section 427.704(9) requires the commission to prepare an annual report on the operation of the telecommunications access system. The report must include: the status of developments in the telecommunications access system; the number of persons served; the call volume; revenues and expenditures; the allocation of the revenues and expenditures between provision of specialized telecommunications devices to individuals and operation of statewide relay service; other major policy or operational issues; and proposals for improvements or changes to the telecommunications access system.

Service Evaluations

The commission conducts tests and inspections of the telecommunications industry for items related to the quality of basic telephone service and safety. The type of evaluation varies by company type. Incumbent local exchange companies are evaluated on grounding, repair time for outages, repair for service affecting problems, appropriate refunds for service issues, correct directory assistance information, and the amount of time a consumer must wait to talk to a live person upon request when calling the company. Under a Memorandum of Understanding, the commission conducts 911 test calls to measure answer time as established by the Department of Management Services.

III. Effect of Proposed Changes:

This bill removes the requirement that the commission prepare annual reports on the Lifeline service, the status of competition in the telecommunications industry, and the telecommunications access system.

The bill removes the requirement that the commission performs compliance investigations of operator services providers and call aggregators.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The elimination of the reporting and service evaluation requirements of the Public Service Commission will result in an estimated cost savings of $327,210 and reduce staffing needs by five full-time equivalent positions.

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.

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 Budget Committee

BILL:	SPB 7154
INTRODUCER:	For consideration by the Budget Committee
SUBJECT:	Water Management Districts
DATE:	March 28, 2011 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Pigott/Aller/ Diez-Arguelles	Meyer, C.		**Pre-meeting**
2.				
3.				
4.				
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6.				

I. Summary:

The bill substantially amends current law regarding oversight of the authority of water management districts (district) to levy ad valorem taxes and the development and approval of water management district budgets.

The bill provides that the Legislature will annually review the authorized millage rate for each district and set the maximum revenue authorized to be raised from ad valorem taxes. In any year in which the Legislature does not act by July 1 to set the maximum property tax revenue to be raised, the districts are not authorized to raise additional revenue through the levy of ad valorem taxes on property.

The bill makes significant changes to the process by which water management district budgets are developed and approved by:

- Conforming the water management districts fiscal year to the state fiscal year, beginning on July 1, 2012.
- Requiring the districts to annually develop and submit their legislative budget requests to the Governor and Legislature by October 15th following the same process as state agencies.
- Providing that the Governor will include his recommendations for water management district budgets in his budget recommendations to the Legislature.
- Providing that the budget for each district is the budget approved by the Legislature in the General Appropriations Act.

As with any appropriation in the General Appropriations Act, the Governor will have line-item veto authority over water management district budgets.

Other features of the bill include:

- Retention of existing statutory requirements for water management district budget content.
- Expanding the purposes of the Water Protection and Sustainability Program Trust Fund within the Department of Environment Protection, for legislative approval of water management district budgets.
- Continuing the current public process used by the water management district governing boards for annual establishment of the millage rate, consistent with the legislatively approved budget.
- Provision of an approval process for lump sum salary bonuses, budget controls, and budget modifications, such as fund transfers and inclusion of additional revenue.
- Requiring that specified financial information be made available to the public on each water management district website.
- Retention of requirements for audits, a five-year capital improvements plan, and a five-year water resource development work program.

The bill also includes provisions for the state fiscal year transition period from October 1, 2011 until July 1, 2012, and corrects statutory cross references.

This bill substantially amends the following sections of the Florida Statutes: 373.026, 373.036, , 373.503, 373.536, 373.707, 373.709 and 403.891.

The bill creates section 373.502, Florida Statutes.

II. Present Situation:

Water management districts are funded from several different revenue sources. They are unique in that they may be authorized by law to levy ad valorem taxes, as provided under Art. VII, s. 9(b) of the State Constitution. In addition, the constitution further specifies that the maximum levy for water management purposes is up to 1.0 mill, with the exception of the Northwest Florida Water Management District, which is limited to 0.05 mill.

As permitted by the constitution, the Legislature has authorized, in s. 373.503, F.S., the levy of ad valorem taxes and placed limits on the districts' ad valorem millage rates as follows:

- 0.05 mill - Northwest Florida.
- 0.75 mill - Suwannee River.
- 0.6 mill - St. Johns River.
- 1.0 mill - Southwest Florida.
- 0.8 mill - South Florida.

The status of the districts' budget for fiscal year 2010-11, including millage rate information, total budget and the percentage that ad valorem revenue contributes to each budget, is reflected below.

Water Management District	Constitution (millage cap)	Florida Statutes (millage cap)	Actual Millage	FY 10-11 Adopted Budget (All Sources)*	Ad valorem percentage
Northwest Florida WMD	.05 mill	.05 mill	.0450 mill	$117.1 million	3.4%
Suwannee River WMD	1 mill	.75 mill	.4399 mill	$56.5 million	10.4%
St. Johns River WMD	1 mill	.6 mill	.4158 mill	$254.7 million	43.5%
Southwest Florida WMD	1 mill	1 mill	.3770 mill	$279.8 million	57.5%
Basin Board Range+			.1481-.2600 mill		
South Florida WMD	1 mill	.8 mill	.2549 mill	$1,072.8 million	31%
Basin Board Range+			.0894-.2797 mill		

+Basin board millage may be in addition to regular district millage rate.
*Information obtained from the "Review of Water Management District Budgets for Fiscal Year 2010-11, December 15, 2010" by the Executive Office of the Governor.

The districts operate on a federal and local government fiscal year, which begins on October 1 and ends on September 30. The state government fiscal year begins on July 1 and ends on June 30.

The current statutory framework for development, review, and oversight of district budgets is specified in s. 373.536 F.S. The review and oversight process was summarized by the Office of Program Policy Analysis and Government Accountability (OPPAGA) as follows:

> The districts must submit their proposed annual budgets to several entities, including the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairs of all substantive and fiscal committees by August 1 of each year. The House and Senate appropriation committee chairs may submit comments and objections to each district on their proposed budgets by September 5. In adopting their final budget, the district governing board must include a written response to any comments and objections of the appropriation chairs.
>
> The Executive Office of the Governor is required to review the districts' proposed budgets and may veto all or part of these proposed budgets. The office must report annually to the Legislature the results of its review of the districts' proposed budgets; the report also identifies those districts that do not comply with reporting requirements. State funds can be withheld from a water management district that fails to comply with these reporting requirements.

During the 2008 Legislative Session, bills were filed that provided for annual legislative review and authorization of district millage rates. In addition, to provide an opportunity for meaningful legislative review of district budgets, both bills would have realigned the district fiscal year and

budget review dates to correspond to the state fiscal year. Ultimately, neither of these bills were passed by the Legislature and neither would have modified the current authority of the Governor to review and approve district budgets or substantially changed the role of the Legislature in the budget review process.

III. Effect of Proposed Changes:

Section 1 creates s. 373.502, F.S., to establish water management district local accounts for appropriation purposes, effective October 1, 2011. This section requires that all revenues received by a water management district and all unexpended balances in a district's local account as of September 30, 2011, are considered deposited into the Water Protection and Sustainability Program Trust Fund and appropriated to the local account of each water management district. The section specifies that the expenditure of funds from a district's local account may not exceed the authority provided in the General Appropriations Act, unless approved pursuant to ch. 216, F.S. In the event that a court finds that this restriction is invalid, all revenues are to be deposited into the State Treasury.

Section 2 amends s. 373.503, F.S., to require the Legislature to annually review the authorized millage rate for each district and set the maximum amount of revenue to be raised. If the Legislature fails to set the annual maximum amount of property tax revenue on or before July 1 of each year, the districts are not authorized to raise additional revenue through the levy of ad valorem taxes on property.

Section 3 substantially amends s. 373.536, F.S., as follows:

- Changes the water management district fiscal year from October 1 through September 30 to July 1 through June 30 to conform to the state fiscal year.
- Maintains current law with respect to budget content and the Governor's involvement in district budget development and analysis.
- Eliminates the Governor's authority to approve or disapprove water management districts' budget in whole or in part.
- Requires the districts to hold in reserve a minimum of 25 percent of property taxes levied for the following fiscal year.
- For Fiscal Year 2012-2013, the bill requires the water management districts to develop and submit, through the Department of Environmental Protection, a legislative budget request following the same process used by state agencies.
- Provides that the Governor will include recommendations for water management district budgets as part of his/her budget recommendations to the Legislature.
- Provides that the budget for each district shall be the budget approved by the Legislature in the General Appropriations Act, subject to review, approval, or veto by the Governor, and that it may be amended under specified circumstances.
- Requires each district to begin posting financial data on its website by September 1, 2011.
- On or after July 1, 2012, requires the districts maintain financial data in accordance with financial management codes adopted by the Chief Financial Officer.
- Allows districts to expend funds approved by the Legislature until its final budget is adopted by the local governing board.

- Specifies certain budgetary controls related to lump sum bonuses, fund transfers, and unanticipated receipt of funds after the adoption of the final budget.
- Maintains current law with respect to audits, a five-year capital improvements plan, and a five-year water resource development work program.

Section 4 amends s. 403.891, F.S., to expand the purpose of the Water Protection and Sustainability Trust Fund to include appropriations of local accounts for water management districts.

Sections 5 through 8 provide clarifying and conforming changes to other sections of the bill.

Section 9 provides for a transition period beginning on October 1, 2011, and ending on June 30, 2012. To ensure sufficient funds are available for the new fiscal year beginning July 1, 2012, the bill allows each water management district to adopt a millage rate that is 33.33 percent higher than the millage rate needed to fund the October 1, 2011, to June 30, 2012, fiscal year. Also, the bill limits the amount of ad valorem taxes each district may levy to specified amounts. Finally, the bill provides an appropriation for all prior year incurred obligations as defined in this section and authorizes districts to spend funds prior to the adoption of a final budget.

Section 10 provides an effective date of upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The bill limits the ability of water management districts to raise property tax revenues by specifying the amount that each district will be allowed to levy for the fiscal year beginning October 1, 2011. These amounts are: Northwest Florida: $3,946,969; Suwannee: $5,412,674; St. Johns River: $85,335,619; Southwest Florida: $107,766,957; and South Florida: $284,901,967. These limitations result in the reductions shown in the following table.

District	Current Year Millage Rate	Ad Valorem Revenue Taxes Levied For FY 2010-11	Proposed Ad Valorem Reduction (dollars)	Proposed Ad Valorem Reduction (percent)
Northwest	0.0450	$3,946,969	$0	0%
Suwannee River	0.4399	$5,912,674	($500,000)	8%
St. Johns River	0.4158	$115,335,619	($30,000,000)	26%
Southwest	0.3770	$167,766,957	($60,000,000)	36%
South Florida	0.2549	$404,901,967	($120,000,000)	30%
Total		**$697,864,186**	**($210,500,000)**	**30%**

B. Private Sector Impact:

Property owners will experience a reduction in 2011 property taxes in all areas of the state, except those located in the Northwest Florida Water Management District's territory.

C. Government Sector Impact:

As delineated below, SPB 7084 provides a nine month budget for each water management district for Fiscal Year 2011-12, beginning on October 1, 2011.

Water Management Districts Transition Budget for FY 2011-12		
District	**FTE**	**All Funds**
Northwest	120.0	$35,675,186
Suwannee River	68.0	$34,277,207
St. Johns River	717.5	$151,867,304
Southwest	744.0	$180,810,935
South Florida	1,842.0	$642,041,748
Total	**3,491.5**	**$1,044,672,380**

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.

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LEGISLATIVE ACTION

Senate . House

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The Committee on Budget (Gaetz) recommended the following:

Senate Amendment (with title amendment)

Delete lines 506 - 509.

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

And the title is amended as follows:

Delete lines 28 - 30

and insert:

Enterprise; amending s. 338.231, F.S.; clarifying this section also applies to the Florida Turnpike Enterprise;

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 Budget Committee

BILL:	SPB 7198
INTRODUCER:	For consideration by the Budget Committee
SUBJECT:	Transportation Conforming Bill
DATE:	March 25, 2011 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Carey	Meyer, C.		**Pre-meeting**
2.				
3.				
4.				
5.				
6.				

I. Summary:

This bill conforms the following provisions to the General Appropriations Act by:

- Consolidating 3 tolling authorities into the Turnpike Enterprise;
- Clarifying how seaport funds are to be expended; and
- Authorizing the Florida Department of Transportation to manage the economic development road fund.

This bill substantially amends the following sections of the Florida Statutes: 310.002, 311.07, 311.09, 338,165, 338.2215, 338.231, 338.2275, 343.835, 343.836, 343.837, 343.91, 343.94, 343.944, 343.945, 348.04, 348.05, 348.06, 349.04, 349.05, 349.07, 349.15, 374.976, 403.021, 403.061, 403.813, 403.816, 212.08.

This bill repeals 338.251, 343.805, ,343.885, 343.91(1)(h). 343.946, 348.002(11), part II, III, IV, V, VI, VII, VIII, and X of chapter 348, 348.9985, 349.02(1)(d), of the Florida Statues, and chapter 2000-411, Laws of Florida.

This bill creates s. 339.2821, of the Florida Statutes.

II. Present Situation:

Florida Department of Transportation/Toll Facilities

The Florida Department of Transportation (FDOT or department) owns and/or operates nine toll systems through the state. There are also other toll systems that operate in Florida, receiving financial assistance from the department. Toll facilities provide approximately 765 miles of

roads, approximately 95 percent of which are included in the Florida Strategic Intermodal System's 4,088 miles.

Florida's Turnpike Enterprise

In 1953, the Legislature created an independent Florida State Turnpike Authority to finance, build and operate the Sunshine State Parkway. By 1964, the original 265-mile Mainline, connecting Miami to Wildwood, was completed. With the passage of the State Government Reorganization Act of 1969, the authority was dissolved and oversight responsibility of the Florida Turnpike shifted to FDOT. In 1990, the Legislature authorized the expansion of Florida's Turnpike to include construction of non-contiguous roads to assist in meeting the State's backlog of needed highway facilities.

The Florida Turnpike Enterprise was created by the Legislature in 2002. Today, the Florida Turnpike is a system of toll-financed expressways that serve sixteen Florida counties covering 460 miles. Toll facilities operated by the Turnpike Enterprise include the mainline, the Homestead Extension, Seminole Expressway, Southern Connector Extension, Beachline West, Polk Parkway, Veterans Expressway, Sawgrass Expressway, Suncoast Parkway I, and Western Beltway Part C. The Florida Turnpike includes eight service plazas located along the mainline which contain restaurants, concessions and service stations for the benefit of the 1.6 million motorists using this system on a daily basis.

In Fiscal Year 2009-2010, the Turnpike Enterprise generated $606.9 million gross revenue and estimated revenues for Fiscal Year 2010-2011 is $606.8 million. This reliable and steady stream of revenue supports the repayment of state bonds issued to build turnpike projects, and finances their operation and maintenance. One of the reasons the Florida Turnpike Enterprise is financially solid is projects are required to meet an economic feasibility test. Turnpike projects are required by law to generate sufficient revenue to pay at least 50 percent of its bond debt service by the end of its 12th year in operation, and to pay at least 100 percent of its debt service by the end of the 22nd year.

Orlando – Orange County Expressway Authority

The Orlando-Orange County Expressway Authority (OOCEA) is an agency of the state, created in 1963 under ch. 348, Part V, F.S., for the purpose of construction and operation of an expressway road system in Central Florida. OOCEA has the right to construct, operate, and maintain roads, bridges, avenues of access, thoroughfares, and boulevards together with the right to construct, repair, replace, operate, install, and maintain electronic toll payment systems outside of Orange County with the respective county's written consent. The authority is also authorized to issue toll revenue bonds to finance portions of the system.

OOCEA currently owns and operates 105 miles of roadway in Orange County. The roadways include: 22 miles of the East-West Expressway (SR 408), 23 miles of the Beachline (formerly Beeline) Expressway (SR 528), 33 miles of the Central Florida GreeneWay (SR 417), 22 miles of the Daniel Webster Western Beltway (SR 429) and 5 miles of the John Land Apopka Expressway (SR 414).

The OOCEA reported toll revenue of $206 million in FY 2009 based on 293 million transactions. Major future projects in the authority's $1.4 billion Five-Year Work Plan (FY 2010

through FY 2014) include: right-of-way and interchange for John Land Apopka Expressway (phase two); partial design and right-of-way for Wekiva Parkway; partial widening of SR 408 and SR 417; resurfacing of SR 429 (part A); new interchanges; conversion of SR 528 Beachline Airport toll plaza to open road tolling (ORT); a new express lane toll plaza at Dallas Boulevard on SR 528, and toll collection system upgrades.

Under terms defined in a revised lease-purchase agreement, FDOT is responsible for paying Operations and Maintenance (O&M) costs for portions of the authority's expressway system. The authority is reimbursed by the department for a portion of the operating and maintenance costs of the Beachline Expressway and the East-West Expressway which are recorded as advances because these are to be repaid to FDOT from future toll revenues after all bonds are retired and all other financial obligations have been met.

As of June 30, 2010, the Orlando-Orange County Expressway Authority's total long-term debt liability to FDOT from lease-purchase-related O&M advances was $227,573,891. The subordinate nature of the authority's obligations to FDOT, as structured by the lease-purchase agreement and bond resolutions, would not require their repayment until the year 2042. Assuming such non-interest bearing advances continue to accrue at the conservative rate[1] of 3.5% annually and that the payoff date is not further extended, OOCEA's obligations to FDOT would total $695 million at that time.

Tampa Hillsborough Expressway Authority

The Tampa-Hillsborough County Expressway Authority (THEA) was created in 1963 as an agency of the state under ch. 348, Part IV, F.S., for the purposes of and having the power to construct, reconstruct, improve, extend, repair, maintain and operate the expressway system within Hillsborough County. THEA owns the Selmon Expressway, a 15-mile, four-lane, limited-access toll road traversing the city of Tampa from Gandy Boulevard in south Tampa, through downtown Tampa and east to I-75 and Brandon. The Selmon Expressway connects St. Petersburg (via the Gandy Bridge) with Tampa and Brandon. Since their opening in August 2006, Reversible Express Lanes (REL) in the median of the Selmon Expressway, operate in the peak travel direction depending on the time of day.

Significant projects in the Five-Year Work Plan include deck replacement on various bridges, development of the I-4 Connector Project that will connect I-4 to the existing Expressway, and toll system conversion to All Electronic Tolling (AET). These projects are being completed in partnership with FDOT and are funded either from the STTF or bond proceeds.

THEA is authorized to issue toll revenue bonds to finance improvements or extension of the expressway system. In 2009, the Legislature revised s. 348.54, F.S., to enable THEA to issue toll revenue bonds without having to go through the Division of Bond Finance of the State Board of Administration or obtaining the department's consent.

As a result of design errors on the REL project, THEA incurred additional costs to complete that project. The authority made claims against its builder's risk insurer and filed suit against the

[1] FDOT's O&M payments to OOCEA can vary dramatically from year to year. The average annual variance from 1992 to 2010 was an increase of 7.5%.

design engineers to recover the additional costs incurred. In FY 2009, the authority recovered approximately $75 million from a mediation settlement, $70 million of which has been collected to date. THEA has set aside $10 million of the settlement as a capital reserve fund to cover costs in excess of funds in the FDOT Work Program for replacement of tolling systems on the Selmon Expressway. Based on a revised forecast of declining revenues due to the recession, the THEA Board approved using $60 million of the settlement funds to partially defease current outstanding bonds in order to meet its future debt service coverage requirements. According to THEA, this defeasance will improve THEA's current financial position, including increasing debt service coverage ratios, reducing long term debt obligations, and strengthening credit ratings. The defeasance will also provide an offset for negative revenue impacts that may result from construction of the Bridge Deck Replacement Project and the I-4 Connector Project.

Under the requirements of the lease-purchase agreement, FDOT agrees to pay the costs of O&M and R&R on the expressway system. The department is reimbursed for O&M and long-term debt, if toll revenues are sufficient, after the authority pays its current year debt service. If the amount is not reimbursed annually, the payments are added to the authority's long term debt owed to the department.

As of June 30, 2010, the Tampa Hillsborough Expressway Authority's total long-term debt liability to FDOT from lease-purchase-related O&M advances and R&R costs was $120,217,454. Under the terms of a revised lease purchase agreement, THEA has scheduled repayments of long term debt to FDOT in Fiscal Year 2014-15 of $5.9 million, and $6.8 million in 2015-2016. Beginning in Fiscal Year 2025-2026, repayments of $11.5 million per year are scheduled through 2044-2045.

Mid-Bay Bridge Authority

The Mid-Bay Bridge Authority was created in 1986 by special act of the Legislature. The authority operates the three-mile long Mid-Bay Bridge across the Choctawhatchee Bay and four-miles in approaches (SR 293) on the northern and southern sides of the bridge. The facility, which connects SR 20 with U.S. Highway 98 east of Destin is a link between Interstate 10 and U.S. 98 and provides a more direct route to tourists and residents between northern and southern Okaloosa and Walton counties.

Under a lease-purchase agreement with the authority, FDOT pays O&M and renewal and replacement (R&R) expenses for the bridge and remits all tolls collected to the authority as lease payments. The agreement remains in effect until all outstanding bonds have been repaid and all obligations owed to FDOT by the authority have been fully discharged, at which point FDOT will own the bridge. Though the current agreement states FDOT is to be reimbursed annually from toll revenues for payment of O&M, these reimbursements are deeply subordinated to bond debt service in the flow of toll revenue funds hierarchy.

As of June 30, 2010, the Mid-Bay Bridge Authority's total long-term debt liability to FDOT from lease-purchase-related O&M (and R&R) advances was $16,181,629.

Florida Seaports

Florida has 14 public deepwater seaports that are considered significant economic drivers for the regions in which they are located and for the state. The individual seaports receive a combination of public funding and private revenues to finance their operations and capital improvements.

Construction to widen and modernize the Panama Canal is nearing completion, and seaports on the entire U.S. coastline are considering their options on how to best position themselves to participate in what is expected to be an economic boon in maritime transit of oil, foodstuffs, consumer goods, and other cargo. States such as California, Maryland, South Carolina, Alabama, and Texas are exploring options to finance major port improvements that will attract increased international shipping activity, and to handle the larger tankers and cargo ships that will be traveling through the Panama Canal.

Seaport Funding

Florida seaports are eligible, per s. 311.07, F.S., for a minimum of $8 million a year[2] in grants from the State Transportation Trust Fund for projects to improve the "movement and intermodal transportation" of cargo and passengers. The projects are recommended annually by the Florida Seaport Transportation and Economic Development (FSTED) Council and approved by the Florida Department of Transportation. Most years, the Legislature appropriates more than $8 million to the seaports; for FY 2009-2010, for example, FDOT was directed to spend $21.9 million on seaport grants and $25.6 million in FY 10-11.[3]

The ports also benefit from an additional $25 million in debt service paid with motor vehicle license fees[4] from the State Transportation Trust Fund for 1996 and 1999 bond issues, per ch. 315, F.S., which financed $375.4 million in major port projects. These bond issues will be paid off in 2026 and 2029, respectively.

III. Effect of Proposed Changes:

Section 1 amends s. 310.002, F.S., to provide for the inclusion of Port Citrus in the definition of "port".

Section 2 amends s. 311.07, F.S., to provide a minimum of $100 million from the State Transportation Trust Fund beginning in Fiscal Year 2011-12 and each of the four fiscal years thereafter, to fund the Florida Deepwater Seaport Program for port infrastructure projects.

Section 3 amends s. 311.09, F.S., to provide for the inclusion of the port director of Port Citrus in the Florida Seaport Transportation and Economic Development Council.

Section 4 amends s. 338.165, F.S., to clarify toll rates are adjusted by the department by rule, subject to public notice and public hearing requirements, and these adjustments are not regulatory costs under ch. 120, F.S..

[2] Since FY 2005-2006, FDOT by agreement with FSTED has earmarked at least $15 million for FSTED projects.
[3] In 2007, the Legislature appropriated an additional $50 million for port projects as a line-item.
[4] Section 320.20(3) and (4), F.S.

Section 5 creates an unspecified section of law transferring the governance and control of THEA, OOCEA, and Mid-Bay Bridge Authority, including all assets and liabilities to the Florida Turnpike Enterprise.

This section clarifies any excess revenues from these three systems shall be used for Turnpike tolling projects in the county or counties in which the revenue is collected.

Section 6 amends s. 338.2215, F.S., to specify the Turnpike Enterprise consists of the following toll facilities: the Florida's Turnpike System, the Beachline Expressway (SR 528), the Mid-Bay Bridge (SR 293), the Selmon Expressway (SR 618), the East-West Expressway (SR 408), the Central Florida GreeneWay (SR 417), the John Land Apopka Expressway (SR 414), and the Daniel Webster Western Beltway (SR 429).

Section 7 amends s. 338.231, F.S., to specify that the toll rates for both electronic and cash collection shall be the same effective July 1, 2011.

Section 8 amends s. 338.2275, F.S., to provide for bonding authority for turnpike projects and to specify that no more than $13.5 billion of bonds may be outstanding.

Section 9 repeals s. 338.251, F.S., which establishes the Toll Facilities Revolving Trust Fund in FDOT.

Section 10 creates an unspecified section of law transferring the fund balance, and all future obligations to the Turnpike General Reserve Trust Fund.

Section 11 creates s. 339.2821, F.S., creating the Economic Development Road Fund within FDOT.

Section 12 repeals s. 343.805, F.S., which provides definitions as they relate to the Northwest Florida Transportation Corridor Authority (NWFTCA).

Section 13 amends s. 343.835, F.S., to delete references to lease purchase agreements as they relate to the NWFTC to enter into lease-purchase agreements with FDOT.

Section 14 amends s. 343.836, F.S., to delete references to lease purchase agreements as they relate to the NWFTC to enter into lease-purchase agreements with FDOT

Section 15 repeals s. 343.837, F.S., which allows the NWFTC to enter into a lease purchase agreement with FDOT relating to and covering the U.S. 98 Corridor System.

Section 16 repeals s. 343.885, F.S., which provides intent language relating to financial obligations specified in the lease purchase agreement between the NWFTC and FDOT to bondholders of the authority.

Section 17 repeals s. 343.91(1)(h), F.S., which provides the definition of lease purchase agreement as it relates to the Tampa Bay Area Regional Transportation Authority (TBARTA) and FDOT.

Section 18 amends s. 343.94, F.S., to delete references to lease purchase agreements as it relates to TBARTA and FDOT.

Section 19 amends s. 343.944, F.S., to delete references to lease purchase agreements as it relates to TBARTA and FDOT.

Section 20 repeals s. 343.945, F.S., which expresses intent to delete intent language relating to financial obligations specified in the lease purchase agreement between the TBARTA and FDOT to bondholders of the authority.

Section 21 repeals s. 343.946, F.S., which allows TBARTA to enter into a lease purchase agreement with FDOT relating to and covering authority projects within the seven county Tampa Bay region.

Section 22 repeals subsection (11) of s. 348.002, F.S., which provides the definition of lease purchase agreement as it relates to the expressway authorities and FDOT within the Florida Expressway Authority Act.

Section 23 amends s. 348.004, F.S., to delete references to lease-purchase agreements as it relates to express authorities and FDOT within the Florida Expressway Act.

Section 24 amends s. 348.005, F.S., to delete a reference to lease purchase agreement between an expressway authority and FDOT being subject to bond covenants under the Florida Expressway Authority Act.

Section 25 repeals s. 348.006, F.S., which allows expressway authorities to enter into lease purchase agreements with FDOT within the Florida Expressway Authority Act.

Section 26 repeals Part II of ch. 348, F.S., which provides for the creation and operation of the Brevard County Expressway Authority.

Section 27 repeals Part III of ch. 348, F.S., which provides for the creation and operation of the Broward County Expressway Authority

Section 28 repeals Part IV of ch. 348, F.S. which provides for the creation and operation of the Tampa-Hillsborough County Expressway Authority.

Section 29 repeals Part V of ch. 348, F.S., which provides for the creation and operation of the Orlando-Orange County Expressway Authority.

Section 30 repeals Part VI of ch. 348, F.S., which provides for the creation and operation of the Pasco County Expressway Authority.

Section 31 repeals Part VII of ch. 348.F.S., which provides for the creation and operation of the St. Lucie County Expressway and Bridge Authority.

Section 32 repeals Part VIII of ch. 348. F.S., which provides for the creation and operation of the Seminole County Expressway Authority.

Section 33 repeals Part X of ch. 348. F.S., which provides for the creation and operation of the Southwest Florida Expressway Authority.

Section 34 repeals s. 348.9955, F.S., which provides authority for the Osceola County Expressway Authority to enter into lease purchase agreements with FDOT.

Section 35 repeals paragraph (d) of subsection (1) of s. 349.02, F.S., which provides the definition of lease purchase agreement for the Jacksonville Transportation Authority.

Section 36 amends s. 349.04, F.S., to delete the authority for the Jacksonville Transportation Authority to enter into a lease purchase agreement with FDOT.

Section 37 amends s. 349.05, F.S., to delete a reference to lease purchase agreement between the Jacksonville Transportation Authority and FDOT being subject to bond covenants.

Section 38 repeals s. 349.07, F.S., which provides the authority for the Jacksonville Transportation Authority to enter into lease-purchase agreements with FDOT.

Section 39 amends s. 349.15, F.S., to delete intent language relating to financial obligations specified in the lease purchase agreement between the Jacksonville Transportation Authority and FDOT to bondholders of the authority.

Section 40 amends s. 374.96, F.S., to provide for the inclusion of Port Citrus in the waterways which may receive assistance from inland navigation districts.

Section 41 amends s. 403.021, F.S., to provide for the inclusion of Port Citrus in the legislative declaration of intent regarding preserving and maintaining Florida's deepwater ports.

Section 42 amends s. 403.061, F.S., to provide for the inclusion of Port Citrus in the ports over which the Department of Environmental Protection has the duty to control and prohibit water and air pollution.

Section 43 amends s. 403.813, F.S., to provide for the inclusion of Port Citrus in the list of seaports for which certain dredging permits may be issued.

Section 44 amends s. 403.816, F.S., to provide for the inclusion of Port Citrus in the list of seaports for which certain dredging permits may be issued.

Section 45 repeals ch. 2000-411, F.S., which provides for the creation and operation of the Mid Bay Bridge Authority.

Section 46 amends s. 212.08, F.S., to correct a statutory cross reference.

Section 47 provides an effective date of July 1, 2011.

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:

This bill eliminates the SunPass Discount effective July 1, 2011 and provides toll rates for electronic collection shall be equal to the rates for cash collection effective July 1, 2011.

C. Government Sector Impact:

The consolidation of the Orlando Orange County Expressway Authority, the Tampa-Hillsborough County Expressway Authority and the Mid-Bay Bridge Authority with the Florida Turnpike is expected to increase gross toll revenues by approximately $330 million as estimated by the Turnpike Enterprise. Administrative efficiencies resulting from consolidation are also expected to save approximately $24 million annually.

The consolidation is estimated to increase the 5 Year Work Program total for Turnpike Enterprise by at least $1.7 billion. An additional $1.3 billion increase is expected in the second 5 years of the Turnpike Work Program.

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.

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 Budget Committee

BILL:	SPB 7200
INTRODUCER:	For consideration by the Budget Committee
SUBJECT:	Florida Housing Finance Corporation
DATE:	March 25, 2011 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Meyer, R.	Meyer, C.		**Pre-meeting**
2.				
3.				
4.				
5.				
6.				

I. Summary:

This bill:

- Eliminates the distribution of documentary stamp tax revenues into the State Housing Trust Fund and the Local Government Housing Trust Fund;
- Requires certain Florida Housing Finance Corporation (FHFC) funds to be accounted for by the Corporation and deposited into the State Housing Trust Fund and the expenditure of such funds to be appropriated by the Legislature;
- Requires FHFC program loan repayments, proceeds and interest to revert to the General Revenue Fund;
- Provides FHFC budget amendment requests shall be subject to approval by the Legislative Budget Commission;
- Provides for the deposit of certain monies into the Local Government Housing Trust Fund, and for certain investment interests within the fund to be credited to General Revenue; and
- Replaces all references to the Department of Community Affairs with Jobs Florida and all references to the Secretary of the Department of Community Affairs with the Commissioner of Jobs Florida.

This bill substantially amends the following sections of the Florida Statutes: 201.15, 420.0003, 420.0004, 420.0005, 420.101, 420.111, 420.36, 420.424, 420.503, 420.504, 420.506, 420.507, 420.508, 420.5087, 420.5088, 420.5089, 420.5091, 420.5092, 420.5095, 420.525, 420.526, 420.529, 420.602, 420.606, 420.609, 420.622, 420.631, 420.9073, 420.9079, and 201.0205.

II. Present Situation:

Florida Housing Finance Corporation

The Florida Housing Finance Corporation[1] is a state entity primarily responsible for encouraging the construction and reconstruction of new and rehabilitated affordable housing in Florida.[2] It was created in 1997, when the Legislature enacted chapter 97-167, Laws of Florida, to streamline implementation of affordable housing programs by reconstituting the agency as a corporation. The FHFC is a public corporation housed within the Department of Community Affairs (DCA), but is a separate budget entity not subject to the control, supervision, or direction of the DCA. Instead, it is governed by a nine member board of directors comprised of the Secretary of DCA, who serves as an ex officio voting member, and eight members appointed by the Governor, subject to confirmation by the Senate.

The corporation operates several housing programs financed with state and federal dollars, including:

- The State Apartment Incentive Loan Program (SAIL), which annually provides low-interest loans on a competitive basis to affordable housing developers;[3]
- The State Housing Initiatives Partnership Program (SHIP), which provides funds to cities and counties as an incentive to create local housing partnerships and to preserve and expand production of affordable housing;
- The Florida Homeowner Assistance Program (HAP), which includes the First Time Homebuyer Program, the Down Payment Assistance Program, the Homeownership Pool Program, and the Mortgage Credit Certificate program;
- The Florida Affordable Housing Guarantee Program, which encourages lenders to finance affordable housing by issuing guarantees on financing of affordable housing developments financed with mortgage revenue bonds;
- The HOME Investment Partnership Program, which provides low-interest loans from federal funds to developers to finance construction and rehabilitation of homes and rental program;
- The Predevelopment Loan Program, which assists nonprofit and community based organizations, local governments and public housing authorities by providing loans of up to $750,000 for predevelopment activities; and
- The Community Workforce Housing Innovation Pilot Program (CWHIP), which awards funds on a competitive basis to promote the creation of public-private partnerships to develop, finance, and build workforce housing.[4]

The FHFC receives funding for its affordable housing programs from documentary stamp tax revenues which are distributed to the State Housing Trust Fund and the Local Government

[1] Formerly the Florida Housing Finance Agency.
[2] Housing is determined to be affordable when a family is spending no more than 30 percent of its total income on housing. *See* Florida Housing Finance Corporation Handbook, *Overview of Florida Housing Finance Corporation's Mission and Programs*, at 3 (Sept. 2009) (on file with the Senate Committee on Community Affairs).
[3] Under current law, low interest mortgage loans provided under the SAIL Program are only available for qualifying farm workers, commercial fishing workers, the elderly, and the homeless. *See* s. 420.507(22), F.S.
[4] This information was obtained from the Florida Housing Finance Corporation Handbook, *Overview of Florida Housing Finance Corporation's Mission and Programs*, at 3 (Sept. 2009) (on file with the Senate Committee on Community Affairs).

Housing Trust Fund.[5] Pursuant to s. 420.507, F.S., the FHFC is also authorized to receive federal funding in connection with the corporation's programs directly from the Federal Government.[6]

Documentary Stamp Tax

The documentary stamp tax imposes an excise tax on deeds or other documents that convey an interest in Florida real property. The Department of Revenue classifies the documentary stamp taxes as two taxes imposed on different bases at different tax rates.[7] The first tax rate is 70 cents on each $100 of consideration for deeds, instruments, or writings whereby lands, tenements, or other real property or interest that are granted, assigned, transferred, conveyed or vested in a purchaser.[8] The second tax rate is 35 cents per each $100 of consideration for certificates of indebtedness, promissory notes, wage assignments and retail charge account agreements.[9]

Section 201.15, F.S., provides for the distribution of documentary stamp taxes, which are primarily used to fund various land and water conservation, preservation, and maintenance trust funds and certain transportation trust funds (described in further detail below).[10] In 1992, the William E. Sadowski Act created a dedicated source of revenue from documentary stamp tax revenues for affordable housing. This was generated from:

- Additional revenues from a 10-cent increase in the documentary stamp tax rate imposed on real estate transfers; and
- A re-allocation of ten cents of the existing documentary stamp tax revenues from general revenue to the affordable housing trust funds beginning in FY 1995-96.[11]

According to the FHFC, "30 percent of these revenues flow into the State Housing Trust Fund and 70 percent flow into the Local Government Housing Trust Fund."[12] In 2005, the Legislature capped the annual distribution of documentary stamp tax revenues into these trust funds at $243 million per year.[13] In the 2010-2011 FY, the Legislature appropriated $37.5 million to the FHFC.[14]

[5] Sections 201.15(9) and (10), F.S.
[6] *See* ss. 420.507(33) and 159.608, F.S.
[7] Florida Revenue Estimating Conference, *2010 Florida Tax Handbook*, at 67-73 (2010) (on file with the Senate Committee on Community Affairs).
[8] *Id. See also* s. 201.02(1), F.S.
[9] *Id.*
[10] Section 201.15(1), F.S.
[11] Florida Housing Finance Corporation Handbook, *Overview of Florida Housing Finance Corporation's Mission and Programs*, at 4 (Sept. 2009) (on file with the Senate Committee on Community Affairs).
[12] *Id., see also* ss. 201.15(9) and (10), F.S.
[13] Senate Bill 1110 (2005).
[14] Chapter 2010-152, s. 5 Laws of Fla. (HB 5001, General Appropriations Act and Implementing Bill for 2010-2011 Fiscal Year) (on file with the Senate Committee on Community Affairs).

Legislative Budget Commission[15]

The Legislative Budget Commission (Commission) is created in Article 3, section 19 of the Florida Constitution, s. 11.90, F.S., and the Joint Rules of the Florida Legislature. Although the Legislature has the constitutional duty to appropriate the moneys in the state treasury, it has recognized the need for modifications to the budget during the interim between legislative sessions. To this end, the Constitution delegates authority to the Commission to oversee certain aspects of the implementation of the approved budget for the State of Florida. The Commission is empowered in ch. 216, F.S., to ratify certain adjustments to the budget as recommended by the Governor or the Chief Justice of the Supreme Court without the concurrence of the full legislature. The Commission is also charged with developing the long-range financial outlook described in Article 3, section 19, of the Florida Constitution, and with reviewing proposed information technology-related budget amendments in specified instances.

The Commission is comprised of 14 legislative members: seven Representatives appointed by the Speaker and seven Senators appointed by the President. From November of each odd numbered year through October of each even-numbered year, the Senate chairs the Commission and the House is the vice chair. From November of each even-numbered year through October of each odd-numbered year, the House chairs the Commission and the Senate is vice chair.[16]

The Legislative Budget Commission is a standing joint committee of the Legislature created to:

1. Review and approve or disapprove agency requests to amend original approved budgets;[17]
2. Review agency spending plans;[18]
3. Review the recommendations of the Technology Review Workgroup regarding information technology issues;[19] and
4. Take other actions related to the fiscal matters of the state, as authorized by law.

In addition, the Chair and Vice Chair of the Commission, on behalf of the Legislature, may object to any agency action that exceeds the authority delegated to the executive or judicial branches, or is contrary to legislative policy and intent, regardless of whether that action is subject to legislative consultation or Commission approval.[20]

III. Effect of Proposed Changes:

Section 1 repeals subsections (9) and (10) of s. 201.15, F.S., to eliminate the distribution of documentary stamp tax revenues into the State Housing Trust Fund and the Local Government Housing Trust Fund.

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[15] The information in this section was taken directly from the Florida Legislature, *Online Sunshine* Website; this information is available at http://www.leg.state.fl.us/cgi-bin/View_Page.pl?File=index_css.html&Directory=committees/joint/JLBC/&Tab=committees (last visited on March 24, 2011).
[16] Section 11.90(1), F.S.
[17] Section 216.181(2), F.S.
[18] Section 11.90, F.S.
[19] Section 216.0446, F.S.
[20] Section 216.177(2)(b), F.S.

Section 2 amends s. 420.0003, F.S., to replace references to "the Department of Community Affairs" with "Jobs Florida."

Section 3 amends s. 420.0004, F.S., to change the definition of "Department" to mean "Jobs Florida."

Section 4 amends s. 420.0005, F.S., to require certain monies to be deposited into the State Housing Trust Fund within the State Treasury and subjecting the expenditures of such funds to appropriation by the Legislature. This section also requires amounts in the State Housing Trust Fund in excess of amounts appropriated for the current fiscal year to be credited to the General Revenue Fund. This section replaces references to the Department of Community Affairs with Jobs Florida and replaces all references to the Secretary of the Department of Community Affairs with the Commissioner of Jobs Florida.

Section 5 amends s. 420.101, F.S., to replace references to the Secretary of the Department of Community Affairs with the Commissioner of Jobs Florida.

Section 6 amends s. 420.111, F.S., to replace references to the Department of Community Affairs with Jobs Florida.

Section 7 amends s. 420.36, F.S., to replace references to the Department of Community Affairs with Jobs Florida.

Section 8 amends s. 420.424, F.S., to change the definition for "Department" to mean "Jobs Florida" and to replace the definition for "Secretary" with "Commissioner" to mean the Commissioner of Jobs Florida.

Section 9 amends s. 420.503, F.S., to change the definition for "Department" to mean "Jobs Florida."

Section 10 amends s. 420.504, F.S., to replace references to the Department of Community Affairs with Jobs Florida and replace references to the Secretary of the Department of Community Affairs with the Commissioner of Jobs Florida.

Section 11 amends s. 420.506, F.S., to replace references to the Secretary of the Department of Community Affairs with the Commissioner of Jobs Florida.

Section 12 amends s. 420.507, F.S., to require certain monies to be deposited into the State Housing Trust Fund and subjecting the expenditures of such funds to appropriation by the Legislature. This section also deletes provisions that exempt the Corporation from certain state budgetary requirements and that allow it to retain unused operational expenditures.

Section 13 amends s. 420.508, F.S., to require certain monies to be deposited into the State Housing Trust Fund within the State Treasury and subjecting the expenditures of such funds to appropriation by the Legislature. This section also deletes provisions that exempt the Corporation from certain state budgetary requirements.

Section 14 amends s. 420.5087, F.S., relating to the State Apartment Incentive Loan Program (SAIL), to require loan repayments, proceeds and certain funds to be accounted for by the Corporation and deposited into the State Housing Trust Fund. This section also requires expenditures from the SAIL fund to be subject to appropriation by the Legislature and authorizes the corporation to seek budget amendments in order to use certain funds subject to approval by the Legislative Budget Commission. This section deletes provisions that authorize the Corporation to retain unused operational expenditures.

Section 15 amends s. 420.5088, F.S., relating to the Florida Homeownership Assistance Program, to require the corporation to account for certain monies to be deposited into the State Housing Trust Fund. This section also requires expenditures from the Florida Homeownership Assistance Program to be subject to appropriation by the Legislature. This section also deletes provisions that exempt the Corporation from certain state budgetary requirements and that allow them to retain unused operational expenditures.

Section 16 amends s. 420.5089, F.S., relating to the HOME Investment Partnership Program, to require the corporation to account for certain monies and to be deposited into the State Housing Trust Fund. This section also deletes provisions that exempt the Corporation from certain state budgetary requirements and that allow it to retain unused operational expenditures. This section directs budget amendment requests to be approved by the Legislative Budget Commission.

Section 17 amends s. 420.5091, F.S., relating to the HOPE Program, to provide for the deposit of certain funds into the State Housing Trust Fund.

Section 18 amends s. 420.5092, F.S., relating to the Florida Affordable Housing Guarantee Program, to delete current references to the documentary stamp tax distributions and to authorize certain funds to be used in order support the Guarantee Program.

Section 19 amends s. 420.5095, F.S., relating to the Community Workforce Housing Innovation Pilot Program, to replace references to the Department of Community Affairs with Jobs Florida.

Section 20 amends s. 420.525, F.S., to relating to the Housing Predevelopment Fund, to require the Corporation to account for certain monies to be deposited into the State Housing Trust Fund. This section also deletes provisions that exempt the Corporation from certain state budgetary requirements and that allow them to retain unused operational expenditures. This section directs budget amendment requests to be approved by the Legislative Budget Commission.

Section 21 amends s. 420.526, F.S., relating to the Predevelopment Loan Program, to require the Corporation to account for certain monies that shall be repaid to the State Housing Trust Fund in the State Treasury for expenditure as appropriated by the Legislature.

Section 22 amends s. 420.529, F.S., to require the Corporation to account for certain monies that shall be repaid to the State Housing Trust Fund in the State Treasury for expenditure as appropriated by the Legislature.

Section 23 amends s. 420.602, F.S., to define "Commissioner" to mean the Commissioner of Jobs Florida and to change the definition for "Department" to mean "Jobs Florida". This section also deletes the current definition for "Secretary."

Section 24 amends s. 420.606, F.S., to replace references to the Department of Community Affairs with Jobs Florida.

Section 25 amends s. 420.609, F.S., to replace references to the Secretary of the Department of Community Affairs with the Commissioner of Jobs Florida.

Section 26 amends s. 420.622, F.S., to replace references to the Secretary of the Department of Community Affairs with the Commissioner of Jobs Florida.

Section 27 amends s. 420.631, F.S., to change the definition of "Department" to mean "Jobs Florida" and to define "Office" to mean the office of Urban Opportunity within Jobs Florida.

Section 28 amends s. 420.9073, F.S., to revise local housing distributions provisions under the State Housing Initiatives Program and delete current references to the documentary stamp tax distributions under subsections (9) and (10) of s. 201.15, F.S..

Section 29 amends s. 420.9079, F.S., to require all monies deposited into the Local Government Housing Trust Fund with the State Treasury to be appropriated by the Legislature and to require any interest received on any investments therein to be credited to the General Revenue Fund.

Section 30 amends s. 201.0205, F.S., to change the source of funding for certain counties that have implemented ch.83-220, Laws of Florida, and are therefore not subject to the 10-cent tax increase imposed by ch. 92-317, s. 2, Laws of Florida.

Section 31 provides that this act shall take effect on July 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

All monies, as provided in this bill, that are required to be deposited into the State Housing Trust Fund and the Local Government Housing Trust Fund will now be subject to appropriation by the Legislature.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

This bill removes the documentary stamp tax distributions to the State Housing Trust Fund and the Local Government Housing Trust Fund currently provided under subsections (9) and (10) of s. 201.15, F.S..

The Revenue Estimating conference estimated, on March 18, 2011 the Fiscal Year 2011-2012 documentary stamp tax revenue for the State Housing Trust Fund as $57.54 million, and for the Local Government Housing Trust Fund as $134.63 million. As a result of this bill, these two trust funds will lose $192.17 million in FY 2011-2012, and the General Revenue Fund revenues for the same year will increase by $192.17 million.

B. Private Sector Impact:

The Florida Housing Finance Corporation will now be required to account for program funds and deposit all monies into the State Housing Trust Fund and the Federal Grants Trust Fund, which shall be subject to appropriation by the Legislature.

The FHFC will also be required to obtain approval from the Legislative Budget Commission on all budget amendment requests.

C. Government Sector Impact:

The Legislature will now have appropriations authority over all monies deposited into the State Housing Turst Fund and the Local Government Housing Trust Fund. This bill directs that the Legislative Budget Commission may approve budget amendment requests from the FHFC.

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.

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LEGISLATIVE ACTION

Senate . House

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The Committee on Budget (Gaetz) recommended the following:

Senate Amendment

Delete lines 2335 - 2355
and insert:
215.559 Hurricane Loss Mitigation Program.—
(6) ~~(7)~~ On January 1st of each year, the office ~~Department of Community Affairs~~ shall provide a full report and accounting of activities under this section and an evaluation of such activities to the Speaker of the House of Representatives, the President of the Senate, and the Majority and Minority Leaders of the House of Representatives and the Senate. Upon completion of the report, the office ~~Department of Community Affairs~~ shall deliver the report to the Office of Insurance Regulation. The

Office of Insurance Regulation shall review the report and shall make such recommendations available to the insurance industry as the Office of Insurance Regulation deems appropriate. These recommendations may be used by insurers for potential discounts or rebates pursuant to s. 627.0629. The Office of Insurance Regulation shall make such ~~the~~ recommendations within 1 year after receiving the report.

~~(8)(a) Notwithstanding any other provision of this section and for the 2010-2011 fiscal year only, the $3 million appropriation provided for in paragraph (2)(b) may be used for hurricane shelters as identified in the General Appropriations Act.~~

~~(b) This subsection expires June 30, 2011.~~

(7) ~~(9)~~ This section is repealed June 30, 2021 ~~2011~~.

645074

LEGISLATIVE ACTION

Senate . House

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The Committee on Budget (Gaetz) recommended the following:

Senate Amendment

Delete line 12212

and insert:

Research.-There is established at a public university or research center in this state the Institute for the

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LEGISLATIVE ACTION

Senate . House

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The Committee on Budget (Wise and Gaetz) recommended the following:

Senate Amendment (with directory amendment)

Between lines 20071 and 20072
insert:

(2)(a) Each private prekindergarten provider, including faith-based providers, and public school may select or design the curriculum that the provider or school uses to implement the Voluntary Prekindergarten Education Program, except as otherwise required for a provider or school that is placed on probation under paragraph (3)(c).

(b) Each private prekindergarten provider's and public school's curriculum must be developmentally appropriate and

792694

must:

1. Be designed to prepare a student for early literacy;

2. Enhance the age-appropriate progress of students in attaining the performance standards adopted by the department under subsection (1); and

3. Prepare students to be ready for kindergarten based upon the statewide kindergarten screening administered under s. 1002.69.

(c) The department shall review and approve curricula for use by private prekindergarten providers and public schools that are placed on probation under paragraph (3)(c). The department shall allow a faith-based provider to continue to use the provider's choice of curriculum while the provider is on probation. The department shall maintain a list of the curricula approved under this paragraph. Each approved curriculum must meet the requirements of paragraph (b).

====== D I R E C T O R Y C L A U S E A M E N D M E N T ======

And the directory clause is amended as follows:

Delete lines 20058 - 20059

and insert:

Section 356. Section 1002.67, Florida Statutes, is amended to read:

651020

LEGISLATIVE ACTION

Senate . House

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The Committee on Budget (Wise and Gaetz) recommended the following:

Senate Amendment (with title amendment)

Delete lines 412 - 432

and insert:

Section 1. Type two transfers from the Agency for Workforce Innovation.—

(1) All powers, duties, functions, records, offices, personnel, associated administrative support positions, property, pending issues, existing contracts, administrative authority, administrative rules, and unexpended balances of appropriations, allocations, and other funds relating to the

651020

following programs in the Agency for Workforce Innovation are transferred by a type two transfer, as defined in s. 20.06(2), Florida Statutes, as follows:

(a)1. The functions and related policies and procedures of the Office of Early Learning relating to the school readiness system, the Child Care Executive Partnership Act, the prevailing market rate of child care providers, warm-line services, the Teacher Education and Compensation Helps (TEACH) scholarship program, Early Head Start collaboration grants, and the infants and toddlers in state-funded education and care programs.

2. All functions and related policies and procedures which are not transferred to the Department of Children and Family Services under subparagraph 1. are transferred to the Department of Education.

(b) The Office of Unemployment Compensation is transferred to Jobs Florida.

(c) The Office of Workforce Services is transferred to Jobs Florida.

(2) The following trust funds are transferred:

(a) From the Agency for Workforce Innovation to the Department of Children and Family Services, the Child Care and Development Block Grant Trust Fund.

Delete lines 768 - 776

and insert:

(3) DIVISIONS.—The following divisions of the Department of Education are established:

(h) The Division of Early Learning, which shall administer the operational requirements of the Voluntary Prekindergarten Education Program in accordance with part V of chapter 1002. The

651020

division shall be directed by the Deputy Commissioner for Early Learning, who shall be appointed by and serve at the pleasure of the commissioner.

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

And the title is amended as follows:

Delete lines 5 - 67

and insert:

transferring functions of the Office of Early Learning Services to the Department of Children and Family Services and to the Department of Education; transferring the Office of Unemployment Compensation to Jobs Florida; transferring the Office of Workforce Services to Jobs Florida; transferring the functions and trust funds of the Department of Community Affairs to other agencies; transferring the Florida Housing Finance Corporation to Jobs Florida; transferring the Division of Housing and Community Development to Jobs Florida; transferring the Division of Community Planning to Jobs Florida; transferring the Division of Emergency Management to the Executive Office of the Governor and renaming it as the "Office of Emergency Management"; transferring the Florida Building Commission to the Department of Business and Professional Regulation; transferring the responsibilities under the Florida Communities Trust to the Department of Environmental Protection; transferring the responsibilities under the Stan Mayfield Working Waterfronts program to the Department

of Environmental Protection; transferring functions and trust funds of the Office of Tourism, Trade, and Economic Development in the Executive Office of the Governor to Jobs Florida; providing legislative intent with respect to the transfer of programs and administrative responsibilities; providing for a transition period; providing for coordination between the Agency for Workforce Innovation, the Department of Community Affairs, the Office of Tourism, Trade, and Economic Development, and other state agencies to implement the transition; requiring that the Governor appoint a representative to coordinate the transition plan; requiring that the Governor submit information and obtain waivers as required by federal law; authorizing the Governor to transfer funds and positions between agencies upon approval from the Legislative Budget Commission to implement the act; directing the nonprofit entities to enter into a plan for merger; transferring the functions of Space Florida to the Jobs Florida Partnership, Inc.; providing legislative intent with respect to the merger of Enterprise Florida, Inc., the Florida Sports Foundation Inc., the Florida Tourism Industry Marketing Corporation d/b/a VISIT Florida, the Florida Black Business Investment Board, Inc., and the transfer of Space Florida to the Jobs Florida Partnership, Inc.; providing for a transition period; requiring that the Governor appoint a representative to coordinate the transition plan; providing for the


651020

transfer of any funds held in trust by the entities to be transferred to the Jobs Florida Partnership, Inc., to be used for their original purposes; requiring that the Governor submit information and obtain waivers as required by federal law; providing a directive to the Division of Statutory Revision to prepare conforming legislation; creating s. 14.2016, F.S.; establishing the Office of Emergency Management as a separate budget entity within the Executive Office of the Governor; providing for the director of the office to serve at the pleasure of the Governor; amending s. 20.15, F.S.; establishing the Division of Early Learning within the Department of Education; providing for the office to administer the

308046

LEGISLATIVE ACTION

Senate . House

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The Committee on Budget (Wise) recommended the following:

Senate Substitute for Amendment (651020) (with title amendment)

Delete lines 412 - 432

and insert:

Section 1. Type two transfers from the Agency for Workforce Innovation.—

(1) All powers, duties, functions, records, offices, personnel, associated administrative support positions, property, pending issues, existing contracts, administrative authority, administrative rules, and unexpended balances of appropriations, allocations, and other funds relating to the following programs in the Agency for Workforce Innovation are

308046

transferred by a type two transfer, as defined in s. 20.06(2), Florida Statutes, as follows:

(a)1. The functions and related policies and procedures of the Office of Early Learning relating to the school readiness system, the Child Care Executive Partnership Act, the prevailing market rate of child care providers, warm-line services, the Teacher Education and Compensation Helps (TEACH) scholarship program, Early Head Start collaboration grants, and the infants and toddlers in state-funded education and care programs are transferred to the Department of Children and Family Services.

2. All functions and related policies and procedures which are not transferred to the Department of Children and Family Services under subparagraph 1. are transferred to the Department of Education.

(b) The Office of Unemployment Compensation is transferred to Jobs Florida.

(c) The Office of Workforce Services is transferred to Jobs Florida.

(2) The following trust funds are transferred:

(a) From the Agency for Workforce Innovation to the Department of Children and Family Services, the Child Care and Development Block Grant Trust Fund.

Delete lines 768 - 776

and insert:

(3) DIVISIONS.—The following divisions of the Department of Education are established:

(h) The Division of Early Learning, which shall administer the operational requirements of the Voluntary Prekindergarten Education Program in accordance with part V of chapter 1002. The

308046

division shall be directed by the Deputy Commissioner for Early Learning, who shall be appointed by and serve at the pleasure of the commissioner.

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

And the title is amended as follows:

Delete lines 5 - 67

and insert:

transferring functions of the Office of Early Learning Services to the Department of Children and Family Services and to the Department of Education; transferring the Office of Unemployment Compensation to Jobs Florida; transferring the Office of Workforce Services to Jobs Florida; transferring the functions and trust funds of the Department of Community Affairs to other agencies; transferring the Florida Housing Finance Corporation to Jobs Florida; transferring the Division of Housing and Community Development to Jobs Florida; transferring the Division of Community Planning to Jobs Florida; transferring the Division of Emergency Management to the Executive Office of the Governor and renaming it as the "Office of Emergency Management"; transferring the Florida Building Commission to the Department of Business and Professional Regulation; transferring the responsibilities under the Florida Communities Trust to the Department of Environmental Protection; transferring the responsibilities under the Stan Mayfield Working Waterfronts program to the Department

of Environmental Protection; transferring functions and trust funds of the Office of Tourism, Trade, and Economic Development in the Executive Office of the Governor to Jobs Florida; providing legislative intent with respect to the transfer of programs and administrative responsibilities; providing for a transition period; providing for coordination between the Agency for Workforce Innovation, the Department of Community Affairs, the Office of Tourism, Trade, and Economic Development, and other state agencies to implement the transition; requiring that the Governor appoint a representative to coordinate the transition plan; requiring that the Governor submit information and obtain waivers as required by federal law; authorizing the Governor to transfer funds and positions between agencies upon approval from the Legislative Budget Commission to implement the act; directing the nonprofit entities to enter into a plan for merger; transferring the functions of Space Florida to the Jobs Florida Partnership, Inc.; providing legislative intent with respect to the merger of Enterprise Florida, Inc., the Florida Sports Foundation Inc., the Florida Tourism Industry Marketing Corporation d/b/a VISIT Florida, the Florida Black Business Investment Board, Inc., and the transfer of Space Florida to the Jobs Florida Partnership, Inc.; providing for a transition period; requiring that the Governor appoint a representative to coordinate the transition plan; providing for the

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transfer of any funds held in trust by the entities to be transferred to the Jobs Florida Partnership, Inc., to be used for their original purposes; requiring that the Governor submit information and obtain waivers as required by federal law; providing a directive to the Division of Statutory Revision to prepare conforming legislation; creating s. 14.2016, F.S.; establishing the Office of Emergency Management as a separate budget entity within the Executive Office of the Governor; providing for the director of the office to serve at the pleasure of the Governor; amending s. 20.15, F.S.; establishing the Division of Early Learning within the Department of Education; providing for the office to administer the

219010

LEGISLATIVE ACTION

Senate . House

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The Committee on Budget (Wise and Gaetz) recommended the following:

Senate Amendment (with title amendment)

Delete lines 3721 - 3867
and insert:

Section 43. Section 411.01, Florida Statutes, is amended to read:

411.01 School readiness programs; early learning coalitions.—

(1) SHORT TITLE.—This section may be cited as the "School Readiness Act."

(2) LEGISLATIVE INTENT.—

(a) The Legislature recognizes that school readiness programs increase children's chances of achieving future

219010

educational success and becoming productive members of society. It is the intent of the Legislature that the programs be developmentally appropriate, research-based, involve the parent as a child's first teacher, serve as preventive measures for children at risk of future school failure, enhance the educational readiness of eligible children, and support family education. Each school readiness program shall provide the elements necessary to prepare at-risk children for school~~, including health screening and referral and an appropriate educational program~~.

(b) It is the intent of the Legislature that school readiness programs be operated on a full-day, year-round basis to the maximum extent possible to enable parents to work and become financially self-sufficient.

(c) It is the intent of the Legislature that school readiness programs not exist as isolated programs, but build upon existing services and work in cooperation with other programs for young children, and that school readiness programs be coordinated to achieve full effectiveness.

(d) It is the intent of the Legislature that the administrative staff for school readiness programs be kept to the minimum necessary to administer the duties of the Department of Children and Family Services ~~Agency for Workforce Innovation and early learning coalitions~~. The department ~~Agency for Workforce Innovation~~ shall adopt system support services at the state level to build a comprehensive early learning system. The department shall ensure the implementation and maintenance of ~~Each early learning coalition shall implement and maintain~~ direct enhancement services at the local level~~, as approved in~~

~~its school readiness plan by the Agency for Workforce Innovation,~~ and ensure access to such services in all 67 counties.

(e) It is the intent of the Legislature that the school readiness program coordinate and operate in conjunction with the district school systems. However, it is also the intent of the Legislature that the school readiness program not be construed as part of the system of free public schools but rather as a separate program for children under the age of kindergarten eligibility, funded separately from the system of free public schools, utilizing a mandatory sliding fee scale, and providing an integrated and seamless system of school readiness services for the state's birth-to-kindergarten population.

(f) It is the intent of the Legislature that school readiness services be an integrated and seamless program of services with a developmentally appropriate education component for the state's eligible birth-to-kindergarten population described in subsection (6) and not be construed as part of the seamless K-20 education system.

(3) PARENTAL PARTICIPATION IN SCHOOL READINESS PROGRAMS.—This section does not:

(a) Relieve parents and guardians of their own obligations to prepare their children for school; or

(b) Create any obligation to provide publicly funded school readiness programs or services beyond those authorized by the Legislature.

(4) DEPARTMENT OF CHILDREN AND FAMILY SERVICES ~~AGENCY FOR WORKFORCE INNOVATION~~.—

(a) The department ~~Agency for Workforce Innovation~~ shall

administer school readiness programs at the state level and shall ensure coordination at the local level ~~coordinate with the early learning coalitions~~ in providing school readiness services on a full-day, full-year, full-choice basis to the extent possible in order to enable parents to work and be financially self-sufficient.

(b) The department ~~Agency for Workforce Innovation~~ shall:

1. Coordinate the birth-to-kindergarten services for children who are eligible under subsection (6) and the programmatic, administrative, and fiscal standards under this section for all public providers of school readiness programs.

2. Focus on improving the educational quality of all program providers participating in publicly funded school readiness programs.

(c) The Governor shall designate the Department of Children and Family Services ~~Agency for Workforce Innovation~~ as the lead agency for administration of the federal Child Care and Development Fund, 45 C.F.R. parts 98 and 99, and the agency shall comply with the lead agency responsibilities under federal law.

(d) The department ~~Agency for Workforce Innovation~~ shall:

1. Be responsible for the prudent use of all public and private funds in accordance with all legal and contractual requirements.

2. Provide final approval and every 2 years review the implementation and delivery of direct services of ~~early learning coalitions and~~ school readiness programs by local level service providers ~~plans~~.

3. Establish a unified approach to the state's efforts

toward enhancement of school readiness. In support of this effort, the department ~~Agency for Workforce Innovation~~ shall adopt specific system support services that address the state's school readiness programs. ~~An early learning coalition shall amend its school readiness plan to conform to the specific system support services adopted by the Agency for Workforce Innovation.~~ Specific system support services shall include, but are not limited to:

a. Child care resource and referral services;

b. Warm-Line services;

c. Eligibility determinations;

d. Child performance standards;

e. Child screening and assessment;

f. Developmentally appropriate curricula;

g. Health and safety requirements;

h. Statewide data system requirements; and

i. Rating and improvement systems.

4. Safeguard the effective use of federal, state, local, and private resources to achieve the highest possible level of school readiness for the children in this state.

5. Adopt a rule establishing criteria for the expenditure of funds designated for the purpose of funding activities to improve the quality of child care within the state in accordance with s. 658G of the federal Child Care and Development Block Grant Act.

~~6. Provide technical assistance to early learning coalitions in a manner determined by the Agency for Workforce Innovation based upon information obtained by the agency from various sources, including, but not limited to, public input,~~

~~government reports, private interest group reports, agency monitoring visits, and coalition requests for service.~~

6.~~7.~~ Coordinate ~~In cooperation~~ with the Department of Education and local level service providers ~~early learning coalitions, coordinate with the Child Care Services Program Office of the Department of Children and Family Services~~ to minimize duplicating interagency activities, health and safety monitoring, and acquiring and composing data pertaining to child care training and credentialing.

7.~~8.~~ Develop and adopt performance standards and outcome measures for school readiness programs. The performance standards must address the age-appropriate progress of children in the development of school readiness skills. The performance standards for children from birth to 5 years of age in school readiness programs must be integrated with the performance standards adopted by the Department of Education for children in the Voluntary Prekindergarten Education Program under s. 1002.67.

8.~~9.~~ Adopt a standard contract that must be used by the local level service providers ~~coalitions~~ when contracting with school readiness providers.

(e) The department ~~Agency for Workforce Innovation~~ may adopt rules under ss. 120.536(1) and 120.54 to administer the provisions of law conferring duties upon the department ~~agency~~, including, but not limited to, rules governing the administration of system support services of school readiness programs, the collection of data, the approval of local level service providers, ~~early learning coalitions and school readiness plans, the provision of a method whereby an early~~

~~learning coalition may serve two or more counties, the award of incentives to early learning coalitions,~~ child performance standards, child outcome measures, the issuance of waivers, and the implementation of the state's Child Care and Development Fund Plan as approved by the federal Administration for Children and Families.

(f) The department ~~Agency for Workforce Innovation~~ shall have all powers necessary to administer this section, including, but not limited to, the power to receive and accept grants, loans, or advances of funds from any public or private agency and to receive and accept from any source contributions of money, property, labor, or any other thing of value, to be held, used, and applied for purposes of this section.

(g) Except as provided by law, the department ~~Agency for Workforce Innovation~~ may not impose requirements on a child care or early childhood education provider that does not deliver services under the school readiness programs or receive state or federal funds under this section.

(h) The department ~~Agency for Workforce Innovation~~ shall have a budget for school readiness programs, which shall be financed through an annual appropriation made for purposes of this section in the General Appropriations Act.

~~(i) The Agency for Workforce Innovation shall coordinate the efforts toward school readiness in this state and provide independent policy analyses, data analyses, and recommendations to the Governor, the State Board of Education, and the Legislature.~~

(i) ~~(j)~~ The department ~~Agency for Workforce Innovation~~ shall require that school readiness programs, at a minimum, enhance

the age-appropriate progress of each child in attaining the performance standards adopted under subparagraph (d)7. ~~(d)8~~. and in the development of the following school readiness skills:

1. Compliance with rules, limitations, and routines.
2. Ability to perform tasks.
3. Interactions with adults.
4. Interactions with peers.
5. Ability to cope with challenges.
6. Self-help skills.
7. Ability to express the child's needs.
8. Verbal communication skills.
9. Problem-solving skills.
10. Following of verbal directions.
11. Demonstration of curiosity, persistence, and exploratory behavior.
12. Interest in books and other printed materials.
13. Paying attention to stories.
14. Participation in art and music activities.
15. Ability to identify colors, geometric shapes, letters of the alphabet, numbers, and spatial and temporal relationships.

Within 30 days after enrollment in the school readiness program, ~~the early learning coalition must ensure that~~ the program provider shall obtain ~~obtains~~ information regarding the child's immunizations, physical health, and special dietary needs ~~development, and other health requirements as necessary, including appropriate vision and hearing screening and examinations~~. For a program provider licensed by the department

~~of Children and Family Services~~, the provider's compliance with s. 402.305(9), as verified pursuant to s. 402.311, shall satisfy this requirement. The standard contract for school readiness services shall require a program that is not licensed by the department to obtain information regarding a child's immunizations, physical health, and special dietary needs.

~~(k) The Agency for Workforce Innovation shall conduct studies and planning activities related to the overall improvement and effectiveness of the outcome measures adopted by the agency for school readiness programs and the specific system support services to address the state's school readiness programs adopted by the Agency for Workforce Innovation in accordance with subparagraph (d)3.~~

(j) ~~(l)~~ The department ~~Agency for Workforce Innovation~~ shall monitor and evaluate the performance of each local level service provider ~~early learning coalition~~ in administering the school readiness program~~, implementing the coalition's school readiness plan, and administering the Voluntary Prekindergarten Education Program~~. These monitoring and performance evaluations must include, at a minimum, onsite monitoring of the ~~each coalition's~~ finances, management, operations, and programs of each local level service provider.

(k) ~~(m)~~ The department ~~Agency for Workforce Innovation~~ shall submit an annual report of its activities conducted under this section to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the minority leaders of both houses of the Legislature. ~~In addition, the Agency for Workforce Innovation's reports and recommendations shall be made available to the Florida Early Learning Advisory~~

~~Council and other appropriate state agencies and entities.~~ The annual report must provide an analysis of school readiness activities across the state, including the number of children who were served in the programs.

(l)~~(n)~~ The department ~~Agency for Workforce Innovation~~ shall work with the local level service providers ~~early learning coalitions~~ to ensure availability of training and support for parental involvement in children's early education and to provide family literacy activities and services.

(5) LOCAL LEVEL SERVICE PROVIDERS ~~CREATION OF EARLY LEARNING COALITIONS~~.—

(a) *Eligible local level service providers* ~~*Early learning coalitions*~~.—The Department of Children and Family Services shall contract with appropriate local level service providers that have the capacity to deliver school readiness services including, but not limited to, determining child eligibility for school readiness programs, disbursing school readiness funds, providing training for parents as a child's first teacher, providing child care resource and referral services and Warm-Line services, providing data as requested by the department, using the department's information system, tracking child's attendance, and assisting the department with child screenings and assessments as well as implementation of a statewide quality rating system.

1. Local level service providers shall be selected through a request for proposal every 5 years and may consist of early learning coalitions, children's services councils, central agencies, and any other local entities that demonstrate the ability to provide local level services to their community,

which may consist of multiple counties.

2. The administrative staff for the local level service providers delivering school readiness programs shall be kept to the minimum necessary to administer the duties as determined by the department.

~~1. Each early learning coalition shall maintain direct enhancement services at the local level and ensure access to such services in all 67 counties.~~

~~2. The Agency for Workforce Innovation shall establish the minimum number of children to be served by each early learning coalition through the coalition's school readiness program. The Agency for Workforce Innovation may only approve school readiness plans in accordance with this minimum number. The minimum number must be uniform for every early learning coalition and must:~~

~~a. Permit 31 or fewer coalitions to be established; and~~

~~b. Require each coalition to serve at least 2,000 children based upon the average number of all children served per month through the coalition's school readiness program during the previous 12 months.~~

~~3. If an early learning coalition would serve fewer children than the minimum number established under subparagraph 2., the coalition must merge with another county to form a multicounty coalition. The Agency for Workforce Innovation shall adopt procedures for merging early learning coalitions, including procedures for the consolidation of merging coalitions, and for the early termination of the terms of coalition members which are necessary to accomplish the mergers. However, the Agency for Workforce Innovation shall grant a~~

~~waiver to an early learning coalition to serve fewer children than the minimum number established under subparagraph 2., if:~~

~~a. The Agency for Workforce Innovation has determined during the most recent review of the coalition's school readiness plan, or through monitoring and performance evaluations conducted under paragraph (4)(l), that the coalition has substantially implemented its plan;~~

~~b. The coalition demonstrates to the Agency for Workforce Innovation the coalition's ability to effectively and efficiently implement the Voluntary Prekindergarten Education Program; and~~

~~c. The coalition demonstrates to the Agency for Workforce Innovation that the coalition can perform its duties in accordance with law.~~

~~If an early learning coalition fails or refuses to merge as required by this subparagraph, the Agency for Workforce Innovation may dissolve the coalition and temporarily contract with a qualified entity to continue school readiness and prekindergarten services in the coalition's county or multicounty region until the agency reestablishes the coalition and a new school readiness plan is approved by the agency.~~

~~4. Each early learning coalition shall be composed of at least 15 members but not more than 30 members. The Agency for Workforce Innovation shall adopt standards establishing within this range the minimum and maximum number of members that may be appointed to an early learning coalition and procedures for identifying which members have voting privileges under subparagraph 6. These standards must include variations for a~~

~~coalition serving a multicounty region. Each early learning coalition must comply with these standards.~~

~~5. The Governor shall appoint the chair and two other members of each early learning coalition, who must each meet the same qualifications as private sector business members appointed by the coalition under subparagraph 7.~~

~~6. Each early learning coalition must include the following member positions; however, in a multicounty coalition, each ex officio member position may be filled by multiple nonvoting members but no more than one voting member shall be seated per member position. If an early learning coalition has more than one member representing the same entity, only one of such members may serve as a voting member:~~

~~a. A Department of Children and Family Services circuit administrator or his or her designee who is authorized to make decisions on behalf of the department.~~

~~b. A district superintendent of schools or his or her designee who is authorized to make decisions on behalf of the district.~~

~~c. A regional workforce board executive director or his or her designee.~~

~~d. A county health department director or his or her designee.~~

~~e. A children's services council or juvenile welfare board chair or executive director, if applicable.~~

~~f. An agency head of a local licensing agency as defined in s. 402.302, where applicable.~~

~~g. A president of a community college or his or her designee.~~

~~h. One member appointed by a board of county commissioners or the governing board of a municipality.~~

~~i. A central agency administrator, where applicable.~~

~~j. A Head Start director.~~

~~k. A representative of private for-profit child care providers, including private for-profit family day care homes.~~

~~l. A representative of faith-based child care providers.~~

~~m. A representative of programs for children with disabilities under the federal Individuals with Disabilities Education Act.~~

~~7. Including the members appointed by the Governor under subparagraph 5., more than one-third of the members of each early learning coalition must be private sector business members who do not have, and none of whose relatives as defined in s. 112.3143 has, a substantial financial interest in the design or delivery of the Voluntary Prekindergarten Education Program created under part V of chapter 1002 or the coalition's school readiness program. To meet this requirement an early learning coalition must appoint additional members. The Agency for Workforce Innovation shall establish criteria for appointing private sector business members. These criteria must include standards for determining whether a member or relative has a substantial financial interest in the design or delivery of the Voluntary Prekindergarten Education Program or the coalition's school readiness program.~~

~~8. A majority of the voting membership of an early learning coalition constitutes a quorum required to conduct the business of the coalition. An early learning coalition board may use any method of telecommunications to conduct meetings, including~~

~~establishing a quorum through telecommunications, provided that the public is given proper notice of a telecommunications meeting and reasonable access to observe and, when appropriate, participate.~~

~~9. A voting member of an early learning coalition may not appoint a designee to act in his or her place, except as otherwise provided in this paragraph. A voting member may send a representative to coalition meetings, but that representative does not have voting privileges. When a district administrator for the Department of Children and Family Services appoints a designee to an early learning coalition, the designee is the voting member of the coalition, and any individual attending in the designee's place, including the district administrator, does not have voting privileges.~~

~~10. Each member of an early learning coalition is subject to ss. 112.313, 112.3135, and 112.3143. For purposes of s. 112.3143(3)(a), each voting member is a local public officer who must abstain from voting when a voting conflict exists.~~

~~11. For purposes of tort liability, each member or employee of an early learning coalition shall be governed by s. 768.28.~~

~~12. An early learning coalition serving a multicounty region must include representation from each county.~~

~~13. Each early learning coalition shall establish terms for all appointed members of the coalition. The terms must be staggered and must be a uniform length that does not exceed 4 years per term. Coalition chairs shall be appointed for 4 years in conjunction with their membership on the Early Learning Advisory Council under s. 20.052. Appointed members may serve a maximum of two consecutive terms. When a vacancy occurs in an~~

~~appointed position, the coalition must advertise the vacancy.~~

(b) *Limitation.*—Except as provided by law, the local level service providers ~~early learning coalitions~~ may not impose requirements on a child care or early childhood education provider that does not deliver services under the school readiness programs or receive state, federal, required maintenance of effort, or matching funds under this section.

(c) *Program expectations.*—

1. The school readiness program must meet the following expectations:

a. The program must, at a minimum, enhance the age-appropriate progress of each child in attaining the performance standards and outcome measures adopted by the department ~~Agency for Workforce Innovation~~.

b. The program must provide extended-day and extended-year services to the maximum extent possible without compromising the quality of the program to meet the needs of parents who work.

c. The program must provide a coordinated professional development system that supports the achievement and maintenance of core competencies by school readiness instructors in helping children attain the performance standards and outcome measures adopted by the department ~~Agency for Workforce Innovation~~.

d. There must be expanded access to community services and resources for families to help achieve economic self-sufficiency.

e. There must be a single point of entry and unified waiting list. As used in this sub-subparagraph, the term "single point of entry" means an integrated information system that allows a parent to enroll his or her child in the school

readiness program at various locations throughout a county, that may allow a parent to enroll his or her child by telephone or through an Internet website, and that uses a unified waiting list to track eligible children waiting for enrollment in the school readiness program. The department ~~Agency for Workforce Innovation~~ shall establish through technology a single statewide information system that each local level service provider ~~coalition~~ must use for the purposes of managing the single point of entry, tracking children's progress, coordinating services among stakeholders, determining eligibility, tracking child attendance, and streamlining administrative processes for providers ~~and early learning coalitions~~.

f. The department ~~Agency for Workforce Innovation~~ must consider the access of eligible children to the school readiness program, as demonstrated in part by waiting lists, before approving a proposed increase in payment rates submitted by an early learning coalition. In addition, early learning coalitions shall use school readiness funds made available due to enrollment shifts from school readiness programs to the Voluntary Prekindergarten Education Program for increasing the number of children served in school readiness programs before increasing payment rates.

g. The program must meet all state licensing guidelines, where applicable.

h. The program must ensure that minimum standards for child discipline practices are age-appropriate. ~~Such standards must provide that children not be subjected to discipline that is severe, humiliating, or frightening or discipline that is associated with food, rest, or toileting. Spanking or any other~~

~~form of physical punishment is prohibited.~~

2. Each local level service provider ~~early learning coalition~~ must implement a comprehensive program of school readiness services in accordance with the rules adopted by the agency which enhance the cognitive, social, and physical development of children to achieve the performance standards and outcome measures. At a minimum, these programs must contain the following system support service elements:

a. Developmentally appropriate curriculum designed to enhance the age-appropriate progress of children in attaining the performance standards adopted by the department ~~Agency for Workforce Innovation~~ under subparagraph (4)(d)7. ~~(4)(d)8~~.

b. A character development program to develop basic values.

c. An age-appropriate screening of each child's development.

d. An age-appropriate assessment administered to children when they enter a program and an age-appropriate assessment administered to children when they leave the program.

e. An appropriate staff-to-children ratio, pursuant to s. 402.305(4) or s. 402.302(7) or (8), as applicable, and as verified pursuant to s. 402.311, or pursuant to the standard contract requirements for a program that is not licensed by the department.

f. A healthy and safe environment pursuant to s. 401.305(5), (6), and (7), as applicable, and as verified pursuant to s. 402.311.

g. A resource and referral network established under s. 411.0101 to assist parents in making an informed choice and a regional Warm-Line under s. 411.01015.

The department shall coordinate with ~~Agency for Workforce Innovation,~~ the Department of Education~~,~~ and local level service providers ~~early learning coalitions shall coordinate with the Child Care Services Program Office of the Department of Children and Family Services~~ to minimize duplicating interagency activities pertaining to acquiring and composing data for child care training and credentialing.

(d) *Implementation.*—

~~1. An early learning coalition may not implement the school readiness program until the coalition's school readiness plan is approved by the Agency for Workforce Innovation.~~

~~2.~~ Each local level service provider ~~early learning coalition~~ shall: ~~coordinate with one another to implement a comprehensive program of school readiness services which enhances the cognitive, social, physical, and moral character of the children to achieve the performance standards and outcome measures and which helps families achieve economic self-sufficiency. Such program must contain, at a minimum, the following elements:~~

~~a. Implement the school readiness program to meet the requirements of this section and the system support services, performance standards, and outcome measures adopted by the Agency for Workforce Innovation.~~

~~b. Demonstrate how the program will ensure that each child from birth through 5 years of age in a publicly funded school readiness program receives scheduled activities and instruction designed to enhance the age-appropriate progress of the children in attaining the performance standards adopted by the agency~~

~~under subparagraph (4)(d)8.~~

~~c. Ensure that the coalition has solicited and considered comments regarding the proposed school readiness plan from the local community.~~

~~Before implementing the school readiness program, the early learning coalition must submit the plan to the agency for approval. The agency may approve the plan, reject the plan, or approve the plan with conditions. The agency shall review school readiness plans at least every 2 years.~~

~~3. If the Agency for Workforce Innovation determines during the review of school readiness plans, or through monitoring and performance evaluations conducted under paragraph (4)(l), that an early learning coalition has not substantially implemented its plan, has not substantially met the performance standards and outcome measures adopted by the agency, or has not effectively administered the school readiness program or Voluntary Prekindergarten Education Program, the agency may dissolve the coalition and temporarily contract with a qualified entity to continue school readiness and prekindergarten services in the coalition's county or multicounty region until the agency reestablishes the coalition and a new school readiness plan is approved in accordance with the rules adopted by the agency.~~

~~4. The Agency for Workforce Innovation shall adopt rules establishing criteria for the approval of school readiness plans. The criteria must be consistent with the system support services, performance standards, and outcome measures adopted by the agency and must require each approved plan to include the following minimum standards for the school readiness program:~~

1. a. Develop a community plan that addresses the needs of all children ~~and providers within the coalition's county or multicounty region~~.

2. ~~b.~~ Develop a sliding fee scale establishing a copayment for parents based upon their ability to pay, which is the same for all program providers and must be approved by the department.

3. ~~c.~~ Provide a choice of settings and locations in licensed, registered, religious-exempt, or school-based programs to be provided to parents.

4. ~~d.~~ Implement specific eligibility priorities for children in accordance with subsection (6).

5. ~~e.~~ Implement performance standards and outcome measures adopted by the agency.

6. ~~f.~~ Develop payment rates ~~adopted by the early learning coalitions and~~ approved by the department ~~agency~~. Payment rates may not have the effect of limiting parental choice or creating standards or levels of services that have not been expressly established by the Legislature, unless the creation of such standards or levels of service, which must be uniform throughout the state, has been approved by the Federal Government and result in the state being eligible to receive additional federal funds available for early learning on a statewide basis.

7. ~~g.~~ Deliver direct enhancement services for families and children. System support and direct enhancement services shall be in addition to payments for the placement of children in school readiness programs. Direct enhancement services for families may include parent training and involvement activities and strategies to meet the needs of unique populations and local

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eligibility priorities. Enhancement services for children may include provider supports and professional development approved ~~in the plan~~ by the department ~~Agency for Workforce Innovation~~.

8.~~h.~~ Have ~~The business organization of the early learning coalition, which must include the coalition's~~ articles of incorporation and bylaws if the provider ~~coalition~~ is organized as a corporation. If the provider ~~coalition~~ is not organized as a corporation or other business entity, the provider ~~plan~~ must include the contract with a fiscal agent. ~~An early learning coalition may contract with other coalitions to achieve efficiency in multicounty services, and these contracts may be part of the coalition's school readiness plan.~~

~~i. The implementation of locally developed quality programs in accordance with the requirements adopted by the agency under subparagraph (4)(d)5.~~

The department ~~Agency for Workforce Innovation~~ may request the Governor to apply for a waiver to allow the coalition to administer the Head Start Program to accomplish the purposes of the school readiness program.

~~5. Persons with an early childhood teaching certificate may provide support and supervision to other staff in the school readiness program.~~

~~6. An early learning coalition may not implement its school readiness plan until it submits the plan to and receives approval from the Agency for Workforce Innovation. Once the plan is approved, the plan and the services provided under the plan shall be controlled by the early learning coalition. The plan shall be reviewed and revised as necessary, but at least~~

~~biennially. An early learning coalition may not implement the revisions until the coalition submits the revised plan to and receives approval from the agency. If the agency rejects a revised plan, the coalition must continue to operate under its prior approved plan.~~

~~7. Section 125.901(2)(a)3. does not apply to school readiness programs. The Agency for Workforce Innovation may apply to the Governor and Cabinet for a waiver of, and the Governor and Cabinet may waive, any of the provisions of ss. 411.223 and 1003.54, if the waiver is necessary for implementation of school readiness programs.~~

~~8. Two or more early learning coalitions may join for purposes of planning and implementing a school readiness program.~~

(e) *Requests for proposals; payment schedule.*—

1. Each local level service provider ~~early learning coalition~~ must comply with the procurement and expenditure procedures adopted by the department ~~Agency for Workforce Innovation~~, including, but not limited to, applying the procurement and expenditure procedures required by federal law for the expenditure of federal funds.

2. Each local level service provider ~~early learning coalition~~ shall adopt a payment schedule that encompasses all programs funded under this section. The payment schedule must take into consideration the prevailing market rate, must include the projected number of children to be served, and must be submitted for approval by the department ~~Agency for Workforce Innovation~~. Informal child care arrangements shall be reimbursed at not more than 50 percent of the rate adopted for a family day

care home.

(f) *Evaluation and annual report.*—Each local level service provider ~~early learning coalition~~ shall conduct an evaluation of its implementation of the school readiness program, including system support services, performance standards, and outcome measures, and shall provide an annual report and fiscal statement to the department ~~Agency for Workforce Innovation~~. This report must also include an evaluation of the effectiveness of its direct enhancement services and conform to the content and format specifications adopted by the department ~~Agency for Workforce Innovation~~. The department ~~Agency for Workforce Innovation~~ must include an analysis of the local level service providers' ~~early learning coalitions~~' reports in the agency's annual report.

(6) PROGRAM ELIGIBILITY.—The school readiness program is established for children from birth to the beginning of the school year for which a child is eligible for admission to kindergarten in a public school under s. 1003.21(1)(a)2. or who are eligible for any federal subsidized child care program. Each local level service provider ~~early learning coalition~~ shall give priority for participation in the school readiness program as follows:

(a) Priority shall be given first to a child from a family in which there is an adult receiving temporary cash assistance who is subject to federal work requirements.

(b) Priority shall be given next to a child who is eligible for a school readiness program but who has not yet entered school, who is served by the Family Safety Program Office of the department ~~of Children and Family Services~~ or a community-based

lead agency under chapter 39 or chapter 409, and for whom child care is needed to minimize risk of further abuse, neglect, or abandonment.

(c) Subsequent priority shall be given to a child who meets one or more of the following criteria:

1. A child who is younger than the age of kindergarten eligibility and:

a. Is at risk of welfare dependency, including an economically disadvantaged child, a child of a participant in the welfare transition program, a child of a migratory agricultural worker, or a child of a teen parent.

b. Is a member of a working family that is economically disadvantaged.

c. For whom financial assistance is provided through the Relative Caregiver Program under s. 39.5085.

2. A 3-year-old child or 4-year-old child who may not be economically disadvantaged but who has a disability; has been served in a specific part-time exceptional education program or a combination of part-time exceptional education programs with required special services, aids, or equipment; and was previously reported for funding part time under the Florida Education Finance Program as an exceptional student.

3. An economically disadvantaged child, a child with a disability, or a child at risk of future school failure, from birth to 4 years of age, who is served at home through a home visitor program and an intensive parent education program.

4. A child who meets federal and state eligibility requirements for the migrant preschool program but who is not economically disadvantaged.

As used in this paragraph, the term "economically disadvantaged" means having a family income that does not exceed 150 percent of the federal poverty level. Notwithstanding any change in a family's economic status, but subject to additional family contributions in accordance with the sliding fee scale, a child who meets the eligibility requirements upon initial registration for the program remains eligible until the beginning of the school year for which the child is eligible for admission to kindergarten in a public school under s. 1003.21(1)(a)2.

(7) PARENTAL CHOICE.—

(a) Parental choice of child care providers shall be established, to the maximum extent practicable, in accordance with 45 C.F.R. s. 98.30.

(b) As used in this subsection, the term "payment certificate" means a child care certificate as defined in 45 C.F.R. s. 98.2.

(c) The school readiness program shall, in accordance with 45 C.F.R. s. 98.30, provide parental choice through a payment certificate that ensures, to the maximum extent possible, flexibility in the school readiness program and payment arrangements. The payment certificate must bear the names of the beneficiary and the program provider and, when redeemed, must bear the signatures of both the beneficiary and an authorized representative of the provider.

(d) If it is determined that a provider has given any cash to the beneficiary in return for receiving a payment certificate, the local level service provider ~~early learning coalition~~ or its fiscal agent shall refer the matter to the

Department of Financial Services pursuant to s. 414.411 for investigation.

(e) The office of the Chief Financial Officer shall establish an electronic transfer system for the disbursement of funds in accordance with this subsection. Each local level service provider ~~early learning coalition~~ shall fully implement the electronic funds transfer system ~~within 2 years after approval of the coalition's school readiness plan, unless a waiver is obtained from the Agency for Workforce Innovation~~.

(8) STANDARDS; OUTCOME MEASURES.—A program provider participating in the school readiness program must meet the performance standards and outcome measures adopted by the Department of Children and Family Services ~~Agency for Workforce Innovation~~.

(9) FUNDING; SCHOOL READINESS PROGRAM.—

(a) It is the intent of this section to establish an integrated and quality seamless service delivery system for all publicly funded early childhood education and child care programs operating in this state.

(b)~~1.~~ The department ~~Agency for Workforce Innovation~~ shall administer school readiness funds, plans, and policies and shall prepare and submit a unified budget request for the school readiness system in accordance with chapter 216.

~~2. All instructions to early learning coalitions for administering this section shall emanate from the Agency for Workforce Innovation in accordance with the policies of the Legislature.~~

(c) The department ~~Agency for Workforce Innovation~~, subject to legislative notice and review under s. 216.177, shall

768 establish a formula for the allocation of all state and federal
769 school readiness funds provided for children participating in
770 the school readiness program, whether served by a public or
771 private provider, based upon equity for each county. The
772 allocation formula must be submitted to the Governor, the chair
773 of the Senate Ways and Means Committee or its successor, and the
774 chair of the House of Representatives Fiscal Council or its
775 successor no later than January 1 of each year. If the
776 Legislature specifies changes to the allocation formula, the
777 Agency for Workforce Innovation shall allocate funds as
778 specified in the General Appropriations Act.
779 (d) All state, federal, and required local maintenance-of-
780 effort or matching funds provided to a local level service
781 provider ~~an early learning coalition~~ for purposes of this
782 section shall be used for implementation of its approved school
783 readiness plan, including the hiring of staff to effectively
784 operate the provider's ~~coalition's~~ school readiness program. ~~As~~
785 ~~part of plan approval and periodic plan review,~~ The department
786 ~~Agency for Workforce Innovation~~ shall require that
787 administrative costs be kept to the minimum necessary for
788 efficient and effective administration of the school readiness
789 plan, but total administrative expenditures must not exceed 5
790 percent unless specifically waived by the department ~~Agency for~~
791 ~~Workforce Innovation~~. The department ~~Agency for Workforce~~
792 ~~Innovation~~ shall annually report to the Legislature any problems
793 relating to administrative costs.
794 (e) The department ~~Agency for Workforce Innovation~~ shall
795 annually distribute, to a maximum extent practicable, all
796 eligible funds provided under this section as block grants to

the local level service providers ~~early learning coalitions~~ in accordance with the terms and conditions specified by the department ~~agency~~.

(f) State funds appropriated for the school readiness program may not be used for the construction of new facilities or the purchase of buses.

(g) All cost savings and all revenues received through a mandatory sliding fee scale shall be used to help fund each local level service provider's ~~early learning coalition's~~ school readiness program.

(10) CONFLICTING PROVISIONS.—If a conflict exists between this section and federal requirements, the federal requirements control.

(11) SUBSTITUTE INSTRUCTORS.—Each school district shall make a list of all individuals currently eligible to act as a substitute teacher within the county pursuant to the rules adopted by the school district pursuant to s. 1012.35 available to a local level service provider ~~an early learning coalition~~ serving students within the school district. Child care facilities, as defined by s. 402.302, may employ individuals listed as substitute instructors for the purpose of offering the school readiness program~~, the Voluntary Prekindergarten Education Program,~~ and all other legally operating child care programs.

Section 44. Section 411.0102, Florida Statutes, is amended to read:

411.0102 Child Care Executive Partnership Act; findings and intent; grant; limitation; rules.—

(1) This section may be cited as the "Child Care Executive

Partnership Act."

(2)(a) The Legislature finds that when private employers provide onsite child care or provide other child care benefits, they benefit by improved recruitment and higher retention rates for employees, lower absenteeism, and improved employee morale. The Legislature also finds that there are many ways in which private employers can provide child care assistance to employees: information and referral, vouchering, employer contribution to child care programs, and onsite care. Private employers can offer child care as part of a menu of employee benefits. The Legislature recognizes that flexible compensation programs providing a child care option are beneficial to the private employer through increased productivity, to the private employee in knowing that his or her children are being cared for in a safe and nurturing environment, and to the state in more dollars being available for purchasing power and investment.

(b) It is the intent of the Legislature to promote public/private partnerships to ensure that the children of the state be provided safe and enriching child care at any time, but especially while parents work to remain self-sufficient. It is the intent of the Legislature that private employers be encouraged to participate in the future of this state by providing employee child care benefits. Further, it is the intent of the Legislature to encourage private employers to explore innovative ways to assist employees to obtain quality child care.

(c) The Legislature further recognizes that many parents need assistance in paying the full costs of quality child care. The public and private sectors, by working in partnership, can

promote and improve access to quality child care and early education for children of working families who need it. Therefore, a more formal mechanism is necessary to stimulate the establishment of public-private partnerships. It is the intent of the Legislature to expand the availability of scholarship options for working families by providing incentives for employers to contribute to meeting the needs of their employees' families through matching public dollars available for child care.

(3) There is created a body politic and corporate known as the Child Care Executive Partnership which shall establish and govern the Child Care Executive Partnership Program. The purpose of the Child Care Executive Partnership Program is to utilize state and federal funds as incentives for matching local funds derived from local governments, employers, charitable foundations, and other sources so that Florida communities may create local flexible partnerships with employers. The Child Care Executive Partnership Program funds shall be used at the discretion of local communities to meet the needs of working parents. A child care purchasing pool shall be developed with the state, federal, and local funds to provide subsidies to low-income working parents whose family income does not exceed the allowable income for any federally subsidized child care program with a dollar-for-dollar match from employers, local government, and other matching contributions. The funds used from the child care purchasing pool must be used to supplement or extend the use of existing public or private funds.

(4) The Child Care Executive Partnership, staffed by the Department of Children and Family Services ~~Agency for Workforce~~

~~Innovation~~, shall consist of a representative of the Executive Office of the Governor and nine members of the corporate or child care community, appointed by the Governor.

(a) Members shall serve for a period of 4 years, except that the representative of the Executive Office of the Governor shall serve at the pleasure of the Governor.

(b) The Child Care Executive Partnership shall be chaired by a member chosen by a majority vote and shall meet at least quarterly and at other times upon the call of the chair. The Child Care Executive Partnership may use any method of telecommunications to conduct meetings, including establishing a quorum through telecommunications, only if the public is given proper notice of a telecommunications meeting and reasonable access to observe and, when appropriate, participate.

(c) Members shall serve without compensation, but may be reimbursed for per diem and travel expenses in accordance with s. 112.061.

(d) The Child Care Executive Partnership shall have all the powers and authority, not explicitly prohibited by statute, necessary to carry out and effectuate the purposes of this section, as well as the functions, duties, and responsibilities of the partnership, including, but not limited to, the following:

1. Assisting in the formulation and coordination of the state’s child care policy.

2. Adopting an official seal.

3. Soliciting, accepting, receiving, investing, and expending funds from public or private sources.

4. Contracting with public or private entities as

necessary.

5. Approving an annual budget.

6. Carrying forward any unexpended state appropriations into succeeding fiscal years.

7. Providing a report to the Governor, the Speaker of the House of Representatives, and the President of the Senate, on or before December 1 of each year.

(5)(a) The Legislature shall annually determine the amount of state or federal low-income child care moneys which shall be used to create Child Care Executive Partnership Program child care purchasing pools in counties chosen by the Child Care Executive Partnership, provided that at least two of the counties have populations of no more than 300,000. The Legislature shall annually review the effectiveness of the child care purchasing pool program and reevaluate the percentage of additional state or federal funds, if any, which ~~that~~ can be used for the program's expansion.

(b) To ensure a seamless service delivery and ease of access for families, an early learning coalition or the Department of Children and Family Services ~~Agency for Workforce Innovation~~ shall administer the child care purchasing pool funds.

(c) The Department of Children and Family Services ~~Agency for Workforce Innovation~~, in conjunction with the Child Care Executive Partnership, shall develop procedures for disbursement of funds through the child care purchasing pools. In order to be considered for funding, an early learning coalition or the Department of Children and Family Services ~~Agency for Workforce Innovation~~ must commit to:

1. Matching the state purchasing pool funds on a dollar-for-dollar basis; and

2. Expending only those public funds that ~~which~~ are matched by employers, local government, and other matching contributors who contribute to the purchasing pool. Parents shall also pay a fee, which may not be less than the amount identified in the early learning coalition's school readiness program sliding fee scale.

(d) Each early learning coalition shall establish a community child care task force for each child care purchasing pool. The task force must be composed of employers, parents, private child care providers, and one representative from the local children's services council, if one exists in the area of the purchasing pool. The early learning coalition is expected to recruit the task force members from existing child care councils, commissions, or task forces already operating in the area of a purchasing pool. A majority of the task force shall consist of employers.

(e) Each participating early learning coalition board shall develop a plan for the use of child care purchasing pool funds. The plan must show how many children will be served by the purchasing pool, how many will be new to receiving child care services, and how the early learning coalition intends to attract new employers and their employees to the program.

(6) The Department of Children and Family Services ~~Agency for Workforce Innovation~~ shall adopt any rules necessary for the implementation and administration of this section.

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

971 And the title is amended as follows:
972 Delete line 285
973 and insert:
974 an electronic transfer benefit program; amending s.
975 411.01, F.S.; providing for the school readiness
976 programs to be administered by the Department of
977 Children and Family Services rather than by the Agency
978 for Workforce Innovation; revising legislative intent;
979 providing for the delivery of services through local
980 level service providers; replacing references to early
981 learning coalitions with local level service
982 providers; providing for criteria for local level
983 service providers; amending s.

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LEGISLATIVE ACTION

Senate . House

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The Committee on Budget (Wise) recommended the following:

Senate Substitute for Amendment (219010) (with title amendment)

Delete lines 3721 - 3867
and insert:

Section 43. Section 411.01, Florida Statutes, is amended to read:

411.01 School readiness programs; early learning coalitions.—

(1) SHORT TITLE.—This section may be cited as the “School Readiness Act.”

(2) LEGISLATIVE INTENT.—

(a) The Legislature recognizes that school readiness

programs increase children's chances of achieving future educational success and becoming productive members of society. It is the intent of the Legislature that the programs be developmentally appropriate, research-based, involve the parent as a child's first teacher, serve as preventive measures for children at risk of future school failure, enhance the educational readiness of eligible children, and support family education. Each school readiness program shall provide the elements necessary to prepare at-risk children for school~~, including health screening and referral and an appropriate educational program~~.

(b) It is the intent of the Legislature that school readiness programs be operated on a full-day, year-round basis to the maximum extent possible to enable parents to work and become financially self-sufficient.

(c) It is the intent of the Legislature that school readiness programs not exist as isolated programs, but build upon existing services and work in cooperation with other programs for young children, and that school readiness programs be coordinated to achieve full effectiveness.

(d) It is the intent of the Legislature that the administrative staff for school readiness programs be kept to the minimum necessary to administer the duties of the Department of Children and Family Services ~~Agency for Workforce Innovation and early learning coalitions~~. The department ~~Agency for Workforce Innovation~~ shall adopt system support services at the state level to build a comprehensive early learning system. Each early learning coalition shall implement and maintain direct enhancement services at the local level, as approved in its

school readiness plan by the Department of Children and Family Services ~~Agency for Workforce Innovation~~, and ensure access to such services in all 67 counties.

(e) It is the intent of the Legislature that the school readiness program coordinate and operate in conjunction with the district school systems. However, it is also the intent of the Legislature that the school readiness program not be construed as part of the system of free public schools but rather as a separate program for children under the age of kindergarten eligibility, funded separately from the system of free public schools, utilizing a mandatory sliding fee scale, and providing an integrated and seamless system of school readiness services for the state's birth-to-kindergarten population.

(f) It is the intent of the Legislature that school readiness services be an integrated and seamless program of services with a developmentally appropriate education component for the state's eligible birth-to-kindergarten population described in subsection (6) and not be construed as part of the seamless K-20 education system.

(3) PARENTAL PARTICIPATION IN SCHOOL READINESS PROGRAMS.—This section does not:

(a) Relieve parents and guardians of their own obligations to prepare their children for school; or

(b) Create any obligation to provide publicly funded school readiness programs or services beyond those authorized by the Legislature.

(4) DEPARTMENT OF CHILDREN AND FAMILY SERVICES ~~AGENCY FOR WORKFORCE INNOVATION~~.—

(a) The Department of Children and Family Services ~~Agency~~


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~~for Workforce Innovation~~ shall administer school readiness programs at the state level and shall coordinate with the early learning coalitions in providing school readiness services on a full-day, full-year, full-choice basis to the extent possible in order to enable parents to work and be financially self-sufficient.

(b) The Department of Children and Family Services ~~Agency for Workforce Innovation~~ shall:

1. Coordinate the birth-to-kindergarten services for children who are eligible under subsection (6) and the programmatic, administrative, and fiscal standards under this section for all public providers of school readiness programs.

2. Focus on improving the educational quality of all program providers participating in publicly funded school readiness programs.

(c) The Governor shall designate the Department of Children and Family Services ~~Agency for Workforce Innovation~~ as the lead agency for administration of the federal Child Care and Development Fund, 45 C.F.R. parts 98 and 99, and the agency shall comply with the lead agency responsibilities under federal law.

(d) The Department of Children and Family Services ~~Agency for Workforce Innovation~~ shall:

1. Be responsible for the prudent use of all public and private funds in accordance with all legal and contractual requirements.

2. Provide final approval and every 2 years review early learning coalitions and school readiness plans.

3. Establish a unified approach to the state’s efforts

toward enhancement of school readiness. In support of this effort, the Department of Children and Family Services ~~Agency for Workforce Innovation~~ shall adopt specific system support services that address the state's school readiness programs. An early learning coalition shall amend its school readiness plan to conform to the specific system support services adopted by the Department of Children and Family Services ~~Agency for Workforce Innovation~~. Specific system support services shall include, but are not limited to:

a. Child care resource and referral services;

b. Warm-Line services;

c. Eligibility determinations;

d. Child performance standards;

e. Child screening and assessment;

f. Developmentally appropriate curricula;

g. Health and safety requirements;

h. Statewide data system requirements; and

i. Rating and improvement systems.

4. Safeguard the effective use of federal, state, local, and private resources to achieve the highest possible level of school readiness for the children in this state.

5. Adopt a rule establishing criteria for the expenditure of funds designated for the purpose of funding activities to improve the quality of child care within the state in accordance with s. 658G of the federal Child Care and Development Block Grant Act.

6. Provide technical assistance to early learning coalitions in a manner determined by the Agency for Workforce Innovation based upon information obtained by the agency from


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various sources, including, but not limited to, public input, government reports, private interest group reports, agency monitoring visits, and coalition requests for service.

7. Coordinate ~~In cooperation~~ with the Department of Education and early learning coalitions~~, coordinate with the Child Care Services Program Office of the Department of Children and Family Services~~ to minimize duplicating interagency activities, health and safety monitoring, and acquiring and composing data pertaining to child care training and credentialing.

8. Develop and adopt performance standards and outcome measures for school readiness programs. The performance standards must address the age-appropriate progress of children in the development of school readiness skills. The performance standards for children from birth to 5 years of age in school readiness programs must be integrated with the performance standards adopted by the Department of Education for children in the Voluntary Prekindergarten Education Program under s. 1002.67.

9. Adopt a standard contract that must be used by the coalitions when contracting with school readiness providers.

(e) The Department of Children and Family Services ~~Agency for Workforce Innovation~~ may adopt rules under ss. 120.536(1) and 120.54 to administer the provisions of law conferring duties upon the department ~~agency~~, including, but not limited to, rules governing the administration of system support services of school readiness programs, the collection of data, the approval of early learning coalitions and school readiness plans, the provision of a method whereby an early learning coalition may


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serve two or more counties, the award of incentives to early learning coalitions, child performance standards, child outcome measures, the issuance of waivers, and the implementation of the state's Child Care and Development Fund Plan as approved by the federal Administration for Children and Families.

(f) The Department of Children and Family Services ~~Agency for Workforce Innovation~~ shall have all powers necessary to administer this section, including, but not limited to, the power to receive and accept grants, loans, or advances of funds from any public or private agency and to receive and accept from any source contributions of money, property, labor, or any other thing of value, to be held, used, and applied for purposes of this section.

(g) Except as provided by law, the Department of Children and Family Services ~~Agency for Workforce Innovation~~ may not impose requirements on a child care or early childhood education provider that does not deliver services under the school readiness programs or receive state or federal funds under this section.

(h) The Department of Children and Family Services ~~Agency for Workforce Innovation~~ shall have a budget for school readiness programs, which shall be financed through an annual appropriation made for purposes of this section in the General Appropriations Act.

(i) The Department of Children and Family Services ~~Agency for Workforce Innovation~~ shall coordinate the efforts toward school readiness in this state and provide independent policy analyses, data analyses, and recommendations to the Governor, the State Board of Education, and the Legislature.


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(j) The Department of Children and Family Services ~~Agency for Workforce Innovation~~ shall require that school readiness programs, at a minimum, enhance the age-appropriate progress of each child in attaining the performance standards adopted under subparagraph (d)8. and in the development of the following school readiness skills:

1. Compliance with rules, limitations, and routines.
2. Ability to perform tasks.
3. Interactions with adults.
4. Interactions with peers.
5. Ability to cope with challenges.
6. Self-help skills.
7. Ability to express the child's needs.
8. Verbal communication skills.
9. Problem-solving skills.
10. Following of verbal directions.
11. Demonstration of curiosity, persistence, and exploratory behavior.
12. Interest in books and other printed materials.
13. Paying attention to stories.
14. Participation in art and music activities.
15. Ability to identify colors, geometric shapes, letters of the alphabet, numbers, and spatial and temporal relationships.

Within 30 days after enrollment in the school readiness program, the early learning coalition must ensure that the program provider obtains information regarding the child's immunizations, physical health, and special dietary needs

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~~development, and other health requirements as necessary, including appropriate vision and hearing screening and examinations~~. For a program provider licensed by the Department of Children and Family Services, the provider's compliance with s. 402.305(9), as verified pursuant to s. 402.311, shall satisfy this requirement. The standard contract for school readiness services shall require a program that is not licensed by the department to obtain information regarding a child's immunizations, physical health, and special dietary needs.

(k) The Department of Children and Family Services ~~Agency for Workforce Innovation~~ shall conduct studies and planning activities related to the overall improvement and effectiveness of the outcome measures adopted by the department ~~agency~~ for school readiness programs and the specific system support services to address the state's school readiness programs adopted by the Department of Children and Family Services ~~Agency for Workforce Innovation~~ in accordance with subparagraph (d)3.

(l) The Department of Children and Family Services ~~Agency for Workforce Innovation~~ shall monitor and evaluate the performance of each early learning coalition in administering the school readiness program~~,~~ and implementing the coalition's school readiness plan~~, and administering the Voluntary Prekindergarten Education Program~~. These monitoring and performance evaluations must include, at a minimum, onsite monitoring of each coalition's finances, management, operations, and programs.

(m) The Department of Children and Family Services ~~Agency for Workforce Innovation~~ shall submit an annual report of its activities conducted under this section to the Governor, the

President of the Senate, the Speaker of the House of Representatives, and the minority leaders of both houses of the Legislature. ~~In addition, the Agency for Workforce Innovation's reports and recommendations shall be made available to the Florida Early Learning Advisory Council and other appropriate state agencies and entities.~~ The annual report must provide an analysis of school readiness activities across the state, including the number of children who were served in the programs.

(n) The Department of Children and Family Services ~~Agency for Workforce Innovation~~ shall work with the early learning coalitions to ensure availability of training and support for parental involvement in children's early education and to provide family literacy activities and services.

(5) CREATION OF EARLY LEARNING COALITIONS.—

(a) Early learning coalitions.—

1. Each early learning coalition shall maintain direct enhancement services at the local level and ensure access to such services in all 67 counties.

2. The Department of Children and Family Services ~~Agency for Workforce Innovation~~ shall establish the minimum number of children to be served by each early learning coalition through the coalition's school readiness program. The Department of Children and Family Services ~~Agency for Workforce Innovation~~ may only approve school readiness plans in accordance with this minimum number. The minimum number must be uniform for every early learning coalition and must:

a. Permit 31 or fewer coalitions to be established; and

b. Require each coalition to serve at least 2,000 children

based upon the average number of all children served per month through the coalition's school readiness program during the previous 12 months.

3. If an early learning coalition would serve fewer children than the minimum number established under subparagraph 2., the coalition must merge with another county to form a multicounty coalition. The Department of Children and Family Services ~~Agency for Workforce Innovation~~ shall adopt procedures for merging early learning coalitions, including procedures for the consolidation of merging coalitions, and for the early termination of the terms of coalition members which are necessary to accomplish the mergers. However, the Department of Children and Family Services ~~Agency for Workforce Innovation~~ shall grant a waiver to an early learning coalition to serve fewer children than the minimum number established under subparagraph 2., if:

a. The Department of Children and Family Services ~~Agency for Workforce Innovation~~ has determined during the most recent review of the coalition's school readiness plan, or through monitoring and performance evaluations conducted under paragraph (4)(l), that the coalition has substantially implemented its plan;

b. The coalition demonstrates to the Department of Children and Family Services ~~Agency for Workforce Innovation~~ the coalition's ability to effectively and efficiently implement the Voluntary Prekindergarten Education Program; and

c. The coalition demonstrates to the Department of Children and Family Services ~~Agency for Workforce Innovation~~ that the coalition can perform its duties in accordance with law.

If an early learning coalition fails or refuses to merge as required by this subparagraph, the Department of Children and Family Services ~~Agency for Workforce Innovation~~ may dissolve the coalition and temporarily contract with a qualified entity to continue school readiness and prekindergarten services in the coalition's county or multicounty region until the department ~~agency~~ reestablishes the coalition and a new school readiness plan is approved by the department ~~agency~~.

4. Each early learning coalition shall be composed of at least 15 members but not more than 30 members. The Department of Children and Family Services ~~Agency for Workforce Innovation~~ shall adopt standards establishing within this range the minimum and maximum number of members that may be appointed to an early learning coalition and procedures for identifying which members have voting privileges under subparagraph 6. These standards must include variations for a coalition serving a multicounty region. Each early learning coalition must comply with these standards.

5. The Governor shall appoint the chair and two other members of each early learning coalition, who must each meet the same qualifications as private sector business members appointed by the coalition under subparagraph 7.

6. Each early learning coalition must include the following member positions; however, in a multicounty coalition, each ex officio member position may be filled by multiple nonvoting members but no more than one voting member shall be seated per member position. If an early learning coalition has more than one member representing the same entity, only one of such

members may serve as a voting member:

a. A Department of Children and Family Services circuit administrator or his or her designee who is authorized to make decisions on behalf of the department.

b. A district superintendent of schools or his or her designee who is authorized to make decisions on behalf of the district.

c. A regional workforce board executive director or his or her designee.

d. A county health department director or his or her designee.

e. A children's services council or juvenile welfare board chair or executive director, if applicable.

f. An agency head of a local licensing agency as defined in s. 402.302, where applicable.

g. A president of a community college or his or her designee.

h. One member appointed by a board of county commissioners or the governing board of a municipality.

i. A central agency administrator, where applicable.

j. A Head Start director.

k. A representative of private for-profit child care providers, including private for-profit family day care homes.

l. A representative of faith-based child care providers.

m. A representative of programs for children with disabilities under the federal Individuals with Disabilities Education Act.

7. Including the members appointed by the Governor under subparagraph 5., more than one-third of the members of each

early learning coalition must be private sector business members who do not have, and none of whose relatives as defined in s. 112.3143 has, a substantial financial interest in the design or delivery of the Voluntary Prekindergarten Education Program created under part V of chapter 1002 or the coalition's school readiness program. To meet this requirement an early learning coalition must appoint additional members. The Department of Children and Family Services ~~Agency for Workforce Innovation~~ shall establish criteria for appointing private sector business members. These criteria must include standards for determining whether a member or relative has a substantial financial interest in the design or delivery of the Voluntary Prekindergarten Education Program or the coalition's school readiness program.

8. A majority of the voting membership of an early learning coalition constitutes a quorum required to conduct the business of the coalition. An early learning coalition board may use any method of telecommunications to conduct meetings, including establishing a quorum through telecommunications, provided that the public is given proper notice of a telecommunications meeting and reasonable access to observe and, when appropriate, participate.

9. A voting member of an early learning coalition may not appoint a designee to act in his or her place, except as otherwise provided in this paragraph. A voting member may send a representative to coalition meetings, but that representative does not have voting privileges. When a district administrator for the Department of Children and Family Services appoints a designee to an early learning coalition, the designee is the

voting member of the coalition, and any individual attending in the designee's place, including the district administrator, does not have voting privileges.

10. Each member of an early learning coalition is subject to ss. 112.313, 112.3135, and 112.3143. For purposes of s. 112.3143(3)(a), each voting member is a local public officer who must abstain from voting when a voting conflict exists.

11. For purposes of tort liability, each member or employee of an early learning coalition shall be governed by s. 768.28.

12. An early learning coalition serving a multicounty region must include representation from each county.

13. Each early learning coalition shall establish terms for all appointed members of the coalition. The terms must be staggered and must be a uniform length that does not exceed 4 years per term. Coalition chairs shall be appointed for 4 years in conjunction with their membership on the Early Learning Advisory Council under s. 20.052. Appointed members may serve a maximum of two consecutive terms. When a vacancy occurs in an appointed position, the coalition must advertise the vacancy.

(b) Limitation.—Except as provided by law, the early learning coalitions may not impose requirements on a child care or early childhood education provider that does not deliver services under the school readiness programs or receive state, federal, required maintenance of effort, or matching funds under this section.

(c) Program expectations.—

1. The school readiness program must meet the following expectations:

a. The program must, at a minimum, enhance the age-

appropriate progress of each child in attaining the performance standards and outcome measures adopted by the Department of Children and Family Services ~~Agency for Workforce Innovation~~.

b. The program must provide extended-day and extended-year services to the maximum extent possible without compromising the quality of the program to meet the needs of parents who work.

c. The program must provide a coordinated professional development system that supports the achievement and maintenance of core competencies by school readiness instructors in helping children attain the performance standards and outcome measures adopted by the Department of Children and Family Services ~~Agency for Workforce Innovation~~.

d. There must be expanded access to community services and resources for families to help achieve economic self-sufficiency.

e. There must be a single point of entry and unified waiting list. As used in this sub-subparagraph, the term "single point of entry" means an integrated information system that allows a parent to enroll his or her child in the school readiness program at various locations throughout a county, that may allow a parent to enroll his or her child by telephone or through an Internet website, and that uses a unified waiting list to track eligible children waiting for enrollment in the school readiness program. The Department of Children and Family Services ~~Agency for Workforce Innovation~~ shall establish through technology a single statewide information system that each coalition must use for the purposes of managing the single point of entry, tracking children's progress, coordinating services among stakeholders, determining eligibility, tracking child

attendance, and streamlining administrative processes for providers and early learning coalitions.

f. The Department of Children and Family Services ~~Agency for Workforce Innovation~~ must consider the access of eligible children to the school readiness program, as demonstrated in part by waiting lists, before approving a proposed increase in payment rates submitted by an early learning coalition. In addition, early learning coalitions shall use school readiness funds made available due to enrollment shifts from school readiness programs to the Voluntary Prekindergarten Education Program for increasing the number of children served in school readiness programs before increasing payment rates.

g. The program must meet all state licensing guidelines, where applicable.

h. The program must ensure that minimum standards for child discipline practices are age-appropriate. ~~Such standards must provide that children not be subjected to discipline that is severe, humiliating, or frightening or discipline that is associated with food, rest, or toileting. Spanking or any other form of physical punishment is prohibited.~~

2. Each early learning coalition must implement a comprehensive program of school readiness services in accordance with the rules adopted by the department ~~agency~~ which enhance the cognitive, social, and physical development of children to achieve the performance standards and outcome measures. At a minimum, these programs must contain the following system support service elements:

a. Developmentally appropriate curriculum designed to enhance the age-appropriate progress of children in attaining


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the performance standards adopted by the Department of Children and Family Services ~~Agency for Workforce Innovation~~ under subparagraph (4)(d)8.

b. A character development program to develop basic values.

c. An age-appropriate screening of each child's development.

d. An age-appropriate assessment administered to children when they enter a program and an age-appropriate assessment administered to children when they leave the program.

e. An appropriate staff-to-children ratio, pursuant to s. 402.305(4) or s. 402.302(7) or (8), as applicable, and as verified pursuant to s. 402.311, or pursuant to the standard contract requirements for a program that is not licensed by the Department of Children and Family Services.

f. A healthy and safe environment pursuant to s. 401.305(5), (6), and (7), as applicable, and as verified pursuant to s. 402.311.

g. A resource and referral network established under s. 411.0101 to assist parents in making an informed choice and a regional Warm-Line under s. 411.01015.

The Department of Children and Family Services shall coordinate with ~~Agency for Workforce Innovation,~~ the Department of Education~~,~~ and early learning coalitions ~~shall coordinate with the Child Care Services Program Office of the Department of Children and Family Services~~ to minimize duplicating interagency activities pertaining to acquiring and composing data for child care training and credentialing.

(d) Implementation.—

1. An early learning coalition may not implement the school readiness program until the coalition's school readiness plan is approved by the Department of Children and Family Services ~~Agency for Workforce Innovation~~.

2. Each early learning coalition shall coordinate with one another to implement a comprehensive program of school readiness services which enhances the cognitive, social, physical, and moral character of the children to achieve the performance standards and outcome measures and which helps families achieve economic self-sufficiency. Such program must contain, at a minimum, the following elements:

a. Implement the school readiness program to meet the requirements of this section and the system support services, performance standards, and outcome measures adopted by the Department of Children and Family Services ~~Agency for Workforce Innovation~~.

b. Demonstrate how the program will ensure that each child from birth through 5 years of age in a publicly funded school readiness program receives scheduled activities and instruction designed to enhance the age-appropriate progress of the children in attaining the performance standards adopted by the department ~~agency~~ under subparagraph (4)(d)8.

c. Ensure that the coalition has solicited and considered comments regarding the proposed school readiness plan from the local community.

Before implementing the school readiness program, the early learning coalition must submit the plan to the department ~~agency~~ for approval. The department ~~agency~~ may approve the plan, reject


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the plan, or approve the plan with conditions. The department ~~agency~~ shall review school readiness plans at least every 2 years.

3. If the Department of Children and Family Services ~~Agency for Workforce Innovation~~ determines during the review of school readiness plans, or through monitoring and performance evaluations conducted under paragraph (4)(l), that an early learning coalition has not substantially implemented its plan, has not substantially met the performance standards and outcome measures adopted by the department ~~agency~~, or has not effectively administered the school readiness program or Voluntary Prekindergarten Education Program, the department ~~agency~~ may dissolve the coalition and temporarily contract with a qualified entity to continue school readiness and prekindergarten services in the coalition's county or multicounty region until the department ~~agency~~ reestablishes the coalition and a new school readiness plan is approved in accordance with the rules adopted by the department ~~agency~~.

4. The Department of Children and Family Services ~~Agency for Workforce Innovation~~ shall adopt rules establishing criteria for the approval of school readiness plans. The criteria must be consistent with the system support services, performance standards, and outcome measures adopted by the department ~~agency~~ and must require each approved plan to include the following minimum standards for the school readiness program:

a. A community plan that addresses the needs of all children and providers within the coalition's county or multicounty region.

b. A sliding fee scale establishing a copayment for parents

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based upon their ability to pay, which is the same for all program providers and approved by the department.

c. A choice of settings and locations in licensed, registered, religious-exempt, or school-based programs to be provided to parents.

d. Specific eligibility priorities for children in accordance with subsection (6).

e. Performance standards and outcome measures adopted by the department ~~agency~~.

f. Payment rates adopted by the early learning coalitions and approved by the department ~~agency~~. Payment rates may not have the effect of limiting parental choice or creating standards or levels of services that have not been expressly established by the Legislature, unless the creation of such standards or levels of service, which must be uniform throughout the state, has been approved by the Federal Government and result in the state being eligible to receive additional federal funds available for early learning on a statewide basis.

g. Direct enhancement services for families and children. System support and direct enhancement services shall be in addition to payments for the placement of children in school readiness programs. Direct enhancement services for families may include parent training and involvement activities and strategies to meet the needs of unique populations and local eligibility priorities. Enhancement services for children may include provider supports and professional development approved in the plan by the Department of Children and Family Services ~~Agency for Workforce Innovation~~.

h. The business organization of the early learning


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coalition, which must include the coalition's articles of incorporation and bylaws if the coalition is organized as a corporation. If the coalition is not organized as a corporation or other business entity, the plan must include the contract with a fiscal agent. An early learning coalition may contract with other coalitions to achieve efficiency in multicounty services, and these contracts may be part of the coalition's school readiness plan.

i. The implementation of locally developed quality programs in accordance with the requirements adopted by the department ~~agency~~ under subparagraph (4)(d)5.

The Department of Children and Family Services ~~Agency for Workforce Innovation~~ may request the Governor to apply for a waiver to allow the coalition to administer the Head Start Program to accomplish the purposes of the school readiness program.

5. Persons with an early childhood teaching certificate may provide support and supervision to other staff in the school readiness program.

6. An early learning coalition may not implement its school readiness plan until it submits the plan to and receives approval from the Department of Children and Family Services ~~Agency for Workforce Innovation~~. Once the plan is approved, the plan and the services provided under the plan shall be controlled by the early learning coalition. The plan shall be reviewed and revised as necessary, but at least biennially. An early learning coalition may not implement the revisions until the coalition submits the revised plan to and receives approval


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from the department ~~agency~~. If the department ~~agency~~ rejects a revised plan, the coalition must continue to operate under its prior approved plan.

7. Section 125.901(2)(a)3. does not apply to school readiness programs. The Department of Children and Family Services ~~Agency for Workforce Innovation~~ may apply to the Governor and Cabinet for a waiver of, and the Governor and Cabinet may waive, any of the provisions of ss. 411.223 and 1003.54, if the waiver is necessary for implementation of school readiness programs.

8. Two or more early learning coalitions may join for purposes of planning and implementing a school readiness program.

(e) Requests for proposals; payment schedule.—

1. Each early learning coalition must comply with the procurement and expenditure procedures adopted by the Department of Children and Family Services ~~Agency for Workforce Innovation~~, including, but not limited to, applying the procurement and expenditure procedures required by federal law for the expenditure of federal funds.

2. Each early learning coalition shall adopt a payment schedule that encompasses all programs funded under this section. The payment schedule must take into consideration the prevailing market rate, must include the projected number of children to be served, and must be submitted for approval by the department ~~Agency for Workforce Innovation~~. Informal child care arrangements shall be reimbursed at not more than 50 percent of the rate adopted for a family day care home.

(f) Evaluation and annual report.—Each early learning


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coalition shall conduct an evaluation of its implementation of the school readiness program, including system support services, performance standards, and outcome measures, and shall provide an annual report and fiscal statement to the Department of Children and Family Services ~~Agency for Workforce Innovation~~. This report must also include an evaluation of the effectiveness of its direct enhancement services and conform to the content and format specifications adopted by the department ~~Agency for Workforce Innovation~~. The department ~~Agency for Workforce Innovation~~ must include an analysis of the early learning coalitions' reports in the department's ~~agency's~~ annual report.

(6) PROGRAM ELIGIBILITY.—The school readiness program is established for children from birth to the beginning of the school year for which a child is eligible for admission to kindergarten in a public school under s. 1003.21(1)(a)2. or who are eligible for any federal subsidized child care program. Each early learning coalition shall give priority for participation in the school readiness program as follows:

(a) Priority shall be given first to a child from a family in which there is an adult receiving temporary cash assistance who is subject to federal work requirements.

(b) Priority shall be given next to a child who is eligible for a school readiness program but who has not yet entered school, who is served by the Family Safety Program Office of the Department of Children and Family Services or a community-based lead agency under chapter 39 or chapter 409, and for whom child care is needed to minimize risk of further abuse, neglect, or abandonment.

(c) Subsequent priority shall be given to a child who meets

one or more of the following criteria:

1. A child who is younger than the age of kindergarten eligibility and:

a. Is at risk of welfare dependency, including an economically disadvantaged child, a child of a participant in the welfare transition program, a child of a migratory agricultural worker, or a child of a teen parent.

b. Is a member of a working family that is economically disadvantaged.

c. For whom financial assistance is provided through the Relative Caregiver Program under s. 39.5085.

2. A 3-year-old child or 4-year-old child who may not be economically disadvantaged but who has a disability; has been served in a specific part-time exceptional education program or a combination of part-time exceptional education programs with required special services, aids, or equipment; and was previously reported for funding part time under the Florida Education Finance Program as an exceptional student.

3. An economically disadvantaged child, a child with a disability, or a child at risk of future school failure, from birth to 4 years of age, who is served at home through a home visitor program and an intensive parent education program.

4. A child who meets federal and state eligibility requirements for the migrant preschool program but who is not economically disadvantaged.

As used in this paragraph, the term “economically disadvantaged” means having a family income that does not exceed 150 percent of the federal poverty level. Notwithstanding any change in a

family's economic status, but subject to additional family contributions in accordance with the sliding fee scale, a child who meets the eligibility requirements upon initial registration for the program remains eligible until the beginning of the school year for which the child is eligible for admission to kindergarten in a public school under s. 1003.21(1)(a)2.

(7) PARENTAL CHOICE.—

(a) Parental choice of child care providers shall be established, to the maximum extent practicable, in accordance with 45 C.F.R. s. 98.30.

(b) As used in this subsection, the term "payment certificate" means a child care certificate as defined in 45 C.F.R. s. 98.2.

(c) The school readiness program shall, in accordance with 45 C.F.R. s. 98.30, provide parental choice through a payment certificate that ensures, to the maximum extent possible, flexibility in the school readiness program and payment arrangements. The payment certificate must bear the names of the beneficiary and the program provider and, when redeemed, must bear the signatures of both the beneficiary and an authorized representative of the provider.

(d) If it is determined that a provider has given any cash to the beneficiary in return for receiving a payment certificate, the early learning coalition or its fiscal agent shall refer the matter to the Department of Financial Services pursuant to s. 414.411 for investigation.

(e) The office of the Chief Financial Officer shall establish an electronic transfer system for the disbursement of funds in accordance with this subsection. Each early learning

coalition shall fully implement the electronic funds transfer system within 2 years after approval of the coalition's school readiness plan, unless a waiver is obtained from the Department of Children and Family Services ~~Agency for Workforce Innovation~~.

(8) STANDARDS; OUTCOME MEASURES.—A program provider participating in the school readiness program must meet the performance standards and outcome measures adopted by the Department of Children and Family Services ~~Agency for Workforce Innovation~~.

(9) FUNDING; SCHOOL READINESS PROGRAM.—

(a) It is the intent of this section to establish an integrated and quality seamless service delivery system for all publicly funded early childhood education and child care programs operating in this state.

(b) The Department of Children and Family Services ~~Agency for Workforce Innovation~~ shall administer school readiness funds, plans, and policies and shall prepare and submit a unified budget request for the school readiness system in accordance with chapter 216.

2. All instructions to early learning coalitions for administering this section shall emanate from the department ~~Agency for Workforce Innovation~~ in accordance with the policies of the Legislature.

(c) The Department of Children and Family Services ~~Agency for Workforce Innovation~~, subject to legislative notice and review under s. 216.177, shall establish a formula for the allocation of all state and federal school readiness funds provided for children participating in the school readiness program, whether served by a public or private provider, based

upon equity for each county. The allocation formula must be submitted to the Governor, the chair of the Senate Ways and Means Committee or its successor, and the chair of the House of Representatives Fiscal Council or its successor no later than January 1 of each year. If the Legislature specifies changes to the allocation formula, the Agency for Workforce Innovation shall allocate funds as specified in the General Appropriations Act.

(d) All state, federal, and required local maintenance-of-effort or matching funds provided to an early learning coalition for purposes of this section shall be used for implementation of its approved school readiness plan, including the hiring of staff to effectively operate the coalition's school readiness program. As part of plan approval and periodic plan review, the Department of Children and Family Services ~~Agency for Workforce Innovation~~ shall require that administrative costs be kept to the minimum necessary for efficient and effective administration of the school readiness plan, but total administrative expenditures must not exceed 5 percent unless specifically waived by the department ~~Agency for Workforce Innovation~~. The department ~~Agency for Workforce Innovation~~ shall annually report to the Legislature any problems relating to administrative costs.

(e) The Department of Children and Family Services ~~Agency for Workforce Innovation~~ shall annually distribute, to a maximum extent practicable, all eligible funds provided under this section as block grants to the early learning coalitions in accordance with the terms and conditions specified by the department ~~agency~~.

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(f) State funds appropriated for the school readiness program may not be used for the construction of new facilities or the purchase of buses.

(g) All cost savings and all revenues received through a mandatory sliding fee scale shall be used to help fund each early learning coalition's school readiness program.

(10) CONFLICTING PROVISIONS.—If a conflict exists between this section and federal requirements, the federal requirements control.

(11) SUBSTITUTE INSTRUCTORS.—Each school district shall make a list of all individuals currently eligible to act as a substitute teacher within the county pursuant to the rules adopted by the school district pursuant to s. 1012.35 available to an early learning coalition serving students within the school district. Child care facilities, as defined by s. 402.302, may employ individuals listed as substitute instructors for the purpose of offering the school readiness program~~, the Voluntary Prekindergarten Education Program,~~ and all other legally operating child care programs.

Section 44. Section 411.0102, Florida Statutes, is amended to read:

411.0102 Child Care Executive Partnership Act; findings and intent; grant; limitation; rules.—

(1) This section may be cited as the "Child Care Executive Partnership Act."

(2)(a) The Legislature finds that when private employers provide onsite child care or provide other child care benefits, they benefit by improved recruitment and higher retention rates for employees, lower absenteeism, and improved employee morale.

The Legislature also finds that there are many ways in which private employers can provide child care assistance to employees: information and referral, vouchering, employer contribution to child care programs, and onsite care. Private employers can offer child care as part of a menu of employee benefits. The Legislature recognizes that flexible compensation programs providing a child care option are beneficial to the private employer through increased productivity, to the private employee in knowing that his or her children are being cared for in a safe and nurturing environment, and to the state in more dollars being available for purchasing power and investment.

(b) It is the intent of the Legislature to promote public/private partnerships to ensure that the children of the state be provided safe and enriching child care at any time, but especially while parents work to remain self-sufficient. It is the intent of the Legislature that private employers be encouraged to participate in the future of this state by providing employee child care benefits. Further, it is the intent of the Legislature to encourage private employers to explore innovative ways to assist employees to obtain quality child care.

(c) The Legislature further recognizes that many parents need assistance in paying the full costs of quality child care. The public and private sectors, by working in partnership, can promote and improve access to quality child care and early education for children of working families who need it. Therefore, a more formal mechanism is necessary to stimulate the establishment of public-private partnerships. It is the intent of the Legislature to expand the availability of scholarship

options for working families by providing incentives for employers to contribute to meeting the needs of their employees' families through matching public dollars available for child care.

(3) There is created a body politic and corporate known as the Child Care Executive Partnership which shall establish and govern the Child Care Executive Partnership Program. The purpose of the Child Care Executive Partnership Program is to utilize state and federal funds as incentives for matching local funds derived from local governments, employers, charitable foundations, and other sources so that Florida communities may create local flexible partnerships with employers. The Child Care Executive Partnership Program funds shall be used at the discretion of local communities to meet the needs of working parents. A child care purchasing pool shall be developed with the state, federal, and local funds to provide subsidies to low-income working parents whose family income does not exceed the allowable income for any federally subsidized child care program with a dollar-for-dollar match from employers, local government, and other matching contributions. The funds used from the child care purchasing pool must be used to supplement or extend the use of existing public or private funds.

(4) The Child Care Executive Partnership, staffed by the Department of Children and Family Services ~~Agency for Workforce Innovation~~, shall consist of a representative of the Executive Office of the Governor and nine members of the corporate or child care community, appointed by the Governor.

(a) Members shall serve for a period of 4 years, except that the representative of the Executive Office of the Governor

shall serve at the pleasure of the Governor.

(b) The Child Care Executive Partnership shall be chaired by a member chosen by a majority vote and shall meet at least quarterly and at other times upon the call of the chair. The Child Care Executive Partnership may use any method of telecommunications to conduct meetings, including establishing a quorum through telecommunications, only if the public is given proper notice of a telecommunications meeting and reasonable access to observe and, when appropriate, participate.

(c) Members shall serve without compensation, but may be reimbursed for per diem and travel expenses in accordance with s. 112.061.

(d) The Child Care Executive Partnership shall have all the powers and authority, not explicitly prohibited by statute, necessary to carry out and effectuate the purposes of this section, as well as the functions, duties, and responsibilities of the partnership, including, but not limited to, the following:

1. Assisting in the formulation and coordination of the state’s child care policy.

2. Adopting an official seal.

3. Soliciting, accepting, receiving, investing, and expending funds from public or private sources.

4. Contracting with public or private entities as necessary.

5. Approving an annual budget.

6. Carrying forward any unexpended state appropriations into succeeding fiscal years.

7. Providing a report to the Governor, the Speaker of the


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House of Representatives, and the President of the Senate, on or before December 1 of each year.

(5)(a) The Legislature shall annually determine the amount of state or federal low-income child care moneys which shall be used to create Child Care Executive Partnership Program child care purchasing pools in counties chosen by the Child Care Executive Partnership, provided that at least two of the counties have populations of no more than 300,000. The Legislature shall annually review the effectiveness of the child care purchasing pool program and reevaluate the percentage of additional state or federal funds, if any, which ~~that~~ can be used for the program's expansion.

(b) To ensure a seamless service delivery and ease of access for families, an early learning coalition or the Department of Children and Family Services ~~Agency for Workforce Innovation~~ shall administer the child care purchasing pool funds.

(c) The Department of Children and Family Services ~~Agency for Workforce Innovation~~, in conjunction with the Child Care Executive Partnership, shall develop procedures for disbursement of funds through the child care purchasing pools. In order to be considered for funding, an early learning coalition or the Department of Children and Family Services ~~Agency for Workforce Innovation~~ must commit to:

1. Matching the state purchasing pool funds on a dollar-for-dollar basis; and

2. Expending only those public funds that ~~which~~ are matched by employers, local government, and other matching contributors who contribute to the purchasing pool. Parents shall also pay a


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fee, which may not be less than the amount identified in the early learning coalition's school readiness program sliding fee scale.

(d) Each early learning coalition shall establish a community child care task force for each child care purchasing pool. The task force must be composed of employers, parents, private child care providers, and one representative from the local children's services council, if one exists in the area of the purchasing pool. The early learning coalition is expected to recruit the task force members from existing child care councils, commissions, or task forces already operating in the area of a purchasing pool. A majority of the task force shall consist of employers.

(e) Each participating early learning coalition board shall develop a plan for the use of child care purchasing pool funds. The plan must show how many children will be served by the purchasing pool, how many will be new to receiving child care services, and how the early learning coalition intends to attract new employers and their employees to the program.

(6) The Department of Children and Family Services ~~Agency for Workforce Innovation~~ shall adopt any rules necessary for the implementation and administration of this section.

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

And the title is amended as follows:

Delete line 285

and insert:

an electronic transfer benefit program; amending s. 411.01, F.S.; providing for the school readiness


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programs to be administered by the Department of Children and Family Services rather than by the Agency for Workforce Innovation; revising legislative intent; amending s.

203410

LEGISLATIVE ACTION

Senate . House

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The Committee on Budget (Wise and Gaetz) recommended the following:

Senate Amendment (with title amendment)

Delete lines 14260 - 15081

and insert:

Section 247. Subsections (1) and (2), paragraph (a) of subsection (3), and subsection (4) of section 411.0101, Florida Statutes, are amended to read:

411.0101 Child care and early childhood resource and referral.—

(1) As a part of the school readiness programs, the Department of Children and Family Services ~~Agency for Workforce~~

~~Innovation~~ shall establish a statewide child care resource and referral network that is unbiased and provides referrals to families for child care. Preference shall be given to using the already established early learning coalitions as the child care resource and referral agencies. If an early learning coalition cannot comply with the requirements to offer the resource information component or does not want to offer that service, the early learning coalition shall select the resource and referral agency for its county or multicounty region based upon a request for proposal pursuant to s. 411.01(5)(e)1.

(2) At least one child care resource and referral agency must be established in each early learning coalition's county or multicounty region. The Department of Children and Family Services ~~Agency for Workforce Innovation~~ shall adopt rules regarding accessibility of child care resource and referral services offered through child care resource and referral agencies in each county or multicounty region which include, at a minimum, required hours of operation, methods by which parents may request services, and child care resource and referral staff training requirements.

(3) Child care resource and referral agencies shall provide the following services:

(a) Identification of existing public and private child care and early childhood education services, including child care services by public and private employers, and the development of a resource file of those services through the single statewide information system developed by the Department of Children and Family Services ~~Agency for Workforce Innovation~~ under s. 411.01(5)(c)1.e. These services may include family day

care, public and private child care programs, the Voluntary Prekindergarten Education Program, Head Start, the school readiness program, special education programs for prekindergarten children with disabilities, services for children with developmental disabilities, full-time and part-time programs, before-school and after-school programs, vacation care programs, parent education, the Temporary Cash Assistance Program, and related family support services. The resource file shall include, but not be limited to:

1. Type of program.

2. Hours of service.

3. Ages of children served.

4. Number of children served.

5. Significant program information.

6. Fees and eligibility for services.

7. Availability of transportation.

(4) The Department of Children and Family Services ~~Agency for Workforce Innovation~~ shall adopt any rules necessary for the implementation and administration of this section.

Section 248. Subsections (2), (6), and (7) of section 411.01013, Florida Statutes, are amended to read:

411.01013 Prevailing market rate schedule.—

(2) The Department of Children and Family Services ~~Agency for Workforce Innovation~~ shall establish procedures for the adoption of a prevailing market rate schedule. The schedule must include, at a minimum, county-by-county rates:

(a) At the prevailing market rate, plus the maximum rate, for child care providers that hold a Gold Seal Quality Care designation under s. 402.281.

 203410

(b) At the prevailing market rate for child care providers that do not hold a Gold Seal Quality Care designation.

(6) The Department of Children and Family Services ~~Agency for Workforce Innovation~~ may contract with one or more qualified entities to administer this section and provide support and technical assistance for child care providers.

(7) The Department of Children and Family Services ~~Agency for Workforce Innovation~~ may adopt rules pursuant to ss. 120.536(1) and 120.54 for establishing procedures for the collection of child care providers' market rate, the calculation of a reasonable frequency distribution of the market rate, and the publication of a prevailing market rate schedule.

Section 249. Subsection (1) of section 411.01014, Florida Statutes, is amended to read:

411.01014 School readiness transportation services.—

(1) The Department of Children and Family Services ~~Agency for Workforce Innovation~~, pursuant to chapter 427, may authorize an early learning coalition to establish school readiness transportation services for children at risk of abuse or neglect participating in the school readiness program. The early learning coalitions may contract for the provision of transportation services as required by this section.

Section 250. Subsections (1), (3), and (4) of section 411.01015, Florida Statutes, are amended to read:

411.01015 Consultation to child care centers and family day care homes regarding health, developmental, disability, and special needs issues.—

(1) Contingent upon specific appropriations, the Department of Children and Family Services ~~Agency for Workforce Innovation~~

shall administer a statewide toll-free Warm-Line for the purpose of providing assistance and consultation to child care centers and family day care homes regarding health, developmental, disability, and special needs issues of the children they are serving, particularly children with disabilities and other special needs.

(3) The Department of Children and Family Services ~~Agency for Workforce Innovation~~ shall annually inform child care centers and family day care homes of the availability of this service through the child care resource and referral network under s. 411.0101.

(4) Contingent upon specific appropriations, the Department of Children and Family Services ~~Agency for Workforce Innovation~~ shall expand, or contract for the expansion of, the Warm-Line to maintain at least one Warm-Line site in each early learning coalition service area.

Section 251. Subsections (2) and (3) of section 411.0103, Florida Statutes, are amended to read:

411.0103 Teacher Education and Compensation Helps (TEACH) scholarship program.—

(2) The Department of Children and Family Services ~~Agency for Workforce Innovation~~ may contract for the administration of the Teacher Education and Compensation Helps (TEACH) scholarship program, which provides educational scholarships to caregivers and administrators of early childhood programs, family day care homes, and large family child care homes.

(3) The department ~~agency~~ shall adopt rules under ss. 120.536(1) and 120.54 as necessary to administer this section.

Section 252. Subsections (1) and (3) of section 411.0104,

 203410

Florida Statutes, are amended to read:

411.0104 Early Head Start collaboration grants.—

(1) Contingent upon specific appropriations, the Department of Children and Family Services ~~Agency for Workforce Innovation~~ shall establish a program to award collaboration grants to assist local agencies in securing Early Head Start programs through Early Head Start program federal grants. The collaboration grants shall provide the required matching funds for public and private nonprofit agencies that have been approved for Early Head Start program federal grants.

(3) The Department of Children and Family Services ~~Agency for Workforce Innovation~~ may adopt rules under ss. 120.536(1) and 120.54 as necessary for the award of collaboration grants to competing agencies and the administration of the collaboration grants program under this section.

Section 253. Section 411.0106, Florida Statutes, is amended to read:

411.0106 Infants and toddlers in state-funded education and care programs; brain development activities.—Each state-funded education and care program for children from birth to 5 years of age must provide activities to foster brain development in infants and toddlers. A program must provide an environment that helps children attain the performance standards adopted by the Department of Children and Family Services ~~Agency for Workforce Innovation~~ under s. 411.01(4)(d)8. and must be rich in language and music and filled with objects of various colors, shapes, textures, and sizes to stimulate visual, tactile, auditory, and linguistic senses in the children and must include classical music and at least 30 minutes of reading to the children each

day. A program may be offered through an existing early childhood program such as Healthy Start, the Title I program, the school readiness program, the Head Start program, or a private child care program. A program must provide training for the infants' and toddlers' parents including direct dialogue and interaction between teachers and parents demonstrating the urgency of brain development in the first year of a child's life. Family day care centers are encouraged, but not required, to comply with this section.

Section 254. Subsection (1) and paragraph (g) of subsection (3) of section 411.011, Florida Statutes, are amended to read:

411.011 Records of children in school readiness programs.—

(1) The individual records of children enrolled in school readiness programs provided under s. 411.01, held by an early learning coalition or the Department of Department of Children and Family Services ~~Agency for Workforce Innovation~~, are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this section, records include assessment data, health data, records of teacher observations, and personal identifying information.

(3) School readiness records may be released to:

(g) Parties to an interagency agreement among early learning coalitions, local governmental agencies, providers of school readiness programs, state agencies, and the Department of Children and Family Services ~~Agency for Workforce Innovation~~ for the purpose of implementing the school readiness program.

Agencies, organizations, or individuals that receive school readiness records in order to carry out their official functions


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must protect the data in a manner that does not permit the personal identification of a child enrolled in a school readiness program and his or her parents by persons other than those authorized to receive the records.

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

And the title is amended as follows:

Delete line 335

and insert:

409.946, 411.0101, 411.01013, 411.01014,

772460

LEGISLATIVE ACTION

Senate . House

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The Committee on Budget (Wise) recommended the following:

Senate Substitute for Amendment (203410) (with title amendment)

Delete lines 14260 - 15081

and insert:

Section 247. Subsections (1) and (2), paragraph (a) of subsection (3), and subsection (4) of section 411.0101, Florida Statutes, are amended to read:

411.0101 Child care and early childhood resource and referral.—

(1) As a part of the school readiness programs, the Department of Children and Family Services ~~Agency for Workforce Innovation~~ shall establish a statewide child care resource and

referral network that is unbiased and provides referrals to families for child care. Preference shall be given to using the already established early learning coalitions as the child care resource and referral agencies. If an early learning coalition cannot comply with the requirements to offer the resource information component or does not want to offer that service, the early learning coalition shall select the resource and referral agency for its county or multicounty region based upon a request for proposal pursuant to s. 411.01(5)(e)1.

(2) At least one child care resource and referral agency must be established in each early learning coalition's county or multicounty region. The Department of Children and Family Services ~~Agency for Workforce Innovation~~ shall adopt rules regarding accessibility of child care resource and referral services offered through child care resource and referral agencies in each county or multicounty region which include, at a minimum, required hours of operation, methods by which parents may request services, and child care resource and referral staff training requirements.

(3) Child care resource and referral agencies shall provide the following services:

(a) Identification of existing public and private child care and early childhood education services, including child care services by public and private employers, and the development of a resource file of those services through the single statewide information system developed by the Department of Children and Family Services ~~Agency for Workforce Innovation~~ under s. 411.01(5)(c)1.e. These services may include family day care, public and private child care programs, the Voluntary

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Prekindergarten Education Program, Head Start, the school readiness program, special education programs for prekindergarten children with disabilities, services for children with developmental disabilities, full-time and part-time programs, before-school and after-school programs, vacation care programs, parent education, the Temporary Cash Assistance Program, and related family support services. The resource file shall include, but not be limited to:

1. Type of program.

2. Hours of service.

3. Ages of children served.

4. Number of children served.

5. Significant program information.

6. Fees and eligibility for services.

7. Availability of transportation.

(4) The Department of Children and Family Services ~~Agency for Workforce Innovation~~ shall adopt any rules necessary for the implementation and administration of this section.

Section 248. Subsections (2), (6), and (7) of section 411.01013, Florida Statutes, are amended to read:

411.01013 Prevailing market rate schedule.—

(2) The Department of Children and Family Services ~~Agency for Workforce Innovation~~ shall establish procedures for the adoption of a prevailing market rate schedule. The schedule must include, at a minimum, county-by-county rates:

(a) At the prevailing market rate, plus the maximum rate, for child care providers that hold a Gold Seal Quality Care designation under s. 402.281.

(b) At the prevailing market rate for child care providers

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that do not hold a Gold Seal Quality Care designation.

(6) The Department of Children and Family Services ~~Agency for Workforce Innovation~~ may contract with one or more qualified entities to administer this section and provide support and technical assistance for child care providers.

(7) The Department of Children and Family Services ~~Agency for Workforce Innovation~~ may adopt rules pursuant to ss. 120.536(1) and 120.54 for establishing procedures for the collection of child care providers' market rate, the calculation of a reasonable frequency distribution of the market rate, and the publication of a prevailing market rate schedule.

Section 249. Subsection (1) of section 411.01014, Florida Statutes, is amended to read:

411.01014 School readiness transportation services.—

(1) The Department of Children and Family Services ~~Agency for Workforce Innovation~~, pursuant to chapter 427, may authorize an early learning coalition to establish school readiness transportation services for children at risk of abuse or neglect participating in the school readiness program. The early learning coalitions may contract for the provision of transportation services as required by this section.

Section 250. Subsections (1), (3), and (4) of section 411.01015, Florida Statutes, are amended to read:

411.01015 Consultation to child care centers and family day care homes regarding health, developmental, disability, and special needs issues.—

(1) Contingent upon specific appropriations, the Department of Children and Family Services ~~Agency for Workforce Innovation~~ shall administer a statewide toll-free Warm-Line for the purpose

of providing assistance and consultation to child care centers and family day care homes regarding health, developmental, disability, and special needs issues of the children they are serving, particularly children with disabilities and other special needs.

(3) The Department of Children and Family Services ~~Agency for Workforce Innovation~~ shall annually inform child care centers and family day care homes of the availability of this service through the child care resource and referral network under s. 411.0101.

(4) Contingent upon specific appropriations, the Department of Children and Family Services ~~Agency for Workforce Innovation~~ shall expand, or contract for the expansion of, the Warm-Line to maintain at least one Warm-Line site in each early learning coalition service area.

Section 251. Subsections (2) and (3) of section 411.0103, Florida Statutes, are amended to read:

411.0103 Teacher Education and Compensation Helps (TEACH) scholarship program.—

(2) The Department of Children and Family Services ~~Agency for Workforce Innovation~~ may contract for the administration of the Teacher Education and Compensation Helps (TEACH) scholarship program, which provides educational scholarships to caregivers and administrators of early childhood programs, family day care homes, and large family child care homes.

(3) The department ~~agency~~ shall adopt rules under ss. 120.536(1) and 120.54 as necessary to administer this section.

Section 252. Subsections (1) and (3) of section 411.0104, Florida Statutes, are amended to read:

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411.0104 Early Head Start collaboration grants.—

(1) Contingent upon specific appropriations, the Department of Children and Family Services ~~Agency for Workforce Innovation~~ shall establish a program to award collaboration grants to assist local agencies in securing Early Head Start programs through Early Head Start program federal grants. The collaboration grants shall provide the required matching funds for public and private nonprofit agencies that have been approved for Early Head Start program federal grants.

(3) The Department of Children and Family Services ~~Agency for Workforce Innovation~~ may adopt rules under ss. 120.536(1) and 120.54 as necessary for the award of collaboration grants to competing agencies and the administration of the collaboration grants program under this section.

Section 253. Section 411.0106, Florida Statutes, is amended to read:

411.0106 Infants and toddlers in state-funded education and care programs; brain development activities.—Each state-funded education and care program for children from birth to 5 years of age must provide activities to foster brain development in infants and toddlers. A program must provide an environment that helps children attain the performance standards adopted by the Department of Children and Family Services ~~Agency for Workforce Innovation~~ under s. 411.01(4)(d)8. and must be rich in language and music and filled with objects of various colors, shapes, textures, and sizes to stimulate visual, tactile, auditory, and linguistic senses in the children and must include classical music and at least 30 minutes of reading to the children each day. A program may be offered through an existing early

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childhood program such as Healthy Start, the Title I program, the school readiness program, the Head Start program, or a private child care program. A program must provide training for the infants' and toddlers' parents including direct dialogue and interaction between teachers and parents demonstrating the urgency of brain development in the first year of a child's life. Family day care centers are encouraged, but not required, to comply with this section.

Section 254. Subsection (1) and paragraph (g) of subsection (3) of section 411.011, Florida Statutes, are amended to read:

411.011 Records of children in school readiness programs.—

(1) The individual records of children enrolled in school readiness programs provided under s. 411.01, held by an early learning coalition or the Department of Department of Children and Family Services ~~Agency for Workforce Innovation~~, are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this section, records include assessment data, health data, records of teacher observations, and personal identifying information.

(3) School readiness records may be released to:

(g) Parties to an interagency agreement among early learning coalitions, local governmental agencies, providers of school readiness programs, state agencies, and the Department of Children and Family Services ~~Agency for Workforce Innovation~~ for the purpose of implementing the school readiness program.

Agencies, organizations, or individuals that receive school readiness records in order to carry out their official functions must protect the data in a manner that does not permit the

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personal identification of a child enrolled in a school readiness program and his or her parents by persons other than those authorized to receive the records.

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

And the title is amended as follows:

Delete line 335

and insert:

409.946, 411.0101, 411.01013, 411.01014,

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 Budget Committee

BILL:	SPB 7202
INTRODUCER:	For consideration by the Budget Committee
SUBJECT:	Governmental Reorganization
DATE:	March 28, 2011 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Meyer, R.	Meyer, C.		**Pre-meeting**
2.				
3.				
4.				
5.				
6.				

I. Summary:

SPB 7202 transfers functions, duties, and programs from the Agency for Workforce Innovation, the Department of Community Affairs, and the Office of Tourism, Trade, and Economic Development to a newly created department called Jobs Florida.

Additionally, the following transfers are made:

- The Office of Early Learning Services in the Agency for Workforce Innovation is transferred to the Department of Education.
- The Division of Emergency Management in the Department of Community Affairs is renamed as an "office" and is transferred to the Executive Office of the Governor.
- The Florida Building Commission is transferred to the Department of Business and Professional Regulation.
- The responsibilities under the Florida Communities Trust and the responsibilities under the Stan Mayfield Working Waterfronts program within the Department of Community Affairs are transferred to the Department of Environmental Protection.

Further the bill combines the functions, duties, and programs of Enterprise Florida, Inc., the Florida Sports Foundation Incorporated, the Florida Tourism Industry Marketing Corporation d/b/a VISIT Florida, the Florida Black Business Investment Board, Inc., and Space Florida into a newly created not-for-profit corporation called the Jobs Florida Partnership, Inc.

The bill amends several statutes to conform to changes made by the act, conforms cross-references, and deletes obsolete provisions.

This bill amends the following sections of the Florida Statutes: ss. 20.15, 112.044, 163.3164, 163.3177, 163.3180, 163.3184, 163.3191, 163.3425, 163.3246, 163.32465, 288.061, 288.095, 288.901, 288.9015, 288.903, 288.904, 288.905, 288.906, 288.911, 409.942, 411.0102, 1002.73, 11.45, 14.2015, 14.20195, 15.18, 15.182, 16.615, 39.001, 45.031, 69.041, 112.3135, 119.071, 120.80, 125.01045, 159.803, 159.8081, 159.8083, 161.54, 163.03, 163.3178, 163.3221, 163.360, 166.0446, 175.021, 186.504, 186.505, 212.08, 212.096, 212.097, 212.098, 212.20, 213.053, 215.5586, 216.136, 216.292, 216.231, 218.64, 220.03, 220.183, 220.191, 222.15, 250.06, 252.32, 252.34, 252.35, 252.355, 252.3568, 252.36, 252.365, 252.37, 252.371, 252.373, 252.38, 252.385, 252.40, 252.41, 252.42, 252.43, 252.44, 252.46, 252.55, 252.60, 252.61, 252.82, 252.83, 252.85, 252.86, 252.87, 252.88, 252.936, 252.937, 252.943, 252.946, 255.099, 259.035, 260.0142, 272.11, 282.34, 282.709, 287.09431, 287.09451, 287.0947, 288.012, 288.017, 288.018, 288.019, 288.021, 288.035, 288.047, 288.065, 288.0655, 288.0656, 288.06561, 288.0657, 288.0658, 288.0659, 288.075, 288.1045, 288.106, 288.107, 288.108, 288.1083, 288.1088, 288.1089, 288.1095, 288.1162, 288.11621, 288.1168, 288.1169, 288.1171, 288.122, 288.12265, 288.124, 288.1251, 288.1252, 288.1253, 288.1254, 288.386, 288.7011, 288.7015, 288.705, 288.706, 288.7094, 288.7102, 288.714, 288.773, 288.774, 288.776, 288.7771, 288.816, 288.809, 288.826, 288.95155, 288.955, 288.9519, 288.9520, 288.9603, 288.9604, 288.9605, 288.9606, 288.9614, 288.9624, 288.9625, 288.975, 288.980, 288.984, 288.9913, 288.9914, 288.9916, 288.9917, 288.9918, 288.9919, 288.9920, 288.9921, 290.004, 290.0055, 290.0056, 290.0065, 290.0066, 290.00710, 290.0072, 290.00725, 290.0073, 290.0074, 290.0077, 290.014, 311.09, 311.11, 311.115, 311.22, 320.08058, 331.302, 331.3081, 331.369, 339.08, 339.135, 364.0135, 377.703, 377.711, 377.712, 377.804, 380.031, 380.06, 380.115, 380.285, 381.0054, 381.0086, 381.7354, 381.855, 383.14, 402.281, 402.45, 402.56, 403.42, 403.7032, 403.973, 409.017, 409.1451, 409.2576, 409.944, 409.946, 411.01, 411.0101, 411.01013, 411.01014, 411.01015, 411.0103, 411.0104, 411.0106, 411.011, 411.226, 411.227, 414.24, 414.295, 414.40, 414.411, 420.631, 420.635, 429.907, 440.12, 440.15, 440.381, 440.385, 440.49, 443.012, 443.036, 443.041, 443.051, 443.071, 443.091, 443.101, 443.111, 443.1113, 443.1115, 443.1116, 443.1215, 443.1216, 443.1217, 443.131, 443.1312, 443.1313, 443.1315, 443.1316, 443.1317, 443.141, 443.151, 443.163, 443.171, 443.1715, 443.181, 443.191, 443.211, 433.221, 445.002, 445.003, 445.004, 445.006, 445.007, 445.009, 445.016, 445.024, 445.0325, 445.038, 445.045, 445.048, 445.049, 445.051, 445.056, 446.41, 446.44, 446.50, 446.52, 448.109, 448.110, 450.191, 450.31, 450.161, 464.203, 468.529, 469.002, 469.003, 489.1455, 489.5335, 526.143, 526.144, 551.104, 553.62, 597.006, 570.248, 570.96, 597.006, 624.5105, 625.3255, 627.0628, 657.042, 658.67, 768.13, 943.03, 943.03101, 943.0311, 943.0312, 943.0313, 944.012, 944.708, 944.801, 945.10, 985.601, 1002.375, 1002.53, 1002.55, 1002.61, 1002.63, 1002.67, 1002.69, 1002.71, 1002.72, 1002.77, 1002.79, 1003.491, 1003.492, 1003.493, 1003.575, 1003.4285, 1003.493, 1004.226, 1004.65, 1004.77, 1004.78, 1008.39, 1008.41, 1011.76, and 1012.2251, F.S.

This bill transfers, renumbers, and amends the following sections of the Florida Statutes: 288.1229, 20.505, and 1004.99, F.S.

This bill creates the following sections of the Florida Statutes: ss. 14.2016, 20.60, 288.005, 288.048, 288.907, 288.912, 288.92, 288.921, 288.922, 288.923, and 288.925, F.S.

This bill repeals the following sections of the Florida Statutes: ss. 14.2015, 20.18, 20.50, 255.551, 255.552, 255.553, 255.5535, 255.555, 255.556, 255.557, 255.5576, 255.558, 255.559, 255.56, 255.561, 255.562, 255.563, 287.115, 288.038, 288.063, 288.1221, 288.1222, 288.1223,

288.1224, 288.1226, 288.1227, 288.7065, 288.707, 288.708, 288.709, 288.7091, 288.712, 288.12295, 288.09151, 288.9415, 288.9618, 288.982, 411.0105, 446.60, and 1002.75, F.S.

II. Present Situation:

Department of Community Affairs

The Department of Community Affairs (DCA) is the state's land planning and community development agency.[1] In general, DCA performs the following functions:

- The Division of Community Planning administers Florida's growth management programs and works closely with local governments and other state agencies to ensure high quality growth and sustainable patterns of development across the state.
- The Division of Housing and Community Development administers state and federal programs designed to provide community and economic development assistance to agencies at the local level. The division provides grants to eligible local governments for infrastructure, revitalization, disaster recovery, housing rehabilitation, and economic development, and assists citizens with meeting critical needs such as housing, transportation, and emergency utility payments. The division also staffs the Florida Building Code Commission, which implements and regulates the unified statewide code for all buildings and structures in Florida.
- The Division of Emergency Management directs and coordinates state, federal, and local efforts to deal with natural disasters, such as tornadoes and hurricanes, as well as man-made disasters and accidents.
- The DCA administers the Florida Communities Trust, which is a state land acquisition grant program providing funding to local governments and eligible non-profit environmental organizations for the acquisition of community-based parks, open space and greenways that further both outdoor recreation and natural resource protection needs identified in local government comprehensive plans.
- The Florida Housing Finance Corporation is administratively housed within DCA. The corporation is a public entity that works to assist Floridians in obtaining safe, affordable housing. The corporation is a separate budget entity and is not subject to control, supervision, or direction by DCA.

Growth Management

The Local Government Comprehensive Planning and Land Development Regulation Act (the act),[2] also known as Florida's Growth Management Act, was adopted by the 1985 Legislature. Significant changes have been made to the act since 1985 including major growth management bills in 2005 and 2009. The act requires all of Florida's 67 counties and 413 municipalities to adopt local government comprehensive plans guiding future growth and development. "Each local government comprehensive plan must include at least two planning periods, one covering at least the first 5-year period occurring after the plan's adoption and one covering at least a 10-year period."[3] Comprehensive plans contain chapters or "elements" addressing future land use, housing, transportation, water supply, drainage, potable water, natural groundwater recharge, coastal management, conservation, recreation and open space, intergovernmental coordination,

[1] Information adapted from the Office of Program Policy Analysis and Government Accountability's Government Program Summaries, available at http://www.oppaga.state.fl.us/profiles/6102/ (last visited 3/28/2011).
[2] See ch. 163, Part II, F.S.
[3] Section 163.3177(5), F.S.

capital improvements, and public schools. The state land planning agency that administers these provisions is DCA.

Alternative State Review Process
In 2007, the Legislature created a pilot program to provide an alternate, expedited process for plan amendments with limited state agency review. Pilot communities transmit plan amendments, along with supporting data and analyses to specified state agencies and local governmental entities after the first public hearing on the plan amendment. Comments from state agencies may include technical guidance on issues of agency jurisdiction as it relates to ch. 163, part II, F.S., the Growth Management Act. Comments are due back to the local government proposing the plan amendment within 30 days of receipt of the amendment.

Following a second public hearing that shall be an adoption hearing on the plan amendment, the local government transmits the amendment with supporting data and analyses to DCA and any other state agency or local government that provided timely comments. An affected person, as defined in s. 163.3184(1)(a), F.S., or DCA may challenge a plan amendment adopted by a pilot community within 30 days after adoption of the amendment. DCA's challenge is limited to those issues raised in the comments by the reviewing agencies, but the statute encourages the DCA to focus its challenges on issues of regional or statewide importance. DCA does not issue a report detailing its objections, recommendations, and comments. The alternative state review process shortens the statutorily prescribed timeline for comprehensive plan amendments process from 136 days to 65 days.

Optional Sector Planning
The optional sector plan process was established as an alternative to the development of a regional impact process (see below). Optional sector plans may be initiated by the local government upon written agreement with the DCA. An optional sector plan includes two levels of planning: a conceptual, long-term build-out overlay; and one or more detailed specific area plans. An annual monitoring report will be submitted to the DCA and the affected regional planning council. Additionally, optional sector plans combine the purposes of chs. 380 and 163, F.S.; require public participation throughout the process; emphasize urban form and the protection of regional resources and facilities; and apply to areas greater than 5,000 acres. There are currently four optional sector plans in effect. They are located in Bay County, Orange County, the City of Bartow, and Escambia County.[4]

The Development of Regional Impact (DRI) Process
Section 380.06, F.S., provides for state and regional review of local land use decisions regarding large developments that, because of their character, magnitude, or location, would have a substantial effect on the health, safety, or welfare of the citizens of more than one local government.[5] Regional planning councils assist the developer by coordinating multi-agency DRI review. The council's job is to assess the DRI project, incorporate input from various agencies, gather additional information, and make recommendations on how the project should proceed. The DCA reviews developments of regional impact for compliance with state law and to identify

[4] DCA, Optional Sector Plans, available at http://www.dca.state.fl.us/fdcp/DCP/optionalsectorplans/index.cfm (last visited 3/28/2011).
[5] Section 380.06(1), F.S.

the regional and state impacts of large-scale developments. The DCA makes recommendations to local governments for approving mitigating conditions, or not approving proposed developments. There are numerous exemptions from the DRI process specified in statute.

Evaluation and Appraisal Reports
Section 163.3191, F.S., requires local governments to periodically assess the effectiveness of their comprehensive plans and complete major plan updates to reflect changing conditions and new legislative requirements. Every 7 years, local governments must submit Evaluation and Appraisal Reports (EAR) to DCA prior to undertaking the required periodic revision of their plans.[6] Based on this evaluation, the report suggests how the plan should be revised to better address community objectives, changing conditions and trends affecting the community, and changes in state requirements. DCA has established a phased schedule for the adoption of EARs, and municipalities are scheduled to adopt their EARs approximately 12 to 18 months after the county in which they are located adopts its EAR. This phasing allows municipalities to benefit from updated information that may be collected and analyzed by the county, particularly regarding major community-wide planning issues. DCA also holds a scoping meeting to identify the items that need to be addressed in the EAR.[7] Section 163.3191, F.S., contains a list of specific issues the report must address.

Division of Emergency Management[8]
The Division of Emergency Management (division) is administratively housed within the Department of Community Affairs, but is an independent entity and is not subject to control, supervision, or direction by the Department of Community Affairs.[9] The primary mission of the Division of Emergency Management is to ensure Florida is prepared to respond to and recover from all emergencies and mitigate against their impact. It coordinates with other state agencies, local and federal governments, interstate organizations, and the private sector to protect people and property in Florida. Additionally, the division and the Florida Department of Law Enforcement both have a primary responsibility for ensuring Florida's domestic security. The division's director is appointed by the Governor, serves at the Governor's pleasure, and acts as the state coordinating officer and operational authority for emergency management.

Office of Tourism, Trade, and Economic Development[10]
The Office of Tourism, Trade, and Economic Development (OTTED) within the Executive Office of the Governor assists the Governor in formulating policies and strategies designed to provide economic opportunities for all Floridians. OTTED provides executive direction and staff support to develop policies and advocate for economic diversification and improvements in Florida's business climate and infrastructure. Economic development programs are implemented by public/private partnerships under OTTED's oversight.

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[6] Section 163.3191, F.S.
[7] DCA, Scoping Meetings for Evaluation and Appraisal Reports, available at http://www.dca.state.fl.us/fdcp/DCP/EAR/files/EARBroc11-18-02.pdf (last visited 3/28/2011).
[8] Information adapted from the Office of Program Policy Analysis and Government Accountability's Government Program Summaries, available at http://www.oppaga.state.fl.us/profiles/6001/ (last visited 3/25/2011).
[9] Section 20.18(2)(a), F.S.
[10] Information adapted from the Office of Program Policy Analysis and Government Accountability's Government Program Summaries, available at http://www.oppaga.state.fl.us/profiles/6125/ (last visited 3/26/2011).

Florida has a number of economic development incentive programs used to recruit industry to Florida, or to persuade existing businesses to expand their operations in the state. Some of the specific financial incentive programs administered by OTTED are:

- Qualified Target Industry Tax Refund Program (QTI) – s. 288.106, F.S. This is a tax refund program providing refunds of seven state taxes and the local ad valorem tax for businesses that create higher-paying, higher-skilled jobs for Floridians. There are eight categories of target industry sectors.[11]
- Quick Action Closing Fund – s. 288.1088, F.S. This incentive QAC is a grant to target industries whose projects are anticipated to achieve a $5 to $1 payback ratio; it is used to "close the deal" with a prospective new or expanding business.
- Economic Development Transportation Fund (Road Fund) – s. 288.063, F.S. This incentive is funded by a transfer from the State Transportation Trust Fund. The Road Fund is used to assist local governments in paying for highway or other transportation infrastructure improvements that will benefit a relocating or expanding company.
- Qualified Defense Contractors Tax Refund Program – s. 288.1045, F.S. This program is a tax refund program and is the only state incentive that gives tax refunds to retain employees, although new employees also make a military or space contractor eligible for the program. Only a handful of companies access the program funds, so it shares an annual appropriation with QTI.
- Capital Investment Tax Credit – s. 220.191, F.S. This tax credit provides eligible corporations with an annual credit on their corporate income tax liability over a 20-year period. The credit is based on a company's capital investment and is taken against the income arising from the project. Typically, a corporation must make a substantial investment in land, facilities, and equipment to qualify for the program. According to the Department of Revenue, $11.75 million in tax credits were claimed in 2009 through this incentive program. As of December 2010, there are 18 active projects, whose owners have committed to make total cumulative capital investments of $2.45 billion in Florida.
- Rural Community Development Revolving Loan Fund – s. 288.065, F.S. This provides long-term loans, loan guarantees, or loan-loss protection for rural counties or economic-development agencies substantially underwritten by rural governments, to pay primarily for infrastructure needed to attract economic development. The maximum loan amount is $560,000. Since, 1997, 16 loans totaling $5.62 million have been made.
- Florida Enterprise Zone Program – ss. 290.001 – 290.016, F.S. This program provides various tax credits and tax exemptions for businesses (and non-business property owners, where applicable), to create jobs and make investments in blighted communities designated by the Legislature as enterprise zones. OTTED oversees the program by approving the required documents after legislative creation of a zone, and by approving boundary changes. Businesses may receive corporate tax credits, or sales and use tax credits, refunds, or exemptions, based on the criteria established in statute for the 11 different incentives available for enterprise zones. There are 59 enterprise zones in Florida.

[11] The categories are clean tech; life sciences; information technology; aviation/aerospace; homeland security/defense; financial/professional services; emerging technologies; other manufacturing; and corporate headquarters. See Enterprise Florida, Inc., Florida Industry Clusters, for more detailed descriptions, available at http://www.eflorida.com/ContentSubpageFull.aspx?id=52 (last visited 3/28/2011).

- Rural and Urban Job Tax Credits – ss. 212.097, 212.098, and 220.1895, F.S. These tax credits are awarded based on the industry sector and the number of new employees the business project commits to hiring. The tax credits are administered through the Department of Revenue. According to Enterprise Florida, Inc., in 2009, nine businesses received $204,000 in rural job tax credits for creating 204 jobs, while 19 businesses received tax credits totaling $855,000 under the urban program for creating 803 jobs.
- Brownfield Redevelopment Bonus – s. 288.107, F.S. This program provides tax refunds for businesses that locate or expand in "brownfield" areas, which typically were the sites of industrial activity that led to groundwater and soil contamination having since been cleaned up so that it is safe again for commercial activity. The bonus is up to $2,500-per-new job created. An eligible business may be in a target industry sector and receive the QTI tax refunds, too; if not a targeted industry, the business must make at least a $500,000 investment if the site does not require cleanup or a $2 million investment if cleanup is necessary, and hire at least 10 new employees. In FY 2009-10, there were 15 businesses approved to take advantage of both brownfield incentive programs, committing to create about 1,800 jobs and investing more than $158 million in their operations.
- Economic Gardening Business Loan Pilot Program – s. 288.1081, F.S. This program provides low-interest, short-term loans to eligible businesses for working-capital expenses, employee training, and salaries of new employees. It is administered by the Black Business Investment Fund. In FY 2009-10, the fund awarded 19 loans totaling $3.9 million, to 17 businesses statewide.
- Economic Gardening Technical Assistance Pilot Program – s. 288.1082, F.S. This program, also called GrowFL, provides eligible companies with training and outreach for their infrastructure, networking, and mentoring needs. In the first year, 35 businesses were selected for the program. The technical assistance program received $1.5 million in the initial appropriation in FY 2009-10 and $1 million in FY 2010-11.
    - To participate in GrowFL or the Business Loan program, a company must be a for-profit, privately held, investment-grade business that employs at least 10 people but not more than 50; that generates between $1 million and $25 million in annual revenue; and qualifies for QTI.
- High Impact Performance Incentive Grants – s. 288.108, F.S. This grant is for businesses representing the following industry sectors – clean energy, life sciences, financial services, corporate headquarters, transportation equipment manufacturing, and semiconductor manufacturing. Eligible businesses must make a capital investment of at least $50 million and create at least 50 new jobs, although the thresholds for businesses engaged in research and development are half those amounts. The Legislature did not appropriate any funds for HIPI grants because there were no applicants in FY 2009-10. But since the program began in 1997, there have been eight projects approved by businesses committing to investing $472 million in Florida and creating 1,745 jobs with average annual wages of $52,246.

Public/Private Partnerships

As part of its role, OTTED oversees the activities of several public/private partnerships which serve to increase trade, job creation, and critical industry development in Florida:

- Enterprise Florida, Inc. (EFI) - serves as Florida's statewide economic development organization;

- Florida Black Business Investment Board, Inc. - assists in developing and expanding black business enterprises and advises OTTED in the oversight of the Black Business Loan Program;
- Space Florida – promotes and develops space-related economic development and education in Florida;
- Florida Commission on Tourism and the Florida Tourism Industry Marketing Corporation d/b/a/ VISIT Florida – oversees the state's tourism efforts and markets and facilitates travel to and within Florida for the benefit of its residents, economy, and travel and tourism industries;
- Florida Sports Foundation Incorporated – serves as the official sports promotion and development organization for the State of Florida; and
- Office of Film and Entertainment – develops and expands the state's motion picture and entertainment industry sectors and promotes and markets Florida as a production and filming location.

Each partnership focuses on a unique area of economic program development. While part of OTTED, the Office of Film and Entertainment is a special unit that operates semi-autonomously from OTTED.

Background on EFI and OTTED

Creation of EFI

One of the early initiatives of Governor Lawton Chiles was the evaluation in 1991 of the executive agency governance structure. Chiles' transition task forces and "Government by the People Commission" developed a set of wide-ranging recommendations on agency mergers and realignment. One idea that grew from these discussions was creation of a lead entity, representing both the public and private sectors, to coordinate the state's economic development programs and policies. The idea coalesced as "Enterprise Florida," and a 1991 report drafted by the Florida Chamber of Commerce and the Florida Department of Commerce (FDC) detailed why such an entity was necessary and how it could be fully implemented within 3 years. One of the key reasons for creating a new lead entity, according to the report, was "fragmentation" of the different state, local and private-sector entities charged with economic development:

> "A disconnected approach to economic development cannot help but result in uncoordinated, inchoate, and wasteful use of resources."

The report noted EFI would not duplicate the FDC, but that the department's units responsible for marketing, research, business assistance, and administrative functions would be transferred, over a 3-year-period, to EFI. When fully implemented, this new "public-private partnership" was envisioned to act as a catalyst for economic development in Florida, a broker for recruiting new businesses and retaining existing ones, and a coordinator for specialized entities – such as bond financing for business infrastructure or investment in new technologies – that would be at the core of efforts to diversify Florida's economy.

Based in large part on the aforementioned report's recommendation, EFI was created by the Legislature in 1992. The legislation references the economic challenges the state was facing, and concludes that Florida "needs a mechanism to bring together Florida's leadership and economic development resources, both public and private, to create enhanced economic development

tools." The legislation did not transfer any FDC responsibilities to EFI. The only two duties enumerated in the new law were assisting in the coordination of the state's economic development efforts and developing a state strategic plan for economic development by December 1, 1993.

EFI was to be governed by a 21-member board of directors, of which 12 were private citizens appointed by the Governor from a list submitted initially by the Enterprise Florida Nominating Council, and subsequently by the EFI board. These 12 members were subject to Senate confirmation. The other nine members were: the Governor, the Lieutenant Governor, the Commissioner of Education, the Chancellor of the State University System, the executive director of the State Community College System, the Secretary of Commerce, the Secretary of Labor and Employment Security, or their designees; a member of the Florida Senate; and a member of the Florida House of Representatives.

The next major statutory changes for EFI occurred in 1996, with the passage of a 182-page bill that revamped Florida's economic development governance structure. The legislation abolished the FDC and formally recognized EFI as the state's lead economic development entity and broadened its responsibilities.

EFI was charged with developing policies and implementing strategies to:

- Support Florida's existing businesses and recruit new businesses worldwide to Florida;
- Seek to bolster international trade opportunities;
- Develop a comprehensive approach to workforce development; and
- Promote economic opportunities for rural communities and small or minority businesses.

The 1996 legislation also addressed funding for EFI. Consistent with the intent of creating a public-private partnership, operational funding would be shared with the private sector. Specifically, the law required an incremental increase in private funding to EFI operations, from 10 percent of state appropriations in FY 1996-97 to 50 percent of state appropriations by FY 2000-01. These funds would be released through a budget amendment, in accordance with ch. 216, F.S., if EFI provided sufficient documentation it had received the same amount in private matching funds for the given fiscal year. If sufficient documentation was not provided by the end of a given fiscal year, the state funds were to revert to the state's General Revenue Fund.

The Legislature in 1999, reiterated its requirement that state funding for EFI operations be matched by private funding, stating it is "further the intent of the Legislature to maximize private-sector support in operating Enterprise Florida, Inc., as an endorsement of its value and as an enhancement of its efforts." The law specified what qualified as private-sector support, the various categories of required support, and the overall ratio or match of the support – no less than 100 percent of the state's operating investment.

The latest significant legislative changes affecting EFI occurred in 2007, with the creation of the Florida Opportunity Fund, and in 2010, when the Florida Development Finance Corporation program was amended to allow it to leverage federal funds to issue debt for specific energy-related projects.

EFI currently is governed by a 19-member board of directors. The Governor appoints six private-sector members to the board, and the Senate President and the Speaker of the House of Representatives appoint three each. The public-sector members are the Governor, the Commissioner of Education, the state's Chief Financial Officer, the Secretary of State; the chair of the Workforce Florida, Inc., board of directors, or their designees; a member of the Florida Senate as ex officio; and a member of the Florida House of Representatives as an ex officio.

Creation of OTTED

In the 1996 legislation that officially abolished FDC, OTTED was created to perform what had been FDC's governance functions, such as providing contractual oversight of EFI and other public-private partnerships under contract.

The newly created OTTED was directed to contract with EFI to "guide, stimulate, and promote the economic and trade development of the state." OTTED was given control of the Economic Development Trust Fund, where the Legislature would deposit appropriations for the various incentive programs.

In 1997, the Legislature passed another large economic development bill, part of which clarified OTTED's responsibilities and some of the incentive programs created the previous year. The legislation also clarified OTTED's relationship as "administrator" of its contract with EFI.

Agency for Workforce Innovation[12]

The Agency for Workforce Innovation (AWI) was created by the Workforce Innovation Act of 2000 in an effort to better connect the state's economic development strategies with its workforce development system.[13]

The responsibilities of AWI include:

- Workforce Services:
  - Manages the performance-based contract with Workforce Florida, Inc., which includes specific deliverables and performance requirements in the statewide administration and coordination of workforce services (ch. 445, F.S.).
  - Disburses federal workforce funds (s. 20.50, F.S.);
  - Provides One-Stop Program Support services (workforce program information, guidance, and technical assistance) to the Regional Workforce Boards (ch. 445, F.S.);
- Unemployment Compensation Services:
  - Administers the state's unemployment compensation programs (ch. 443, F.S.); and
- Early Learning Services:
  - Implements the state's Child Care Resource and Referral, School Readiness, and Voluntary Prekindergarten Programs (chs. 411 and 1002, F.S.);

Workforce Services and Workforce Florida, Inc.

AWI is Florida's lead state workforce agency. However, Workforce Florida, Inc., (WFI) sets the state's workforce development policy and guidance. Workforce services in Florida are provided

[12] Information adapted from the Office of Program Policy Analysis and Government Accountability's Government Program Summaries, available at http://www.oppaga.state.fl.us/profiles/6134/ (last visited 3/26/2011).
[13] Chapter 2000-165, L.O.F. See staff analysis for SB 2050 and HB 1135 (2000).

by 24 regional workforce boards who deliver services through nearly 90 One-Stop Career Centers around the state.

WFI is a nonprofit corporation providing state-level policy, planning, performance evaluation, and oversight to AWI and the 24 regional workforce boards. AWI is responsible for implementing WFI's policies. AWI assists WFI in developing and disseminating policies, providing technical assistance, and monitoring a variety of workforce programs.

AWI is the state agency which receives the federal funds for employment-related programs, such as Welfare to Work, Temporary Assistance to Needy Families, and the Workforce Investment Act, and distributes these funds to the state's 24 regional workforce boards. AWI also monitors regional workforce board and One-Stop Career Center activities to ensure they comply with federal and state requirements.

Each regional workforce board develops a local plan for using the funds provided by AWI and oversees workforce development activities in the region. Each board operates under a performance contract with AWI. The boards also select contractors to operate local One-Stop Career Centers. The One-Stop Career Centers deliver employment services to job seekers and employers.

WFI also sets the policy for the Welfare Transition Program. This program helps families currently on welfare become employed and economically self-sufficient; helps prevent at-risk families from going on welfare; and assists former welfare recipients who have recently entered the workforce retain their jobs and upgrade their skills.

Unemployment Compensation Services

AWI is the current agency responsible for administering Florida's UC laws.[14] Prior to October 1, 2000, the state's UC program was administered by the Division of Unemployment Compensation of the former Department of Labor and Employment Security.[15] The Workforce Innovation Act of 2000 transferred the administration of the UC program from the department to AWI. Further, this legislation required AWI to contract with the Department of Revenue to provide unemployment tax collections services.[16]

AWI administers Florida's UC laws through its Office of Unemployment Compensation Services.[17] The Office of Unemployment Compensation Services consists of the Unemployment Compensation Benefits Section, the Benefits Payment Control Section, and the Office of Appeals. The Unemployment Compensation Benefits Section handles initial claims, questions about unemployment benefits, and other related issues. The Benefits Payment Control Section monitors the payment of unemployment benefits in an effort to detect and deter overpayment and to prevent fraud. The Office of Appeals holds hearings and issues decisions to resolve disputed issues related to eligibility and claims for unemployment compensation and the payment and collection of unemployment compensation taxes. The Office of Unemployment Compensation Services also administers special unemployment compensation programs, such as disaster

[14] Sections 20.50 and 443.171, F.S.
[15] Section 11(4)(f), ch. 2000-165, L.O.F.
[16] The contract requirement and the duties of DOR were clarified by ch. 2003-36, L.O.F.
[17] Section 20.50(2)(c)1., F.S.

unemployment assistance, trade adjustment assistance, and UC for ex-service members and federal civilian employees.[18]

The Unemployment Appeals Commission is administratively housed in AWI, but is a quasi-judicial administrative appellate body independent of AWI.[19] The commission consists of a three member panel appointed by the governor. It is the highest level for administrative review of contested unemployment cases decided by the Office of Appeals referees. The Unemployment Appeals Commission can affirm, reverse, or remand the referee's decision for further proceedings. A party to the appeal who disagrees with the commission's order may seek review of the decision in the Florida district courts of appeal.[20]

Early Learning Services – School Readiness and Voluntary Pre-Kindergarten

AWI's Office of Early Learning is responsible for implementation of the state's child care resource and referral, school readiness, and voluntary prekindergarten (VPK) programs:

- School Readiness: Each school readiness program is required to provide the elements necessary to prepare at-risk children for school, including health screening and referral, and an appropriate educational program. These programs are designed to be developmentally appropriate, research-based, involve parents as their children's first teachers, serve as preventive measures for children at risk of future school failure, enhance the educational readiness of eligible children, and support family education. Section 411.01, F.S., provides requirements for implementing the school readiness program.
- Voluntary Prekindergarten: The program provides a free, voluntary prekindergarten education for every Florida child 4 years of age. The state's VPK program is intended to increase children's chances of achieving future educational success and must be developmentally appropriate. Sections 1002.51-1002.79, F.S., provide requirements for implementing and assessing the VPK program.

The early learning program is designed as a two-tiered program with AWI and the Department of Education (DOE) at the state level and early learning coalitions at the local level. AWI is responsible for adopting and maintaining coordinated programmatic, administrative, and fiscal policies and standards for all early learning programs. DOE is responsible for establishing readiness standards and guidelines for VPK program content. The local early learning coalitions plan, coordinate, and implement the early learning programs, following the standards and guidelines established by AWI and DOE. In addition, the Department of Children and Families is responsible for the licensing and credentialing of early learning providers.

There are 31 early learning coalitions, and a coalition may serve one or more counties. Each is required to submit a plan to AWI which states how they intend to implement the early learning programs for eligible children in the areas. The early learning coalitions also oversee early

[18] Information found at http://www.floridajobs.org/unemployment/index.html (last visited 3/25/2011).
[19] Section 20.50(2)(d), F.S. "The Unemployment Appeals Commission, authorized by s. 443.012, F.S., is not subject to control, supervision, or direction by the Agency for Workforce Innovation in the performance of its powers and duties but shall receive any and all support and assistance from the agency that is required for the performance of its duties." The Unemployment Appeals Commission is 100 percent federally funded.
[20] Section 443.151(4)(c), (d), and (e), F.S.

learning providers that offer school readiness and VPK programs. The federal Head Start program is administered directly by coalitions.

Obsolete References

Senate Interim Report 2011-107, Identification, Review, and Recommendations Relating to Obsolete Statutory References to the former Florida Departments of Labor and Employment Security, and Commerce:[21]

- Reviewed the abolishment of the programs and divisions of the former departments;
- Identified current Florida Statutes that referenced these past programs, divisions, or departments;
- Reviewed the obsolete statutory references identified, researched the underlying legislative history of each reference, and worked with appropriate state agencies and other Senate committees to develop recommendations to resolve the obsolete references; and
- Recommended the references be either retained in statute, deleted or repealed from the statute or provision, or updated to reference the appropriate agency or current practice.

Department of Labor and Employment Security

The Department of Labor and Employment Security (DLES) was created in 1978 when it was removed from the Florida Department of Commerce.[22] It consisted of one administrative support division, six program divisions, and administratively housed several independent entities.[23]

The process for the abolishment of DLES began in the 1999 Legislative Session,[24] and subdivisions and programs of the department were transferred or repealed through several legislative bills until the department was formally abolished by the Legislature in 2002.

Senate Interim Report 2011-107 sets forth a detailed chart of the divisions and programs of the former DLES and whether they were transferred or repealed (including the chapter law numbers).

Florida Department of Commerce

The Florida Department of Commerce (FDC) was created in 1969.[25] It consisted of three divisions and administratively housed or staffed a number of independent entities. It was "the state agency with the primary responsibility for promoting and developing the general business, trade, and tourism components of the state economy."[26]

[21] Identification, Review, and Recommendations Relating to Obsolete Statutory References to the Former Florida Departments of Labor and Employment Security, and Commerce. The Florida Senate Committee on Commerce. Interim Report 2011-107 (October 2010). Available at http://www.flsenate.gov/Committees/InterimReports/2011/2011-107cm.pdf (last visited 2/15/2011).
[22] Chapter 78-201, L.O.F.
[23] See Senate Staff Analysis and Economic Impact Statement for CS/CS/SB 230, dated April 19, 1999.
[24] Chapter 99-240, L.O.F.
[25] Section 17, ch. 69-106, L.O.F.
[26] See Senate Staff Analysis and Economic Impact Statement for CS/CS/SB 958, dated March 18, 1996.

FDC was abolished in 1996 in a reorganization of Florida's economic development structure.[27] The department's functions were either repealed or transferred to various other agencies. In general, the reorganization transferred economic development functions to EFI; tourism development and marketing functions to the Florida Commission on Tourism, Inc.; and all other functions that were considered to be "governmental in nature and [could not] effectively be transferred to public private partnerships" to OTTED.[28]

Senate Interim Report 2011-107 sets forth a detailed chart of the divisions and programs of the former FDC and whether they were transferred or repealed (including the chapter law numbers).

III. Effect of Proposed Changes:

This bill creates a new department called Jobs Florida and transfers the functions of other agencies to this new department. The bill makes the following changes:

TRANSFERS FROM EXISTING AGENCIES

Section 1:	Transfers from the Agency for Workforce Innovation: the Office of Early Learning Services to the Department of Education (including the transfer of policies and procedures); the Offices of Unemployment Compensation and Workforce Services to Jobs Florida; and trust funds as appropriate. Provides for transfer to Jobs Florida anything not specifically delineated for transfer within the section. Provides for the continuation of existing contracts or interagency agreements in existence on or before July 1, 2011, for the reminder of the term of the contract.
Section 2:	Transfers from the Department of Community Affairs: the Florida Housing Finance Corporation, the Division of Housing and Community Development, and the Division of Community Planning to Jobs Florida; the Division of Emergency Management to the Executive Office of the Governor and renaming it as the "Office of Emergency Management"; the Florida Building Commission to the Department of Business and Professional Regulation; the responsibilities under the Florida Communities Trust and the responsibilities under the Stan Mayfield Working Waterfronts program to the Department of Environmental Protection; and trust funds as appropriate. Provides for transfer to Jobs Florida anything not specifically delineated for transfer within the section. Provides for the continuation of existing contracts or interagency agreements in existence on or before July 1, 2011, for the reminder of the term of the contract.
Section 3:	Transfers functions and trust funds of the Office of Tourism, Trade, and Economic Development in the Executive Office of the Governor to Jobs Florida, and trust funds as appropriate. Provides for transfer to Jobs Florida anything not specifically delineated for transfer within the section. Provides for the continuation of existing contracts or interagency agreements in existence on or before July 1, 2011, for the reminder of the term of the contract.

[27] Chapter 96-320, L.O.F.
[28] See Senate Staff Analysis and Economic Impact Statement for CS/CS/SB 958, dated March 18, 1996.

Section 4:	Provides direction for the transfers outlined above. Provides for a transition period from July 1, 2011, through October 1, 2011. Provides for the Agency for Workforce Innovation, the Department of Community Affairs, and the Office of Tourism, Trade, and Economic Development to develop and implement transition plans. Directs any state agency identified by one of the three affected agencies to cooperate fully in the plan. Directs the Governor to designate staff members from the Office of Planning and Budgeting to serve as primary representative for each agency during the transition and make reports to the Governor, the President of the Senate, and the Speaker of the House of Representatives. Authorizes the Governor to transfer funds and positions between agencies upon approval from the Legislative Budget Commission to implement the act. Directs the Governor, upon recommendation of one of the affected agencies, to submit amendments or supplemental information to or to seek waivers from appropriate Federal agencies or departments as necessary.
Section 5:	Provides direction for the merger of Enterprise Florida, Inc., the Florida Sports Foundation Incorporated, the Florida Tourism Industry Marketing Corporation d/b/a VISIT Florida, the Florida Black Business Investment Board, Inc., and Space Florida into the Jobs Florida Partnership, Inc. Directs the not-for-profit entities to enter into a plan for merger and transfers the functions of Space Florida to the Jobs Florida Partnership, Inc. Provides legislative intent with respect to the merger of the entities into the Jobs Florida Partnership, Inc. Provides for a transition period, from July 1, 2011, through December 31, 2011, and the continuation of operations until the end of the transition period. Requires the Governor to appoint a representative to coordinate the transition plan. Provides for the transfer of title in real or tangible property held by the entities to the Department of Management Services to be leased to Jobs Florida. Provides for the transfer of any funds held in trust by the entities to be transferred to the Jobs Florida Partnership, Inc., to be used for their original purposes. Directs the Governor, upon recommendation of one of the affected entities, to submit amendments or supplemental information to or to seek waivers from appropriate Federal agencies or departments as necessary. Provides for the continuation of lease agreements for employees, if they are retained.
Section 6:	Directs the Division of Statutory Revision to prepare conforming legislation.

STATUTORY AMENDMENTS & CREATIONS

Section 7:	Creates s. 14.2016, F.S., which establishes the Office of Emergency Management within the Executive Office of the Governor.
Section 8:	Amends s. 20.15, F.S., which establishes the Division of Early Learning within the Department of Education and provides for the division to administer the school readiness system and the Voluntary Prekindergarten Education Program.

Section 9:	Creates s. 20.60, F.S., which establishes Jobs Florida as a new department of state government. This section provides for the commissioner of Jobs Florida to be appointed by the Governor and confirmed by the Senate; establishes divisions of Jobs Florida and specifies their responsibilities; specifies the responsibilities of the Commissioner of Jobs Florida; limits the amount of the commissioner's public remuneration; and specifies powers and responsibilities of the Chief Inspector General in the Executive Office of the Governor with respect to Jobs Florida.
Section 10:	Updates obsolete references in s. 112.044, F.S., to the former Department of Labor and Employment Security.
Sections 11-14:	Amend ss. 163.3164, 163.3177, 163.3180, and 163.3184, F.S., to conform to changes made by the act, conform cross-references, and delete obsolete provisions.
Section 15:	Amends s. 163.3191, F.S., related to the evaluation and appraisal report (EAR) process: • Creates an exemption from the EAR process for local governments that have not experiences significant growth; • Makes the issues in the EAR process optional for the local government to include; • Does not require local governments to adopt the EAR reports and Jobs Florida does not review them – they are simply supporting data for any EAR amendments; • Jobs Florida no longer has to report on the EAR process.

Section 16:	Amends s. 163.3245, F.S., to remove the pilot program status of the optional sector planning process: • Authorizes a local government or more than one local government to adopt a sector plan for long-term conservation and development, without advance approval by Jobs Florida. Removes the limit on the number of such plans. • Increases the minimum acreage requirement from 5,000 to 15,000. • Elaborates on the planning standards for a long-term master plan for the entire planning area. Requires the master plan to have a planning period longer than the maximum 20-year period used today in most comprehensive plans. • Retains the current Jobs Florida plan amendment review process for master plans. • Retains the general 1,000-acre threshold for a detailed specific area plan ("DSAP") for development to implement a portion of the master plan, but provides the DSAP shall be adopted by local development order, not plan amendment. • Requires that a DSAP must be consistent with the long-term master plan but eliminates the requirement for it to have "a full range of land uses." • Grants Jobs Florida new powers to seek judicial review of a DSAP which is not consistent with the adopted long-term master plan. • Elaborates on the planning standards for the DSAP and allows it to have a planning period longer than the maximum 20-year period used in most plans. • Provides that the master plan and the DSAP do not have to show "need". • Requires Jobs Florida to consult with the Department of Environmental Protection, the Fish and Wildlife Conservation Commission, and water management districts concerning the design of conservation areas. • Requires metropolitan planning organization (MPO) to make its transportation plans consistent with an adopted master plan, to the maximum extent feasible. • Requires a water management district to incorporate a master plan's water resources and water supply projects into its regional water supply plan. • Adds to an adopted DSAP the down-zoning protection required by law for DRIs. • Authorizes a local government and developer to enter into a development agreement for lands with a master plan or DSAP, under certain conditions. • Allows previously adopted large-area plans which meet the planning requirements of s. 163.3245, F.S., to be governed by the revised statute. • Protects the right to continue agricultural or silvicultural uses, and to establish new such uses, in areas governed by a master plan or DSAP.
Section 17:	Amends s. 163.3246, F.S., to conform to changes made by the act.
Section 18:	Amends s. 163.32465, F.S., to expand the alternative state review pilot program to the entire state. The program decreases the amount of time it takes to review comprehensive plan amendments by limiting state review in the process.

Section 19:	Amends s. 215.559, F.S., to extend the repeal date of the Hurricane Loss Mitigation Program to 2021. This section also makes conforming provisions to changes made by the act and deletes an obsolete provision.
Section 20:	Creates s. 288.005, F.S., to provide definitions for use in ch. 288, F.S., and includes definitions of the terms "economic benefits" and "commissioner."
Section 21:	Creates s. 288.048, F.S., to transfer the incumbent worker training program, currently administered by Workforce Florida, Inc., in s. 445.003, F.S., within Jobs Florida. The act provides for the administration of the program by Jobs Florida in conjunction with Workforce Florida, Inc.
Section 22:	Amends s. 288.061, F.S., to modify the review and approval process for applications by businesses seeking state economic incentives. Specifically: • Jobs Florida will coordinate with the Jobs Florida Partnership, Inc., at the beginning of the process the review of each application. • The application review is broadened from simply determining whether the application is complete to an evaluation of what types of state and local permits might be required, whether the permits can be waived, and what type and amount of state incentives might be available for the applicant. • With Jobs Florida involved at the very beginning of the application review process, the current 34-day schedule from review to approval is collapsed to 24 days. The proposed schedule would be: o Within 10 business days after receiving the application, the business applicant will be informed that the application is complete, as well as a discussion of the permitting issues, types of incentive available, and amount of incentives available. o Within 14 business days after the initial review and communication with the applicant, Jobs Florida will issue a letter either approving or denying the applicant. • One agreement or final order with an applicant may be entered into for all of the incentives offered. • The release of incentive funds still is guided by the statutory requirements for each incentive program.
Section 23:	Makes a number of changes to s. 288.095, F.S., including: • Replaces references to the Office of Tourism, Trade, and Economic Development with Jobs Florida. • Adds to the Economic Development Trust Fund the federal funds designated for the Incumbent Worker Training program under s. 288.048, F.S., (which transfers this program from Workforce Florida, Inc., to Jobs Florida) and limits the use of those funds for specific permitted purposes.

Sections 24 and 25:	Amends ss. 288.1081 and 288.1082, F.S.; to establish the Economic Gardening Business Loan Program and the Economic Gardening Technical Assistance Program as permanent programs. It deletes provisions for future repeal of the loan program, obsolete provisions, and conforms provisions to changes made by the act.
Section 26:	Provides that Part VII of ch. 288, F.S., is substantially amended by this act, and changes the name/subject of Part VII from "Enterprise Florida, Inc.," to "Jobs Florida Partnership, Inc."
Section 27:	Substantially amends s. 288.901, F.S., to create the Jobs Florida Partnership, Inc., (the Partnership), as a not-for-profit corporation that contracts with Jobs Florida. Provides that the Partnership is subject to the provisions of chs. 119 and 286, F.S., and that its board of directors is subject to certain requirements in ch. 112, F.S. Specifies purposes of the Partnership. Creates an 11-member board of directors, which the Governor chairs, and allows this board to appoint up to 10 at-large members from the private sector, who may provide annual contributions to the Partnership. Specifies certain ex officio, non-voting members of the board of directors. Prohibits the Partnership from endorsing any candidate for any public office.
Section 28:	Substantially amends s. 288.9015, F.S., to specify the powers of the Partnership and its board of directors. Such powers include securing funding for Partnership operations, entering into contracts, and hiring staff. Prohibits the board from pledging the full faith and credit of the state.
Section 29:	Substantially amends s. 288.903, F.S., to specify the duties of the Partnership. Such duties include the responsible and prudent management of public and private funds received by the Partnership; managing the Florida Opportunity Fund, Florida Development Finance Corporation, the Small Business Technology Growth Program, and the Cypress Fund; and preparing an annual report and an annual incentives report.
Section 30:	Substantially amends s. 288.904, F.S., to create provisions for the funding and budget of the Partnership. This section provides for legislative appropriations for the Partnership and each statutorily created division (see Section 36) and requires a private match equal to at least 35 percent of the legislative appropriations. The section also provides a listing of potential sources of private funding. The board of directors is directed to develop an annual budget. Provides a process for the Partnership to enter into an agreement with the Jobs Florida department to obtain the legislative funding and requires performance measures in the contract. Requires review of the Partnership's activities as a return on the public's financial investment, including hiring an economic analysis firm to develop such an analysis.

Section 31:	Substantially amends s. 288.905, F.S., to direct the Partnership's board of directors to hire a president, who shall serve at the pleasure of the governor. Provides that the president shall also be known as the "commerce secretary." Defines the president's role and responsibilities. Specifies that no employee of the Partnership may earn more than the governor unless the employee's contract provides for performance-based bonuses.
Section 32:	Substantially amends s. 288.906, F.S., to require an annual report from the Partnership by December 1 of each year. This section specifies the content of the annual report and requires the annual reports prepared by the divisions within the Partnership to be included as addenda.
Section 33:	Creates s. 288.907, F.S., to require an annual incentives report from the Partnership by December 30 of each year. This section specifies the required content of the report, including an analysis of the economic benefits of state incentives.
Section 34:	Substantially amends s. 288.911, F.S., to require the Partnership, with assistance of its Division of Tourism Promotion, to create a marketing campaign to promote the state and attract, develop, and retain businesses in target industries and high-impact industries.
Section 35:	Creates s. 288.912, F.S., to direct certain counties and municipalities, or their local economic development organizations, to annually provide to the Partnership an overview of local economic development activities and identification of any industries the area is trying to attract.
Section 36:	Creates s. 288.92, F.S., to specify divisions within the Partnerships: • The Division of International Trade and Business Development; • The Division of Business Retention and Recruitment; • The Division of Tourism Promotion; • The Division of Black Business Development; • The Division of Sports Industry Development; and • Space Florida is administratively housed as a division of the Partnership. This section provides for staff to be hired for the divisions, and for each division to have a 15-member advisory board, selected by the Governor upon a recommended list from the Partnership's board of directors.
Section 37:	Creates s. 288.921, F.S., which specifies the responsibilities for the Division of International Trade and Business Development and its advisory board. Requires an annual report by October 15.
Section 38:	Creates s. 288.922, F.S., which specifies the responsibilities for the Division of Business Retention and Recruitment and its advisory board. Requires an annual report by October 15.

Section 39:	Creates s. 288.923, F.S., which specifies the responsibilities for the Division of Tourism Promotion and its advisory board, including the development of a 4-year marketing plan. Requires an annual report by October 15.
Section 40:	Creates s. 288.925, F.S., which specifies the responsibilities for the Division of Black Business Development and its advisory board. Requires an annual report by October 15.
Section 41:	Transfers, renumbers, and amends s. 288.1229, F.S., as 288.926, F.S., to specify the responsibilities for the Division of Sports Industry Development and its advisory board. Requires an annual report by October 15.
Section 42:	Amends s. 409.942, F.S., to conform to changes made by the act by removing a requirement of Workforce Florida, Inc., to participate in the electronic benefit transfer program of the Department of Children and Families.
Section 43:	Amends s. 411.0102, F.S., to conform to changes made by the act, and includes a provision of s. 19, ch. 2010-210, L.O.F., requiring each participating early learning coalition board to develop a plan for the use of child care purchasing pool funds.
Section 44:	Amends s. 1002.73, F.S., to incorporate the operational and administrative responsibilities of the Agency for Workforce Innovation for the Voluntary Prekindergarten Program. This also includes requiring the Department of Education to adopt procedures for the distribution of funds to early learning coalitions.

Sections 45-123, 127-222, 225-242, 244-256, 259-266, 269-318, 320, 321, 323, 328-330, 332-345, and 347-375:

Amend ss. 11.45, 14.2015, 14.20195, 15.18, 15.182, 16.615, 39.001, 45.031, 69.041, 112.3135, 119.071, 120.80, 125.01045, 159.803, 159.8081, 159.8083, 161.54, 163.03, 163.3178, 163.3221, 163.360, 166.0446, 175.021, 186.504, 186.505, 212.08, 212.096, 212.097, 212.098, 212.20, 213.053, 215.5586, 216.136, 216.292, 216.231, 218.64, 220.03, 220.183, 220.191, 222.15, 250.06, 252.32, 252.34, 252.35, 252.355, 252.3568, 252.36, 252.365, 252.37, 252.371, 252.373, 252.38, 252.385, 252.40, 252.41, 252.42, 252.43, 252.44, 252.46, 252.55, 252.60, 252.61, 252.82, 252.83, 252.85, 252.86, 252.87, 252.88, 252.936, 252.937, 252.943, 252.946, 255.099, 259.035, 260.0142, 272.11, 282.34, 282.709, 288.012, 288.017, 288.018, 288.019, 288.021, 288.035, 288.047, 288.065, 288.0655, 288.0656, 288.06561, 288.0657, 288.0658, 288.0659, 288.075, 288.1045, 288.106, 288.107, 288.108, 288.1083, 288.1088, 288.1089, 288.1095, 288.1162, 288.11621, 288.1168, 288.1169, 288.1171, 288.122, 288.12265, 288.124, 288.1251, 288.1252, 288.1253, 288.1254, 288.386, 288.7011, 288.7015, 288.705, 288.706, 288.7094, 288.7102, 288.714, 288.773, 288.774, 288.776, 288.7771, 288.816, 288.809, 288.826, 288.95155, 288.955, 288.9519, 288.9520, 288.9603, 288.9604, 288.9605, 288.9606, 288.9614, 288.9624, 288.9625, 288.975, 288.980, 288.984, 288.9913, 288.9914, 288.9916, 288.9917, 288.9918, 288.9919, 288.9920, 288.9921, 290.004, 290.0055, 290.0056, 290.0065, 290.0066, 290.00710, 290.0072, 290.00725,

290.0073, 290.0074, 290.0077, 290.014, 311.09, 311.11, 311.115, 311.22, 320.08058, 331.302, 331.3081, 331.369, 339.08, 339.135, 364.0135, 377.703, 377.804, 380.031, 380.06, 380.115, 380.285, 381.0054, 381.0086, 381.7354, 381.855, 383.14, 402.281, 402.45, 402.56, 403.42, 403.7032, 403.973, 409.017, 409.1451, 409.944, 409.946, 411.01, 411.0101, 411.01013, 411.01014, 411.01015, 411.0103, 411.0104, 411.0106, 411.011, 411.226, 411.227, 414.295, 414.411, 420.631, 420.635, 429.907, 440.12, 440.15, 440.381, 443.012, 443.036, 443.041, 443.051, 443.071, 443.091, 443.101, 443.111, 443.1113, 443.1115, 443.1116, 443.1215, 443.1216, 443.1217, 443.131, 443.1312, 443.1313, 443.1315, 443.1316, 443.1317, 443.141, 443.151, 443.163, 443.171, 443.1715, 443.181, 443.191, 443.211, 433.221, 445.002, 445.003, 445.004, 445.006, 445.007, 445.009, 445.016, 445.024, 445.0325, 445.038, 445.045, 445.048, 445.049, 445.051, 445.056, 446.41, 446.44, 446.50, 446.52, 448.109, 448.110, 450.191, 450.31, 468.529, 526.143, 526.144, 551.104, 570.248, 570.96, 597.006, 624.5105, 625.3255, 627.0628, 657.042, 658.67, 768.13, 943.03, 943.03101, 943.0311, 943.0312, 943.0313, 944.708, 944.801, 945.10, 985.601, 1002.375, 1002.53, 1002.55, 1002.61, 1002.63, 1002.67, 1002.69, 1002.71, 1002.72, 1002.77, 1002.79, 1003.491, 1003.492, 1003.493, 1003.575, 1003.4285, 1003.493, 1004.226, 1004.65, 1004.77, 1004.78, 1008.39, 1008.41, 1011.76, and 1012.2251, F.S., to conform to changes made by the act, conform cross-references, and delete obsolete provisions.

In addition to conforming to changes made by the act, the following sections specifically:

Section 143:	Amends s. 288.106, F.S., to conform to provisions made by the act, and includes requiring Jobs Florida to review and evaluate each application for the economic benefits of each award of tax refunds and state incentives.
Section 147:	Amends s. 288.1088, F.S. to: • Specifies "joint review" of quick action closing fund applications by the Jobs Florida commissioner and Enterprise Florida, Inc. • Reduces from 22 days to 7 days the time-frame when the Jobs Florida commissioner will recommend to the Governor a business project for quick action closing funding. • Permits the Governor to approve projects requiring at less than $1 million in funding without Legislative consultation or approval. • For projects requiring funding between $1 million and $5 million, when recommending projects for approval to the President of the Senate, the Speaker of the House of Representatives, and the chairs of the Senate and House economic development appropriations committees, the Governor is required to: o Provide <u>in writing</u> a description, in addition to the already required evaluation, of projects recommended; and o Consult with the President and Speaker for final approval no sooner than 3 days after providing the written project descriptions and evaluations. • Any project that requires funding in an amount at greater than $5 million must receive approval from the Legislative Budget Commission.

Section 151:	Amends s. 288.11621, F.S. to update provisions relating to development of a one-time Spring Training strategic plan, to require an update every 5 years, beginning in 2015. Also, clarifies that the updated plan should explore "alternatives" for financing spring training facilities.
Sections 216 and 217:	Amend ss. 331.302 and 331.3081, F.S., to reflect that Space Florida is administratively housed as a division of the Jobs Florida Partnership, Inc. It replaces the current board of directors with that of the Partnership, and creates an advisory board for Space Florida.
Section 245:	Amends s. 409.946, F.S., to: • Reduces the Inner City Review Panel from 7 to 6 members. This is recommended for 2 reasons: o There is no need for OTTED to appoint the board and serve on it; o DCA is removed from the board; and o Taking OTTED's place is a "local economic development agency."
Sections 317-318:	Amend ss. 448.109, 448.110, F.S., to conform to provisions made by the act, including designating Jobs Florida as the "state Agency for Workforce Innovation" to implement s. 24, Art. X of the State Constitution for purposes of calculating the minimum wage.

Specifically, the following sections make changes to update obsolete references to the former Department of Labor and Employment Security or the former Department of Commerce: Sections 52, 53, 110, 112, 115, 124, 125, 126, 131, 132, 150, 152, 153, 223, 224, 243, 257, 258, 267, 268, 319, 322, 324, 325, 326, 327, 331, 334, and 346:

Amend ss. 45.031, 69.041, 252.85, 252.87, 252.937, 287.09431, 287.09451, 287.0947, 288.021, 288.035, 288.1162, 288.1168, 288.1169, 377.711, 377.712, 409.2576, 414.24, 414.40, 440.385, 440.49, 450.161, 464.203, 469.002, 469.003, 489.1455, 489.5335, 553.62, 597.006, and 944.012, F.S.

STATUTORY TRANSFERS

Section 41:	Transfers, renumbers, and amends s. 288.1229, F.S., as s. 288.926, F.S., to specify the responsibilities for the Division of Sports Industry Development and its advisory board. Requires an annual report by October 15.
Section 376:	Transfers, renumbers, and amends s. 20.505, F.S., as s. 20.605, F.S., to conform to changes made by the act.
Section 377:	Transfers, renumbers, and amends s. 1004.99, F.S., as s. 445.06, F.S., to transfer administration of the Florida Ready to Work Certification Program to Jobs Florida.

STATUTORY REPEALS

Section 378:	Repeals s. 14.2015, F.S., which relates to the creation of the Office of Tourism, Trade, and Economic Development. This repeal is to conform to changes made by the act.
Section 379:	Repeals s. 20.18, F.S., which relates to the creation of the Department of Community Affairs. This repeal is to conform to changes made by the act.
Section 380:	Repeals s. 20.50, F.S., which relates to the creation of the Agency for Workforce Innovation. This repeal is to conform to changes made by the act.
Section 381:	Repeals obsolete ss. 255.551, 255.552, 255.553, 255.5535, 255.555, 255.556, 255.557, 255.5576, 255.558, 255.559, 255.56, 255.561, 255.562, and 255.563, F.S., which relate to the abatement of asbestos in state buildings.
Section 382:	Repeals obsolete s. 287.115, F.S., which relates to a requirement for the Chief Financial Officer to submit a report on contractual service contracts disallowed.
Section 383:	Repeals obsolete s. 288.038, F.S., which relates to agreements appointing county tax collectors as agents of the Department of Labor and Employment Security for licenses and other similar registrations.
Section 384:	Repeals s. 288.063, F.S., which relates to contracts for transportations projects with the Office of Tourism, Trade, and Economic Development.
Section 385:	Repeals ss. 288.1221, 288.1222, 288.1223, 288.1224, 288.1226, and 288.1227, F.S., which relate to the Florida Commission on Tourism and the Florida Tourism Industry Marketing Corporation. Much of the substance of these sections is now contained in Section 36 of the act, which creates s. 288.923, F.S., and the Division of Tourism Promotion within the Jobs Florida Partnership, Inc.
Section 386:	Repeals ss. 288.7065, 288.707, 288.708, 288.709, 288.7091, and 288.712, F.S., which relate to the Black Business Investment Board. Much of the substance of these sections is now contained in Section 38 of the act, which creates s. 288.925, F.S., and the Division of Black Business Development within the Jobs Florida Partnership, Inc.
Section 387:	Repeals s. 288.12295, F.S., which relates to a public records exception to donors of the Florida Sports Foundation. The substance of the Florida Sports Foundation has been transferred to s. 288.926, F.S., which creates the Division of Sports Industry Development within the Jobs Florida Partnership, Inc. (See Section 39 of the act).
Sections 388 and 389:	Repeal ss. 288.90151 and 288.9415, F.S., which relates to Enterprise Florida, Inc. Much of the substance of Enterprise Florida, Inc., is now contained in Sections 34 and 35 of the act, which create the Division of International Trade and Business Development and the Division of Business Retention and

	Recruitment within the Jobs Florida Partnership, Inc. (ss. 288.921 and 288.922, F.S.).
Section 390:	Repeals s. 288.9618, F.S., which relates to an economic development program for microenterprises.
Section 391:	Repeals s. 288.982, F.S., which relates to a public records exemption for certain records relating to the United States Department of Defense Base Realignment and Closure 2005 process.
Section 392:	Repeals s. 411.0105, F.S., which designates the Agency for Workforce Innovation as the lead agency to administer specified federal laws related to early learning and school readiness. This repeal is to conform to changes made by the act.
Section 393:	Repeals obsolete s. 446.60, F.S., which relates to assistance for displaced local exchange telecommunications company workers.
Section 394:	Repeals s. 1002.75, F.S., which relates to responsibilities of the Agency for Workforce Innovation in the Voluntary Prekindergarten Program. This repeal is to conform to changes made by the act.

EFFECTIVE DATE

Section 395:	Provides an effective date of July 1, 2011.

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:

Reorganization of these agencies results in an annual cost savings of approximately $8 million.

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.

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LEGISLATIVE ACTION

Senate . House

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The Committee on Budget (Alexander) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Section 50.0311, Florida Statutes, is created to read:

50.0311 Publication of advertisements and public notices on the Department of State website for publication of local government notices and advertisements, a local government's publicly accessible website, and government access channels.—

(1) For purposes of notices and advertisements required by statute to be published by a local government, the term


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"publicly accessible website" means a county or municipal government's official website that is accessible via the Internet, and the term "state notice website" means the Department of State website for publication of local government notices and advertisements.

(2) A local government shall use its website and the Department of State website for legally required advertisements and public notices if:

(a) A public library or other governmental facility providing 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


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website's homepage or accessible through a direct link from the homepage. The advertisement shall 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 government access channel a summary of all advertisements and public notices that are published on the state notice website and 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

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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 the state notice website and a publicly accessible website of a local government in accordance with s. 50.0311 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, shall direct advertisements to be made in any county and there be no newspaper published in the said county, the advertisement may be made, in the case of a county or municipality, by publishing such advertisement on the state notice website and a publicly accessible website maintained by the entity responsible for publication or posting three copies thereof in three different places in 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


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Published (Weekly or Daily)

(Town or City) (County) FLORIDA

STATE OF FLORIDA

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.

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...(Signature of Notary Public)...

...(Print, Type, or Stamp Commissioned Name of Notary Public)...

...(Notary Public)...

Section 5. Subsection (4) of section 50.061, Florida 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 the state notice website and 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


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circulation in the county, district, or municipality and publication is not made on the state notice website for publication of local government notices and advertisements and a publicly accessible website maintained by the local government responsible for publication, the notice shall be posted in no fewer ~~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:

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 the state notice website for publication of local government notices and advertisements and a publicly accessible website maintained by the county or by publication in a newspaper of general circulation in the county. If advertised on the state notice website and 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 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 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 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 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 newspaper 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 newspaper advertisement 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 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 newspaper 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 newspaper 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)....

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.

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 8. Paragraph (b) of subsection (3) of section 129.03, Florida Statutes, is amended to read:

129.03 Preparation and adoption of budget.—

(3) No later than 15 days after certification of value by the property appraiser pursuant to s. 200.065(1), the county budget officer, after tentatively ascertaining the proposed fiscal policies of the board for the ensuing fiscal year, shall prepare and present to the board a tentative budget for the ensuing fiscal year for each of the funds provided in this chapter, including all estimated receipts, taxes to be levied, and balances expected to be brought forward and all estimated expenditures, reserves, and balances to be carried over at the end of the year.

(b) Upon receipt of the tentative budgets and completion of any revisions made by the board, the board shall prepare a statement summarizing all of the adopted tentative budgets. This summary statement shall show, for each budget and the total of all budgets, the proposed tax millages, the balances, the reserves, and the total of each major classification of receipts

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and expenditures, classified according to the classification of accounts prescribed by the appropriate state agency. The board shall cause this summary statement to be advertised one time in a newspaper of general circulation published in the county, on the state notice website and a publicly accessible website maintained by the county, or by posting at the courthouse door if there is no such newspaper or website, and the advertisement shall appear adjacent to the advertisement required pursuant to s. 200.065.

Section 9. Paragraph (f) of subsection (2) of section 129.06, Florida Statutes, is amended to read:

129.06 Execution and amendment of budget.—

(2) The board at any time within a fiscal year may amend a budget for that year, and may within the first 60 days of a fiscal year amend the budget for the prior fiscal year, as follows:

(f) If an amendment to a budget is required for a purpose not specifically authorized in paragraphs (a)-(e), unless otherwise prohibited by law, the amendment may be authorized by resolution or ordinance of the board of county commissioners adopted following a public hearing. ~~The public hearing must be advertised at least 2 days, but not more than 5 days, before the date of the hearing.~~ The advertisement must appear on the state notice website and a publicly accessible website maintained by the county or in a newspaper of paid general circulation and must identify the name of the taxing authority, the date, place, and time of the hearing, and the purpose of the hearing. If advertised in the newspaper, the public hearing must be advertised at least 2 days, but not more than 5 days, before the


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date of the hearing. If advertised on the state notice website and a publicly accessible website, the notice must be published daily during the 5 days immediately preceding the hearing. The advertisement must also identify each budgetary fund to be amended, the source of the funds, the use of the funds, and the total amount of each budget.

Section 10. Section 153.79, Florida Statutes, is amended to read:

153.79 Contracts for construction of improvements, sealed bids.—All contracts let, awarded, or entered into by the district for the construction, reconstruction, or acquisition or improvement of a water system or a sewer system or both or any part thereof, if the amount thereof shall exceed $1,000, shall be awarded only after public advertisement and call for sealed bids therefor on the state notice website and 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 the state notice website and 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 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 <u>or on the state notice website and a publicly accessible website maintained by the county</u>; 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 the acquisition of the site and other real property for the project; the preparation of plans, specifications, and contract documents; the award of construction and other contracts upon a competitive or negotiated basis; the construction of the project, or any part thereof, directly by the lessee, purchaser, or prospective lessee or purchaser; the inspection and supervision of construction; the employment of engineers, architects, builders, and other contractors; and the provision of money to pay the cost thereof pending reimbursement by the local agency. Any such contract may provide that the local agency may, out of proceeds of bonds, make advances to or reimburse the lessee, purchaser, or prospective lessee or purchaser for its costs incurred in the performance of those functions, and shall set forth the supporting documents required to be submitted to the local


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agency and the reviews, examinations, and audits that shall be required in connection therewith to assure compliance with the provisions of this part and the contract.

Section 12. Paragraph (a) of subsection (2) of section 162.12, Florida Statutes, is amended to read:

162.12 Notices.—

(2) In addition to providing notice as set forth in subsection (1), at the option of the code enforcement board, notice may also be served by publication or posting, as follows:

(a)1. Such notice shall be published once during each week for 4 consecutive weeks (four publications being sufficient) in a newspaper of general circulation in the county where the code enforcement board is located or daily during the 4 weeks immediately preceding the hearing on the state notice website and a publicly accessible website maintained by the local government. The websites and newspaper shall meet such requirements as are prescribed under chapter 50 for legal and official advertisements.

2. Proof of newspaper publication shall be made as provided in ss. 50.041 and 50.051.

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 13. Paragraph (b) of subsection (15) and paragraph (c) of subsection (16) of section 163.3184, Florida Statutes,

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are amended to read:

163.3184 Process for adoption of comprehensive plan or plan amendment.—

(15) PUBLIC HEARINGS.—

(b) The local governing body shall hold at least two advertised public hearings on the proposed comprehensive plan or plan amendment as follows:

1. The first public hearing shall be held at the transmittal stage pursuant to subsection (3). It shall be held on a weekday at least 7 days after the day that the first advertisement is published or after the notice of the first public hearing is initially published on the state notice website and the publicly accessible website.

2. The second public hearing shall be held at the adoption stage pursuant to subsection (7). It shall be held on a weekday at least 5 days after the day that the second advertisement is published or after the notice of the second public hearing is initially published on the state notice website and the publicly accessible website.

(16) COMPLIANCE AGREEMENTS.—

(c) Before ~~Prior to~~ its execution of a compliance agreement, the local government must approve the compliance agreement at a public hearing advertised at least 10 days before the public hearing in a newspaper of general circulation in the area or daily during the 10 days immediately preceding the hearing on the state notice website and a publicly accessible website maintained by the local government in accordance with the advertisement requirements of subsection (15).

Section 14. Paragraphs (a) and (c) of subsection (3) of

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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 the state notice website and a publicly accessible website maintained by the municipality. The notice of proposed enactment 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 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 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 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 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 newspaper advertisements shall be no less

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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 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 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, 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.

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 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 said resolution to be published on the state notice website and a publicly accessible website maintained by the municipality or one time in a newspaper of general circulation published in said municipality, and if there is ~~be~~ no website or newspaper published in said municipality, the governing authority of said municipality shall cause 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 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 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 before said governing authority and be heard as to the propriety and advisability of making such improvements, as to the cost thereof, as to the manner of payment therefor, and as to the amount thereof to be assessed against each property so improved.

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Thirty days' notice in writing of such time and place shall be given to such property owners. The notice shall include the amount of the assessment and shall be served by mailing a copy to each of such property owners at his or her last known address, the names and addresses of such property owners to be obtained from the records of the property appraiser or from such other sources as the city or town clerk or engineer deems reliable, proof of such mailing to be made by the affidavit of the clerk or deputy clerk of said municipality, or by the engineer, said proof to be filed with the clerk, provided, that failure to mail said notice or notices shall not invalidate any of the proceedings hereunder. Notice of the time and place of such hearing shall also be given by two publications a week apart in a newspaper of general circulation in said municipality or by publication daily for 2 weeks on the state notice website and a publicly accessible website maintained by the municipality, and if there is ~~be~~ no website or newspaper published in said municipality, the governing authority of said municipality shall cause said notice to be published in like manner in a newspaper of general circulation published in the county in which said municipality is located; provided that the last publication shall be at least 1 week before ~~prior to~~ the date of the hearing. Said notice shall describe the streets or other areas to be improved and advise all persons interested that the description of each property to be assessed and the amount to be assessed to each piece or parcel of property may be ascertained at the office of the clerk of the municipality. Such service by publication shall be verified by the affidavit of the publisher and filed with the clerk of said municipality.

Section 17. Subsection (1) of section 180.24, Florida Statutes, is amended to read:

180.24 Contracts for construction; bond; publication of notice; bids.—

(1) Any municipality desiring the accomplishment of any or all of the purposes of this chapter may make contracts for the construction of any of the utilities mentioned in this chapter, or any extension or extensions to any previously constructed utility, which said contracts shall be in writing, and the contractor shall be required to give bond, which said bond shall be executed by a surety company authorized to do business in the state; provided, however, construction contracts in excess of $25,000 shall be advertised by the publication of a notice in a newspaper of general circulation in the county in which said municipality is located at least once each week for 2 consecutive weeks, by publication daily for 2 weeks on the state notice website and a publicly accessible website maintained by the municipality, or by posting three notices in three conspicuous places in said municipality, one of which shall be on the door of the city hall; and that at least 10 days shall elapse between the date of the first publication or posting of such notice and the date of receiving bids and the execution of such contract documents. For municipal construction projects identified in s. 255.0525, the notice provision of that section supersedes and replaces the 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 which is authorized to impose a non-ad valorem assessment and 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 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 the state notice website and a publicly accessible website maintained by the county or municipality. The resolution 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.

Section 19. Paragraph (d) of subsection (2), paragraph (g) of subsection (3), paragraph (b) of subsection (12), and paragraph (a) of subsection (14) of section 200.065, Florida Statutes, are amended to read:

200.065 Method of fixing millage.—


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(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 the state notice website and its publicly accessible website its intent to finally adopt a millage rate and budget, and shall maintain the notice on the state notice website and 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 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 by separate votes. For each taxing authority levying millage, the name of the taxing authority, the rolled-back rate, the percentage increase, and the millage rate to be levied shall be publicly announced before ~~prior to~~ the adoption of the millage-


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levy resolution or ordinance. ~~In no event may~~ The millage rate adopted pursuant to this paragraph may not exceed the millage rate tentatively adopted pursuant to paragraph (c). If the rate tentatively adopted pursuant to paragraph (c) exceeds the proposed rate provided to the property appraiser pursuant to paragraph (b), or as subsequently adjusted pursuant to subsection (11), each taxpayer within the jurisdiction of the taxing authority shall be sent notice by first-class mail of his or her taxes under the tentatively adopted millage rate and his or her taxes under the previously proposed rate. The notice must be prepared by the property appraiser, at the expense of the taxing authority, and must generally conform to the requirements of s. 200.069. If such additional notice is necessary, its mailing must precede the hearing held pursuant to this paragraph by not less than 10 days and not more than 15 days.

(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 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


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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.

(g) If ~~In the event that~~ the mailing of the notice of proposed property taxes is delayed beyond September 3 in a county, any multicounty taxing authority which levies ad valorem taxes within that county shall advertise its intention to adopt a tentative budget and millage rate on the state notice website and a publicly accessible website maintained by the taxing authority or in a newspaper of paid general circulation within that county, as provided in this subsection, and shall hold the hearing required pursuant to paragraph (2)(c). If advertised in the newspaper, the hearing shall be held not less than 2 days or more than 5 days thereafter, and not later than September 18. If advertised on the websites, the hearing shall be held not less than 2 days after initial publication of the advertisement on the state notice website and the website and not later than September 18, and shall remain on the publicly accessible website until the date of the hearing. The advertisement shall be in the following form, unless the proposed millage rate is less than or equal to the rolled-back rate, computed pursuant to subsection (1), in which case the advertisement shall be as provided in paragraph (e):

NOTICE OF TAX INCREASE

The ...(name of the taxing authority)... proposes to

739 increase its property tax levy by ...(percentage of increase
740 over rolled-back rate)... percent.
741 All concerned citizens are invited to attend a public
742 hearing on the proposed tax increase to be held on ...(date and
743 time)... at ...(meeting place)....
744 (12) The time periods specified in this section shall be
745 determined by using the date of certification of value pursuant
746 to subsection (1) or July 1, whichever date is later, as day 1.
747 The time periods shall be considered directory and may be
748 shortened, provided:
749 (b) Any public hearing preceded by a newspaper
750 advertisement is held not less than 2 days or more than 5 days
751 following publication of such advertisement and any public
752 hearing preceded by advertisement on the state notice website
753 and a publicly accessible website advertisement is held not less
754 than 2 days after initial publication; and
755 (14)(a) If the notice of proposed property taxes mailed to
756 taxpayers under this section contains an error, the property
757 appraiser, in lieu of mailing a corrected notice to all
758 taxpayers, may correct the error by mailing a short form of the
759 notice to those taxpayers affected by the error and its
760 correction. The notice shall be prepared by the property
761 appraiser at the expense of the taxing authority which caused
762 the error or at the property appraiser's expense if he or she
763 caused the error. The form of the notice must be approved by the
764 executive director of the Department of Revenue or the executive
765 director's designee. If the error involves only the date and
766 time of the public hearings required by this section, the
767 property appraiser, with the permission of the taxing authority

affected by the error, may correct the error by advertising the corrected information on the state notice website and 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 the state notice website and a publicly accessible website maintained by the entity responsible for publication. The solicitation of competitive bids or proposals for any county, municipality, or other political subdivision construction project that is projected to cost more than $500,000 shall be publicly advertised at least once in a newspaper of general circulation in the county where the project is located at least 30 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 30-day period immediately preceding the established bid opening date and daily


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during the 5-day period immediately preceding any scheduled prebid conference on the state notice website and a publicly accessible website. Bids or proposals shall be received and opened at the location, date, and time established in the bid or proposal advertisement. In cases of emergency, the procedures required in this section may be altered by the local governmental entity in any manner that is reasonable under the emergency circumstances.

Section 21. Paragraph (e) of subsection (25) of section 380.06, Florida Statutes, is amended to read:

380.06 Developments of regional impact.—

(25) AREAWIDE DEVELOPMENT OF REGIONAL IMPACT.—

(e) The local government shall schedule a public hearing within 60 days after receipt of the petition. The public hearing shall be advertised at least 30 days before ~~prior to~~ the hearing. In addition to the public hearing notice by the local government, the petitioner, except when the petitioner is a local government, shall provide actual notice to each person owning land within the proposed areawide development plan at least 30 days before ~~prior to~~ the hearing. If the petitioner is a local government, or local governments pursuant to an interlocal agreement, notice of the public hearing shall be provided by the publication of an advertisement on the state notice website and a publicly accessible website maintained by the county or municipality responsible for publication or in a newspaper of general circulation that meets the requirements of this paragraph. The newspaper advertisement must be no less than one-quarter page in a standard size or tabloid size newspaper, and the headline in the newspaper advertisement must be in type

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no smaller than 18 point. The newspaper advertisement may ~~shall~~ not be published in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement must be published on the state notice website and a publicly accessible website maintained by the county or municipality responsible for publication or 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 newspaper advertisement must 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 must be in substantially the form used to advertise amendments to comprehensive plans pursuant to s. 163.3184. The local government shall specifically notify in writing the regional planning agency and the state land planning agency at least 30 days before ~~prior to~~ the public hearing. At the public hearing, all interested parties may testify and submit evidence regarding the petitioner's qualifications, the need for and benefits of an areawide development of regional impact, and such other issues relevant to a full consideration of the petition. If more than one local government has jurisdiction over the defined planning area in an areawide 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

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855 petition may be reviewed.
856 2. The notice shall be given to the state land planning
857 agency, to the applicable regional planning agency, and to such
858 other persons as may have been designated by the state land
859 planning agency as entitled to receive such notices.
860 3. A public hearing date shall be set by the appropriate
861 local government at the next scheduled meeting.
862 Section 22. Subsection (2) of section 403.7049, Florida
863 Statutes, is amended to read:
864 403.7049 Determination of full cost for solid waste
865 management; local solid waste management fees.—
866 (2)(a) Each municipality shall establish a system to
867 inform, no less than once a year, residential and nonresidential
868 users of solid waste management services within the
869 municipality's service area of the user's share, on an average
870 or individual basis, of the full cost for solid waste management
871 as determined pursuant to subsection (1). Counties shall provide
872 the information required of municipalities only to residential
873 and nonresidential users of solid waste management services
874 within the county's service area that are not served by a
875 municipality. Municipalities shall include costs charged to them
876 or persons contracting with them for disposal of solid waste in
877 the full cost information provided to residential and
878 nonresidential users of solid waste management services.
879 (b) The public disclosure system requirements of this
880 section shall be fulfilled by meeting one of the following:
881 1. By mailing a copy of the full cost information to each
882 residential and nonresidential user of solid waste management
883 service within the solid waste management service area of the

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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 shall 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 the state notice website and 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 the state notice website and a publicly accessible website maintained by the municipality or county having jurisdiction, or in a newspaper of general circulation in the municipality or county having ~~with~~ jurisdiction. If published in a newspaper, the notice shall appear on at least 2 separate days, one of which shall be at least 7 days before the meeting. If published on the state notice website and a publicly accessible website, the notice

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shall appear daily during the 7 days immediately preceding the meeting. The notice shall state the date, time, and place of the meeting scheduled to discuss or enact the memorandum of agreement, and the places within the municipality or county where such proposed memorandum of agreement may be inspected by the public. The newspaper notice must be one-eighth of a page in size and must be published in a portion of the paper other than the legal notices section. The notice shall also advise that interested parties may appear at the meeting and be heard with respect to the memorandum of agreement.

Section 24. Paragraph (b) of subsection (4) of section 420.9075, Florida Statutes, is amended to read:

420.9075 Local housing assistance plans; partnerships.—

(4) Each local housing assistance plan is governed by the following criteria and administrative procedures:

(b) The county or eligible municipality or its administrative representative shall advertise the notice of funding availability in a newspaper of general circulation and periodicals serving ethnic and diverse neighborhoods, at least 30 days before the beginning of the application period or daily during the 30 days immediately preceding the application period on the state notice website and a publicly accessible website maintained by the county or eligible municipality. If no funding is available due to a waiting list, no notice of funding availability is required.

Section 25.

Department of State website for publication of state and local government notices and advertisements.-

(1) The Department of State shall establish and maintain a

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centralized internet website for the posting of state and local government notices and advertisements, to be provided to the public without charge, which permits the public to:

(a) Search notices by geographic name, type, or publication date;

(b) Search a permanent database that archives all notices published on the website; and

(c) Subscribe to an automated e-mail notification of selected notice types.

Section 26. Agency use of Department of State website for publication of government notices and advertisements. –

Each agency, as defined in s. 120.52(1), shall, in addition to all other notice and publication requirements, post any notice required by law on the website developed by the Department of State for the publication of government notices and advertisements.

Section 27. This act shall take effect October 1, 2011.

================ 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 effective public notices by governmental entities; creating s. 50.0311, F.S.; defining the term "publicly accessible website"; authorizing a local government to use its publicly accessible website for legally required advertisements

and public notices; providing conditions for such use; providing for optional receipt of legally required advertisements and public notices by first-class mail or e-mail; providing requirements for advertisements and public notices published on a publicly accessible website; amending s. 50.011, F.S.; providing that a notice, advertisement, or publication on a publicly accessible website of a local government in accordance with s. 50.0311, F.S., constitutes legal notice; amending s. 50.021, F.S.; 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; amending s. 50.051, F.S.; providing clarifying provisions; amending s. 50.061, F.S.; providing clarifying provisions; amending s. 100.342, F.S.; providing for notice of special election or referendum on a publicly accessible website; amending s. 125.66, F.S.; providing for notice of consideration of an ordinance by a board of county commissioners to be published on a publicly accessible website; requiring maintenance of the advertisement for a specified period; providing clarifying provisions; amending s. 129.03, F.S.; providing for the advertisement of a summary statement of adopted tentative county budgets on a publicly accessible website; amending s. 129.06, F.S.; providing for advertisement of a public hearing relating to the amendment of a county budget on a

publicly accessible website; amending s. 153.79, F.S.; providing for public advertisement by a county water and sewer system district of projects to construct, reconstruct, acquire, or improve a water system or a sewer system, and of a call for sealed bids for such projects, on a publicly accessible website; amending s. 159.32, F.S.; providing for advertisement for competitive bids for contracts for the construction of a project under the Florida Industrial Development Financing Act on a publicly accessible website; amending s. 162.12, F.S.; providing for optional serving of notice by a code enforcement board of a violation of a county or municipal code via a publicly accessible website; amending s. 163.3184, F.S.; providing for notice of public hearings on the adoption of a local government comprehensive plan or plan amendment or the approval of a compliance agreement under the Local Government Comprehensive Planning and Land Development Regulation Act via a publicly accessible website; amending s. 166.041, F.S.; providing for notice of adoption of a municipal ordinance via a publicly accessible website; providing clarifying provisions; amending s. 170.05, F.S.; providing for publication on a publicly accessible website of a resolution relating to municipal public improvements financed by special assessments; amending s. 170.07, F.S.; providing for publication on a publicly accessible website of notice of hearing on municipal public improvements financed by special

assessments; amending s. 180.24, F.S.; providing for advertisement via a publicly accessible website of specified construction contracts for utilities or extensions to a previously constructed utility; amending s. 197.3632, F.S.; providing for publication on a publicly accessible website of a local government's notice of intent to use the uniform method of collecting non-ad valorem assessments; amending s. 200.065, F.S.; providing for advertisement on a publicly accessible website of a taxing authority's intent to adopt a millage rate and budget; providing for advertisement on a publicly accessible website of the intention of a specified multicounty taxing authority to adopt a tentative budget and millage rate; providing clarifying and conforming provisions; providing for notice via a publicly accessible website of correction of a specified error contained in a notice of proposed property taxes mailed to taxpayers; amending s. 255.0525, F.S.; providing for advertisement via a publicly accessible website for the solicitation of competitive bids or proposals for construction projects of a county, municipality, or other political subdivision which are projected to exceed specified costs; amending s. 380.06, F.S.; providing for publication of an advertisement on a publicly accessible website of a public hearing by a local government on an areawide development of regional impact under the Florida Environmental Land and Water Management Act of 1972;


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amending s. 403.7049, F.S.; prescribing procedures for fulfilling public disclosure system requirements with respect to the duty of a municipality to disclose costs for solid waste management; amending s. 403.973, F.S.; redefining the term "duly noticed" to include publication on a publicly accessible website; providing conforming provisions; amending s. 420.9075, F.S.; providing for advertisement of notice on a publicly accessible website of funding availability through a local housing assistance plan under the State Housing Initiatives Partnership Act; creating a centralized internet website in the Department of State for publication of state and local government notices and advertisements; requiring all state agencies to post notices on the Department of State website; providing an effective date.

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 Budget Committee

BILL:	SPB 7204
INTRODUCER:	For consideration by the Budget Committee
SUBJECT:	Effective Public Notices by Governmental Entities
DATE:	March 29, 2011 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Martin	Meyer, C.		**Pre-meeting**
2.				
3.				
4.				
5.				
6.				

I. Summary:

[This staff analysis is written to the strike-all amendment to be offered in Budget Committee.]

This bill requires the Department of State to establish and maintain a centralized internet website for the posting of state and local government notices and advertisements, to be provided to the public without charge, which permits the public to: (a) search notices by geographic name, type, or publication date; (b) search a permanent database that archives all notices published on the website; and (c) subscribe to an automated e-mail notification of selected notice types. This bill provides circumstances under which a governmental entity may use its official website for legally required advertisements and public notices. The bill requires counties and municipalities that post their notices and advertisements on their official websites to also publish on the Department of State website. Local governments must post on these internet websites if the public has free internet access at a public library within the jurisdictional boundaries of the county or municipality and if the local government provides notice to its residents once per year that the residents may request all legally required notices and advertisements to be sent to them by first-class mail or by email.

This bill creates two unnumbered sections of Florida Statutes, creates section 50.0311, Florida Statutes, and substantially amends the following sections of the Florida Statutes: 50.011, 50.021, 50.051, 50.061, 100.342, 125.66, 129.03, 129.06, 153.79, 159.32, 162.12, 163.3184, 166.041, 170.05, 170.07, 180.24, 197.3632, 200.065, 255.0525, 380.06, 403.7049, 403.979, and 420.9075.

II. Present Situation:

Various provisions of law, discussed below, govern the publication of legal notices and advertisements.

Where and in what language legal notices to be published.
Section 50.011, Florida Statutes, provides that whenever notice publication in a newspaper is required, it must be published 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.

Publication when no newspaper in county.
Section 50.021, Florida Statutes, provides that when any law, or order or decree of court, directs advertisements to be made in any county and there be no newspaper published in the said county, the advertisement may be made by posting three copies thereof in three different places in 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.

Proof of publication; form of uniform affidavit.
Section 50.051, Florida Statutes, establishes the printed form upon which all affidavits establishing proof of publication in a newspaper are to be executed.

Amounts chargeable for official notices and advertisements published in a newspaper.
Subsection (4) of section 50.061, Florida Statutes, provides that 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.

Special election or referendum - notice.
Section 100.342, Florida Statutes, provides that 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. 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 the notice shall be posted in no fewer less than five places within the territorial limits of the county, district, or municipality.

County Ordinances; enactment procedure – notice.
Section 125.66, Florida Statutes, 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 chapter 50, not one of limited subject matter.

Preparation and adoption of county budget - notice.
Section 129.03, Florida Statutes, provides, in part, that the board of county commissioners shall prepare a statement summarizing all of the adopted tentative budgets and shall cause this summary statement to be advertised one time in a newspaper of general circulation published in the county, or by posting at the courthouse door if there is no such newspaper.

Execution and amendment of county budget - notice.
Section 129.06, Florida Statutes, provides, in part, that the board of county commissioners at any time within a fiscal year may amend a budget for that year, and may within the first 60 days of a fiscal year amend the budget for the prior fiscal year, following a public hearing that must be advertised at least 2 days, but not more than 5 days, before the date of the hearing in a newspaper of paid general circulation.

Contracts for county water and sewer system district construction - notice.
Section 153.79, Florida Statutes, provides that all county water and sewer system district contracts, if the amount exceeds $1,000, shall be awarded only after public advertisement and call for sealed bids in a newspaper published in the county circulating in the district, or, if there is no such newspaper, then in a newspaper published in the state and circulating in the district. Such advertisement must be published at least once at least 3 weeks before the date set for the receipt of such bids.

Construction contracts for Florida Industrial Development Financing Act projects - notice.
Section 159.32, Florida Statutes, provides that construction contracts for Florida Industrial Development Financing Act projects 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; however, the local agency in its discretion may award contracts for the construction of any project upon a negotiated basis as determined by the local agency.

Code enforcement board notices.
Section 162.12, Florida Statutes, provides that, at the option of the code enforcement board, notice may be served by publication or posting once during each week for 4 consecutive weeks (four publications being sufficient) in a newspaper of general circulation in the county where the code enforcement board is located. The newspaper shall meet such requirements as are prescribed under chapter 50 for legal and official advertisements.

Comprehensive plan amendment public hearing notices.
Section 163.3184, Florida Statutes, provides that the local governing body shall hold at least two advertised public hearings on proposed comprehensive plan amendments, with the first public

hearing held at least 7 days after the day that the first advertisement is published, and the second public hearing held at least 5 days after the day that the second advertisement is published. Prior to its execution of a compliance agreement, the local government must approve the compliance agreement at a public hearing advertised at least 10 days before the public hearing in a newspaper of general circulation in the area in accordance with specified advertisement requirements.

Municipal ordinance adoption notices.

Section 166.041, Florida Statutes, 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 chapter 50. 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.

Municipal public improvements financed by special assessments – notice.

Section 170.05, Florida Statutes, requires a municipality to publish a resolution relating to public improvements financed by special assessments one time in a newspaper of general circulation published in said municipality, and if there be no newspaper published in said municipality, the municipality shall cause 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 said municipality is located.

Section 170.07, Florida Statutes, provides that, upon the completion of a preliminary assessment roll, 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 before the governing authority and be heard. Thirty days' notice in writing of such time and place shall be given to such property owners. Notice of the time and place of such hearing shall also be given by two publications a week apart in a newspaper of general circulation in the municipality and if there be no newspaper published in said municipality, the governing authority shall cause the notice to be published in like manner in a newspaper of general circulation published in the county in which the municipality is located; provided that the last publication shall be at least 1 week prior to the date of the hearing.

Municipality construction contracts for utilities – notice.

Section 180.24, Florida Statutes, provides that construction contracts for construction of utilities or extensions to a previously constructed utility in excess of $25,000 shall be advertised by the municipality in a newspaper of general circulation in the county in which said municipality is located at least once each week for 2 consecutive weeks, or by posting three notices in three conspicuous places in said municipality, one of which shall be on the door of the city hall; and that at least 10 days shall elapse between the date of the first publication or posting of such notice and the date of receiving bids and the execution of such contract documents. (For municipal construction projects identified in s. 255.0525, F.S., the notice provision of that section supersedes and replaces the notice provisions in this section.)

Local government intent to use the uniform method of collecting non-ad valorem assessments -notice.

Section 197.3632, Florida Statutes, requires a local government which is authorized to impose a non-ad valorem assessment and which elects to use the uniform method of collecting such assessment for the first time to adopt a resolution at a public hearing prior to January 1 or, if the property appraiser, tax collector, and local government agree, March 1. 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.

Taxing authority's intent to adopt millage rate and budget – notice.

Section 200.065, Florida Statutes, provides that no taxing authority's millage shall be levied until a resolution or ordinance has been approved by the governing board of the taxing authority. Within 15 days after the meeting adopting the tentative budget, the taxing authority shall advertise in a newspaper of general circulation in the county its intent to finally adopt a millage rate and budget. 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. 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. In the event that the mailing of the notice of proposed property taxes is delayed beyond September 3 in a county, any multicounty taxing authority which levies ad valorem taxes within that county shall advertise its intention to adopt a tentative budget and millage rate in a newspaper of paid general circulation within that county, and shall hold a public hearing not less than 2 days or more than 5 days thereafter, and not later than September 18. If the notice of proposed property taxes mailed to taxpayers under this section contains an error, and 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 in a newspaper of general circulation in the county.

Local government solicitation of bids for construction projects – notice.

Section 255.0525, Florida Statutes, provides that 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 prior to the established bid

opening and at least 5 days prior to any scheduled prebid conference. The solicitation of competitive bids or proposals for any county, municipality, or other political subdivision construction project that is projected to cost more than $500,000 shall be publicly advertised at least once in a newspaper of general circulation in the county where the project is located at least 30 days prior to the established bid opening and at least 5 days prior to any scheduled prebid conference. Bids or proposals shall be received and opened at the location, date, and time established in the bid or proposal advertisement.

Local government development of regional impact public hearing notices.
Section 380.06, Florida Statutes, requires a local government to schedule a public hearing within 60 days after receipt of a petition from a developer for authorization to submit a proposed areawide development of regional impact for a defined planning area. The public hearing shall be advertised at least 30 days prior to the hearing. In addition to the public hearing notice by the local government, the petitioner, except when the petitioner is a local government, shall provide actual notice to each person owning land within the proposed areawide development plan at least 30 days prior to the hearing. If the petitioner is a local government, or local governments pursuant to an interlocal agreement, notice of the public hearing shall be provided by the publication of an advertisement in a newspaper of general circulation. The advertisement shall not be published in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement must 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 must 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 must be in substantially the form used to advertise amendments to comprehensive plans pursuant to s. 163.3184. If more than one local government has jurisdiction over the defined planning area in an areawide development plan, the local governments shall hold a joint public hearing. The local government holding the joint hearing shall publish notice of the hearing at least 60 days in advance of the hearing and shall specify where the petition may be reviewed.

County and municipal solid waste management cost disclosure.
Section 403.7049, Florida Statutes, requires each municipality to establish a system to inform, 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. 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 that are not served by a municipality.

Expedited permitting and amendments to comprehensive plans – "duly noticed".
Section 403.973, Florida Statutes, requires local governments to hold a duly noticed public workshop to review and explain to the public the expedited permitting process and the terms and conditions of the memorandum of agreement with the Secretary of the Department of Environmental Protection for economic development projects. The local government shall also hold a duly noticed public hearing to execute a memorandum of agreement for each qualified project, and at the option of the local government, the workshop may be conducted on the same date as the public hearing to execute the memorandum of agreement.

The term "duly noticed" is defined to mean publication in a newspaper of general circulation in the municipality or county with jurisdiction. The notice shall appear on at least 2 separate days, one of which shall be at least 7 days before a meeting. The notice shall state the date, time, and place of the meeting scheduled to discuss or enact the memorandum of agreement, and the places within the municipality or county where such proposed memorandum of agreement may be inspected by the public. The notice must be published in a portion of the paper other than the legal notices section. The notice shall also advise that interested parties may appear at the meeting and be heard with respect to the memorandum of agreement.

State Housing Initiatives Partnership Program - local housing assistance plans - notice of funding availability.

Section 420.9075, Florida Statutes, requires each county or eligible municipality or its administrative representative to advertise the notice of funding availability for local housing assistance plans under the State Housing Initiatives Partnership Act in a newspaper of general circulation and periodicals serving ethnic and diverse neighborhoods, at least 30 days before the beginning of the application period. If no funding is available due to a waiting list, no notice of funding availability is required.

III. Effect of Proposed Changes:

This bill requires the Department of State to establish and maintain a centralized internet website for the posting of state and local government notices and advertisements.

Section 1 creates Section 50.0311, Florida Statutes. For purposes of notices and advertisements required by statute to be published by a local government, the term "publicly accessible website" is defined as a county or municipal government's official website that is accessible via the Internet, and the term "state notice website" is defined as the Department of State website for publication of local government notices and advertisements.

A local government must use its website and the Department of State website for legally required advertisements and public notices if:

- A public library or other governmental facility providing free access to the Internet during regular business hours exists within the jurisdictional boundaries of such county or municipality;
- 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
- 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.

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 shall indicate the date on which the advertisement was first published on the publicly accessible website.

The local government that has a government access channel authorized under s. 610.109, F.S., may also include on its government access channel a summary of all advertisements and public notices that are published on the state notice website and its website.

The following sections of the bill authorize notices and advertisements to be made on the state and local websites for various required notices:

Section 2 amends section 50.011, Florida Statutes, relating to where and in what language legal notices to be published, to provide that, notwithstanding any provisions to the contrary, and as specifically authorized by s. 50.0311, a notice, advertisement, or publication on the state notice website and a publicly accessible website of a local government in accordance with s. 50.0311 constitutes legal notice.

Section 3 amends section 50.021, Florida Statutes, relating to publication when no newspaper in county, to authorize a county or municipality to publish an advertisement on the state notice website and a publicly accessible website maintained by the entity responsible for publication in lieu of posting three copies thereof in three different places in the county.

Section 4 amends section 50.051, Florida Statutes relating to proof of publication and form of uniform affidavit, to specify that the statute section applies to proof of publication in a newspaper.

Section 5 amends section 50.061, Florida Statutes, relating to amounts chargeable for official notices and advertisements published in a newspaper, to specify that the statute section applies to legal advertisements published in a newspaper.

Section 6 amends section 100.342, Florida Statutes, relating to special election or referendums, to provide that, in the case of a county or municipality, publication on the state notice website and 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 may be in lieu of the specified newspaper notice. If there is no newspaper of general circulation in the county, district, or municipality and publication is not made on the state notice website for publication of local government notices and advertisements and a publicly accessible website maintained by the local government responsible for publication, the notice must be posted as specified in current law.

Section 7 amends section 125.66, Florida Statutes, relating to county ordinance enactment procedures, to provide that notices may be published on the state notice website for publication of local government notices and advertisements and a publicly accessible website maintained by the county or by publication in a newspaper of general circulation in the county. If advertised on

the state notice website and a publicly accessible website, the advertisement shall be published daily during the 10 days immediately preceding the meeting.

Section 8 amends section 129.03, Florida Statutes, relating to preparation and adoption of county budgets, to provides that notices shall be published on the state notice website and a publicly accessible website maintained by the county, or in a newspaper or by posting as per current law.

Section 9 amends section 129.06, Florida Statutes, relating to execution and amendment of county budgets, to provide that public hearing advertisements must appear on the state notice website and a publicly accessible website maintained by the county, or in a newspaper as per current law. If advertised on the state notice website and a publicly accessible website, the notice must be published daily during the 5 days immediately preceding the hearing.

Section 10 amends section 153.79, Florida Statutes, relating to contracts for county water and sewer system district construction, to provide that advertisements shall be on the state notice website and a publicly accessible website maintained by the county, or in a newspaper as per current law. If advertised on the state notice website and a publicly accessible website, such advertisement shall be published daily during the 3 weeks immediately preceding the date set for the receipt of bids.

Section 11 amends section 159.32, Florida Statutes, relating to construction contracts for Florida Industrial Development Financing Act projects, to provide advertisements for competitive bids may be published on the state notice website and a publicly accessible website maintained by the county.

Section 12 amends section 162.12, Florida Statutes, relating to code enforcement boards, to provide for notices to be made on the state notice website and a publicly accessible website maintained by the local government daily during the 4 weeks immediately preceding the hearing, or in a newspaper as per current law.

Section 13 amends section 163.3184, Florida Statutes, relating to comprehensive plan amendments, to provide for public hearing notices to be made on the state notice website and a publicly accessible website maintained by the local government daily during the 10 days immediately preceding the hearing, or in a newspaper as per current law.

Section 14 amends section 166.041, Florida Statutes, relating to municipal ordinance adoptions, to provide that ordinances and resolutions must be noticed daily during the 10 days immediately preceding the adoption on the state notice website and a publicly accessible website maintained by the municipality, or in a newspaper as per current law.

Section 15 amends section 170.05, Florida Statutes, relating to municipal public improvements financed by special assessments, to provide that the municipality shall cause resolutions to be published on the state notice website and a publicly accessible website maintained by the municipality, or in a newspaper as per current law.

Section 16 amends section 170.07, Florida Statutes, relating to preliminary assessment rolls for municipal public improvements financed by special assessments, to provide that the municipality

publish notice of the public hearing daily for 2 weeks on the state notice website and a publicly accessible website maintained by the municipality, or in a newspaper as per current law.

Section 17 amends section 180.24, Florida Statutes, relating to municipality construction contracts for utilities, in excess of $25,000, to provide that the municipality publish notice of the public hearing daily for 2 weeks on the state notice website and a publicly accessible website maintained by the municipality, or in a newspaper as per current law.

Section 18 amends section 197.3632, Florida Statutes, relating to local government intent to use the uniform method of collecting non-ad valorem assessments, to provide that a county or municipality shall publish notice of its intent to use the uniform method for collecting such assessment daily during the 4 consecutive weeks immediately preceding the hearing on the state notice website and a publicly accessible website maintained by the county or municipality.

Section 19 amends section 200.065, Florida Statutes, relating to a taxing authority's method of fixing millage, to provide that a county or municipality may advertise on the state notice website and its publicly accessible website its intent to finally adopt a millage rate and budget, and shall maintain the notice on the state notice website and its website until completion of the hearing, or may notice in a newspaper as per current law. If the mailing of the notice of proposed property taxes is delayed beyond September 3 in a county, and any multicounty taxing authority which levies ad valorem taxes within that county advertise its intention to adopt a tentative budget and millage rate on the websites, the required public hearing shall be held not less than 2 days after initial publication of the advertisement on the state notice website and the publicly accessible website maintained by the taxing authority and not later than September 18, and shall remain on the publicly accessible website until the date of the hearing.

Section 20 amends section 255.0525, Florida Statutes, relating to local government advertising for competitive bids or proposals. For bids projected to cost more than $200,000, bids may be 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 the state notice website and a publicly accessible website maintained by the entity responsible for publication, or in a newspaper as per current law. Competitive bids or proposals projected to cost more than $500,000 shall be publicly advertised daily during the 30-day period immediately preceding the established bid opening date and daily during the 5-day period immediately preceding any scheduled prebid conference on the state notice website and a publicly accessible website, or in a newspaper as per current law.

Section 21 amends section 380.06, Florida Statutes, relating to local government development of regional impacts, to provide that a local government may advertise a public hearing on a petition from a developer for authorization to submit a proposed areawide development of regional impact on the state notice website and a publicly accessible website maintained by the county or municipality responsible for publication, or in a newspaper as per current law.

Section 22 amends section 403.7049, Florida Statutes, relating to county and municipal cost for solid waste management, to provide that the public disclosure system requirements of the statute 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 shall 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 the state notice website and a publicly accessible website maintained by the municipality.

Section 23 amends section 403.973, Florida Statutes, relating to expedited permitting and amendments to comprehensive plans, to provide that "duly noticed" means publication on the state notice website and a publicly accessible website maintained by the municipality or county having jurisdiction, or in a newspaper of general circulation in the municipality or county having jurisdiction. If published in a newspaper, the notice shall appear on at least 2 separate days, one of which shall be at least 7 days before the meeting. If published on the state notice website and a publicly accessible website, the notice shall appear daily during the 7 days immediately preceding the meeting.

Section 24 amends section 420.9075, Florida Statutes, relating to State Housing Initiatives Partnership Program local housing assistance plans, to provide that each county or eligible municipality or its administrative representative may advertise the notice of funding availability for local housing assistance plans under the State Housing Initiatives Partnership Act daily during the 30 days immediately preceding the application period on the state notice website and a publicly accessible website maintained by the county or eligible municipality, or in a newspaper as per current law.

Section 25 requires the Department of State to establish and maintain a centralized internet website for the posting of local government notices and advertisements, to be provided to the public without charge, which permits the public to:

1. Search notices by geographic name, type, or publication date;
2. Search a permanent database that archives all notices published on the website; and
3. Subscribe to an automated e-mail notification of selected notice types.

Section 26 requires all state agencies to also post their notices and advertisements on the state notice website created and maintained by the Department of State.

Section 27 provides that the act shall take effect October 1, 2011.

Other Potential Implications:

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:

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The impact of this legislation on the newspaper industry is indeterminate but is likely to be substantial.

C. Government Sector Impact:

Local governments should experience a net cost savings as a result of no longer having to purchase newspaper advertisements. The Revenue Estimating Impact Conference has not determined the fiscal impact of this bill.

The Department of State (DOS) preliminary estimate of the costs of this bill to the department is contingent upon whether or not government entities will no longer have to pay a per line charge to publish notices in the Florida Administrative Weekly (FAW). A loss of approximately $100,000 in revenue to the department may occur should the line charge revenue for the FAW be reduced due to lower volume. Since, pursuant to section 120.55(8)(b), Florida Statutes, any excess Records Management Trust Fund revenue in excess of $300,000 is currently transferred to the General Revenue Fund, a reduction in this trust fund revenue could reduce the revenue to the General Revenue Fund by up to the estimated $100,000. At the end of the 2010-2011 fiscal year, $ 95,088 was transferred to the General Revenue Fund.

The DOS also estimates that one-time nonrecurring costs of approximately $163,000 will be required to provide the programming and equipment for the state notice website.

Another $146,853 is estimated to be the ongoing recurring costs to maintain and operate the website.

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.

945054

LEGISLATIVE ACTION

Senate . House

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The Committee on Budget (Gaetz) recommended the following:

Senate Amendment (with title amendment)

Delete lines 995 - 1002.

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

And the title is amended as follows:

Delete lines 49 - 52

and insert:

Board; amending s. 321.23, F.S.; specifying

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 Budget Committee

BILL:	SPB 7206
INTRODUCER:	For consideration by the Budget Committee
SUBJECT:	Highway Safety Conforming
DATE:	March 25, 2011 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Carey	Meyer, C.		**Pre-meeting**
2.				
3.				
4.				
5.				
6.				

I. Summary:

This bill contains to highway safety and motor vehicle laws administered by the Department of Highway Safety and Motor Vehicles (DHSMV or department) that conform to provisions of the proposed General Appropriations Bill, SPB 7084. These provisions include:

- Creating the Division of Motorist Services within DHSMV and eliminating the Division of Driver Licenses and the Division of Motor Vehicles as two separate entities due to the reorganization of the department structure;
- Transfering the Office of Motor Carrier Compliance sworn law enforcement and administrative personnel from the Department of Transportation (FDOT) to the DHSMV;
- Allowing the DHSMV to authorize county sheriffs to serve as agents of the DHSMV for enforcement;
- Allowing the DHSMV to sell crash records online and providing for distribution of fees;
- Authorizing certain revenues to be distributed to county tax collectors providing driver's license issuance services upon the completion of transitioning this service to tax collectors;
- Creating a Law Enforcement Consolidation Task Force, providing for its membership, administrative support, and duties; and requiring the task force to submit a specified plan.
- Conforming changes.

This bill has a positive fiscal impact reducing expenditures in the DHSMV as a result of consolidating the Division of Driver Licensure and Division of Motor Vehicles; Outsourcing the sale of crash records; and consolidating the FDOT Office of Motor Carrier Compliance with the Florida Highway Patrol.

The bill substantially amends the following sections of the Florida Statutes: 20.23, 20.24, 110.205, 288.816, 311.115,311.121, 316.066, 316.1957, 316.302, 316.3025, 316.3026, 316.516, 316.545, 316.613, 316.640, 318.15, 320.05, 320.18, 320.275, 321.05, 321.052, 321.23, 322.02, 322.135, 322.20, 322.202, 322.21, 334.044, 413.012, and 921.0022.

II. Present Situation:

The Department of Highway Safety and Motor Vehicles
The department was created by ch. 20.24 F.S. The mission of DHSMV is "Providing Highway Safety and Security Through Excellence in Service, Education, and Enforcement" by providing services in partnership with county tax collectors; local, state, and federal law enforcement agencies to promote a safe driving environment; issue driver licenses and identification cards; and provide services related to consumer protection and public safety.

The department is composed of four divisions: Florida Highway Patrol, Driver Licenses, Motor Vehicles, Administrative Services and an Information Systems Administration which offers support services to all divisions.

Division of Driver Licenses
The Division of Driver Licenses (DDL) promotes safety on the highways by licensing qualified drivers, controlling and improving problem drivers, ensuring vehicle owners and operators are responsible for injuries and damages they may cause in a crash on Florida's roadways, and maintaining records for driver evaluation. The DDL manages the issuance of driver licenses through an examination process and creates permanent records of all licenses issued. The DDL ensures all drivers and their vehicles are properly insured and enforces sanctions imposed for violation of Florida's highway safety laws. The DDL provides services to the driving public through a network of field offices, tax collector agent offices, and mobile units located throughout the state.

The DDL is composed of four bureaus: Records, Financial Responsibility, Driver Improvement, and Driver Education. Field Operations, although not a bureau, is the single largest element of the division and contributes significantly to services.

Division of Motor Vehicles
The Division of Motor Vehicles (DMV) provides safety and consumer protection of property rights by ensuring motor vehicles, vessels, and mobile homes are properly titled and registered. Motor Vehicles also ensures commercial carriers are properly registered and pay the appropriate gasoline tax for intrastate and interstate commerce. The DMV ensures the safety of mobile home residents by requiring mobile homes to be built in accordance with national construction standards and installed in accordance with state standards. In addition to day-to-day services to Florida residents, the DMV works with other state and federal agencies on motor vehicles issues and assists the state's county tax collectors to provide vehicle services.

The DMV is composed of four bureaus: Field Operations, Titles and Registrations, Motor Carrier Services, and Mobile Home and Recreational Vehicle Construction.

Crash Reports
The DHSMV is the central repository of long form crash reports completed by law enforcement agencies across the State of Florida. The department contracts with PRIDE for data entry services for long form crash reports. The data and images are maintained by DHSMV. Crash reports are sold for a fee as specified in s. 316.033, F.S.

Driver's License Issuance Service/Tax Collectors
Pursuant to s. 322.135, F.S., the DHSMV, in conjunction with the Florida Tax Collectors Association and the Florida Association of Counties submitted a transition plan to the Legislature in February 2011 to transition all driver's license issuance services to the county tax collectors who are constitutional officers under s. 1(d), Art. VII, of the State Constitution. The plan includes a time to complete the full transition no later than June 30, 2015.

FDOT/Office of Motor Carrier Compliance
The OMCC was created in 1980 by merging weight and safety enforcement functions from the FHP and the Florida Public Service Commission. Staffed by both sworn law enforcement officers and regulatory weight inspectors, OMCC assists the FDOT in fulfilling its mission of providing a safe transportation system by performing commercial vehicle safety and weight enforcement.

The primary purposes of the OMCC, currently housed within FDOT, are to protect the highway system's pavement and structures from excessive damage due to overweight and oversize vehicles, and to reduce the number and severity of crashes involving commercial vehicles.[1] The OMCC enforces state and federal laws and agency rules that regulate the weight and size of vehicles operating on the state's highways, and the safety of commercial motor vehicles and their drivers.

The program uses both non-sworn weight inspectors and sworn law enforcement officers to enforce vehicle weight, size, fuel tax, and registration requirements. These inspectors weigh trucks and check registration and fuel tax compliance at fixed-scale locations along major highways. The program's law enforcement officers patrol the state's highways and use portable scales to weigh trucks that do not pass fixed-scale stations.[2] There are currently 497 FTEs within the OMCC dedicated to weight enforcement, of which 267 are sworn law enforcement officers and 178 are civilian (non-sworn) weight inspectors, and an additional 52 administrative support staff.

As part of their patrol duties on state highways, the program's law enforcement officers also enforce commercial motor vehicle safety regulations by performing safety inspections and enforcing traffic laws. The program's safety enforcement responsibilities also include compliance reviews at carrier places of business, which are performed by specially-trained law enforcement staff.[3]

[1] Office of Program Policy Analysis and Government Accountability, *Report # 01-45*, October 2001.
[2] *Id.*
[3] *Id.*

According to FDOT, in calendar year 2010, the OMCC weighed 21,786,099 trucks, resulting in 52,223 weight citations. OMCC personnel also completed 118,383 driver/vehicle inspection reports resulting in 23,317 vehicles and/or drivers placed out of service for serious vehicle safety defects and driver licensing or hours of service violations. A typical weight violation case requires approximately 30 minutes per case and a complete CMV inspection will require 45-90 minutes. Over 96 percent of all enforcement contacts made by OMCC personnel were directly related to interactions with CMVs, including inspections, weight enforcement, speed enforcement, and other interactions.

In addition, OMCC officers:

- conduct compliance review audits on Florida-based carriers;
- conduct post-crash CMV inspections for vehicles involved in fatal and serious injury crashes at the request of the FHP and local law enforcement agencies; and
- conduct inspections of hazardous materials shipments on our roadways and deepwater ports.

The OMCC serves as Florida's primary law enforcement radiological and nuclear detection agency in partnership with local, state and federal agencies.

According to FDOT, the operational cost of the OMCC reflects less than 1 percent of the FDOT annual budget. Annual funding is provided by the State Transportation Trust Fund (STTF) and by the USDOT Federal Motor Carrier Safety Administration (FMCSA) grant program(s). Of the total OMCC FY 2010-11 budget ($39,589,127), $8,389,889 was provided by the FMCSA grant(s)[4] and $647,359 was received from the Department of Homeland Security.[5]

III. Effect of Proposed Changes:

Section 1 amends s. 20.23, F.S., to clarify motor carrier weight inspectors will remain at FDOT after the transfer of the Office of Motor Carrier Compliance to DHSMV.

Section 2 amends s. 20.24, F.S., to create the Office of Motor Carrier Compliance within the Division of the Florida Highway Patrol. In addition, this section creates the Division of Motorist Services within DHSMV and eliminates the Division of Driver Licenses and the Division of Motor Vehicles as two separate entities due to the reorganization of the department structure.

Section 3 amends s. 110.205, F.S., to remove the positions of captains and majors assigned to the Office of Motor Carrier Compliance from FDOT's exempt from career service positions.

[4] 2010 Grants

MCSAP/Incentive Grant -	$8,196,889	(Core CMV Safety Grant funded since FY 95/96)
New Entrant	$ 122,000	(Outreach and education for new intrastate carriers)
Pre-TACT	$ 71,000	(New grant for the development of an enforcement program directed at aggressive drivers Targeting Aggressive Cars and Trucks)
Total	$8,389,889	

[5] Department of Transportation, *Agency Bill Analysis: SB 1434 (*on file with the Senate Transportation Committee).

Section 4 amends s. 288.816, F.S., to provide a technical change due to the creation of the Division of Motorist Services within DHSMV.

Section 5 amends s. 311.115, F.S., to provide a technical change due to the transfer of Motor Carrier Compliance to the DHSMV.

Section 6 amends s. 311.121, F.S., to provide a technical change due to the creation of the Division of Motorist Services within DHSMV.

Section 7 amends s. 316.066, F.S., to establish the information to be listed on a crash report and eliminates the authority for a county, or counties, to establish certified traffic records centers through agreement with a state agency.

Section 8 amends s. 316.1957, F.S., to provide a technical change due to the creation of the Division of Motorist Services within DHSMV.

Section 9 amends s. 316.302, F.S., to provide a technical change due to the transfer of Motor Carrier Compliance to the DHSMV.

Section 10 amends s. 316.3025, F.S., to provide a technical change due to the transfer of Motor Carrier Compliance to DHSMV.

Section 11 amends s. 316.3026, F.S., to provide a technical change due to the transfer of Motor Carrier Compliance to DHSMV.

Section 12 amends s. 316.516, F.S., to provide a technical change due to the transfer of Motor Carrier Compliance to DHSMV.

Section 13 amends s.316.545, F.S., to provide a technical change due to the transfer of Motor Carrier Compliance to DHSMV.

Section 14 amends s. 316.613, F.S., to provide a technical change due to the creation of the Division of Motorist Services within DHSMV.

Section 15 amends s. 316.640, F.S., to provide a technical change due to the transfer of Motor Carrier Compliance to DHSMV.

Section 16 amends s. 318.15, F.S., to provide a technical change due to the creation of the Division of Motorist Services within DHSMV.

Section 17 amends s. 320.05, F.S., to provide a technical change due to the creation of the Division of Motorist Services within DHSMV.

Section 18 amends s. 320.18 , F.S., to provide a technical change due to the transfer of Motor Carrier Compliance to DHSMV.

Section 19 amends s. 320.275, F.S., to provide a technical change due to the creation of the Division of Motorist Services within DHSMV.

Section 20 amends s. 321.05, F.S., to provide a technical change due to the transfer of Motor Carrier Compliance to DHSMV.

Section 21 creates s. 321.052, F.S., to authorize DHSMV to have sheriffs as agents of Florida Highway Patrol for the purposes of the duties and functions specified in s. 321.05, F.S.

Section 22 amends s. 321.23, F.S., to allow for distribution of traffic reports online and provides for the distribution of fee to the investigating agency.

Section 23 amends s. 322.02, F.S., to provide a technical change due to the creation of the Division of Motorist Services within DHSMV.

Section 24 amends s. 322.135, F.S., to require certain tax collectors to assume driver's license responsibilities of DHSMV by June 30, 2015.

Section 25 amends s. 322.20, F.S., to provide a technical change due to the creation of the Division of Motorist Services within DHSMV.

Section 26 amends s. 322.202, F.S., to provide a technical change due to the creation of the Division of Motorist Services within DHSMV.

Section 27 amends s. 322.21, F.S., to specify certain fees shall be used for DHSMV motorist services activities that support the delivery of driver's license issuance and registration services by certain tax collectors. This section also specifies certain fees will be retained by tax collectors who provide driver's license issuance beginning July 1, 2015 or upon the completion of transitioning this service to tax collectors.

Section 28 repeals subsection 32 of 334.044, F.S., due to transfer of the Office of Motor Carrier Compliance to DHSMV.

Section 29 amends s. 413.012, F.S., to provide a technical change due to the creation of the Division of Motorist Services within DHSMV.

Section 30 amends s. 921.0022, F.S., to conform to changes made in other sections of law relating to crash reports.

Section 31 creates a Law Enforcement Consolidation Task Force to evaluate the duplication of law enforcement functions throughout state government and study limiting the jurisdiction of the Florida Highway Patrol to the State Highway System or Florida Intrastate Highway System. The Task Force is required to submit recommendations and a plan for consolidation of law enforcement functions to the Legislature by February 2012.

Section 32 provides for the transfer of the Office of Motor Carrier Compliance at FDOT to the Florida Highway Patrol at DHSMV and specifies that the Executive Office of the Governor may

transfer funds and positions between agencies as approved by the Legislative Budget Commission.

Section 33 provides for an effective date of July 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The transfer of the Office of Motor Carrier Compliance from FDOT to the Florida Highway Patrol at DHSMV is expected to realize a net costs savings of $1.3 million in Fiscal Year 2011-12 through efficiencies related to the duplication of administrative duties.

The DHSMV currently pays $250,000 annually for contracted services related to the data entry of crash records. A positive but indeterminate fiscal impact is expected from Outsourcing the Crash Records Program from the sale of online data, which is currently not available.

The consolidation of the Division of Driver Licenses and Division of Motor Vehicles into a single Division of Motorist Services eliminates 9 FTE and $447,219 in Fiscal Year 2011-12.

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.

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 Budget Committee

BILL:	SPB 7208
INTRODUCER:	For consideration by the Budget Committee
SUBJECT:	Welfare Transition Trust Fund
DATE:	March 28, 2011 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Martin	Meyer, C.		**Pre-meeting**
2.				
3.				
4.				
5.				
6.				

I. Summary:

This bill creates the Welfare Transition Trust Fund within the Department of Education. This trust fund is created in order to implement the transfer of programs to the Department of Education as proposed in legislation before the 2011 legislature.

II. Present Situation:

Section 19(f)(1), Article III of the State Constitution provides that no trust fund of the State of Florida or other public body may be created by law without a three-fifths vote of the membership of each house of the legislature in a separate bill for that purpose only.

There is presently no appropriate trust fund created within the Department of Education for revenues and appropriations of federal funds under the Temporary Assistance for Needy Families Program.

III. Effect of Proposed Changes:

This bill creates the Welfare Transition Trust Fund within the Department of Education. This trust fund is needed in order to implement the transfer of programs to the Department of Education as proposed in legislation before the 2011 legislature. Specifically, the School Readiness Program proposed for transfer from the Agency for Workforce Innovation to the Department of Education as part of the creation of Jobs Florida is currently partially funded with federal funds derived from the Temporary Assistance for Needy Families (TANF) Block Grant.

The trust fund is established for use as a depository for receiving federal funds under the Temporary Assistance for Needy Families Program. Trust fund moneys shall be used exclusively for the purpose of providing services to individuals eligible for Temporary Assistance for Needy Families pursuant to the requirements and limitations of part A of Title IV of the Social Security Act, as amended, or any other applicable federal requirement or limitation. Funds credited to the trust fund consist of those funds collected from the Temporary Assistance for Needy Families Block Grant.

All funds transferred to and retained in the trust fund shall be invested pursuant to s. 17.61, Florida Statutes. Notwithstanding s. 216.301, Florida Statutes, and pursuant to s. 216.351, Florida Statutes, any undisbursed balance remaining in the trust fund and interest accruing to the trust fund not distributed at the end of the fiscal year shall remain in the trust fund and shall increase the total funds available for appropriation from the trust fund.

In accordance with s. 19(f)(2), Article III of the State Constitution, the Welfare Transition Trust Fund shall, unless terminated sooner, be terminated on July 1, 2015. Before its scheduled termination, the trust fund shall be reviewed as provided in s. 215.3206(1) and (2), Florida Statutes.

The effective date of the bill is July 1, 2011.

Other Potential Implications:

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

Pursuant to s. 19(f)(1), Article III of the Florida Constitution, creation of the Welfare Transition Trust Fund must pass by a three-fifths vote of the membership of each house of the Legislature.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

This bill has no fiscal impact on state agencies or state funds, or on local governments.

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.

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 Budget Committee

BILL:	SPB 7088
INTRODUCER:	For consideration by the Budget Committee
SUBJECT:	State Employee/Collective Bargaining
DATE:	March 28, 2011 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Leadbeater	Meyer, C.		**Pre-meeting**
2.				
3.				
4.				
5.				
6.				

I. Summary:

The bill directs the resolution of the collective bargaining issues at impasse for the 2011-2012 fiscal year regarding state employees. These issues will be resolved based on the spending decisions included in the General Appropriations Act for the 2011-2012 fiscal year.

This bill creates an unnumbered section of law that is effective July 1, 2011.

II. Present Situation:

Chapter 447, F.S., specifies the process for collective bargaining for public employees. The bargaining agent and the negotiator for the state must bargain collectively in the determination of the wages, hours, terms, and conditions of employment of the employees within the bargaining unit. Any collective bargaining agreement reached must be reduced to writing, signed by the chief executive officer for the state and the bargaining agent for the union, and submitted to the members of the bargaining unit for ratification

Upon execution of the collective bargaining agreement, the Governor must request the legislative body to appropriate amounts sufficient to fund the provisions of the agreement. If the Legislature appropriates funds that are not sufficient to fund the agreement, the agreement must be administered on the basis of the amounts actually appropriated.

Typically, at the state level, an agreement is not reached. In that instance, and pursuant to s. 216.163(6), F.S., an impasse is declared on all unresolved issues when the Governor's budget recommendations are released to the Legislature. Within five days of the start of the impasse period, each party is required to notify the presiding officers of the Legislature of the unresolved

issues. A joint select committee of members of the Florida House of Representatives and the Senate is appointed to review the positions of the parties. The committee's recommendation to the Legislature regarding the resolution of those issues is presented to the presiding officers no later than ten days before the start of the regular legislative session. During the session, the Legislature may take action to address the issues. Any actions taken by the Legislature are binding upon the parties.

Following the resolution of the impasse issues, the parties are required to reduce to writing an agreement that includes those issues agreed to by the parties as well as those issues resolved by the Legislature. The agreement must be signed by the chief executive officer and the bargaining agent and then presented to the members of the bargaining unit for ratification.

If the members ratify the agreement, all the provisions of the agreement take effect. If the members do not ratify the agreement, the issues resolved by the Legislature take effect for the first fiscal year which was the subject of the negotiations.

The certified bargaining units for state employees and the respective bargaining agents include:

American Federation of State, County and Municipal Employees, Council 79

- Administrative and Clerical Unit
- Operational Services Unit
- Human Services Unit
- Professional Unit

Florida Nurses Association

- Professional Health Care Unit

Police Benevolent Association

- Security Services Unit
- Special Agent Unit
- Law Enforcement Unit
- Lottery Law Enforcement Unit
- Florida Highway Patrol Unit

Florida State Fire Service Association

- Fire Service Unit

Federation of Physicians and Dentists

- Supervisory Nonprofessional Unit
- Physicians Unit
- State Employees Attorneys Guild

Federation of Public Employees

- Lottery Administrative and Support Unit

III. Effect of Proposed Changes:

Section 1 provides that all collective bargaining issues at impasse for the 2011-2012 fiscal year regarding state employees will be resolved pursuant to the spending decisions contained in the General Appropriations Act for the 2011-2012 fiscal year.

Section 2 provides an effective date of July 1, 2011.

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:

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.)

None.

B. Amendments:

None.

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 Budget Committee

BILL:	CS/SB 1738
INTRODUCER:	Governmental Oversight and Accountability Committee and Senator Alexander
SUBJECT:	State Financial Information
DATE:	March 18, 2011 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McKay	Roberts	GO	**Fav/CS**
2.	Hawkins	Meyer, C.	BC	**Pre-meeting**
3.				
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

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

I. Summary:

The bill establishes a new governance model for next generation changes to the financial infrastructure for State of Florida agencies affecting the principal subsystems of accounting (FLAIR); cash management (CMS); personnel (*PeopleFirst*); procurement (*MyFlorida Marketplace*); appropriations (LAS/PBS); and revenue collection (SUNTAX). An Agency for Enterprise Business Services is constituted as a separate, independent entity within the Department of Financial Services.

This bill substantially amends the following sections of the Florida Statutes: ss. 11.45, 215.90, 215.91, 215.92, 215.93, 215.94, 215.95, 215.985, 17.11, 216.102, 216.141, and 216.237.

The bill creates the following sections of the Florida Statutes: ss. 215.922, 215.923, 215.924, and 215.961.

The bill repeals the following section of the Florida Statutes: s. 215.96.

II. Present Situation:

The Florida Financial Management Information System (FFMIS) Act

The Florida Financial Management Information System (FFMIS) Act, authorized in ss. 215.90 through 215.96, F.S., was established to plan, implement and manage a unified information system which provides fiscal, management, and accounting information. The FFMIS Act established the Florida Management Information Board (FMIB) and the FFMIS Coordinating Council (Council). The FMIB is comprised of the Governor and Cabinet, and has overall responsibility for managing and overseeing the development of Florida Financial Management Information System pursuant to s. 215.95, F.S., including establishing financial management policies and procedures for executive branch agencies. The Council is comprised of the members of the Cabinet, the secretary of the Department of Management Services, and the director of the Governor's Office of Policy and Budget. Among other duties, the Council is to approve all FFMIS subsystem designs and modifications prior to implementation and to make recommendations to the FMIB on policy alternatives to ensure coordination between the subsystems as defined in ss. 215.93 and 215.96, F. S.

There are five FFMIS subsystems which must be designed, implemented, and operated pursuant to the act. Each has a statutorily-identified functional owner as well as additional statutory requirements as follows:

- Planning and Budgeting (LAS/PBS) – The Executive Office of the Governor is the functional owner. The system must also be designed, implemented, and operated pursuant to ch. 216, F.S.
- Florida Accounting Information Resource (FLAIR) – The Department of Financial Services is the functional owner. The system must also be designed, implemented and operated pursuant to ss. 17.03, 215.86, 216.141, and 216.151, F.S.
- Cash Management System (CMS) – The Chief Financial Officer is the functional owner.
- Purchasing (*MyFloridaMarketplace)* – The Department of Management Services is the functional owner.
- Personnel Information (*PeopleFirst*) – The Department of Management Services is the functional owner. The system must also be designed, implemented, and operated pursuant to s. 110.116, F. S.

The FFMIS Act identifies each subsystem's general functional requirements, but allows each functional owner to establish additional functions unless they are specifically prohibited by the FFMIS Act. Functional owners may not establish or maintain additional subsystems which duplicate any of the FFMIS subsystems.

The FMIB approved a strategic plan in March 14, 2000, that authorized the replacement of the FFMIS subsystems with an enterprise-wide financial management system that integrates financial information and standardizes policies and information. This system has never been implemented. The FMIB has not made any decisions relating to policy or the FFMIS subsystems since February 2001 when it modified the strategic plan to allow the use of outsourcing as a means to replace or enhance the functionality of the FFMIS subsystems. No subsystem designs or modifications have been brought to the FMIB for review or approval since that time. As a

result, the overall governance and management of each FFMIS subsystem has been "unofficially delegated" to each functional owner and each functional owner has autonomously pursued an independent path for development and enhancement of its subsystem. The FMIB has been inactive since February 2005.

Pursuant to s. 215.95(2)(a), F.S., the FMIB is required to adopt rules, policies and procedures; however, no rules have been promulgated and no documentation was found to indicate FMIB issued or adopted any fiscal management policies and procedures or standardized business practices as authorized by the Act.[1]

Factors Contributing to the Ineffectiveness of the FFMIS Act

The ineffectiveness of the FFMIS Act has lead to an uncoordinated approach to making decisions for the FFMIS and its subsystems. A review of the statutes relating to FFMIS and FFMIS subsystems identified conflicts, inconsistencies, or deficiencies which have contributed to the ineffective governance structure that currently exists.[2] The following is a list of factors identified in this review:

- The FFMIS statute does not clearly define the goal of the Florida Financial Management Information System as being an enterprise system as identified in the 2001 FFMIS Strategic Plan.
- The FFMIS statute does not provide authority to the FMIB to define, control or limit the business services to be provided by the Florida Financial Management Information System and its subsystems. Leaving the functionality for each subsystem undefined makes it difficult to develop requirements and difficult to estimate the cost of system replacement.
- The Financial Management Information Board has failed to enforce compliance with FFMIS Act provisions, indicating a lack of executive ownership, sponsorship and responsibility. Section 215.95(2)(b), F.S., authorizes FMIB to issue orders to executive branch agencies to enforce implementation of and compliance with provisions relating to FFMIS.
- Each subsystem owner independently requests and controls funding for issues relating to its subsystem's modification or replacement.
- The FMIB and the FFMIS Coordinating Council are not currently staffed to perform the functions required by the FFMIS Act.

FFMIS Subsystem Contracts

In the near future the state faces significant decisions relating to FFMIS subsystems including whether to:

- Renew, modify or replace the contract for the state's purchasing subsystem, *MyFloridaMarketplace*.
- Renew, modify or replace the contract for the state's personnel information subsystem. The contract for *PeopleFirst*, which began August 2002, will expire in August 2011. $350 million is committed through the current contract period.

[1] Chapter 43, F.A.C., contained rules promulgated by the Fiscal Accounting Information Board, the predecessor of the FMIB. Both rules were repealed December 12, 1996, prior to the creation of the current entities by Chapter 97-286, L.O.F.
[2] Issue Brief 2009-321, by the Fiscal Policy and Calendar Committee.

- Replace the current accounting subsystem. Project Aspire was intended to replace the accounting and cash management subsystems, but was suspended. The total project cost including interest payments from Fiscal Year 2002-2003 through Fiscal Year 2010-11 is estimated to be $96.5 million.
- Replace the current cash management subsystem.

The Financial and Cash Management Task Force

In 2008, the Financial and Cash Management Task Force (Task Force) was established in s. 17.0315, F.S., and directed to create a strategic business plan for a successor financial and cash management system. The business plan must address the interoperability of the successor system with existing systems. The Task Force submitted its strategic business plan and recommended legislation on January 30, 2009.

III. Effect of Proposed Changes:

Section 1 amends s. 11.45(7), F.S., to require that the Auditor General annually transmit to the Legislature and the Legislative Auditing Committee a list of all school districts that have failed to comply with transparency requirements as identified in specified school board audits and audit reports.

Section 2 amends the existing short title in s. 215.90, F.S., to correct a cross-reference.

Section 3 amends s. 215.91, F.S, to transfer from the existing multi-agency FFMIS participants to a successor single entity, the Agency for Enterprise Business Services, all of the authority for the decisions on the development of succeeding business information systems.

Section 4 amends s. 215.92, F.S., to provide new definitions of terms that will govern the operation of the successor systems. These terms identify the scope as being across state agencies with a reach that extends to the subsystem level in terms of design, execution, modification, enhancement and replacement. State agencies affected will be those subject to ch. 216, F.S.

Section 5 creates the Agency for Enterprise Business Services (AEBS) within the Department of Financial Services in new section 215.922, F.S. The agency head is the Governor and Cabinet in their collegial capacity as the Financial Management Information Board.

The agency will have an executive director, the Enterprise Financial Business Operations Officer, appointed by the Governor with at least three affirmative votes of the Governor and Cabinet, with the Governor and the Chief Financial Officer on the prevailing side, subject to confirmation by the Senate. The officer serves at the pleasure of the Governor and Cabinet. The Chief Financial Officer may appoint an interim director until an executive director is confirmed by the Cabinet.

The agency will have the following duties and responsibilities:
- Ensuring that decisions are identified and issues are resolved by the board.
- Coordinating and staffing the meetings of the council, which must meet at least 12 times per year for the purpose of obtaining input from council members.

- Monitoring operational and performance issues of the functional information subsystems and enterprise agency business subsystems.
- Coordinating as necessary with the Agency for Enterprise Information Technology to obtain technology-related information from state agencies.
- Developing the Enterprise Financial Business Services Strategic Plan.
- Serving as a clearinghouse for enterprise information relating to the planning, development, implementation, and evaluation of improvements to enterprise financial business processes.
- Developing policies and procedures that improve the efficiency and effectiveness of the Florida Financial Management System.
- Developing criteria for defining standardized enterprise financial business services to be provided by the Florida Financial Management Information System.
- Adopting rules.
- Providing an operational plan annually by January 1, beginning in 2014, to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The plan must contain recommendations for the current and subsequent fiscal year and identify estimated costs, budget adjustments, and legislative changes necessary to implement such recommendations.
- Submitting an inventory to the Governor and the chairs of the legislative appropriation committees by July 1, 2013, of agency financial business systems that are maintained by executive branch agencies.

Section 6 creates s. 215.923, F.S., which creates an advisory body, the Enterprise Business Services Council, as a successor to the duties now provided by the existing FFMIS Coordinating Council. The council membership will be composed of the functional owners of each of the FFMIS subsystems as well as undesignated appointees by the cabinet officers and the executive director of AEIT.

Section 7 creates s. 215.924, F.S., which provides the AEBS with the statutory mission to develop and annually update a multi-year Enterprise Financial Business Strategic Plan to be submitted to the Governor and the legislature. The plan must:

- Describe the services to be provided along with all of the system and subsystem components;
- Provide an estimate of the total financial and human capital costs of each subsystem;
- Identify all of the critical interconnectivity required for there to be coordinated and standardized information exchanges among the systems;
- Provide project management and governance for enhancement or replacement projects with cumulative funding costs in excess of $10 million.
- Recommend improvements to processes reporting and data security and integrity which enhance management, accountability, and eliminate redundancy among the subsystems.

Section 8 amends s. 215.93, F.S., to specify the purposes of the successor FFMIS, as amended by this bill. The state accounting system, FLAIR, is renamed the Financial Management Subsystem and the separate System for Unified Taxation, SUNTAX, now administered by the Department of Revenue, will be incorporated into the new FFMIS. Each state agency must submit to the council a business case analysis for modification or replacement of any subsystem for which it is responsible.

Section 9 amends s. 215.94, F.S., to specify the duties of each state agency responsible for a FFMIS subsystem. This section makes nomenclature changes consistent with the revised duties and responsible parties and identifies the Department of Revenue as the functional owners of the SUNTAX subsystem. The new FFMIS must provide for a data-gathering and distribution facility for the collection and storage of statewide financial information to assist decision-makers in carrying out their responsibilities.

Section 10 amends s. 215.95, F.S., to provide the Governor and Cabinet, in their collegial capacity as the Administration Commission[3] and the FFMIB, as the approval body for the FFMIS strategic and operational plans, the approval of project milestones, and the resolution of agency disputes.

Section 11 repeals s. 215.96, F.S., which assigns duties to the existing FFMIS Coordinating Council.

Section 12 creates s. 215.961, F.S., to require state agencies to follow the policies developed by the AEBS for the successor financial management system and to establish July 1, 2015 as the nominal date for the transition to enterprise business services. Services migration plans from state agencies to the AEBS are due by July 1, 2013 with a list of services provided due the previous year.

Each state agency and the Judicial Branch are made responsible for the accuracy of the information entered into the FFMIS.

Section 13 amends the "Transparency Florida Act" in s. 215.985, F.S., to make nomenclature changes, and to require the Legislative Auditing Committee to develop a format for collecting and displaying information from school districts, charter schools, and charter technical career centers.

The bill requires that a state contract management system must be established on the website for the purpose of providing public access to information relating to contracts procured by state governmental entities. The data provided by the system must include, but need not be limited to, the contracting agency, amount of compensation, contract beginning and end dates, type of commodity and service, procurement method, purpose of the commodity or service, compliance information such as performance metrics for the service or commodity, contract violations, number of contract extensions or renewals, and whether the service is required by law. Procurement staff of state governmental entities must update the data within the system immediately upon making major changes to the contract, including renewal of the contract, termination of the contract, extension of the contract, or amendment of the contract.

[3] The Administration Commission, composed of the Governor and Cabinet, is a statutory entity created in s. 14.202, F.S. There are approximately sixty-one references to its duties in the Florida Statutes. Generally, it is a decision-making body in disputed agency actions and approves agency rules that affect multiple governmental units.

The bill also requires that a certified public accountant conducting an audit pursuant to s. 11.45 or s. 218.39 of a unit of local government which is subject to the Transparency Florida Act must report, as part of the audit, whether the entity is in compliance with the act.

Sections 14-17 amend, respectively, ss. 17.11, 216.102, 216.141, and 216.237, F.S., to make nomenclature changes in statutes relating to the duties of the Chief Financial Officer and the planning and budgeting statutes consistent with the bill. Among these is the redesignation of FLAIR as the Financial Management Subsystem.

Section 18 recognizes funding provided by ch. 2008-152, Laws of Florida, the General Appropriations Act, in three specific line item appropriations for initial stages of FFMIS development. Specifically, these line items are:

2449 State Financial Information and State Agency Accounting
2451 Expenses
2452 Operating Capital Outlay
2459 Special Categories

Section 19 provides that the bill takes effect upon becoming law.

Other Potential Implications:

The AEBS is given specific rulemaking authority for the execution of its new statutory responsibilities. Currently, ch. 120, F. S., the Administrative Procedures Act, exempts agency budgets, information technology memoranda issued by the Governor, and agency claims submitted for payments to the Chief Financial Officer from the definition of a rule.[4] Each of these processes implicates a portion of FFMIS. Close coordination will be required to make certain that the rule promulgation and adoption process is not impaired as a result of these different statutory standards exercised by common FFMIS participants.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

[4] Section 120.52(16)(b)1., 2., 4., F.S.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Senate Proposed Bill on General Appropriations includes $300,000 in General Revenue and three full time equivalent positions to implement the provisions of the bill.

(Section 17 obligates a 2008 appropriation made in ch. 2008-152, Laws of Florida; however there are no longer funds associated with this appropriation.)

VI. Related Issues:

The Legislature may wish to clarify what is intended by the phrases "required by law" and "major changes" in s. 215.985(15), F.S., to ensure that entities are reporting the intended information.

Section 215.985(16), F.S., appears to imply that independent certified public accountants conduct the audits required in s. 11.45, F.S.; the Auditor General conducts those audits.

The reporting requirements currently placed in s. 215.985(16), F.S., might be more appropriately placed in the respective substantive provisions, since those sections specify the duties of the respective entities.

Pursuant to s. 215.985(17), F.S., the Joint Legislative Auditing Committee (JLAC) is given the authority to "adopt guidelines" to "administer" the Transparency Florida Act. It is unclear how JLAC, which consists of members of both houses of the Legislature, can adopt guidelines affecting external entities, other than by acting on legislation. As of March 14, 2011, both houses of the Legislature had passed SB1204, which deleted a requirement in Section 11.40(4)(b), F.S., that JLAC provide oversight and management of the website developed pursuant to the Transparency Florida Act.

The state agencies affected will be those governed by ch. 216, F.S., and more particularly, those whose operations are defined in paragraph (qq) of subsection (1), as follows:

> *(qq) "State agency" or "agency" means any official, officer, commission, board, authority, council, committee, or department of the executive branch of state government. For purposes of this chapter and chapter 215, "state agency" or "agency" includes, but is not limited to, state attorneys, public defenders, criminal conflict and civil regional counsel, capital*

collateral regional counsel, the Florida Clerks of Court Operations Corporation, the Justice Administrative Commission, the Florida Housing Finance Corporation, and the Florida Public Service Commission. Solely for the purposes of implementing s. 19(h), Art. III of the State Constitution, the terms "state agency" or "agency" shall include the judicial branch.

Chapter 20, F.S., provides standard nomenclature for the structural components of state agencies. A "department" is the basic building block of government activity and is the structure through which authority is exercised and to which money and positions are appropriated. Its principal subcomponent is a "division." Units below that level may be created by departments; above that level they are created by statute. Since the governmental reorganization of 1969, a variety of structures have entered into the ch. 20, F.S., taxonomy. The most common of these are "offices" or "agencies" which are hybrids of departments and divisions but operating below the departmental level. Some of these were created to execute a matrix form of operations in which considerable autonomy was delegated to division-like units outside of the headquarters location. Chief among these has been the Department of Children and Family Services; the Department of Corrections; the Department of Financial Services; the Department of Revenue; and, the Department of Transportation.

Article IV of the State Constitution limits executive departments to twenty-five in number, excluding those authorized or created in that document. Using that benchmark, the following count is obtained:

- Constitutionally created or authorized (5): State Board of Administration, Department of Veterans' Affairs; Florida Fish & Wildlife Conservation Commission; Department of Elderly Affairs; Board of Governors; and, Parole Commission.

- Authorized by statute (21): Department of State; Department of Legal Affairs; Department of Financial Services; Department of Agriculture and Consumer Services; Department of Education; Department of Business and Professional Regulation, Department of Community Affairs; Department of Children & Family Services; Florida Department of Law Enforcement; Department of Revenue; Department of Management Services; Department of Transportation; Department of Highway Safety and Motor Vehicles; Department of Environmental Protection; Department of Military Affairs; Department of Citrus; Department of Corrections; Department of Juvenile Justice; Department of the Lottery; Agency for Health Care Administration; and, Department of Health.

- Functional equivalent to department (1): Executive Office of the Governor.

- Department-like but statutorily proclaimed as subordinate (3): Agency for Persons with Disabilities; Agency for Workforce Innovation (DMS); and, Agency for Enterprise Information Technology (EOG).

- Total influenced by constitutional limitation: 22.

Unaffected by the limitation are a number of divisions with powers independent of the nominal department head. Examples of these are the Division of Emergency Management (DCA); the

Division of Bond Finance (SBA), and the Division of Administrative Hearings (DMS). The Public Service Commission is excluded from the limitation since it is, by statute, a legislative branch agency.

VII. Additional Information:

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

CS by Governmental Oversight and Accountability on March 17, 2011:
The CS removes a bill section that deleted a statutory provision that allows the Department of Agriculture and Consumer Services to use its own procurement system, instead of the MyFloridaMarketPlace system that other agencies must use. The result is that DACS will continue to be able to use its own system.

B. Amendments:

None.

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 Budget Committee

BILL:	SPB 7090
INTRODUCER:	For consideration by the Budget Committee
SUBJECT:	State Financial Information
DATE:	March 13, 2011
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hawkins	Meyer, C.		**Pre-meeting**
2.				
3.				
4.				
5.				
6.				

I. Summary:

Senate Proposed Bill 7090, makes changes to the Transparency Florida Act, created by chapter 2009-74, Laws of Florida. Provisions in this bill incorporate suggested changes in statute provided by the Joint Legislative Auditing Committee's March 1, 2010 report. In addition to those changes, additional data will be required to be posted to the Transparency Florida Website relating to state contracts management and water management district expenditures. The bill also shifts design and management of the website from the Joint Legislative Auditing Committee to the Department of Financial Services.

This bill amends s.11.45 and 215.985, Florida Statutes.

II. Present Situation:

Chapters 215 and 216, F.S., specify governing principles and organizations involved in the management of the state's financial matters. Chapter 215, F.S., primarily addresses matters pertaining to management, accountability and reporting requirements for funds in the state treasury by the Chief Financial Officer. Chapter 216, F.S., contains the processes by which the state's budget is developed and implemented by Governor's Office, the legislature and state agencies.

Sections 215.90 – 215.96, F.S., govern the establishment and operation of the Florida Financial Management Information System (FFMIS). Section 215.91(8), F.S., requires the FFMIS system, through its functional owner subsystems, to include a data gathering and data distribution facility

to support management decision-making by providing access to statewide financial, administrative, planning and program information. The following FFMIS subsystems are established by s. 215.93, F.S.:

Subsystems of the Florida Financial Management Information System (FFMIS)

Subsystem	Functional Owner
Planning and Budgeting System (PBS)	Executive Office of the Governor
Accounting Information Resource Subsystem (FLAIR)	Chief Financial Officer
Cash Management Subsystem (CMS)	Chief Financial Officer
Purchasing Subsystem (SPURS/MFMP)	Department of Management Services
Personnel Information System (COPES/PF)	Department of Management Services
Legislative Appropriations System (LAS/PBS)	Senate and House of Representatives
State Unified Tax System (SUNTAX)	Department of Revenue

Transparency Florida

Chapter 2009 -74, Laws of Florida, established the Transparency Florida Act in section 215.985, F.S.. The website has been developed and state agency information has been included as required by the Act, and can be accessed at: http://www.transparencyflorida.gov. The state agency information provided on Transparency Florida is from the various subsystems of the Florida Financial Management Information System.

The Transparency Florida website currently provides a continually updated picture of the state's operating budget as well as daily expenditures made by state agencies. The data on the website is updated nightly as funds are released to agencies, transferred between budget categories, and payments are written for goods and services.

The Joint Legislative Auditing Committee was required to propose, by March 1, 2010, a schedule for adding additional information to the website for other governmental entities, including community colleges, state universities, local government units and any entities which receive state appropriations.

Municipalities and special districts with less than 10,000 in population are exempt from the Act's provisions.

The March 1, 2010, report of the Joint Legislative Auditing Committee focused on implementation of financial transparency for school districts. The plan includes three phases.

During the first two phases, documents providing school district financial information that are already available should be made accessible from the Transparency Florida site. Each school district will be required to provide a link to the site. The documents include school district audits and financial-related reports received or compiled by DOE. Most of these are annual reports with information reported at the district-level. Three DOE reports provide school-level information. The members of the committee recommended the implementation of these phases by December 31 , 2010.

The third phase requires school districts to post documents on their websites, such as those presented to school board members. This phase also requires the school districts to transmit transactional data to the state for display on the website. Due to the potential cost to build the system and the lack of requirements for such a system, the committee members recommend that this phase be delayed at this time. The report also recommended the order in which other entities, such as universities, colleges, and local governments, should be included on the Transparency Florida website.

III. Effect of Proposed Changes:

Section 1 amends 11.45, F.S., to require the Auditor General to report to the President of the Senate, the Speaker of the House, and the Legislative Auditing Committee by July 15 of each year a list of school districts and water management districts which have failed to comply with Transparency Florida Act requirements.

Section 2 amends 215.985, F.S., by

- Clarifying that the definition of "government entity" includes public school level data;
- Requiring transition of the website to the Department of Financial Services by July 1, 2012;
- Providing that the reporting format developed by the Department of Financial Services is also required for charter schools and charter technical career centers and school districts;
- Establishing an annual report date of November 1, beginning in 2012, for the Department of Financial Services to submit recommendations for providing additional information to include on the Transparency Florida Website;
- Changing the exemption threshold for municipalities and special districts to report from those with a population of 10,000 or fewer to those with revenues of $10 million or less;
- Providing that the state financial data on Transparency Florida must be maintained for 10 years;
- Providing that any certified public accountant conducting an audit pursuant to 11.45 or 218.39, F.S., shall report whether the entity being audited is in compliance with the act;
- Requiring that certain data for management and oversight of state contracts be maintained on the Transparency Florida Website;
- Requiring that water management districts post, by September 1, 2011, monthly financial data that is currently provided to its governing board;
- Requiring that effective July 1, 2012 that water management district's fiscal year be July 1 to June 30; and
- Requiring that effective July 1, 2012 that each water management district maintain consistent financial information and that beginning July 1, 2013, each district submit monthly detailed financial reports to the Department of Financial Services in a manner adopted by the Chief Financial Officer.

Section 3 provides that this bill shall take effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

There are no fiscal impacts to the state resulting from the provisions in this bill. Costs may be incurred by each water management district to make its financial information consistent across districts and to provide it to the Chief Financial Officer in the manner required. The establishment of a state contract management system that makes accurate contract information available to state employees and members of the public will improve oversight of state contracts.

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.

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 Budget Committee

BILL:	SPB 7092
INTRODUCER:	For consideration by the Budget Committee
SUBJECT:	Consolidation of Enterprise Information Technology
DATE:	March 13, 2011 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hawkins	Meyer, C.		**Pre-meeting**
2.				
3.				
4.				
5.				
6.				

I. Summary:

The bill amends statutes to facilitate ongoing and future consolidations of enterprise information technology resources, including data center consolidations, desktop user support services, and email services: Specifically the bill:

- Clarifies the duties of the Agency for Enterprise Information Technology (AEIT) including its role in developing and coordinating a process for aggregating purchases of information technology services and commodities across state agencies to achieve savings.
- Clarifies the required components of the Agency for Enterprise Information Technology's annual work plan.
- Clarifies the duties of the Agency for Enterprise Information Technology pertaining to the state data center system, to include developing rules relating to its operation.
- Establishes in statute the agency schedule for data center consolidations, providing requirements for the development and submission of appropriate transition plans, providing requirements for the execution of new or updated service level agreements, and establishing agency limitations pertaining to their agency data centers and email services.
- Establishes in statute the agency schedule for transitioning to a statewide email system.
- Establishes a process for planning to consolidate end user support for agency desktops.
- Designates the Northwest Regional Data Center as a primary data center.
- Eliminates the Agency Chief Information Officers Council.

Fiscal Impact: The bill is not expected to have any direct fiscal impact; however the bill sets a framework for achieving future savings. Prior data center consolidations have resulted in several million dollars in savings to date.

This bill substantially amends, creates, or repeals the following sections of the Florida Statutes:

II. Present Situation:

Agency for Enterprise Information Technology (AEIT)
The AEIT is created in s. 14.204, F.S. The Governor and Cabinet are the agency head of the AEIT, though it is statutorily housed in the Executive Office of the Governor (EOG). The AEIT is a separate budget entity that is not subject to control, supervision, or direction by the EOG in any manner. As agency head, the Governor and Cabinet are authorized to appoint an executive director, who is the chief information officer (CIO) of the state. Section 282.0055, F.S., delegates responsibility to the AEIT for the design, planning, project management, and implementation of enterprise information technology services for functions that have been previously delegated to executive branch agencies. The first enterprise IT service assigned to AEIT was the statewide data center system, in 2008.[1] The AEIT was subsequently assigned enterprise responsibilities for information technology security and statewide email.

Among the duties assigned to the AEIT is the development of a work plan describing the activities that the agency intends to undertake each year, with proposed outcomes and completion timeframes.[2] The work plan must be approved by the Governor and Cabinet and submitted to the President of the Senate and the Speaker of the House of Representatives.

The State Data Center System
The state data center system was created by the Legislature in 2008.[3] The system is composed of primary data centers (Southwood Shared Resource Center, Northwood Shared Resource Center and the Northwest Regional Data Center), other nonprimary data centers, and computing facilities serving state agencies. A "primary data center" is a state or nonstate agency data center that is a recipient entity for consolidation of nonprimary data centers and computing facilities. A primary data center may be authorized in law or designated by the AEIT.[4] A "computing facility" is an agency space containing fewer than 10 servers, any of which supports a strategic or nonstrategic information technology service, as described in budget instructions developed pursuant to s. 216.023, F.S., but excludes single-server installations that exclusively perform a utility function such as file and print servers.[5]

The AEIT is responsible for establishing operating policies for the system.[6] It must:

[1] Chapter 2008-116, L.O.F.; CS for SB 1892, which created the statewide data center system, and also made adjustments to the duties of the AEIT.
[2] Section 282.0056, F.S.
[3] Chapter 2008-116, L.O.F.; CS for SB 1892.
[4] Section 282.0041(18), F.S.
[5] Section 282.0041(8), F.S.
[6] Section 282.201(2), F.S.

- Maintain an inventory of facilities within the state data center system.
- Submit to the Legislature by December 31 of each year recommendations to improve the efficiency and effectiveness of computing services provided by state data center system facilities.
- Identify, by October 1 of each year, at least two nonprimary data centers or computing facilities for consolidation into a primary data center or nonprimary data center facility and submit a transition plan.
- Establish by December 31, 2010 an overall schedule of consolidation of all data centers into primary data centers by 2019.

Information Technology Security
In 2009 the Office of Information Security was established within the AEIT, creating duties for both the office and agencies with regards to enterprise security. The office must perform the following duties:

- Develop and annually update an enterprise information security strategic plan that includes security goals and objectives for the strategic issues of information security policy, risk management, training, incident management, and survivability planning.
- Develop enterprise security rules and published guidelines.
- Assist agencies in complying with the provisions of s. 282.318, F.S.
- Pursue appropriate funding for the purpose of enhancing domestic security.
- Provide training for agency information security managers.
- Annually review the strategic and operational information security plans of executive branch agencies.

Statewide Desktop Service
Desktop computing services enable the use of standard office automation functions. Current services include provision of PCs, laptops, peripherals connected to PCs, and standard office automation software. There are more than 130,000 desktop and laptop units in 3900 locations throughout the state.

State agencies plan to spend more than $55.8 million on desktop support services in FY 2011-12. Approximately 557 full-time staff equivalents are needed to support this service, at a cost of $30.5 million. Comparisons with industry benchmark data for desktop support services show agencies have high staff costs for desktop services. The average number of desktops per service FTE (1:243), which is substantially below the industry benchmark[7] (1:372) and corresponds to higher staff costs for agencies. Using the industry benchmark support ratio, the state should be able to support its existing desktop service with 194 fewer staff, which would reduce the state's costs by nearly $10 million per year.

Statewide Email Service

[7] Computer Economics, March 2009.

In 2009 the Legislature established the state e-mail system as an enterprise information technology service to be provided by the Southwood Shared Resource Center. The AEIT was required to collect information about existing email resources, develop a business case and a strategy for transitioning to a statewide enterprise e-mail service and provide recommendations by December 31, 2009 to the Governor, the President of the Senate, and the Speaker of the House of Representatives. Additionally, state agencies were also prohibited from expanding their current e-mail services.

The AEIT's December 31st report provided estimated expenditures for fiscal year 2009-10 for agency email costs of $8.6 million for 117,431 users equating to a cost of just over $6 per user per month. These data have been updated and indicate expenditures of $12.5 million in total lifecycle costs per year, for an average cost per user of approximately $9 per user per month. Additionally agencies reported 58 full-time equivalent positions and over 240 servers involved with provision of state agency email services in FY 2011-12.

III. Effect of Proposed Changes:

Section 1: Amends s. 14.204, F.S., clarifying the duties of the Agency for Enterprise Information Technology and providing a process for AEIT to aggregate purchases of information technology products; and establishing AEIT within the Department of Management Services instead of the Governor's Office.

Section 2: Amends s. 282.0041, F.S., deleting the definitions "Agency Chief Information Officers Council"; and changing the definition for "Primary data center".

Section 3: Amends s. 282.0056, F.S., clarifying the required components of the AEIT work plan and deleting the reference to Agency Chief Information Officers Council.

Section 4: Amends s. 282.201, F.S., by:

- Clarifying the duties of the AEIT pertaining to submission of recommendations.
- Codifying the schedule for agency data center consolidations; requiring agency, primary data center, and AEIT transition plans; and requiring the execution of new or updated service level agreements.
- Clarifying the agency limitations pertaining to their agency data centers, requiring agency data center to adhere to standards set by AEIT to maximize savings.

Section 5: Amends s. 282.203, F.S., by:

- Clarifying the duties of the primary data centers to include assuming administrative access rights to the resources and equipment that are consolidated into the primary data center.
- Clarifying the membership of the primary data center's board of trustees during an agency's transition to the primary data center.

Section 6: Amends s. 282.204, F.S. to establish the Northwood Shared Resource Center in the Department of Management Services.

Section 7: Creates s. 282.206, F.S., designating the Northwest Regional Data Center as a primary data center in law and requiring it to comply with all requirements of s. 282.203, F.S., and the rules of the AEIT.

Section 8: Repeals s. 282.315, F.S., eliminating the Agency Chief Information Officers Council.

Section 9: Amends s. 282.318, F.S., aligning terminology with changes made in s. 14.204, F.S.

Section 10: Amends s. 282.33. F.S., relating to objective standards for data center energy efficiency adjusting the schedule of energy efficiency review to three years from two years for primary data centers.

Section 11: Amends s. 282.34, F.S., clarifying the schedule for transition by all state agencies listed by December 31, 2012; providing authority for AEIT to adjust the schedule of the transition; and providing for agency limitations on expenditures for current email systems until they are consolidated into the statewide system.

Section 12: Creates s. 282.35 F.S., establishing a statewide desktop service; and providing for a process to transition to the statewide service.

Section 13: Amends s. 287.042 F.S., providing the authority for the DMS to adopt rules establishing conditions under which an agency may be exempt from using a state term contract or purchasing agreement if the department determines that it is in the best interest of the state.

Section 14: Amends s. 287.056 F.S., making changes to be consistent with changes in Section 13 to s. 287.042, F.S., and clarifying the requirement of state agencies to use state term contracts unless exemptions are granted.

Section 15: Amends s. 287.057, F.S., to provide rule making authority for the DMS relating to procurement of commodities or contractual services

Section 16: Amends Section 45 of Chapter 2010-151, LOF, to clarify intent that contracts for academic program reviews, auditing services, health services, or Medicaid services are subject to the transaction or user fees imposed under ss. 287.042 (3)(h) and 287.057 (22) F.S., only to the extent that such contracts were not subject to such transaction or user fees before July 1, 2010.

Section 17: Transfers AEIT by Type One transfer from the Executive Office of the Governor to the Department of Management Services.

Section 18: Transfers the Northwood Shared Resource Center by Type One transfer from the Department of Children and Families to the Department of Management Services.

Section 19: Requires the AEIT to provide written status reports to the Executive Office of the Governor and the chairs of the legislative appropriations committees, on progress of migration of state agencies to the statewide email system, every 6 months until migration is complete.

Section 20: Provides that the act shall take effect July 1, 2011.

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:

None.

C. Government Sector Impact:

Data Center Consolidations: A primary goal of data center consolidation is to reduce the state's cost associated with state agencies establishing, operating, and supporting their individual agency data centers and computing facilities. It is projected that for the agencies identified for consolidation in fiscal year 2011-2012, there will be an overall reduction of approximately $4.4 million recurring. (Savings relating to the Fiscal Year 2010-11 were approximately $3 million recurring.) It is anticipated that additional reductions will be realized in subsequent fiscal years until all state agency data centers and computing facilities are consolidated into a primary data center.

- A reduction of $4.4 million ($1.8 million in General Revenue and $2.6 in trust funds) for data center consolidation is contained in Specific Line Item 1978E of Senate Proposed Bill 7084 on General Appropriations.

- In addition the Southwood Shared Resource Center and the Northwood Shared Resource Center are required to provide a plan for further savings of $3 million relating to consolidation and standardization of servers currently within the data center. This reduction is in Specific Appropriation 1978 B of the Senate Proposed Bill 7084 on General Appropriations.

Statewide Email Services:

The Senate Proposed Bill 7084 on General Appropriations contains a reduction of $2.4 million ($0.4 million from General Revenue and $2.0 from trust funds) in Specific Line Item 1978F. Savings resulting from procurement of a statewide email service derive from:

- Reduced FTE's required to support a consolidated email system.
- Reduced energy costs from a reduced number of servers needed.
- Economies of scale from consolidation and standardization of hardware and software required to support one consolidated email system.
- Consolidated purchase of hardware and software or services related to providing centralized email service to over 117,431 users.
- Reduced facility and space needs currently used by 25 state agencies to provide email using over 240 servers and appliances.
- Intangible benefits, including standardization of state email addresses and cross agency calendaring and address books.

Statewide Desktop Services:

The primary goals of the statewide desktop service is to reduce costs through the use of centrally hosted, managed, and provision desktop services.

- No reductions are included in Senate Proposed Bill 7084 on General Appropriations relating to desktop services, however a process is established to transition to the new service. The Senate Proposed Bill 7084 on General Appropriations contains two full time equivalent positions and $250,000 recurring General Revenue to support this transition.
- Agencies have provided estimated planned expenditures of $55.8 million and 557 FTE in FY 2011-12 for desktop services. The average number of desktops per service FTE is 1:243, which is substantially below the industry benchmark of 1:372. Using the industry benchmark support ratio, the state could reduce the state's desktop service staff costs by more than $9.8 million.

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.

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 Budget Committee

BILL:	SPB 7094
INTRODUCER:	For consideration by the Budget Committee
SUBJECT:	Florida Retirement System
DATE:	March 28, 2011 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Leadbeater	Meyer, C.		**Pre-meeting**
2.				
3.				
4.				
5.				
6.				

I. Summary:

This bill makes the following changes to the Florida Retirement System (FRS).

- Changes the name of the FRS defined benefit program to the Florida Retirement System Pension Plan (pension plan), and changes the name of the FRS defined contribution program from the Public Employee Optional Retirement Program to the Florida Retirement System Investment Plan (investment plan).
- Eliminates accumulated annual leave payments and overtime from "compensation" and "average final compensation" on or after July 1, 2011.
- Raises the normal retirement age for Special Risk Class members enrolled on or after July 1, 2011 to that of other classes if they choose to enroll in the pension plan.
- Effective July 1, 2011, closes the pension plan to new enrollees and requires compulsory enrollment in the investment plan, except that those who qualify for Special Risk Class membership may still enroll in the pension plan. Specifies that employees eligible to enroll in one of the three optional retirement programs may elect to do so in lieu of compulsory enrollment in the investment plan.
- Closes the Deferred Retirement Option Program (DROP) to new participants, effective July 1, 2011.
- Allows reenrollment after retirement in the investment plan.
- Changes vesting for members enrolled in the investment plan on or after July 1, 2011. Such members will vest in graded increments over a five-year period.

- Changes the FRS from a noncontributory system to a contributory system and requires each active member of the FRS to contribute 3 percent of pre-tax gross salary to fund retirement benefits, effective July 1, 2011.
- Eliminates the cost-of-living adjustment (COLA) for service earned on or after July 1, 2011.

The bill also includes the following provisions.

- Establishes conforming and implementing provisions related to the substantive changes to the FRS.
- Establishes the required employer payroll contribution rates for each membership class and subclass of the FRS retirement plan for the fiscal year beginning July 1, 2011.
- Requires each active member of the Senior Management Service Optional Annuity Program, the State University System Optional Retirement Program, and the Community College Optional Retirement Program to contribute the same percentage of gross salary to fund retirement benefits as those contributed by FRS employees, effective July 1, 2011.
- Allows the Department of Management Services Bureau of Local Government Retirement Funding (bureau) to use principal moneys deposited in the Police and Firefighters' Premium Tax Trust Fund to fund the bureau's operations when the interest and investment income earned on those moneys is insufficient.
- Links National Guard retiree pension benefit increases to the FRS COLA.
- Provides that during the 90-day period beginning on the effective date of the bill, a FRS employer may contribute to the retirement account of a current employee who is retired from the FRS the amount that would have been contributed had the employee been allowed to reenroll in the FRS during the 2010-2011 fiscal year.

This bill substantially amends the following sections of the Florida Statutes: 110.123, 112.0801, 112.363, 121.011, 121.021, 121.051, 121.0515, 121.052, 121.053, 121.055, 121.071, 121.081, 121.091, 121.1001, 121.101, 121.121, 121.122, 121.125, 121.35, 121.355, 121.4501, 121.4502, 121.4503, 121.571, 121.591, 121.5911, 121.70, 121.71, 121.72, 121.73, 121.74, 121.75, 121.77, 121.78, 175.121, 175.341, 185.10, 185.23, 250.22, and 1012.875.

II. Present Situation:

Florida Retirement System

The Florida Retirement System (FRS) is a multi-employer, non-contributory pension plan providing retirement income benefits to the 572,000 active and 319,000 retired members and beneficiaries of its more than 900 state and local government public employers. Originally established in 1970 as the successor to the Teachers' Retirement System and the State, and County Officers' and Employees' Retirement System, the FRS is today a combination of five previously separate pension plans. Benefit payments are administered by the Department of Management Services through its Division of Retirement while investment management is undertaken by the Board of Administration. Established as a Section 401(a) government plan under the Internal Revenue Code, its benefits are exempt from federal taxation until received by the employee.

As a defined benefit plan, the FRS "Pension Plan" provides retirement income expressed as a percent of final pay. Members accrue retirement credits based upon their eligibility in one of several membership classes. Years of creditable service multiplied by average final salary multiplied by the accrual rate for the membership class, plus up to 500 hours of annual leave, yield a monthly annuity benefit at normal retirement. The accrual rates range from 1.60 percent for the Regular Class to 3.33 percent for Justices and Judges. Members vest 100% in Pension Plan benefits upon completion of 6 years of service. For most membership classes normal retirement occurs at the earlier attainment of 30 years' service or age 62. For public safety employees in the Special Risk Retirement and Special Risk Administrative Support Classes, normal retirement is the earlier attainment of age 55 or 25 years' service. Members seeking early retirement dates receive a five percent reduction in the benefit for each year below their normal age threshold.

All membership classes in the Pension Plan permit enrollment in a Deferred Retirement Option Program (DROP) under which a participant may extend employment for an additional five years - eight years for instructional personnel in district school boards - and receive a lump sum benefit at a fixed rate of interest, currently 6.5 percent, for that additional service. Enrollment in DROP requires the participant to serve the employer with a deferred resignation from employment at the end of the period. The defined benefit plan includes a fixed, annual cost-of-living adjustment of 3 percent.

The 2000 Legislature enacted sweeping changes to the FRS by creating the Public Employees Optional Retirement Program (Part II of ch. 121, F.S.), an alternative defined contribution or "Investment Plan" for its members. While a defined benefit plan provides an annuitized monthly benefit expressed as a percent of final pay, a defined contribution plan gives members an equity interest in their employer's payroll contributions and their earnings, although it does not assure a guaranteed result. DROP enrollment is unavailable in the Investment Plan due to the incompatibility of plan designs. Members vest 100% in Investment Plan benefits upon completion of 1 year of service.

Reenrollment in the FRS is prohibited for retirees who are initially reemployed on or after July 1, 2010.

Management employees and instructional employees in higher educational units are also permitted to enroll in one of three other separate optional retirement programs that exist outside of FRS authority.

Employer Contribution Rates

FRS employers are responsible for contributing a set percentage of their employee's monthly compensation to the Division of Retirement to be distributed into the Florida Retirement System Contributions Clearing Trust Fund. The employer is required to make these contributions no later than the fifth working day of the month following the end of the payroll period.[1]

[1] Section 121.78, F.S.

The employer contribution rate is a "blended contribution rate" set by statute, which is the same percentage regardless of which plan their employee participates in. The rate is determined annually based on an actuarial study by the Department of Management Services that calculates the necessary level of funding to support all of the benefit obligations under both FRS retirement plans.[2] The current employer contribution rate for each membership class is:

Membership Class	Effective July 1, 2009	Effective July 1, 2010
Regular Class	8.69 %	9.63 %
Special Risk Class	19.76 %	22.11 %
Special Risk Administrative Support Class	11.39 %	12.10 %
Elected Officer's Class		
• Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders	13.32 %	15.20 %
• Justices and Judges	18.40 %	20.65 %
• County Officers	15.37 %	17.50 %
Senior Management Service Class	11.96 %	13.43 %

After employer contributions are placed into the FRS Contributions Clearing Trust Fund, benefits under the Investment Plan are transferred to third-party administrators to be placed in the employee's individual investment accounts, whereas benefits under the Pension Plan are placed into the FRS Trust Fund.[3]

Calculation of Pension Plan Benefits

Benefits payable to a pension plan retiree are calculated using formulas that include the average final compensation. "Average final compensation" means the average of the 5 highest fiscal years of compensation for creditable service prior to retirement, termination, or death. The average final compensation includes accumulated annual leave payments, not to exceed 500 hours, and all payments defined as compensation in s. 121.021(22). The average final compensation does not include compensation paid to professional persons for special or particular services; payments for accumulated sick leave made due to retirement or termination; payments for accumulated annual leave in excess of 500 hours; bonuses as defined in s. 121.021(47); third party payments made on or after July 1, 1990; or fringe benefits such as automobile or housing allowances.[4]

"Compensation" means the monthly salary paid a member by his or her employer for work performed arising from that employment. Compensation includes overtime payments paid from a salary fund; accumulated annual leave payments; payments in addition to the employee's base

[2] Section 112.63, F.S.
[3] *See* ss. 121.4503 and 121.72, F.S.
[4] Section 121.021(24), F.S.

rate of pay if specified conditions apply; amounts withheld for tax sheltered annuities or deferred compensation programs, or any other type of salary reduction plan authorized under the Internal Revenue Code.[5]

Optional Retirement Programs

Eligible employees may elect to participate in one of three optional retirement programs in lieu of participation in the FRS.

Members of the Senior Management Service Class may elect to enroll in the Senior Management Service Optional Annuity Program.[6] Employees in specified positions in the State University System may elect to enroll in the State University System Optional Retirement Program.[7] Eligible employees of a community college may elect to enroll in the Community College Optional Retirement Program.[8]

DMS Bureau of Local Government Retirement Funding

The DMS Bureau of Local Government Retirement Funding (bureau) oversees administration of local retirement plans. It is funded by interest and investment income earned on the moneys collected for each municipality or special fire control district and deposited in the Police and Firefighters' Premium Tax Trust Fund.[9]

National Guard Retirees

A member or former member of the Florida National Guard who meets the specified statutory requirements may retire and receive pay in an amount equal to one-half of the base pay prescribed in the applicable pay tables for similar grades and period of service of personnel in the United States Army or Air Force.[10]

III. Effect of Proposed Changes:

Florida Retirement System

Terminology

The bill changes the name of the FRS defined benefit program to the Florida Retirement System Pension Plan, and changes the name of the FRS defined contribution program from the Public Employee Optional Retirement Program to the Florida Retirement System Investment Plan.

[5] Section 121.021(22), F.S.
[6] Section 121.055(6), F.S.
[7] Section 121.35, F.S.
[8] Section 1012.875, F.S.
[9] Section 185.10(1), F.S.
[10] Section 250.22, F.S.

"Compensation" and "Average Final Compensation"

Effective July 1, 2011, the bill eliminates accumulated annual leave payments and overtime from "compensation" and "average final compensation."

Normal Retirement Date

The bill revises the normal retirement date for any Special Risk Class member initially enrolled in the FRS on or after July 1, 2011. Effective July 1, 2011, the bill increases the retirement age and years of service for members of the Special Risk Class and the Special Risk Administrative Support Class as follows, to align the retirement age with that of members of all other classes.:

- Increases the age from 55 to 62 years of age; and
- Increases the years of creditable service from 25 to 30

Pension Plan Enrollment

Effective July 1, 2011, the bill closes the pension plan to new enrollees and requires compulsory enrollment in the investment plan, except that those who qualify for Special Risk Class membership may still enroll in the pension plan.

The bill specifies that employees eligible to enroll in one of the three optional retirement programs may elect to do so in lieu of compulsory enrollment in the investment plan.

Deferred Retirement Option Program

Effective July 1, 2011, the bill closes DROP to new participants. However, any member entering DROP prior to that date may continue participation in DROP until completion.

Reenrollment in the FRS

Effective July 1, 2011, the bill allows reenrollment after retirement in the Regular Class in the FRS investment plan. Such members must meet the reemployment after retirement limitations in s. 121.091(9), F.S., and re-satisfy the vesting requirements of the investment plan. Such members are not entitled to disability benefits as provided in s. 121.091(4), F.S. or s. 121.591(2), F.S.

Vesting of Contributions in Investment Plan

The bill changes vesting of employer contributions for members enrolled in the investment plan on or after July 1, 2011, from 100% vesting upon completion of 1 year of service to the following schedule.

- Upon completion of 1 year of service: 20%.
- Upon completion of 2 years of service: 40%.
- Upon completion of 3 years of service: 60%.
- Upon completion of 4 years of service: 80%.
- Upon completion of 5 years of service: 100%.

Investment plan members will vest immediately in their own employee contributions.

Employee Contributions

The bill defines the terms "member contributions" and/or "employee contributions." These contributions are defined as the sum of all amounts deducted from the salary of a member and credited to the member's individual investment accounts by the employer in accordance with s. 121.72(2), F.S. The contributions also include any earnings on these amounts and any other contributions as specified.

The bill requires each member of the FRS to contribute 3 percent of his or her gross compensation to the FRS, prior to federal tax withholdings. The contribution is treated as an employer-paid employee contribution. The member must consent to the deduction as a condition of employment. A member is fully and immediately vested in all employee contributions paid to the investment plan or pension plan, plus interest and earnings thereon.

The bill specifies that if a member terminates employment for three consecutive months for any reason other than retirement, the member is eligible for a refund in the amount of his or her accumulated contributions as of the date of termination. If a member elects to receive a refund, he or she is considered to have waived all rights under the FRS and to the health insurance subsidy; however, the member does retain the right to purchase his or her prior service credit in accordance with chapter 121, F.S. The refund may not include any interest that the contributions earned, and employer contributions made on behalf of the member are not refundable. A partial refund is prohibited, and a member may not receive a refund if there is a pending or approved qualified domestic relations order filed against the member's account.

The bill provides that a member of the pension plan who chooses to take a refund of employee contributions on or after July 1, 2011, retains his or her prior plan choice upon returning to employment with an FRS employer.

If a member chooses to switch from the pension plan to the investment plan, then a refund is not permitted for any employee contributions or additional payments which exceed the employee contributions that would have accrued had the member remained in the pension plan and not transferred to the investment plan. The same applies for a member who chooses to switch from the investment plan to the pension plan.

If a member chooses to switch retirement plans and contribution adjustments are required due to employer errors or corrections, the member is entitled to the additional contributions. However, the member is responsible for returning any excess contributions resulting from the correction. This return must be made within the period allowed by the United States Internal Revenue Service. The present value of the member's accumulated benefit remains the same.

The bill also provides for a procedure for the repayment of an invalid refund. If a member receives an invalid refund, the member must repay the amount of the invalid refund plus 6.5 interest compounded annually on June 30 from the date of the refund until the invalid refund is

fully satisfied. The invalid refund must be repaid before the member retires or transfers to the investment plan.

Employer Contributions

The bill also establishes employer contribution rates as follows:

Membership Class	Effective July 1, 2011
Regular Class	5.09%
Special Risk Class	13.80%
Special Risk Administrative Support Class	6.67%
Elected Officer's Class • Legislators, Governor, Lt. Governor, Cabinet Officers, State Attorneys, Public Defenders • Justices and Judges • County Officers	 9.46% 12.02% 11.44%
Senior Management Service Class	6.88%

The bill also provides that during the 90-day period beginning on the effective date of the bill, a FRS employer may retroactively contribute to the retirement account of a current employee who is retired from the FRS the amount that would been contributed had the employee been allowed to reenroll in the FRS during the 2010-2011 fiscal year.

Investment Plan Disability Benefit Contributions

The bill provides that effective July 1, 2011, allocations from the FRS Contributions Clearing Trust Fund to provide disability coverage will be the actuarially-indicated amount necessary to fund the statutorily-authorized benefit for the plan year, as determined by the state actuary. The allocations will be used to offset administrative costs for the disability benefit.

Cost-of-Living Adjustment

The bill eliminates the cost-of-living adjustment (COLA) for service earned on or after July 1, 2011.

Restrictions on Payment of Benefits Before Termination

Under the investment plan, Senior Management Service Optional Annuity Program, State University System Optional Retirement Program, or Community College System Optional Retirement program, the bill prohibits the payment of benefits before termination of employment and specifies circumstances. Benefits may not be payable for employee hardships, unforeseeable emergencies, loans, medical expenses, educational expenses, purchase of a principal residence,

or any other reason prior to termination from all employment relationships with participating employers.

Employee Contributions to Optional Retirement Programs

The bill requires each active member of the Senior Management Service Optional Annuity Program, the State University System Optional Retirement Program, and the Community College Optional Retirement Program to contribute the same percentage of gross salary to fund retirement benefits as that contributed by FRS employees, effective July 1, 2011.

DMS Bureau of Local Government Retirement Funding

The bill allows the DMS Bureau of Local Government Retirement Funding (bureau) to use principal moneys deposited in the Police and Firefighters' Premium Tax Trust Fund to fund the bureau's operations when the interest and investment income earned on those moneys is insufficient.

National Guard Retiree Benefits

The bill provides that effective July 1, 2011, the retirement pay of a member or former member of the Florida National Guard may not be recomputed to reflect an increase in the rates of base pay for active members of the armed forces.

The bill also provides that effective July 1, 2012, and annually thereafter on July 1, the Division of Retirement shall adjust the retirement pay of National Guard retirees based on the FRS COLA.

Miscellaneous Provisions

The bill provides a statement of important state interest.

The bill also directs the State Board of Administration and the Department of Management Services to request a private letter ruling and determination letter from the United States Internal Revenue Service (IRS) upon the bill becoming a law. If the IRS refuses to act on the private letter ruling request, a legal opinion from a tax attorney can be substituted. It also provides that if any portion of the bill would cause the FRS to be disqualified for tax purposes under the Internal Revenue Code, then that portion of the bill would not apply. The State Board of Administration and the Department of Management Service must notify the Legislature if any portion of the bill cannot be implemented.

Effective Date

The bill provides an effective date of June 30, 2011, except as otherwise provided in the bill.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandates provision appears to apply because this bill requires cities and/or counties to spend money or take action that requires the expenditure of money; however, an exception applies because the Legislature has determined that this bill satisfies an important state interest. In addition, similarly-situated persons are all required to comply.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The Florida Constitution provides that any retirement or pension system supported in whole or part by public funds shall not increase benefits to the members or beneficiaries of the system after January 1, 1977, unless the provision of the funding increase is made on a sound actuarial basis.[11] The "Florida Protection of Public Employee Retirement Benefits Act" prohibits "the use of any procedure, methodology, or assumptions the effect of which is to transfer to future taxpayers any portion of the costs which may reasonably have been expected to be paid by the current taxpayers."[12]

Provisions in the bill that create additional benefits may require an actuarial study.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

none

B. Private Sector Impact:

none

C. Government Sector Impact:

Actuarial studies have been performed to determine the cost savings associated with requiring a 5 percent employee contribution rate, closing DROP, closing the pension plan, changing the definition of compensation and eliminating COLA on retirement payments earned on or after July 1, 2011and increasing the normal retirement date. There is an indeterminate impact from keeping the pension plan open for special risk for those

[11] Section 14, Art. X, Florida Constitution.
[12] Section 112.61, F.S.

who choose the pension plan over the investment plan which also requires increases normal retirement age/years for special risk if they choose the pension plans to that of other RS members. The actuary also provided figures for requiring a 3 percent employee contribution rate based upon the 5 percent contribution study. The cost savings are as follows:

Entities Funded by the State	General Revenue	Trust Fund
State	$161.159 million	$145.812 million
County School Boards	$678.646 million	
Community Colleges	$46.916 million	
SUS	$58.116 million	
Total	*$944.837* million	$145.812 million

VI. Technical Deficiencies:

None.

VII. Related Issues:

The Legislature may wish to clarify whether retirees from an optional retirement program will be allowed to reenroll in that program, or if such retirees would become mandatory members of the FRS investment plan.

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.

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 Budget Committee

BILL:	SPB 7096
INTRODUCER:	For consideration by the Budget Committee
SUBJECT:	State Employee Health Insurance
DATE:	March 28, 2011 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Leadbeater	Meyer, C.		**Pre-meeting**
2.				
3.				
4.				
5.				
6.				

I. Summary:

This bill includes the following provisions.

- Sets the level of employer contributions into a participant's health savings account for those employees participating in the high deductible plans in the State Employee Health Insurance Program at $500 for individual coverage and $1000 for family coverage, through the end of 2011; HSA contributions for both individual and family plans will be $1000 yearly in 2012.
- Gives the Department of Management Services (department) the authority to create incentive and compliance programs, and the authority to charge different contributions based on participation in such programs;
- Requires the department to self-insure, beginning in January 2012, and gives the department the authority to do so.
- Sets employee contribution rates for July through December, 2011.
- Caps the state's contribution towards annual premiums at $6000, beginning with the 2012 plan year, and establishes the employee contribution as the difference between the cost of the plan and the state's contribution.
- Requires the department to charge actuarially indicated rates for retiree plans starting in the 2012 plan year.

This bill substantially amends the following sections of the Florida Statutes: 110.123, 110.12315, and 112.0801.

This bill repeals section 110.12302, Florida Statutes.

II. Present Situation:

State Employee Health Insurance Program and Health Savings Accounts

Section 110.123, F.S., creates the State Employee Health Insurance Program. As implemented by the department, the program offers four types of health plans: a standard statewide Preferred Provider Organization (PPO) Plan, a Health Investor PPO Plan, a standard Health Maintenance Organization (HMO) Plan, or a Health Investor HMO Plan.

The State Employees' PPO plan, consisting of the standard PPO Plan and the Health Investor PPO Plan, is a self-insured health plan administered by Blue Cross Blue Shield of Florida. The administrator is responsible for processing health claims, providing access to a Preferred Provider Care Network, and managing customer service, utilization review, and case management functions.

Each HMO is a self-administered, pre-paid health plan that provides health services to people who live or work within the HMO's service area. Five HMOs provide coverage in various geographic regions. The standard HMO plan providers are VISTA, Capital Health Plan, AvMed, United Health Care, and Florida Health Care Plan. The Health Investor HMO plan providers are VISTA, AvMed, and United.

A state employee participating in either Health Investor plan is eligible to receive contributions into the employee's health savings account. The participant may draw upon these funds to meet the out-of-pocket medical and pharmacy expenses.

The annual contribution from the State Employee Health Insurance Trust Fund is currently $500 for single coverage and $1000 for family coverage. These contributions are made in equal monthly installments throughout the plan year. These contributions are funded as part of the employer paid premium for health insurance coverage.

III. Effect of Proposed Changes:

Section 1 amends s. 110.123, F.S., as follows.

- Amends definitions consistent with other changes in the bill.
- Deletes references to TRICARE supplemental insurance plans, which are no longer offered.
- Deletes unused provisions relating to Medicare/Medicaid HMO's.
- Gives the department the authority for incentive and compliance programs, and the authority to charge different contributions based on participation in such programs.
- Provides the level of the monthly employer contribution into a participant's health savings account. Through the end of 2011, it will remain at the current level of $41.66 for individual coverage ($500 annually) and $83.33 for family coverage ($1000 annually). Beginning January 1, 2012, both individual and family coverage will get $1000 annually.

Section 2 repeals s. 110.12302, F.S., which required the department to consider and report on self-insured options in its procurement for HMO contracts by February 1, 2011.[1]

Section 3 creates s. 110.12303, F.S., which requires the department to self-insure, beginning in January 2012, and gives it the authority to do so.

Section 4 amends s. 110.12315, F.S., to allow the department flexibility in negotiating prescription drug provisions, allow for 90 days of supply at a retail pharmacy, and allow the department to require use of generics or formulary brands before dispensing alternatives.

Section 5 amends s. 112.0801, F.S., to remove state agencies from the list of entities which must give retirees benefits at the same cost as to active employees.

Section 6 creates an unnumbered section that:

- Requires the department to offer the same plans as currently provided.
- Requires the health insurance to be self-insured for active and non Medicare-eligible employees, starting in 2012.
- Permits the health insurance to be self-insured for Medicare-eligible employees, starting in 2012.
- Requires high-deductible plans to include an integrated health savings account.
- Caps the state's contribution towards annual premiums at $6000, beginning with the 2012 plan year.

Section 7 establishes the premiums to be paid for health insurance as follows:

State Contribution	**July-Dec 2011**	**January-Dec 2012**
individual coverage	$499.80/month	max $500/month
family coverage	$1013.34/month	max $500/month
family coverage, spouse plan	$506.67/month	max $500/month
Employee Contribution		
individual coverage, standard	$50/month	Cost of plan – state contribution
family coverage, standard	$230/month	Cost of plan – state contribution
individual coverage, high deductible	$15/month	Cost of plan – state contribution
family coverage, high deductible	$64.30/month	Cost of plan – state contribution
family coverage, spouse plan	$115/month	Cost of plan – state contribution
family coverage, spouse plan, high deductible	$32.15/month	Cost of plan – state contribution

[1] Section 3, Chapter 2010-150, L.O.F.

The bill sets premium rates for state retirees eligible and ineligible for Medicare, and provides that starting in plan year 2012, all such rates must be established at the actuarially indicated rate.

The bill also sets the COBRA rate at 102 percent of the total premium charged.

Section 8 provides that this act shall take effect July 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Indeterminate.

C. Government Sector Impact:

Total savings for FY 2011-12 to the state resulting from these changes are estimated to be $351,462,419, consisting of $235,111,821 General Revenue and $116,350,598 Trust Funds.

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.

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LEGISLATIVE ACTION

Senate . House

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The Committee on Budget (Alexander) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Section 215.89, Florida Statutes, is created to read:

215.89 Charts of account.—

(1) LEGISLATIVE INTENT.—It is the intent of the Legislature that a mechanism be provided for obtaining detailed, uniform reporting of government financial information to enable citizens to view compatible information on the use of public funds by governmental entities. The Legislature intends that uniform reporting requirements be developed specifically to promote

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accountability and transparency in the use of public funds. In order to accommodate the different financial management systems currently in use, separate charts of account may be used as long as the financial information is captured and reported consistently and is compatible with any reporting entity.

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

(a) "Charts of account" means a compilation of uniform data codes that are to be used for reporting governmental assets, liabilities, equities, revenues, and expenditures to the Chief Financial Officer. Uniform data codes shall capture specific details of the assets, liabilities, equities, revenues, and expenditures that are of interest to the public.

(b) "State agency" means an official, officer, commission, board, authority, council, committee, or department of the executive branch; a state attorney, public defender, criminal conflict and civil regional counsel, or capital collateral regional counsel; the Florida Clerks of Court Operations Corporation; the Justice Administrative Commission; the Florida Housing Finance Corporation; the Florida Public Service Commission; the State Board of Administration; the Supreme Court or a district court of appeal, circuit court, or county court; the Judicial Qualifications Commission; or the legislative branch of government.

(c) "Local government" means a municipality, county, water management district, special district, or any other entity created by a local government.

(d) "Educational entity" means a school district or an entity created by a school district.

(e) "Entity of higher education" means a state university,

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a state or Florida College System institution, or an entity created by a state university or state or Florida College System institution.

(f) "State and local government financial information" means the assets, liabilities, equities, revenues, and expenditure information that is recorded in financial management systems of state agencies, local governments, educational entities, and entities of higher education.

(3) REPORTING STRUCTURE.—

(a) Beginning October 1, 2011, the Chief Financial Officer shall conduct workshops with state agencies, local governments, educational entities, entities of higher education, and the Legislature to gather information pertaining to uniform statewide reporting requirements to be used to develop charts of account by the Chief Financial Officer. Proposed charts of account shall be published by July 1, 2013.

(b) The Chief Financial Officer shall accept comments from state agencies, local governments, educational entities, entities of higher education, and other interested parties regarding the proposed charts of account until November 1, 2013.

(c) By January 1, 2014, the Chief Financial Officer, after consultation with affected state agencies, local governments, educational entities, entities of higher education, and the Auditor General, shall adopt charts of account which:

1. Require specific enterprise-wide information;

2. Allow additional agency-specific information;

3. Require uniform reporting for expenditures and revenues by state agencies, local governments, educational entities, and entities of higher education; and

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4. To the maximum extent possible, require at least two additional levels of specificity on the expenditure of public funds.

(d) Each state agency, local government, educational entity, and entity of higher education must implement the applicable charts of account adopted pursuant to paragraph (c) during the next fiscal year beginning on July 1, 2014.

(e) The Chief Financial Officer shall periodically update the charts of account on an as-needed basis. The Chief Financial Officer shall perform an annual review of the validity and usefulness of the data reported and, after consultation with the Legislature, the Auditor General, and the affected reporting state agencies, local governments, educational entities, and entities of higher education, shall determine whether modification of reporting requirements is necessary.

(4) PROCEDURES.—The Chief Financial Officer shall publish the charts of account by means of memoranda directed to all affected reporting entities.

Section 2. Paragraph (c) of subsection (16) of section 120.52, Florida Statutes, is amended to read:

120.52 Definitions.—As used in this act:

(16) "Rule" means each agency statement of general applicability that implements, interprets, or prescribes law or policy or describes the procedure or practice requirements of an agency and includes any form which imposes any requirement or solicits any information not specifically required by statute or by an existing rule. The term also includes the amendment or repeal of a rule. The term does not include:

(c) The preparation or modification of:

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1. Agency budgets.

2. Statements, memoranda, or instructions to state agencies issued by the Chief Financial Officer ~~or Comptroller as chief fiscal officer of the state~~ and relating or pertaining to claims for payment submitted by state agencies to the Chief Financial Officer or Comptroller.

3. Statements, memoranda, or instructions to state agencies, local governments, educational entities, and entities of higher education issued by the Chief Financial Officer and relating or pertaining to the manner in which accounts and financial information are kept and reported to the Chief Financial Officer by state agencies, local governments, educational entities, and entities of higher education.

4.~~3.~~ Contractual provisions reached as a result of collective bargaining.

5.~~4.~~ Memoranda issued by the Executive Office of the Governor relating to information resources management.

Section 3. The Legislature finds that this act fulfills an important state interest.

Section 4. This act shall take effect July 1, 2011.

========== 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 Chief Financial Officer; creating s. 215.89, F.S.; providing legislative intent; providing definitions; requiring the Chief

Financial Officer to conduct workshops with state agencies, local governments, educational entities, and entities of higher education to gather information pertaining to uniform reporting requirements; requiring the Chief Financial Officer to accept comments from state agencies, local governments, educational entities, entities of higher education, and interested parties regarding proposed charts of account by a certain date; requiring the Chief Financial Officer to adopt charts of account which meet certain requirements by a certain date; requiring a review and update of the charts of account; requiring the Chief Financial Officer to consult with the Legislature, the Auditor General, and the affected parties about certain modifications; requiring the Chief Financial Officer to publish the charts of account by memoranda to all affected reporting entities; amending s. 120.52, F.S.; revising the definition of the term "rule" to include certain statements, memoranda, or instructions by the Chief Financial Officer on the manner in which accounts and financial information are kept and reported by state agencies, local governments, educational entities, and entities of higher education; providing a declaration of important state interest; providing an effective date.

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 Budget Committee

BILL:	CS/SB 1292
INTRODUCER:	For consideration by the Budget Committee
SUBJECT:	Chief Financial Officer/Chart of Accounts
DATE:	March 28, 2011
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Leadbeater	Meyer, C.		**Pre-meeting**
2.				
3.				
4.				
5.				
6.				

I. Summary:

Provides definitions. Requires governmental entities (state agencies, local governments, educational entities, and entities of higher education to report their financial data in accordance with the requirements of the Chief Financial Officer by a certain date. Requires the Chief Financial Officer to adopt charts of accounts that meet certain requirements by a certain date. Requires periodic reviews, consultations, and update of the charts of accounts. Requires the Chief Financial Officer to adopt certain procedures relating to the charts of accounts. Provides a declaration of important state interest.

II. Present Situation:

Presently the CFO maintains two different kinds of charts of accounts, one for state agencies and one for local governments. The CFO does not maintain the accounting structures for the State's educational entities or institutions of higher education. Several entities defined as state agencies in this bill, including the Florida Housing Finance Corporation, the State Board of Administration, as well as all local governments, and education entities, do not use the state's accounting system, Florida Accounting Information Resource (FLAIR). These entities have their own accounting systems with their financial data management codes that are unique to their operations. In addition, some entities are governed by and audited under accounting and auditing standards different from the state.

The Florida Accounting Information Resource System

The Florida Accounting Information Resource System (FLAIR) is one of the subsystems of the Florida Financial Management Information System established in s. 215.93, F.S. The Department of Financial Services (DFS) is the functional owner of FLAIR, which must include the following functions.

- Accounting and reporting so as to provide timely data for producing financial statements for the state in accordance with generally accepted accounting principles.
- Auditing and settling claims against the state.

According to the FLAIR Procedures Manual:

> To conform with GASB Statement No. 1, General Principles Section 1800, a chart of State Standard codes has been developed for the State of Florida which classifies Organizational structures, Budget Entities, Internal Budget Indicators, Funds, General Ledger Codes, Object Codes, Appropriation Categories, and State Programs. It also provides for other classifications as they are required. The Florida Accounting Information Resource System further provides for fund accounting, budgetary accounting, financial accounting and legal compliance with the statutes of the State of Florida. [1]

Local Government Annual Financial Reports

Section 218.32 (1), F.S., requires that local governments submit to DFS an Annual Financial Report covering their operations for the preceding fiscal year. DFS makes available to local governments an electronic filing system that accumulates the financial information reported on the annual financial reports in a database and makes that information available to the public in an electronic format.

In order to improve government accountability by making financial information reported by Florida's local governments more comparable, thereby enabling local taxpayers and local policy makers to better understand and evaluate local government service delivery and operations, all local governmental entities are required to use accounting principles, such as the Uniform Accounting System Chart of Accounts when completing their Annual Financial Report.

Submission of the annual report depends on whether or not the local government entity is required to have an annual audit; if no audit is required the deadline is April 30 of each year, and if an audit is required the deadline is no later than 12 months after the end of the fiscal year. If DFS does not receive a completed annual financial report from a local government entity within the required period, DFS must notify the Legislative Auditing Committee, which must schedule a hearing.

[1] FLAIR Procedures Manual, September 1, 2007, chapter 2, page 1, last visited on March 8, 2011: http://www.myfloridacfo.com/aadir/docs/FLAIRProceduresCh.1-7.pdf

If the Legislative Auditing Committee determines that an entity should be subject to further state action, the committee must:

- In the case of a local government entity or a district school board, direct the Department of Revenue and the Department of Financial Services to withhold any funds not pledged for bond debt service satisfaction until the local government entity or the district school board is in compliance. The committee must specify the date that action will begin and both departments must receive notification 30 days before the date the withheld funds would normally be distributed.[2]
- In the case of a special district, the committee must notify the Department of Community Affairs and the department must offer assistance to the special district. If the district continues in noncompliance, the department must petition the circuit court in Leon County for a writ of certiorari, and the court must award attorney costs and court fees to the prevailing party.[3]
- In the case of a charter school or charter technical career center, the committee must notify the appropriate sponsoring entity that may terminate the charter.[4]

Local Government Accounting Practices and Procedures

Section 218.33(2), F.S., requires each local governmental entity to follow uniform accounting practices and procedures as promulgated by rule of DFS to assure the use of proper accounting and fiscal management by such units. The rules must include a uniform classification of accounts.

Local Government Annual Financial Audit Reports

Section 218.39, F.S., provides that if a local government will not be audited by the Auditor General, the local government must provide for an annual financial audit to be completed within 12 months after the end of the fiscal year. The audit must be conducted by an independent certified public accountant retained by the entity and paid for from public funds. The entities are:

- Each county, district school board, charter school, or charter technical center;
- Each city with revenues or expenditures and expenses of more than $250,000;
- Each special district with revenues or expenditures and expenses of more than $100,000;
- Each city with revenues or expenditures and expenses between $100,000 and $250,000 that has not been audited within the 2 preceding fiscal years; and
- Each special district with revenues or expenditures and expenses between $50,000 and $100,000 that has not been audited within the 2 preceding fiscal years.

Uniform Records and Accounts – Education

Pursuant to s. 1010.01, F.S., the financial records and accounts of each school district, community college, and other institution or agency under the supervision of the State Board of

[2] Section 11.40(5), F.S.
[3] *See* s. 189.421(3), F.S.
[4] *See* s. 11.40(5), F.S.

Education must be prepared and maintained as prescribed by law and rules of the State Board of Education. The financial records and accounts of each state university under the supervision of the Board of Governors must be prepared and maintained as prescribed by law and rules of the Board of Governors.

Rules of the State Board of Education and rules of the Board of Governors must incorporate the requirements of law and accounting principles generally accepted in the United States, and the rules must include a uniform classification of accounts.

Each state university must annually file with the Board of Governors financial statements prepared in conformity with accounting principles generally accepted by the United States and the uniform classification of accounts prescribed by the Board of Governors.

Required financial accounts and reports must include provisions that are unique to each of the following: K-12 school districts, community colleges, and state universities, and must provide for the data to be reported to the National Center of Educational Statistics and other governmental and professional educational data information services as appropriate.

Cost Accounting and Reporting – School Districts

Each school district must account for expenditures of all state, local, and federal funds on a school-by-school and a district-aggregate basis in accordance with the manual developed by the Department of Education (DOE) or as provided by law.[5] The DOE has incorporated into an administrative rule[6] the Financial and Program Cost Accounting and Reporting for Florida Schools (Redbook 2001), which provides Florida school districts with a uniform chart of accounts for budgeting and financial reporting.

The chart of accounts included in the Redbook is adapted from the United States Department of Education publication, *Financial Accounting for Local and State School Systems*, which establishes a comprehensive and uniform structure for reporting education fiscal data. The Florida chart of accounts was modified following the initial publication of the Federal manual in 1957 and the major revision of 1973. Subsequent Federal revisions in 1980 and 1990 have also been addressed to ensure compatibility in national statistical reports.[7]

[5] Section 1010.20(1), F.S.
[6] Rule 6A-1.001, F.A.C.
[7] Financial and Program Cost Accounting and Reporting for Florida Schools (Redbook 2001), 1-1

Constitutional Duties of the Chief Financial Officer

Article IV, section 4(c) of the Florida Constitution provides that "the chief financial officer shall serve as the chief financial officer of the state, and shall settle and approve accounts against the state, and shall keep all state funds and securities."

III. Effect of Proposed Changes:

Section 1, Paragraph (1) Provides intent of the Legislature that uniform reporting requirements be developed specifically to promote accountability and transparency.

Paragraph (2) "Definitions": defines Chart of Account for purposes of the section. The bill expands the definition for "State Agencies" and "Local Governments" to include entities that have not historically been considered "State Agencies" or "Local Governments" in other statutes. This bill may require these entities to meet financial reporting requirements they have previously not addressed.

Paragraph (3), Implementation of Reporting Structure: The bill directs the CFO to conduct workshops with affected governmental entities to gather reporting requirements, and to issue proposed charts of accounts by July 1, 2013. Comments to the proposed accounts will be received by November 1, 2013. By January 1, 2014, the CFO shall adopt charts of accounts meeting specified conditions. Beginning the next fiscal year (July 1 for state agencies and universities, October 1, for local governments) the new chart of accounts will be adopted. The CFO shall periodically update the charts of accounts and annually, in consultation with the Legislature, Auditor general, and affected parties, review the validity of the data reported.

This part also requires the CFO to create where feasible "at least two additional levels of specificity on the expenditure of public funds". The basic form of the state's high-level chart of account elements for General Ledger and Object Code have not changed in over twenty-five years. The codes were developed with a general value for state-wide reporting with additional values available for each agency to define agency unique codes that would roll up to the state-wide value. This section's requirement may necessitate that the Division of Accounting and Auditing to curtail or reduce the current practice in FLAIR of agencies having agency specific values established at a greater level of detail than provided for General Ledger codes and Object codes. There will be significant work needed to address the standardization of values used in these chart fields that is acceptable to many user agencies that define different meanings to common values.

Section 2. Section 120.52(16(c)2, F.S., is amended to provide that information issued on chart of accounts is not considered a Rule.

Section 3. Legislative finding of the act fulfills an important state interest.

Section 4. The act takes effect July 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

To the extent this bill requires cities and counties to expend funds to comply with the charts of accounts developed by the chief financial officer, the provisions of Section 18(a) of Article VII of the State Constitution may apply. If those provisions do apply, in order for the law to be binding upon the cities and counties, the legislature must find that the law fulfills an important state interest (see section 2) and one of the following relevant exceptions must apply:

- Funds estimated at the time of enactment to be sufficient to fund such expenditures are appropriated;
- Counties and cities are authorized to enact a funding source not available for such local government on February 1, 1989, that can be used to generate the amount of funds necessary to fund the expenditures;
- Che expenditure is required to comply with a law that applies to all persons similarly situated; or
- The law must be approved by two-thirds of the membership of each house of the legislature.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

State Agencies:

	(FY 10-11) Amount / FTE	(FY 11-12) Amount / FTE	(FY 12-13) Amount / FTE
Expenditures			
1. Recurring		$212,932 / 4	$212,932 / 4
2. Non-Recurring		$16,000 / 4	

Local Governments:

This requirement would require that local governments and other governmental entities modify their current accounting systems to enable them to report to the CFO in conformity with a uniform State chart of accounts. Costs are not estimated and are likely to be significant.

VI. Technical Deficiencies:

None.

VII. Related Issues:

SJR 1276 proposes a constitutional amendment providing the CFO with constitutional authority for implementing the charts of accounts. If SB 1292 is to be enacted without a constitutional amendment, the Legislature may want to clarify any necessary statutory authority for the CFO to carry out the duties required in this bill.

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 Governmental Oversight and Accountability on March 15, 2011:
The CS removes a definition of "statutorily authorized governmental entities," and the requirement that those entities maintain financial data in a manner consistent with the applicable financial data management codes adopted by the CFO.

The CS also removes the effective date contingency with SJR 176, and specifies that the effective date is July 1 , 2011.

B. Amendments:

None.

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 Budget Committee

BILL:	SPB 7098
INTRODUCER:	For consideration by the Budget Committee
SUBJECT:	Office of Drug Control
DATE:	March 25, 2011 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hawkins	Meyer, C.		**Pre-meeting**
2.				
3.				
4.				
5.				
6.				

I. Summary:

SPB 7098 disestablishes the Office of Drug Control within the Executive Office of the Governor (office of drug control), and disestablishes the Seaport Security Standards Advisory Council therein.

The bill relocates the Statewide Office for Suicide Prevention (statewide office) from within the office of drug control to the Department of Children and Families (DCF). The bill repeals the requirement that the statewide office provide access to suicide prevention educational resources for use in the school district professional development system

The Statewide Drug Policy Advisory Council (council) is relocated from the Executive Office of the Governor to the Department of Health (DOH).

This bill substantially amends ss. 14.2019, 14.20195, 311.12, 311.123, 397.333, 893.055, 943.031, and 943.042, F.S., and repeals s. 311.115, 397.332, 1006.07(7), F.S.

II. Present Situation:

In 1999, the Legislature created the Office of Drug Control and the Drug Policy Advisory Council in the Executive Office of the Governor.[1] The primary purposes of the office are to coordinate drug control efforts; provide information to the public about the problem of substance

[1] Chapter 1999-187, L.O.F.

abuse and services available; and develop a strategic program and funding to coordinate state agency activities relating to drug control.[2]

The director of the office chairs the Drug Policy Advisory Council,[3] Seaport Standards Advisory Council,[4] the Suicide Prevention Coordinating Council,[5] and the Prescription Drug Monitoring Program Oversight and Implementation Task Force.[6]

- *The Drug Policy Advisory Council* is to conduct a comprehensive analysis of the problem of substance abuse in Florida and make recommendations to the Governor and Legislature for developing and implementing a state drug-control strategy.[7]
- *The Seaport Security Standards Advisory Council* reviews statewide minimum standards for seaport security in relation to combating current narcotics and terrorism threats to Florida's seaports.[8]
- *The Suicide Prevention Coordinating Council* developed strategies for preventing suicide and advised the Statewide Office for Suicide Prevention regarding the development of a statewide plan for suicide prevention.[9]
- *The Prescription Drug Monitoring Program Oversight and Implementation Task Force* is to monitor the implementation and safeguarding of the electronic system established for the prescription drug monitoring program,[10] and to ensure the privacy and protection of individual medication history, and appropriate use of the electronic system by physicians, dispensers, pharmacies, law enforcement agencies, and those authorized to request information from the monitoring program's database.[11]

III. Effect of Proposed Changes:

SPB 7098 disestablishes the Office of Drug Control within the Executive Office of the Governor by repealing s. 397.332, F.S.

The bill disestablishes the Seaport Security Standards Advisory Council from within the Governor's Office of Drug Control by repealing s. 311.115, F.S.

The bill relocates the Statewide Office for Suicide Prevention (statewide office) from within the Governor's Office of Drug Control to the Department of Children and Families. The bill directs that revenues from grants are to be deposited in DCF's Grants and Donations Trust Fund, rather than in that of the Executive Office of the Governor. Membership of the Suicide Prevention Coordinating Council is revised from 28 voting members to 27 voting and one nonvoting

[2] Section 397.332(2), F.S.
[3] Section 397.333, F.S.
[4] Section 311.115, F.S.
[5] Section 14.20195, F.S.
[6] Section 2 of Chapter 2009-198, L.O.F,. created the Task Force. The Task Force expires on July 1, 2012.
[7] Governor's Office of Drug Control, Advisory Councils and Task Forces. Available at http://drugcontrol.flgov.com/advisorycouncil.php#dpac (last visited March 25, 2011).
[8] *Id.* The last meeting of the Seaport Security Standards Advisory Council appears to have been on April 18, 2008.
[9] *Id.*
[10] Established in ss. 893.055 and 893.0551, F.S.
[11] Governor's Office of Drug Control, Advisory Councils and Task Forces.

member. Thirteen members are appointed by the director of the statewide office, who is the nonvoting member and chair.

The Statewide Drug Policy Advisory Council (council) is relocated from the Executive Office of the Governor to the Department of Health (DOH) by amending s. 397.333, F.S. The Surgeon General or his designee is a nonvoting ex officio member and council chair. The bill provides that the director of the Office of Planning and Budgeting may appoint a designee to be a nonvoting ex officio council member. DOH is required to provide staff support for the council.

The membership of the Florida Violent Crime and Drug Control Council, established in s. 943.031(2), F.S., is revised to replace the director of the office of drug control with the policy coordinator in the Public Safety Unit of the Office of Planning and Budgeting. Similarly, s. 943.031(6), F.S., is amended to replace the director with the director of the Office of Planning and Budgeting on the Drug Control Strategy and Criminal Gang Committee.

The bill repeals s. 1006.07(7), F.S., which requires the Office of Suicide Prevention to provide access to suicide prevention educational resources for use in the school district professional development system under s. 1012.98.

The bill amends ss. 14.2019, 14.20195, 311.12, 311.123, 397.333, 893.055, 943.031, 943.042, F.S. to conform the statutes to the changes made in this bill.

The Division of Statutory Revision of the Office of Legislative Services is requested to prepare a reviser's bill for consideration in the 2012 Regular Session of the Legislature to conform the statutes to the changes made by the act.

The act is effective July 1, 2011.

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:

C. Government Sector Impact:

The Senate Proposed Bill on General Appropriations eliminates two full time equivalent positions and $150,000 in General Revenue for the Office of Suicide Prevention and five full time equivalent positions and $431,743 in General Revenue. Also $439,062 in Under Age Drinking Laws Federal Block Grant Funds are transferred to the Department of Business and Professional Regualtions. These funding recommendations were also included in the Governor's Budget Recommendation.

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.

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 Budget Committee

BILL:	SPB 7100
INTRODUCER:	For consideration by the Budget Committee
SUBJECT:	Florida Energy and Climate Commission
DATE:	March 13, 2011 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hawkins	Meyer, C.		**Pre-meeting**
2.				
3.				
4.				
5.				
6.				

I. Summary:

This bill eliminates the Florida Energy and Climate Commission and transfers functions to the Department of Environmental Protection. Funding provided to the commission is transferred to the Department of Environmental Protection in the Senate's proposed committee bill for the General Appropriations Act. The Department will administer all activities previously assigned to the commission.

This bill substantially amends the following sections of the Florida Statutes: 213.053, 220.192, 288.1089, 288.9607, 366.82, 366.92, 377.602, 377.603, 377.604, 377.605, 377.606, 377.608, 377.701, 377.703, 377.804, 377.806, 377.807, 377.808, 377.809, 403.44, 526.207, 1004.648, ss. 1 and 2 of Chapter 2010-282,

This bill repeals the following sections of the Florida Statutes: 377.6015

II. Present Situation:

Section 377.6015, F.S., creates the Florida Energy and Climate Commission (FECC) within the Executive Office of the Governor. The FECC consists of nine members, seven appointed by the Governor, one appointed by the Commissioner of Agriculture, and one appointed by the Chief Financial Officer. Each appointment is made from a list of three persons nominated by the Florida Public Service Commission Nominating Council. Members are appointed to 3-year terms. The Governor selects the chair. Appointments are subject to confirmation by the Senate during the next regular session after the vacancy occurs.

The chair may designate the following ex officio, nonvoting members to provide information and advice to the FECC at the request of the chair:

- The chair of the PSC, or his or her designee.
- The Public Counsel or his or her designee.
- A representative of the Department of Agriculture and Consumer Services.
- A representative of the Department of Financial Services.
- A representative of the Department of Environmental Protection.
- A representative of the Department of Community Affairs.
- A representative of the Board of Governors of the State University System.
- A representative of the Department of Transportation.

Members must meet the following qualifications and restrictions:

- A member must be an expert in one or more of the following fields: energy, natural resource conservation, economics, engineering, finance, law, transportation and land use, consumer protection, state energy policy, or another field substantially related to the duties and functions of the FECC and the FECC must fairly represent these fields.
- Each member must, at the time of appointment and at each FECC meeting during his or her term of office, disclose:
    - Whether he or she has any financial interest, other than ownership of shares in a mutual fund, in any business entity that, directly or indirectly, owns or controls, or is an affiliate or subsidiary of, any business entity that may be affected by the policy recommendations developed by the FECC.
    - Whether he or she is employed by or is engaged in any business activity with any business entity that, directly or indirectly, owns or controls, or is an affiliate or subsidiary of, any business entity that may be affected by the policy recommendations developed by the FECC.

Members serve without compensation but are entitled to reimbursement for per diem and travel expenses. Meetings may be held in various locations around the state and at the call of the chair; however, the FECC must meet at least six times each year.

The FECC is authorized to:

- Employ staff and counsel as needed in the performance of its duties.
- Prosecute and defend legal actions in its own name.
- Form advisory groups consisting of members of the public to provide information on specific issues.

The FECC is required to:

- Administer the Florida Renewable Energy and Energy-Efficient Technologies Grants Program pursuant to s. 377.804, F.S., to assure a robust grant portfolio.
- Develop policy for requiring grantees to provide royalty-sharing or licensing agreements with state government for commercialized products developed under a state grant.
- Administer the Florida Green Government Grants Act pursuant to s. 377.808, F.S., and set annual priorities for grants.
- Administer the information gathering and reporting functions pursuant to ss. 377.601-377.608, F.S.

- Administer petroleum planning and emergency contingency planning pursuant to ss. 377.701, 377.703, and 377.704, F.S.
- Represent Florida in the Southern States Energy Compact pursuant to ss. 377.71-377.712, F.S.
- Complete the annual assessment of the efficacy of Florida's Energy and Climate Change Action Plan, upon completion by the Governor's Action Team on Energy and Climate Change pursuant to the Governor's Executive Order 2007-128, and provide specific recommendations to the Governor and the Legislature each year to improve results.
- Administer the provisions of the Florida Energy and Climate Protection Act pursuant to ss. 377.801-377.806, F.S.
- Advocate for energy and climate change issues and provide educational outreach and technical assistance in cooperation with the state's academic institutions.
- Be a party in the proceedings to adopt goals and submit comments to the Public Service Commission pursuant to s. 366.82, F.S.
- Adopt rules pursuant to chapter 120 in order to implement all powers and duties described in this section.

III. Effect of Proposed Changes:

Section 1 amends s. 213.053, F.S., to delete a provision allowing the Department of Revenue to provide information to the Energy and Climate Commission relating to exemptions received under s. 212.08(7)(ccc) and s. 220.192, F.S. (s. 212.08, F.S., relates to specified exemptions to the sales, rental, use, consumption, distribution, and storage tax; s. 220.192, F.S., relates to the renewable energy technologies investment tax credit.)

Section 2 amends s. 220.192, F.S., to transfer functions previously performed by the Florida Energy and Climate Commission, relating to the renewable energy technologies investment tax credit, to the Department of Environmental Protection.

Section 3 amends s. 288.1089, F.S., to transfer functions previously performed by the Florida Energy and Climate Commission, relating to the Innovation Incentive Program, to the Department of Environmental Protection.

Section 4 amends s. 288.9607, F.S., to transfer functions previously performed by the Florida Energy and Climate Commission, relating to the guarantee of bond issues by the Florida Development Finance Corporation, to the Department of Environmental Protection.

Section 5 amends s. 366.82, F.S., to transfer functions previously performed by the Florida Energy and Climate Commission, relating to providing comments to the Public Service Commission, to the Department of Environmental Protection.

Section 6 amends s. 366.92, F.S., to transfer functions previously performed by the Florida Energy and Climate Commission, relating to the renewable energy policy adopted by the Public Service Commission, to the Department of Environmental Protection.

Section 7 repeals s. 377.6015, F.S., creating the Florida Energy and Climate Commission.

Sections 8 through 15 amend Part II of Chapter 377 (specifically s. 377.602, 377.603, 377.604, 377.605, 377.606, 377.608, 377.701, 377.703, F.S.) to transfer functions previously performed by the Florida Energy and Climate Commission; relating to energy data collection, powers and duties, required reports, the use of existing information, records of the commission, limits of confidentiality, the prosecution of cases by the state attorney, petroleum allocation, and additional functions; to the Department of Environmental Protection.

Sections 16 through 21 amend Part III of Chapter 377 (specifically s. 377.804, 377.806, 377.807, 377.808, 377.809, F.S.) to transfer functions previously performed by the Florida Energy and Climate Commission; relating to renewable energy and green government programs including the Renewable Energy and Energy Efficient Technologies Grants Program, Energy-Efficient Appliance Rebate Program, the Solar Energy System Incentives Program, the Florida Green Government Grants Act and the Energy Economic Zone Pilot Program; to the Department of Environmental Protection.

Section 22 amends s. 403.44, F.S., to transfer functions previously performed by the Florida Energy and Climate Commission, relating to the Florida Climate Protection Act, to the Department of Environmental Protection.

Section 23 amends s. 526.207, F.S., to transfer functions previously performed by the Florida Energy and Climate Commission, relating to the studies and reports relating to the sale of liquid fuels and brake fluid, to the Department of Environmental Protection.

Section 24 amends s. 1004.648, F.S., to transfer functions previously performed by the Florida Energy and Climate Commission, relating to the Florida Energy Systems Consortium, to the Department of Environmental Protection.

Section 25 amends sections 1 and 2 of chapter 2010-282, Laws of Florida to transfer functions previously assigned to the Florida Energy and Climate Commission, relating to the Florida ENERGY STAR Residential HVAC Rebate Program (Section 1) and the Solar Energy System Incentives Program (Section 2), to the Department of Environmental Protection.

Section 26 provides that the Florida Energy and Climate Commission are transferred by a type two transfer to the Department of Environmental Protection.

Section 27 provides for an effective date of July 1, 2011.

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:

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

C. Government Sector Impact:

The Senate Proposed Bill 7084 on General Appropriations Act transfers 15 full time equivalent (FTE) positions and $2,149,516 in the Grants and Donations Trust Fund to the Department of Environmental Protection. $834,703 in General Revenue Fund expenditures were shifted to the Grants and Donations Trust Fund. The commission currently administers over $147 million in outstanding grant balances. The Governor recommended transfer of the energy programs to the Department of Environmental Protection in his budget recommendations for Fiscal Year 2011-2012, however the Governor eliminated eight FTE and 834,703 in general revenue funding.

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.

LEGISLATIVE ACTION

Senate . House

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The Committee on Budget (Rich) recommended the following:

Senate Amendment (with title amendment)

Delete lines 71 - 127.

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

And the title is amended as follows:

Delete lines 14 - 17.

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 Budget Committee

BILL:	SPB 7102
INTRODUCER:	For consideration by the Budget Committee
SUBJECT:	Welfare of Children
DATE:	March 25, 2011
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hawkins	Meyer, C.		**Pre-meeting**
2.				
3.				
4.				
5.				
6.				

I. Summary:

SPB 7102 disestablishes the Office of Adoption and Child Protection (office), and relocates the Children's Cabinet (cabinet) from the Executive Office of the Governor to the Department of Children and Family Services (DCF).

This bill repeals the following sections of the Florida Statutes: 39.001(6), (7), (8), (9) and (12); and 39.01(46). The bill amends ss. 39.0014, 39.302, and 402.56, F.S., to conform to changes occasioned by the repeals.

II. Present Situation:[1]

In 2006, the Legislature established a centralized office to examine, oversee, and implement abuse prevention services by creating the Office of Child Abuse Prevention within the Executive Office of the Governor.[2] The entity's name was changed in 2007 to the Office of Adoption and Child Protection to reflect its emphasis on finding children permanent placements in adoptive homes.[3] The office is charged with developing public awareness campaigns, developing a state plan, and conducting training to prevent child abuse and promote adoption. The office also is

[1] Much of the narrative in this section comes from OPPAGA Research Memorandum *The Office of Adoption and Child Protection Overlaps with the Department of Children and Families in Promoting Public Awareness, but Their Activities Differ in Other Areas*, September 15, 2009. Appendix D to Florida Senate Interim Report 2010-105, February 2010, A*gency Sunset Review Of The Department Of Children And Family Services*. Available at http://archive.flsenate.gov/data/Publications/2010/Senate/reports/interim_reports/pdf/2010-205cf.pdf (last visited March 24, 2011).

[2] Chapter 2006-194, L.O.F.

[3] Chapter 2007-124, L.O.F.

responsible for monitoring local planning teams; assisting in developing rules relating to child abuse prevention, adoption, and support of adoptive families; and acting as a liaison for the Governor to the state's agencies. The office is authorized to establish a direct support organization to secure additional funding for these activities. In addition, the Executive Office of the Governor has given the office responsibility for supporting the Children and Youth Cabinet.

Both the office and DCF, including its contracted lead agencies, are responsible for promoting public awareness of adoption and child abuse prevention. However, the entities differ in how they conduct planning and training activities:[4]

- *The two entities use different approaches to develop plans to address child abuse prevention, promote adoption, and support adoptive families.* The office approaches planning from a multi-agency perspective and includes state agencies, local entities, and stakeholders in its planning process. In contrast, the department's approach to planning is for its staff to develop plans as needed to administer internal programs and fulfill federal funding requirements.
- *The office has a wider audience for its child abuse prevention training and education than the department, and the two entities work together on some training.* The office focuses on making continuing education available for a broad range of professionals, including those involved in child welfare-related programs, education programs, and law enforcement. DCF's focus is to provide training and education on its programs and services, primarily targeting individuals within the child welfare community.

The Legislature created the Children and Youth Cabinet in 2007[5] as a coordinating council to foster public awareness of children's issues and promote children's issues to the Legislature. The cabinet is assigned to the Executive Office of the Governor. The cabinet's membership includes the Governor, the chief child advocate, representatives of various state agencies that administer programs serving children, and representatives of children and youth advocacy organizations.

III. Effect of Proposed Changes:

SPB 7102 disestablishes the Office of Adoption and Child Protection by repeal of ss. 39.001(6), (7), (8), (9) and (12), F.S. The bill amends ss. 39.0014, 39.302, and 402.56, F.S., to conform the statutes to changes occasioned by the repeals.

The bill amends s. 402.56, F.S., to relocate the Children and Youth Cabinet from the Executive Office of the Governor to DCF. To conform the statutes to that change, membership of the cabinet is decreased by one member, to 14 total, and the secretary of DCF is to serve as chair. Mandatory meetings are decrease from six to four per year.

The act is effective July 1, 2011.

[4] The entities also perform various differing administrative functions.
[5] Chapter 2007-151, L.O.F.

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:

None.

C. Government Sector Impact:

Changes in the bill support a reduction of $222,430 in General Revenue from the Executive Office of the Governor. This reduction was also included in the Governor's Recommended Budget.

VI. Technical Deficiencies:

Subsection 39.001(11), F.S., provides authority for the Executive Office of the Governor to adopt rules relating to the Office of Adoption and Child Protection. As this bill disestablishes the office, that subsection should also be repealed.

VII. Related Issues:

Section 39.0011, F.S., establishes a direct support organization for the office. The Trust for Florida' Children, Inc., was incorporated pursuant to this statute to raise money; submit requests for and receive grants from the federal government, the state or its political subdivisions, private

foundations, and individuals; and make expenditures to or for the benefit of the Governor's Office of Adoption and Child Protection.[6]

The Legislature may wish to review the necessity of maintaining the organization upon disestablishment of the office.

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.

[6] Articles of Incorporation, The Trust for Florida's Children, Inc., filed March 19, 2010, Florida Secretary of State.

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 Budget Committee

BILL:	SPB 7104
INTRODUCER:	For consideration by the Budget Committee
SUBJECT:	Auditor General
DATE:	March 13, 2011
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hawkins	Meyer, C.		**Pre-meeting**
2.				
3.				
4.				
5.				
6.				

I. Summary:

Senate Proposed Bill 7104 amends statutes to update and streamline the scope of audits performed by the Auditor General. Streamlining audit functions and eliminating outdated requirements will allow the Auditor General to focus on audit priorities and absorb budget reductions planned for Fiscal Year 2011-2012.

This bill substantially amends the following sections of the Florida Statutes: 11.40(3), 11.45, 25.075, 28.35, 218.31, 273.05, 1002.36, 1009.53

This bill repeals the following sections of the Florida Statutes: 195.096, 365.173(3), and 943.173(3)

II. Present Situation:

The Auditor General is the auditor required by s. 2, Art. III of the State Constitution and is appointed by the Legislature to audit the public records of the State.

The Auditor General's work plan is comprised primarily of financial audits and operational audits. Financial audits are performed pursuant to the requirements of Florida law and the Federal government. Section 11.45, F.S. and various other sections of law also require the Auditor General to conduct operational audits of specific state entities or programs either on an annual, biennial, or triennial basis. In addition, the Auditor General routinely covers operational audit topics in its audits of colleges and district school boards. Operational audits are variable

scope audits designed to measure legal compliance and examine internal controls over high-risk areas of government operations. The scope of operational audits is determined by legislative direction via statutory requirements, proviso language, and actions by the Joint Legislative Auditing Committee as well as a risk assessment performed by the Auditor General.

Along with other state government functions, the Auditor General has absorbed budget reductions in the last four fiscal years resulting in a decrease in the number of audit professionals employed. While absorbing budget reductions, the Auditor General has adjusted the scope of operational audits, as necessary, to correlate the work plan established in law to available resources.

The requirement to conduct operational audits of entities or programs on an annual or biennial basis imposes some limitation on the Auditor General's discretion to utilize available audit resources to address areas of government operations determined to be of highest risk. Additional flexibility to address areas of highest risk can be provided by amending applicable provisions of law to require operational audits at least every three years, thereby allowing for more frequent audits of high risk entities and less frequent (at least once every three years) audits of low risk entities. Such additional flexibility will also better enable the Auditor General to complete special audits directed by the Legislature.

A summary of sections of the Florida Statutes relating to functions performed by the Auditor General which are affected by this bill are as follows:

Section 11.45, F.S.: The duties of the Auditor General are specified in s. 11.45, F.S. Section 11.45(1), F.S., includes definitions for the types of audits the Auditor General performs - financial, operational, and performance. Section 11.45(2), F.S., provides the duties of the Auditor General, including audits to be performed on an annual basis or on a less frequent basis.

Section 25.075, F.S.: Subsection (3) requires the Auditor General to audit the reports made to the Supreme Court in accordance with the uniform case reporting system.

Section 28.35, F.S.: Subsection (5)(a) requires the Florida Clerks of Court Operations Corporation to submit annual audited financial statements to Auditor General and requires the Auditor General to conduct an annual audit of the corporation's operations.

Section 195.096, F.S.: Subsection (7) requires the Auditor General to conduct a triennial performance audit of the Department of Revenue's administration of the ad valorem tax laws.

Section 218.31, F.S.: Subsection (17) provides a definition of financial audit that is consistent with the definition in s. 11.45(1), F.S.

Section 273.05, F.S.: Subsection (5) requires state agency records for property certified as surplus to comply with rules issued by the Auditor General. While legislative changes in 2006 transferred the responsibility for tangible personal property rules to the Chief Financial Officer, this statute has not been revised.

Section 365.173, F.S.: Subsection (3) requires the Auditor General to conduct an annual audit of the Emergency Communications Number E911 System Fund.

Section 943.25, F.S.: Subsection (3) requires the Auditor General, as part of his or her audit of courts, to ascertain that certain assessments have been collected and remitted and audit the expenditures of the trust funds.

Section 1002.36, F.S.: Subsection (3) requires the Auditor General to conduct annual audits of the accounts and records of the Florida School for the Deaf and Blind.

Section 1009.53, F.S.: Subsection (5)(c) requires each institution that receives money through the Florida Bright Futures Scholarship Program to prepare an annual report that includes an annual financial audit.

III. Effect of Proposed Changes:

Section 1 amends s. 11.45, F.S., to:

- Clarify the definition of "financial audit" to conform with applicable auditing standards by specifying that, when applicable, the scope of financial audits encompasses the additional activities necessary to establish compliance with the Single Audit Act Amendments of 1996 and other applicable federal law.
- Clarify the objectives of an "operational audit" and specify that operational audits are conducted in accordance with government auditing standards.
- Make technical changes regarding the title reference to State colleges.
- Clarify the requirement for the Auditor General to conduct financial audits of the district school boards in counties that have populations of 150,000 or more once every three years by a technical correction of the specified population to coincide with s. 11.45(2)(d), F.S., which provides for annual audits of district school boards that have populations of less than 150,000.
- Change the required frequency of operational audits of state agencies and state universities from at least every two years to at least every three years.
- Require operational audits of state colleges, district school boards, the Florida Clerks of Court Operations Corporation, water management districts, and the Florida School for the Deaf and the Blind to be conducted at least every three years. Audits of the Florida School for the Deaf and the Blind and the Florida Clerks of Court Operations Corporation are currently required annually.

- Eliminate the requirement for annual audits of the Wireless Emergency Telephone System Fund (s. 365.173, F.S.). The Wireless Emergency Telephone System Fund will be subject to audit based on the risk assessment of programs administered by the Department of Management Services.
- Change the required frequency of the performance audit of the local government financial reporting system from at least every 2 years to at least every 3 years.
- Consolidate ad valorem performance audit requirements of existing ss. 11.45(2)(i) and 195.096(7) to s. 11.45(2)(h), F.S.
- Add reference to s. 20.055(1)(a) in defining "state agency" for purposes of the requirement to review a sample of each state agency's internal audit reports.
- Make technical changes regarding the Auditor General's notification to local governmental entities.
- Eliminate the Auditor General's authority to conduct audits of the Investment Fraud Restoration Financing Corporation created pursuant to chapter 517 as this entity no longer exists.
- Specify that the Auditor General annually compile and transmit to the President of the Senate, the Speaker of the House of Representatives, and the Legislative Auditing Committee a report that includes a projected 2-year work plan identifying the audit and other accountability activities to be undertaken.

Section 2 amends s. 25.075, F.S., to delete the requirement for the Auditor General to conduct audits of the caseload reports made by court clerks to the Supreme Court. The Auditor General has existing authority to audit the State Courts System and the judicial branch.

Section 3 amends s. 28.35 F.S., to delete obsolete requirements that the Florida Clerks of Court Operations Corporation submit an annual audited financial statement to the Auditor General and that the Auditor General conduct an annual audit of the operations of the corporation. The Corporation does not prepare separate financial statements, or provide for an audit of such, since it is now a part of State government.

Section 4 repeals s. 195.096(7), F.S., regarding the Auditor General's triennial performance audit of the Department of Revenue's administration of the ad valorem tax laws. A requirement for such audit is included in s. 11.45, F.S., and amendments proposed in Section 1 of the bill include the specified audit requirements.

Section 5 amends s. 218.31(17), F.S., regarding local governments, to clarify the definition of "financial audit" to conform with applicable auditing standards and specify that, when applicable, the scope of financial audits encompasses the additional activities necessary to establish compliance with the Single Audit Act Amendments of 1996 and other applicable federal law.

Section 6 amends s. 273.05(5), F.S., to transfer responsibility for tangible personal property rules from the Auditor General to the Chief Financial Officer in keeping with similar changes made in 2006 legislation.

Section 7 repeals s. 365.173(3), F.S., requiring an annual audit of the Wireless Emergency Telephone System. Operations regarding the Wireless Emergency Telephone System are subject to audit, when appropriate, as part of operational audits of the Department of Management Services.

Section 8 repeals s. 943.25(3), F.S., regarding requirement for the Auditor General, as part of his or her audit of courts, to ascertain that certain assessments (the "assessments" referred to are the $3 additional court cost mandated by subsection 938.01(1), F.S., which is distributed to the Additional Court Cost Clearing Trust Fund) have been collected and remitted and eliminates the requirement to audit the expenditures of the trust funds. The collection of assessments and the expenditures of the trust funds are subject to audit, when appropriate, as part of operational audits of the applicable State agencies.

Section 9 amends s. 1002.36(3) F.S., to conform the frequency of the audit of the Florida School for the Deaf and the Blind to the frequency specified in s. 11.45, F.S.

Section 10 amends s. 1009.53(5)(c) F.S., to:

- Require an annual financial audit of only those institutions that expend Bright Futures Scholarship Program (Program) moneys in excess of $100,000. Currently, entities that receive minimal funding are required to provide for an annual financial and compliance audit, which may not be cost effective.
- Change, for those institutions that expend Bright Futures Scholarship Program (Program) moneys in excess of $100,000, the frequency of audit of the Bright Futures Scholarship Program from every year to every 2 years and provides that the audit include an examination of the institution's administration of the program and accounting of the moneys for the Program since the last examination of the institution's administration of the Program.
- Revise the due date of the audit from March 1 to 9 months after the end of the institution's fiscal year.
- Specify that any institution that is not subject to an audit pursuant to this subsection shall attest annually, under penalty of perjury, that the Program moneys were used in compliance with law.
- Require that the attestation be in the form and manner determined by the Department of Education.

Section 11 reenacts s. 11.40(3), F.S., which references ss. 11.45(2) and (3), to incorporate the amendment made by this bill to s. 11.45., F.S.

Section 12 provides an effective date of July 1, 2011.

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:

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

C. Government Sector Impact:

Funds provided in the Senate Proposed Pill on General Appropriations provides a total of $31.8 million for operations for the 2011-12 fiscal year compared to $33.9 million for the previous fiscal year. The changes in the bill will enable the Auditor General to focus on audit priorities.

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.

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 Budget Committee

BILL:	SPB 7124
INTRODUCER:	For consideration by the Budget Committee
SUBJECT:	Juvenile Detention Facilities
DATE:	March 29, 2011 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sadberry	Meyer, C.		**Pre-meeting**
2.				
3.				
4.				
5.				
6.				

I. Summary:

This bill amends the following sections 985.686 and 985.688, *Florida Statutes*, allowing counties to operate their own detention facility if they cover the financial cost of detention care for pre-adjudicated juveniles and providing that a county is exempt from the provisions of these sections of Florida Statutes if they are in compliance with specific provisions.

II. Present Situation:

In FY2009-10, DJJ operated 25 juvenile detention centers in 24 counties with a total of 2,007 beds, and employed 1,791 specially trained and certified juvenile detention officers. The detention centers provide custody, supervision, education, and mental health/substance abuse services to juveniles statewide.

In the 2004 session the legislature enacted SB 2564, creating s. 985.2155, F.S., requiring joint financial participation of the state and counties in the provision of secure juvenile detention. The bill required the counties to pay for pre-adjudicated juvenile detention cost and the state would be responsible for the post-adjudicated cost.

Detention is the custody status for youth who are held pursuant to a court order, or following arrest for a violation of the law. In Florida, a youth may be detained only when specific statutory criteria, outlined in s. 985.215, F.S., are met. Criteria for detention include current offenses, prior history, legal status, and any aggravating or mitigating factors. Detention screening is performed at Juvenile Assessment Centers (JACs) or by juvenile probation staff using a standardized Detention Risk Assessment Instrument. Juvenile detention consists of two types - secure detention and home detention.

III. Effect of Proposed Changes:

Section 1 amends s. 985.686, F.S., adding a provision that allows any counties that covers the financial cost of detention care for pre-adjudicated juveniles to operate their own detention center outside of the review and approval of the Department of Juvenile Justice. It also allows counties to enter into agreements with other counties to provide detention care for pre-adjudicated juveniles for multiple jurisdictions.

Section 2 amends s. 985.688, F.S., identifying a number of provisions with which counties must be in compliance in order to operate their detention facility outside of the jurisdiction of the Department of Juvenile Justice. They consist of the following:

1) Counties must fund the entire cost for pre-adjudication detention for juveniles;
2) Counties must authorize the county sheriff, any other county jail operator, or contract provider that is located inside or outside of the county to operate the facility;
3) County sheriffs or other county jail operators must be accredited by the Florida Corrections Accreditation Commission or the American Correctional Association;
4) Detention facilities must be inspected annually and meet the Florida Model Jail Standards;
5) Counties or county sheriffs may form regional detention facilities through interlocal agreements in order to meet the requirements of this section;
6) County sheriffs or other county jail operators must follow the federal regulations requiring sight and sound separation of juvenile inmates from adult inmates;
7) If counties or county sheriffs comply with the provisions of this new subsection, they will not be subject to any additional training, procedures, or inspections required in Chapter 985, Florida Statutes.

Section 3 provides for an effective date of July 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The counties should be able to operate their own pre-adjudicated juvenile detention centers at a lower daily per-diem cost than is currently being charged by the Department of Juvenile Justice. In addition, the Department of Juvenile Justice's operating cost and bed capacity for their detention centers should be reduced as counties start operating their own detention centers.

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.

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LEGISLATIVE ACTION

Senate . House

. .

. .

. .

. .

The Committee on Budget (Alexander) recommended the following:

Senate Amendment

Delete lines 169 - 171
and insert:
the state to pay more than $1 million over the term of the lease or agreement if the term of the lease or agreement exceeds 1 fiscal year unless the project or procurement is expressly

Delete lines 250 - 253
and insert:
(b) "This contract may be terminated by the state, upon 90 days' written notice if properly procured or 10 days' written notice if improperly procured, if funding for this contract is

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specifically eliminated pursuant to a deficit reduction plan implemented by:

Delete line 294

and insert:

$1 million unless the Legislature has expressly authorized such

Delete line 315

and insert:

commodity contracts pursuant to approval of a blanket consent calendar for all such transfers. ~~For purposes of this section, deferred-~~

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 Budget Committee

BILL:	CS/SB 1314
INTRODUCER:	Governmental Oversight and Accountability Committee and Senator Alexander
SUBJECT:	State Financial Matters
DATE:	March 18, 2011 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McKay	Roberts	GO	**Fav/CS**
2.	McKinnon	Meyer, C.	BC	**Pre-meeting**
3.				
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

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

I. Summary:

This bill enhances the authority of the Legislature over agency contracting that affects the state budget. The bill prohibits agencies, with exceptions, from obligating the state through certain types of contractual clauses, and requires advance notice to the Governor and Legislature before entering certain high-value or no-cost contracts. The bill specifies contractual language addressing the state's ability to terminate contracts, which must be included in all executive and judicial contracts, and creates misdemeanor penalties for agency employees who willfully violate these provisions. The bill requires that acceptance or rejection contract deliverables be in writing, and prohibits agencies from entering into lease or deferred payment purchases of greater than $500,000 without legislative approval. The bill requires agency heads, their equivalents or designated senior management staff to sign contracts worth more than $25,000, and to certify compliance with applicable contracting provisions for all contracts with terms of greater than 12 months.

This bill substantially amends ss. 216.011, 216.311, 287.063, 287.064, 376.3075, and 403.1837; repeals s. 287.056(2); and creates ss. 216.312 and 216.313 of the Florida Statutes.

II. Present Situation:

Planning and Budgeting
Chapter 216 of the Florida Statutes, relating to planning and budgeting, provides guidelines to the Governor, the judicial branch, and state agencies for developing and submitting legislative budget requests and administering legislative appropriations.

Pursuant to s. 216.011(1)(qq), F.S., a "state agency" or "agency" means any official, officer, commission, board, authority, council, committee, or department of the executive branch of state government. For purposes of Chapters 215 and 216, F.S., "state agency" or "agency" includes state attorneys, public defenders, criminal conflict and civil regional counsel, capital collateral regional counsel, the Justice Administrative Commission, the Florida Housing Finance Corporation, and the Florida Public Service Commission. Solely for the purposes of implementing s. 19(h), Art. III of the State Constitution, the terms "state agency" or "agency" include the judicial branch.

Section 216.177, F.S., requires agencies to give the Legislature certain notice of budget actions. If the presiding officers or the chair and vice chair of the Legislative Budget Commission find that the agency action is contrary to legislative intent and policy or exceeds delegated authority, those persons may object to the action – requiring the Governor to void the action until the Commission or the Legislature addresses the issue.

Section 216.311, F.S., provides that no agency or branch of state government may contract to spend, or enter into any agreement to spend, any moneys in excess of the amount appropriated to such agency or branch unless specifically authorized by law. Any contract or agreement in violation of this provision is null and void, and anyone who willfully violates the provision is guilty of a first degree misdemeanor.

Procurement
Chapter 287, F.S., specifies the requirements for agency procurement of commodities and services.

Section 287.017, F.S., specifies the purchasing categories, which are thresholds linked to other requirements in Chapter 287, F.S., as follows:

- Category One $20,000
- Category Two $35,000
- Category Three $65,000
- Category Four $195,000
- Category Five $325,000

Section 287.0582, F.S., denotes the annual appropriation contingency statement that must be included in any contract lasting longer than one fiscal year for the purchase of a service or tangible personal property: "The State of Florida's performance and obligation to pay under this contract is contingent upon an annual appropriation by the Legislature."

Section 287.063, F.S., specifies the preaudit review and approval process required for deferred-payment commodity contracts. The section establishes a maximum interest rate, and prohibits

appropriated funds from being used to acquire equipment through a lease or deferred-payment purchase arrangement, unless it is approved by the Chief Financial Officer (CFO) as economically prudent and cost-effective. The CFO is required to adopt rules relating to the approval process. For purposes of this section, deferred-payment commodity contracts for replacing the state accounting and cash management systems may include equipment, accounting software, and implementation and project management services.

Section 287.064, F.S., specifies the requirements for consolidated financing of deferred-payment purchases. Among other provisions, the section provides that deferred-payment commodity contracts for replacing the state accounting and cash management systems may include equipment, accounting software, and implementation and project management services.

III. Effect of Proposed Changes:

Section 1 amends s. 216.011, F.S., to provide a definition of a new appropriations category: "Lease or lease/purchase of equipment."

Section 2 amends s. 216.023, F.S., to require each state agency to provide in its legislative budget request specific information regarding contracts granting concessions to other parties. That information must include:

- The name of the vendor.
- A brief description of the services provided.
- The contract term and the years remaining on the contract.
- The amount of revenue generated or expected to be generated by the vendor under the contract for the prior fiscal year, the current fiscal year, and the next fiscal year.
- The amount of revenue remitted or expected to be remitted to the state agency by the vendor for the prior fiscal year, the current fiscal year, and the next fiscal year.
- The value of capital improvements, if any, on state property, which have been funded by the vendor over the term of the contract.
- The remaining amount of capital improvements, if any, on state property, which have not been fully amortized by June 30 of the prior fiscal year.
- The amount, if any, of state appropriations made to the state agency to pay for services provided by the vendor.

Section 3 amends s. 216.311, F.S., by providing that for ss. 216.311- 216.313, F.S., "contracts" and "agreements" include all related amendments, renewals, and extensions, and by specifying additional types of contracts that may not be entered into by an agency or branch of state government.

Pursuant to s. 216.311(2), F.S., an agency or branch of state government may not enter into a contract that:

- Requires the state to pay liquidated damages or early termination fees resulting from a breach or early termination of the contract based on a legislative action to provide less than full funding of a contract.
- Requires the state to pay interest, other than interest paid under the prompt pay law, to another party because the agency or branch has insufficient budget authority to pay the underlying obligation of the contract or agreement in the current year.

- Binds the state to make future-year payments to offset payments not made in a prior year due to the insufficiency of current-year appropriations, unless the Legislature expressly authorizes the agency or branch to enter into such contract or agreement.
- Grants any party the right to collect and retain fees or revenues from persons or entities not party to the contract, unless the agency is specifically authorized by law to enter into such contracts.

Some of the requirements of s. 216.311(2), F.S., will not apply to:
- The Department of Transportation, when, in order to implement the work program approved by the Legislature, it enters into contracts subject to s. 334.30, F.S., and Ch. 339.
- The Department of Management Services, when, in order to administer the state group insurance program, it enters into contracts that permit providers and insurers to collect premiums and co-payments from participants in the group insurance program.
- The Agency for Health Care Administration, when, in order to administer the state Medicaid plan and Florida Healthy Kids program, it enters into contracts that permit providers to collect premiums and co-payments.
- The Department of Environmental Protection, when, in order to administer the state parks system, it enters into contracts that require the payment of liquidated damages or early termination fees if the vendor has made significant capital improvements to state property and the costs of such improvements are amortized over no more than a 3 year period.

The bill provides that an agency may not enter into a lease or lease purchase for tangible personal property for more than $500,000, or a term of greater than one fiscal year, unless the lease or agreement is expressly authorized by the Legislature, or the Legislative Budget Commission has approved a transfer of budget authority to the lease or lease/purchase of equipment appropriations category. This provision will not apply to the State Board of Administration's investment duties.

The State Board of Administration may enter into contracts and agreements in order to administer real estate and other investment portfolios and carry out other duties.

Any contract or agreement in violation of these provisions is null and void, and a public officer or employee who willfully enters into a contract in violation of these provisions commits a first degree misdemeanor.

Section 4 creates s. 216.312, F.S., relating to the reporting of contract expenditures. The bill requires notification of the terms and conditions of a contract to the Governor, the President of the Senate, and the Speaker of the House of Representatives 30 days before an executive or judicial branch officer or employee enters into the following types of contracts:
- A contract or agreement which requires payments by the state in excess of $10 million in any fiscal or calendar year.
- A contract or agreement which requires minimal or no payments by the state, or authorizes the other party to make expenditures in anticipation of revenues.
- A contract or agreement which requires initial expenditures by the other party and for which the other party will not receive payment from the state within 180 days after the expenditure.

The bill specifies that execution of any contract or agreement described in this section is an action or proposed action that is subject to the provisions of s. 216.177(2)(b), F.S.

The bill provides that in lieu of the requirements s. 216.312, F.S., the Department of Transportation must implement the work program approved by the Legislature by entering into contracts and agreements, subject to the requirements of s. 334.30 and chapter 339. If the department intends to procure a contract pursuant to s. 334.30, it must provide written notification to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairs of the legislative appropriations committees at least 30 days before advertising for proposals.

Section 5 transfers s. 287.0582, F.S., renumbers it as s. 216.313, F.S., and amends it to provide that an executive or judicial branch officer or employee may not enter into a contract for the purchase of services or tangible personal property unless the contract identifies the specific appropriation from which payment in the first year of the contract will be made, or unless the Legislature expressly authorizes entering into such a contract without a specific appropriation of funds.

The bill also requires that executive and judicial branch contracts contain specified statements that:

- The state's performance and obligation to pay under the contract is contingent upon an annual appropriation by the Legislature.
- The contract may be terminated by the state upon 10 days' written notice if funding for the contract is specifically eliminated pursuant to:
  - A deficit reduction plan implemented by the Governor or the Chief Justice or by an act of the Legislature after certification pursuant to section 216.221, F.S., that a deficit will occur in the General Revenue Fund; or
  - A deficit reduction plan implemented by the Governor or Chief Justice pursuant to section 216.221(10), F.S., or by an act of the Legislature, after a determination by the Chief Financial Officer that a deficit will occur with respect to the appropriations from a specific trust fund in the current fiscal year.

The second statement above does not apply to contracts entered into pursuant to s. 334.30, F.S.

The bill provides that a contract that exceeds $35,000[1] must be signed by the agency head, executive director, or chief judge, as appropriate, or a designated senior management employee, and a contract that exceeds 12 months may not be executed unless an agency head, executive director, or chief judge or a designated senior management employee determines that the contract is in compliance with Chapter 216, F.S., and certifies such compliance in writing in the contract. A contract that exceeds $325,000[2] must require the written acceptance or rejection of contract deliverables.

Contracts in violation of s. 216.313, F.S., are null and void, and any officer or employee who willfully enters into a contract in violation of this section commits a first degree misdemeanor.

[1] Category Two from the purchasing categories in s. 287.017(1), F.S.
[2] Category Five from the purchasing categories in s. 287.017(1), F.S.

Sections 6 and 7 amend ss. 287.063 and 287.064, F.S., to prohibit an agency from entering into a lease or deferred payment purchase for the acquisition of equipment, or a master equipment financing agreement, costing greater than $500,000, unless the Legislature has expressly authorized such an agreement in the General Appropriations Act, or the Legislative Budget Commission has approved a transfer of budget authority to the appropriations category for deferred payment commodity contracts. The bill also deletes provisions that allow deferred payment commodity contracts for replacing the state accounting and cash management systems to include equipment, accounting software, and implementation and project management services.

Sections 8 and 9 amend ss. 376.3075 and 376.1837, F.S., to correct cross references and make technical changes.

Section 10 repeals s. 287.056(2), F.S., which was amended by Section 18 of Ch. 2010-151, L.O.F., in a way that appeared to give agencies the option to buy from state term contracts. Repeal of this subsection clarifies that agencies must buy from state term contracts.

Section 11 amends Section 45 of Ch. 2010-151, L.O.F., to clarify that applicability of transaction or user fees to certain types of contracted services.

Section 12 provides that the law takes effect on July 1, 2011, and applies to all initial contracts, amendments to contracts, and extensions or renewals of contracts which are executed on or after July 1, 2011.

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:

It is unclear whether prohibiting contracts with liquidated damages clauses may act to discourage vendors from doing business with the state, or cause vendors to increase their pricing in order to account for any perceived increases in their risk.

Though the bill creates new misdemeanor offenses, it is not expected to have a prison bed impact. The bill has not been reviewed by the Criminal Justice Impact Conference.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Section 255.25(3)(e), F.S., allows an agency to reimburse a landlord for tenant improvements, if the agency terminates the lease before expiration. The new section 216.311(2)(b), F.S., appears to prohibit this kind of payment, and it is unclear whether the "specifically authorized by law" language in s. 216.311(2)(a), F.S., would permit it.

Section 216.312(1)(b), F.S., does not define "minimal" payments, which could lead to differing interpretations.

Section 216.313(3)(a), F.S., is partially duplicative of a requirement contained in s. 287.058(2), F.S., that agency heads sign contracts with value of greater than $25,000.

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 Governmental Oversight and Accountability on March 17, 2011:
The committee substitute:

- Clarifies that certain provisions of the bill do not apply to Department of Transportation contracts for implementation of the work program;
- Clarifies that the State Board of Administration can administer its real estate and investment portfolios as necessary;
- Deletes a provision that appeared to make agency use of state term contracts optional; and
- Clarifies the applicability of transaction or user fees to certain types of contracted services.

B. Amendments:

None.

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 Budget Committee

BILL:	CS/SB 138
INTRODUCER:	Criminal Justice Committee and Senator Bennett, Gaetz, and Dockery
SUBJECT:	Military Veterans Convicted of Criminal Offenses
DATE:	March 31, 2011 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Clodfelter	Cannon	CJ	**Fav/CS**
2.	Walsh	Walsh	CF	**Favorable**
3.	Hendon	Meyer, C.	BC	**Pre-meeting**
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

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

I. Summary:

This bill creates the T. Patt Maney Veterans' Treatment Intervention Act. It addresses the increasing involvement of military veterans with the criminal justice system. It allows counties to establish programs to divert a veteran who is charged with a criminal offense into an appropriate treatment program if he or she suffers from posttraumatic stress disorder (PTSD), traumatic brain injury (TBI), substance use disorder, or psychological problems stemming from military service in a combat theater. These pretrial veteran's treatment diversion programs are modeled after existing treatment-based drug court programs. Successful completion of the program would result in dismissal of charges; lack of success could lead to prosecution through normal channels.

The bill also requires courts to hold a pre-sentencing hearing if a convicted veteran claims that his or her crime resulted from PTSD, TBI, substance use disorder, or psychological problems stemming from service in a combat theater. If the court determines that the defendant is a veteran who suffers from one of the conditions as a result of service in a combat theater, and if the defendant is otherwise eligible to be placed on community supervision, with the defendant's agreement the court may place him or her into a treatment program for the length of the sentence. The bill encourages placement in an established treatment program with a history of successfully treating combat veterans with a history of PTSD, TBI, substance use disorder, or psychological

problems. It also specifies a preference for Department of Veterans Affairs programs for which the defendant is eligible. Pretrial drug court diversion programs are funded by the state and local government. In drug court programs, the county pays for the costs of testing and treatment. If the veteran's treatment diversion programs operate in a similar fashion, the cost of such programs will be borne by both the state and local government.

This bill creates section 921.00242 of the Florida Statutes, and amends sections 948.08 and 948.16 of the Florida Statutes.

II. Present Situation:

The Department of Corrections does not have statistics of how many of the 152,000 offenders on community supervision are military veterans. However, it reports that 6,864 state prison inmates (approximately 6.7% of the total prison population) identified themselves as a military veteran as of December 20, 2010. This claim of veteran status was verified for 1,273 of these inmates by submission of a Certificate of Release or Discharge from Active Duty (Department of Defense Form 214). The types of offenses for which these veterans are incarcerated are reflected in the following table:[1]

Primary Offense	Claimed Veteran Status	%	Verified Veteran Status	%
Murder/Manslaughter	1,079	15.7%	353	27.7%
Sexual/Lewd Behavior	1,773	25.8%	501	39.4%
Robbery	593	8.6%	97	7.6%
Aggravated Battery/ Assault, Kidnapping, Other Violent Crimes	747	10.9%	84	6.6%
Burglary	677	9.9%	98	7.7%
Property Theft/Fraud/Damage	579	8.4%	36	2.8%
Drugs	860	12.5%	62	4.9%
Weapons	165	2.4%	17	1.3%
Other	391	5.7%	25	2.0%
Total	**6,864**		**1,273**	

The table indicates that a majority of veteran inmates in Florida are incarcerated for violent crimes and a lesser number for property and drug offenses. This is in contrast to the findings of the American Bar Association's Commission on Homelessness and Poverty (ABA), which cited national statistics that 70 percent of incarcerated veterans are in jail for non-violent offenses.[2] However, the ABA statistic apparently relates to veterans in local jails. There is no

[1] Department of Corrections Analysis of House Bill 17 – Military Veterans Convicted of Criminal Offenses, December 21, 2010, p. 1.

[2] ABA Commission on Homelessness and Poverty, Resolution 105A, February 10, 2010 at http://www.americanbar.org/content/dam/aba/migrated/homeless/PublicDocuments/ABA_Policy_on_Vets_Treatment_Courts_FINAL.authcheckdam.pdf, last viewed on February 17, 2011. The ABA report indicates that the statistics come from a 2002 report by the Department of Justice Bureau of Justice Statistics, but staff could not locate the underlying report.

comprehensive data on the number of veterans among the approximate 59,000 persons either serving sentences or awaiting trial or hearing in county jails throughout Florida.

Judge T. Patt Maney, for whom the bill is named, regularly deals with veterans in his Okaloosa County courtroom. Judge Maney has observed that the offenses that are most frequently committed by veterans are trespass, possession of an open container, obstructing traffic, possession of marijuana, loitering, worthless checks, disorderly conduct, domestic violence, resisting an officer, and petit theft.[3] A detailed report of veterans' involvement in the criminal judicial system in Travis County, Texas, reflects that the majority of misdemeanor charges against veterans were for non-violent offenses, while the majority of felony charges were for violent offenses.[4]

In 2008, the Florida Department of Veterans' Affairs and the Florida Office of Drug Control issued a paper examining the issue of mental health and substance abuse needs of returning veterans and their families.[5] The study noted that combat medical advances are enabling veterans of Operation Iraqi Freedom (OIF) and Operation Enduring Freedom (OEF) to survive wounds that would have been fatal in previous conflicts, and thus some are returning with "more complex physical and emotional disorders, such as Traumatic Brain Injuries and Post-Traumatic Stress Disorder, substance abuse and depression."[6] The study also estimated that approximately 29,000 returning veterans residing in Florida may suffer from PTSD or some form of major depression.[7]

A Rand Center report in 2008 indicated that preliminary studies showed that 5 to 15 percent of OIF and OEF service members are returning with PTSD, 2 to 10 percent with depression, and an unknown number with TBI.[8] A person with any of these disorders also has a greater likelihood of experiencing other psychiatric diagnoses than do other persons.[9]

A report by the Center for Mental Health Services National GAINS Center of the federal Substance Abuse and Mental Health Services Administration (SAMHSA) noted that many veterans coming into contact with the criminal justice system may have unmet treatment needs.[10] Veterans courts have been established across the country as some judges have begun to recognize a correlation between the commission of offenses by veterans and substance abuse issues, mental health issues, and cognitive functioning problems. These judges concluded that in

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[3] Email from Okaloosa County Judge Pat Maney to legislative staff dated February 11, 2011.
[4] *Report of Veterans Arrested and Booked Into the Travis County Jail, July 2009,* http://www.nadcp.org/sites/default/files/nadcp/Texas%20Veterans%20Justice%20Research.pdf, last viewed on February 17, 2011.
[5] Florida Department of Veterans' Affairs and Florida Office of Drug Control Green Paper, *Returning Veterans and Their Families with Substance Abuse and Mental Health Needs: Florida's Action Plan*, January 2009, page 5.
[6] Ibid, p. 5.
[7] Ibid, p. 5.
[8] Rand Center for Military Health Policy Research, Benjamin R. Karney, Rajeev Ramchand, Karen Chan Osilla, Leah B. Caldarone, and Rachel M. Burns, *Invisible Wounds, Predicting the Immediate and Long-Term Consequences of Mental Health Problems in Veterans of Operation Enduring Freedom and Operation Iraqi Freedom,* April 2008, page xxi.
[9] Ibid, p. 127.
[10] GAINS Center, *Responding to the Needs of Justice-Involved Combat Veterans with Service-Related Trauma and Mental Health Conditions*, August 2008, page 6, at www.gainscenter.samhsa.gov/pdfs/veterans/CVTJS_Report.pdf last viewed on 17 February 2011. The observation was based upon information provided by the VA.

many cases, the veterans' inability to deal with these conditions on their own contributed to their encounters with the legal system.

Veterans' courts have the goal of identifying veterans who would benefit from a treatment program instead of incarceration or other sanctions. They are typically patterned after successful specialty courts such as drug courts and mental health courts. Since 2008, legislation authorizing the establishment of veterans' courts has been adopted or at least considered in California, Colorado, Texas, Nevada, Illinois, Connecticut, New Mexico, New York, Minnesota, and Oklahoma.[11] The National Association of Drug Court Professionals website indicates that there are veterans' courts in 47 cities or counties nationwide.[12]

One advantage that veterans' courts have over drug and mental health courts is that the majority of veterans who have committed criminal offenses are eligible for treatment services provided and funded by the United States Department of Veterans Affairs (VA). The previously-cited ABA study indicates that 82 percent of veterans in jail nationwide are eligible for services from the VA based on the character of their discharge.[13]

Florida has experience with both drug courts and mental health courts. In fact, it is believed that the Miami-Dade County Drug Court, founded in 1989, was the first drug court in the United States.[14] Section 397.334, F.S., authorizes the establishment of drug courts that divert eligible persons to county-funded treatment programs in lieu of adjudication. Thirty-one counties have an adult pretrial drug court and twenty-six counties have an adult post-adjudication drug court. When juvenile drug courts and family dependency drug courts are included, forty-four counties have some type of drug court program.[15]

Funding for drug courts can come from a variety of sources including court fees, local funding, private or governmental grants, private payment by participants, or charitable donations.[16]

The Criminal Justice, Mental Health, and Substance Abuse Reinvestment Grant Program in s. 394.658, F.S., calls for award of a 1-year planning grant and a 3-year implementation or expansion grant to identify and treat individuals who have mental illness, substance abuse disorder, or co-occurring mental health and substance abuse disorders who are in or at risk of entering the criminal or juvenile justice systems.

Veterans Courts in Florida

[11] Interim Report 2011-131, Veterans' Courts, Florida Senate Committee on Military Affairs and Domestic Security, October 2011, p. 1. In addition, much of the information in this portion of the analysis is derived from the Interim Report.
[12] National Association of Drug Court Professionals website at http://www.nadcp.org/JusticeForVets , last viewed on February 17, 2011.
[13] ABA Commission on Homelessness and Poverty, Resolution 105A, at February 10, 201, p. 4.
[14] The history of the founding of the Miami-Dade Drug Court, and of Florida drug courts in general, can be found in the Supreme Court Task Force on Treatment-Based Drug Courts Supreme Court Task Force's "Report on Florida Drug Courts (July 2004), http://www.flcourts.org/gen_public/family/drug_court/bin/taskforcereport.pdf , last viewed on March 10, 2011.
[15] "Drug Courts in Florida", http://www.flcourts.org/gen_public/family/drug_court/map.shtml, last viewed on March 10, 2011.
[16] "Drug Court Funding Opportunities", http://www.flcourts.org/gen_public/family/drug_court/bin/Funding.pdf, last viewed on March 10, 2011.

There are several veterans' court and veterans' jail diversion initiatives around the state. Okaloosa County has begun referring veterans' cases to a court docket with special knowledge of veterans and veterans' issues. This has been possible through the cooperation of the local State Attorney's Office, the court, and local treatment professionals. To determine eligibility, offenders are asked at initial booking if they have ever served in the military and what type of discharge they received. Veterans are further asked if they will sign a release in order to share information with the VA. Further screening is conducted through the Pre-Trial Services Office, and the program uses drug court case managers to monitor participants. Access to VA treatment facilities is being sought for eligible veterans in the program.

As noted previously, the bulk of Okaloosa County veterans' cases involve substance abuse, related domestic violence, and some theft related cases including worthless check charges that may be related to lost cognitive ability to do math. Successful completion of the program is defined as completion of a treatment program and avoiding additional legal problems.

Palm Beach County has established a veterans' court that began operating in December 2010. A feature of the program is assignment of a VA social worker supervisor to act as the court's VA liaison. This VA employee has oversight of screening and case management services for eligible veterans. In addition to receiving any needed mental health and substance abuse treatment, participating veterans also have access to VA programs that address homelessness and unemployment. This is compatible with the VA's national Veteran's Justice Outreach Initiative that will assign staff and trained volunteer resources to facilitate veterans' court programs.[17]

In October 2009, the Department of Children and Families Mental Health Program Office was awarded over $1.8 million from SAMHSA over the next five years to provide services and support for Florida's returning veterans who served in Iraq and Afghanistan and who suffer with Post-Traumatic Stress Disorder and other behavioral health disorders. The department describes the grant and the project as follows:

> The project will redesign the state's response to the needs of veterans and their family members by helping returning veterans learn to cope with the trauma of war and the adjustments of coming home and avoiding unnecessary involvement with the criminal justice system. Florida's project is based on a foundation of evidence-based screening, assessment, treatment and recovery practices. The grant will enable the Department to implement two veteran's jail diversion pilot projects for 240 veterans over the next five years. This grant will expand the Department's existing jail diversion programs by identifying veterans who have an initial contact with the criminal justice system, helping them enroll in Veteran's Administration benefits for those who are eligible, providing trauma-related treatment services, linking them with support services in their community, and providing specialized peer support services. Additionally, this grant enables the Department to include family members as recipients of services. One unique aspect of this grant is Florida's creation and implementation of a new state-level Veteran Peer Support Specialist credential, possible through the Department's

[17] The Veteran's Justice Outreach Initiative website is http://www.va.gov/HOMELESS/VJO.asp , last viewed on February 17, 2011.

ongoing partnership with the Florida Certification Board. Certification of trained veterans will professionalize what we know works - trained veterans who've been there helping other returning veterans adjust to their home and community. In the first year, the grant from the federal Substance Abuse and Mental Health Services Administration (SAMHSA) will provide DCF with $268,849. Hillsborough County is one of two sites that will launch Florida's Jail Diversion and Trauma Recovery Program. The location of the other pilot project has not yet been determined.[18]

III. Effect of Proposed Changes:

Pre-sentencing Hearing for Veterans

Section 2 of the bill requires a sentencing court to hold a special pre-sentencing hearing for a convicted veteran when: (1) the veteran is facing incarceration in county jail or state prison; and (2) the veteran alleges that he or she committed the offense because of PTSD, TBI, substance use disorder, or psychological problems stemming from service with the United States military in a combat theater. If these prerequisites are met, the court must hold a hearing to: (1) determine whether the veteran was a member of the United States military who served in combat; and (2) assess whether the veteran suffers from PTSD, TBI, substance use disorder, or psychological problems as a result of that service. The court is not required to determine whether the condition contributed to commission of the offense.

If the court verifies the claim, it can place the veteran on probation or community control if he or she is eligible for community supervision. As a condition of community supervision, the court can order the veteran to participate in a local, state, federal, or private non-profit treatment program. In order for the court to exercise this option, the veteran must agree to participate and the court must determine that an appropriate treatment program is available. Whenever possible, the court must place the veteran in a treatment program that has had success in treating veterans who suffer from PTSD, TBI, substance use disorder, or psychological problems relating to their military service. Preference must also be given to programs of the United States Department of Veterans Affairs (VA) or Florida Department of Veterans Affairs (FDVA) for which the veteran is eligible.

A veteran who is ordered into a residential treatment program as a result of the hearing would earn sentence credits for the time he or she actually serves in the treatment program. These credits would be applied to reduce any remaining sentence in the event that the veteran is committed to jail or prison as a result of violating the terms of community supervision. This is an exception to existing law that an offender cannot receive credit against prison sentence for any time served in a treatment or rehabilitation program prior to a violation of community supervision. *See State v. Cregan*, 908 So.2d 387 (Fla. 2005).

Current law allows a court to require an offender to participate in treatment as a special condition of probation or community control. However, the bill expands upon this by: (1) focusing attention on the offender's veteran status by requiring the court to hold a hearing to consider the

[18] Florida Department of Children and Families' description of the Veterans Jail Diversion Grant at http://www.dcf.state.fl.us/programs/samh/mentalhealth/consumerfamilyaffairs/currinitiatives.shtml , last viewed on February 17, 2011.

offender's veteran status and condition; (2) providing for sentencing credit for time that the offender who is a veteran spends in an inpatient treatment program; and (3) emphasizing the need to place the offender who is a veteran into a treatment program that has a history of dealing with veterans' issues, with a preference for VA and FDVA programs.

Pretrial Veterans' Treatment Intervention Program

The bill also creates felony and misdemeanor pre-trial diversion programs for veterans who are current or former United States military service members suffering from PTSD, TBI, substance use disorder, or psychological problems stemming from service in a theater of combat. The bill would make these veterans eligible for placement in an appropriate treatment program that is approved by the chief judge of the circuit instead of being processed through the criminal justice system.

Section 3 of the bill amends s. 948.08, F.S., to create the felony pretrial veterans treatment intervention program. It would apply to any veteran with one of the conditions who is charged with a felony that is not a disqualifying offense. The bill references s. 948.06 (8)(c), F.S., to incorporate the offenses used to determine whether an offender is to be treated as a "violent felony offender of special concern" as disqualifying offenses. The disqualifying offenses are:

- Kidnapping or attempted kidnapping under s. 787.01, F.S., false imprisonment of a child under the age of 13 under s. 787.02(3), F.S., or luring or enticing a child under s. 787.025(2)(b) or (c), F.S.
- Murder or attempted murder under s. 782.04, F.S., attempted felony murder under s. 782.051, F.S., or manslaughter under s. 782.07, F.S.
- Aggravated battery or attempted aggravated battery under s. 784.045, F.S.
- Sexual battery or attempted sexual battery under s. 794.011(2), (3), (4), or (8)(b) or (c), F.S.
- Lewd or lascivious battery or attempted lewd or lascivious battery under s. 800.04(4), F.S., lewd or lascivious molestation under s. 800.04(5)(b) or (c)2., F.S., lewd or lascivious conduct under s. 800.04(6)(b), F.S., lewd or lascivious exhibition under s. 800.04(7)(b), F.S., or lewd or lascivious exhibition on computer under s. 847.0135(5)(b), F.S.
- Robbery or attempted robbery under s. 812.13, F.S., carjacking or attempted carjacking under s. 812.133, F.S., or home invasion robbery or attempted home invasion robbery under s. 812.135, F.S.
- Lewd or lascivious offense upon or in the presence of an elderly or disabled person or attempted lewd or lascivious offense upon or in the presence of an elderly or disabled person under s. 825.1025, F.S.
- Sexual performance by a child or attempted sexual performance by a child under s. 827.071, F.S.
- Computer pornography under s. 847.0135(2) or (3), F.S., transmission of child pornography under s. 847.0137, F.S., or selling or buying of minors under s. 847.0145, F.S.
- Poisoning food or water under s. 859.01, F.S.
- Abuse of a dead human body under s. 872.06, F.S.
- Burglary or attempted burglary that is a first-degree or second-degree felony, or any attempted burglary offense, under s. 810.02(2) or (3), F.S.
- Arson or attempted arson under s. 806.01(1), F.S.
- Aggravated assault under s. 784.021, F.S.

- Aggravated stalking under s. 784.048(3), (4), (5), or (7), F.S.
- Aircraft piracy under s. 860.16, F.S.
- Unlawful throwing, placing, or discharging of a destructive device or bomb under s. 790.161(2), (3), or (4), F.S.
- Treason under s. 876.32, F.S.
- Any offense in another jurisdiction that would meet the definitions of these offenses if committed in Florida.

If a veteran with one of the conditions is not charged with a disqualifying offense, he or she would be eligible to be admitted voluntarily into a felony pretrial veterans treatment intervention program if one has been approved by the chief judge of the circuit. Admission may be upon the court's own motion or the motion of either party. However, there are three circumstances under which a veteran could be denied admission into a program:

- The court may deny admission if the veteran rejected an offer of admission to a pretrial veterans treatment intervention program on the record at any time prior to trial.
- The court may deny admission if the veteran previously entered a court-ordered veterans treatment program.
- The state attorney may request a preadmission hearing if it appears that the veteran was involved in selling controlled substances in the case. The court must deny admission to the program if the state attorney demonstrates by a preponderance of the evidence that the veteran was involved in selling controlled substances.

Section 4 of the bill amends s. 948.16, F.S., to create the misdemeanor pretrial veterans treatment intervention program. Any veteran with one of the conditions who is charged with a misdemeanor would be eligible to be admitted voluntarily into a misdemeanor pretrial veterans treatment intervention program if one has been approved by the chief judge of the circuit. However, the court can deny admission if the defendant had previously entered a court-ordered veterans treatment program.

The bill requires that a veterans treatment intervention team develop an individualized coordinated strategy for any veteran who is to be admitted to either a felony or misdemeanor pretrial veterans treatment intervention program. This coordinated strategy must be provided to the veteran in writing before he or she agrees to enter the program. The strategy is to be modeled after the ten therapeutic jurisprudence principles and key components for treatment-based drug court programs that are found in s. 397.334(4), F.S. These principles and components are:

- Drug court programs integrate alcohol and other drug treatment services with justice system case processing.
- Using a non-adversarial approach, prosecution and defense counsel promote public safety while protecting participants' due process rights.
- Eligible participants are identified early and promptly placed in the drug court program.
- Drug court programs provide access to a continuum of alcohol, drug, and other related treatment and rehabilitation services.
- Abstinence is monitored by frequent testing for alcohol and other drugs.
- A coordinated strategy governs drug court program responses to participants' compliance.

- Ongoing judicial interaction with each drug court program participant is essential.
- Monitoring and evaluation measure the achievement of program goals and gauge program effectiveness.
- Continuing interdisciplinary education promotes effective drug court program planning, implementation, and operations.
- Forging partnerships among drug court programs, public agencies, and community-based organizations generates local support and enhances drug court program effectiveness.

The coordinated strategy can include a system of sanctions for non-compliance. The sanctions can include placement in a residential or jail-based treatment program or incarceration for up to the length of time that is allowed for contempt of court.

At the end of the intervention program, the court must consider recommendations for disposition made by the state attorney and the program administrator (for felony diversion programs) or the treatment program (for misdemeanor diversion programs). After considering these recommendations, the court must dismiss the charges if it finds that the veteran successfully completed the intervention program. If the court finds that the veteran did not successfully complete the program, it can either order the veteran to continue in education and treatment or order that the charges revert to normal channels for prosecution.

Any veteran whose charges are dismissed after successful completion of the pretrial veterans treatment intervention program, if otherwise eligible, may have his or her arrest record and a plea of nolo contendere to the dismissed charges expunged under s. 943.0585, F.S.

The felony and misdemeanor treatment-based drug court program statutes on which the pretrial veterans treatment intervention program are modeled include requirements for the county or appropriate government entity to enter into a contract with any public or private entity that provides felony or pretrial diversion services. However, the bill does not include this requirement for felony pretrial veterans treatment intervention programs and provides an exception for VA and FDVA programs in the statute that creates misdemeanor pretrial veterans treatment intervention programs. It is anticipated that much of the needed treatment will be provided by the VA as a benefit that is available to the veteran as a result of his or her military service.

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:

This bill would have an impact on the private sector to the extent that participants are diverted from incarceration into private treatment programs.

C. Government Sector Impact:

The Criminal Justice Impact Conference assessed an earlier version of the bill to determine if the bill would have an impact on the state prison population. The conference determined the earlier version of the bill would have no impact on the state prison population.

The current version of the bill creates the pretrial veterans treatment intervention programs. Pretrial drug court diversion programs are funded by the state and local government. In drug court programs, the county pays for the costs of testing and treatment. If the veteran's treatment diversion programs operate in a similar fashion, the cost of such programs will be borne by both the state and local government. The cost of bill is indeterminate as the number of veterans to be served as well as the type and frequency of services is unknown. If the amended bill diverts some defendants from incarceration to community-based treatment programs, it is anticipated that much of the programming could be provided by the VA as part of the veteran's benefits.

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 Criminal Justice on March 9, 2011:

- Expands the type of problem that qualifies a veteran for a pre-sentencing hearing by adding "traumatic brain injury" and replacing "substance abuse" with "substance use disorder." "Substance abuse" refers only to use of illegal drugs, while "substance use disorder" refers to abuse of alcohol, illegal drugs, and prescription drugs.
- Clarifies that a veteran who has had adjudication withheld is eligible to have a pre-sentencing hearing and to be placed in a treatment program.

- Amends s. 948.08, F.S., to create a felony pretrial veterans treatment intervention program.
- Amends s. 948.16, F.S., to create a misdemeanor pretrial veterans treatment intervention program.

B. Amendments:

None.

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 Budget Committee

BILL:	SB 240
INTRODUCER:	Senator Joyner
SUBJECT:	Violations of Injunctions for Protection
DATE:	March 31, 2011
REVISED:	03/22/11

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dugger	Cannon	CJ	**Favorable**
2.	Maclure	Maclure	JU	**Favorable**
3.	Sadberry	Meyer, C.	BC	**Pre-meeting**
4.				
5.				
6.				

I. Summary:

This bill creates additional ways a person can violate an injunction for protection against repeat violence, sexual violence, or dating violence by making it identical to the ways a person can violate an injunction for protection against domestic violence. Specifically, the bill provides the following additional violations:

- Being within 500 feet of the petitioner's residence, school, place of employment, or a specified place frequented regularly by the petitioner and any named family or household member (currently there is no distance limitation; rather the violation is based solely on going to those places);
- Knowingly and intentionally coming within 100 feet of the petitioner's motor vehicle, whether or not that vehicle is occupied;
- Defacing or destroying the petitioner's personal property, including the petitioner's motor vehicle; or
- Refusing to surrender firearms or ammunition if ordered to do so by the court.

This bill substantially amends section 784.047, Florida Statutes.

II. Present Situation:

Injunction for Protection against Domestic Violence

In 2005, it was estimated that more than 1.5 million adults in the United States are victims of domestic violence each year, and more than 85 percent of the victims are women.[1] In Florida, 113,123 incidents of domestic violence were reported in 2008, which is 1.8 percent less than what was reported for the same period in 2007.[2]

A victim of domestic violence[3] or a person who has reasonable cause to believe that he or she is in imminent danger of becoming a victim of domestic violence may seek protective injunctive relief.[4] In seeking protective injunctive relief, a person must file a sworn petition with the court that alleges the existence of domestic violence and includes specific facts and circumstances upon which relief is sought.[5] The court must set a hearing at the earliest possible time after a petition is filed.[6] The respondent must be personally served with a copy of the petition, financial affidavit, Uniform Child Custody Jurisdiction and Enforcement Act affidavit, if any, notice of hearing, and any temporary injunction that has been issued.[7] The court can enforce a violation of an injunction through a civil or criminal contempt proceeding, or the state attorney may prosecute it as a criminal violation under s. 741.31, F.S.[8] Either party may move the court to modify or dissolve an injunction at any time.[9]

Section 741.31, F.S., deals with violations of an injunction for protection against domestic violence. This section provides that it is a first-degree misdemeanor[10] for a person to willfully violate an injunction for protection against domestic violence by:

- Refusing to vacate the dwelling that the parties share;
- Going to, or being within 500 feet of, the petitioner's residence, school, place of employment, or a specified place frequented regularly by the petitioner and any named family or household member;

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[1] Margaret Graham Tebo, *When Home Comes to Work*, ABA JOURNAL (Sept. 2005), *available at* http://www.abajournal.com/magazine/when_home_comes_to_work/ (last visited Mar. 8, 2011) (citing statistics from Legal Momentum, an advocacy and research organization based in New York City); *see also* Nat'l Coalition Against Domestic Violence, *Domestic Violence Facts*, http://www.ncadv.org/files/DomesticViolenceFactSheet(National).pdf (last visited Mar. 8, 2011).

[2] Florida Dep't of Law Enforcement, *Crime in Florida* (Jan.-Dec. 2008), http://www.fdle.state.fl.us/Content/getdoc/4f6a6cd0-6479-4f4f-a5a4-cd260e4119d8/CIF_Annual08.aspx (last visited Mar. 8, 2011).

[3] Domestic violence is defined as "any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member." Section 741.28(2), F.S.

[4] Section 741.30(1), F.S.

[5] Section 741.30(3), F.S.

[6] Section 741.30(4), F.S.

[7] *Id*. When an immediate and present danger of domestic violence exists, the court may grant a temporary injunction ex parte, pending a full hearing. Section 741.30(5), F.S.

[8] Section 741.30(9), F.S.

[9] Section 741.30(10), F.S.

[10] A first-degree misdemeanor is punishable by a term of imprisonment not exceeding one year or a fine not exceeding $1,000, or both. See ss. 775.082(4) and 775.083(1), F.S.

- Committing an act of domestic violence against the petitioner;
- Committing any other violation of the injunction through an intentional unlawful threat, word, or act to do violence to the petitioner;
- Telephoning, contacting, or otherwise communicating with the petitioner directly or indirectly, unless the injunction specifically allows indirect contact through a third party;
- Knowingly and intentionally coming within 100 feet of the petitioner's motor vehicle, whether or not that vehicle is occupied;
- Defacing or destroying the petitioner's personal property, including the petitioner's motor vehicle; or
- Refusing to surrender firearms or ammunition if ordered to do so by the court.[11]

Any person who suffers as a result of a violation of an injunction for protection against domestic violence may be awarded economic damages, including costs and attorneys' fees, for the injury or loss suffered.[12]

Injunction for Protection against Repeat Violence, Sexual Violence, or Dating Violence

Data from the National Women's Study and the National Violence Against Women Survey indicate that 13.4 percent of adult women in the United States have been victims of a forcible rape sometime during their lifetime.[13] Based on this national data, one report found that:

> approximately 11.1% of adult women in Florida have been victims of one or more completed forcible rapes during their lifetime. According to the 2000 Census, there are about 6.4 million women age 18 or older living in Florida. This means that the estimated number of adult women in Florida who have ever been raped is nearly 713,000.[14]

Additionally, statistics show that one in five high school girls has reported being physically or sexually abused by a dating partner, and females ages 16 through 24 are three times more vulnerable for partner violence than any other age group.[15]

Section 784.046, F.S., governs the issuance of injunctions for protection against repeat violence,[16] dating violence,[17] and sexual violence.[18] The statute specifies the following:

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[11] Section 741.31(4), F.S.
[12] Section 741.31(6), F.S.
[13] Kenneth J. Ruggiero and Dean G. Kilpatrick, *Rape in Florida: A Report to the State, One in Nine*, NAT'L VIOLENCE AGAINST WOMEN PREVENTION RESEARCH CTR., 1 (May 15, 2003), *available at* http://www.doh.state.fl.us/Family/svpp/planning/Rape_in_Florida.pdf (last visited Mar. 8, 2011).
[14] *Id*. at 2.
[15] American Bar Association, *Teen Dating Violence Facts* (2006). See also, American Bar Association, Division for Media Relations and Communication Services, "Facts about Teen Dating Violence" (Jan. 31, 2006), http://www.abanow.org/2006/01/facts-about-teen-dating-violence/ (last visited Mar. 22, 2011).
[16] Section 784.046(1)(b), F.S., defines repeat violence as "two incidents of violence or stalking committed by the respondent, one of which must have been within 6 months of the filing of the petition, which are directed against the petitioner or the petitioner's immediate family member."
[17] Dating violence is defined as "violence between individuals who have or have had a continuing and significant relationship of a romantic or intimate nature." The following factors come into play when determining the existence of such a relationship: (1) a dating relationship must have existed within the past six months; (2) the nature of the relationship must

- Petitions for injunctions for protection must allege the incidents of repeat violence, sexual violence, or dating violence and must include the specific facts and circumstances that form the basis upon which relief is sought.[19]
- Upon the filing of the petition, the court must set a hearing to be held at the earliest possible time. The respondent must be personally served with a copy of the petition, notice of hearing, and temporary injunction, if any, prior to the hearing.[20]
- When it appears to the court that an immediate and present danger of violence exists, the court may grant a temporary injunction, which may be granted in an ex parte hearing, pending a full hearing, and may grant such relief as the court deems proper.[21]
- The court shall enforce, through a civil or criminal contempt proceeding, a violation of an injunction for protection.[22]
- The petitioner or the respondent may move the court to modify or dissolve an injunction at any time.[23]

Section 784.047, F.S., provides penalties for violating an injunction for protection against repeat violence, sexual violence, or dating violence. The statute specifies that a person commits a first-degree misdemeanor[24] if he or she willfully violates an injunction for protection against repeat violence, sexual violence, or dating violence by:

- Refusing to vacate the dwelling that the parties share;
- Going to the petitioner's residence, school, place of employment, or a specified place frequented regularly by the petitioner and any named family or household member;
- Committing an act of repeat violence, sexual violence, or dating violence against the petitioner;
- Committing any other violation of the injunction through an intentional unlawful threat, word, or act to do violence to the petitioner; or
- Telephoning, contacting, or otherwise communicating with the petitioner directly or indirectly, unless the injunction specifically allows indirect contact through a third party.[25]

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have been characterized by the expectation of affection or sexual involvement between the parties; and (3) the persons involved in the relationship must have been involved over time and on a continuous basis during the course of the relationship. Dating violence does not include violence in a casual acquaintanceship or between individuals who have only engaged in ordinary fraternization. Section 784.046(1)(d), F.S.

[18] Sexual violence is defined as any one incident of "1. Sexual battery, as defined in chapter 794; 2. A lewd or lascivious act, as defined in chapter 800, committed upon or in the presence of a person younger than 16 years of age; 3. Luring or enticing a child, as described in chapter 787; 4. Sexual performance by a child, as described in chapter 827; or 5. Any other forcible felony wherein a sexual act is committed or attempted." For purposes of this definition, it does not matter whether criminal charges based on the incident were filed, reduced, or dismissed by the state attorney. Section 784.046(1)(c), F.S.

[19] Section 784.046(4), F.S.

[20] Section 784.046(5), F.S.

[21] Section 784.046(6), F.S.

[22] Section 784.046(9), F.S.

[23] Section 784.046(10), F.S.

[24] A first-degree misdemeanor is punishable by a term of imprisonment not exceeding one year or a fine not exceeding $1,000, or both. See ss. 775.082(4) and 775.083(1), F.S.

[25] Section 784.047, F.S.

III. Effect of Proposed Changes:

This bill creates additional ways a person can violate an injunction for protection against *repeat violence, sexual violence, or dating violence* by making it identical to the ways a person can violate an injunction for protection against *domestic violence*.

The new violations will include the following:

- Knowingly and intentionally coming within 100 feet of the petitioner's motor vehicle, whether or not that vehicle is occupied;
- Defacing or destroying the petitioner's personal property, including the petitioner's motor vehicle; or
- Refusing to surrender firearms or ammunition if ordered to do so by the court.

Additionally, the bill adds a distance limitation to a violation in existing law by providing that a person can violate an injunction for protection by going to, *or being within 500 feet of,* the petitioner's residence, school, place of employment, or a specified place frequented regularly by the petitioner and any named family or household member. This change also parallels the way a person can currently violate an injunction for protection against domestic violence.

This bill has an effective date of July 1, 2011.

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:

This bill provides additional ways a person may violate an injunction for protection against repeat violence, sexual violence, or dating violence, which subjects the person to a possible fine of up to $1,000. Accordingly, this bill has the potential to affect people

who willfully violate the new provisions added by the bill, which may not have been punishable before.

C. Government Sector Impact:

This bill expands the ways in which a person can violate an injunction for protection against repeat violence, sexual violence, or dating violence, resulting in a first-degree misdemeanor, which can be punishable by up to one year in jail. In this manner, the bill could have an indeterminate bed impact on local jails.

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.

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 Budget Committee

BILL: CS/CS/SB 244

INTRODUCER: Health Regulation Committee; Transportation Committee; and Senator Bennett

SUBJECT: Motor Vehicles/Highway Safety Act

DATE: March 31, 2011 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Eichin	Spalla	TR	**Fav/CS**
2.	Fernandez/O'Callaghan	Stovall	HR	**Fav/CS**
3.	Carey	Meyer, C.	BC	**Pre-meeting**
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

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

I. Summary:

This bill, known as the "Highway Safety Act," declares the Legislature's finding that road rage and aggressive driving are a growing threat to the public's health, safety, and welfare and the Legislature's intent to reduce road rage and aggressive careless driving, minimize crashes, and promote the orderly free flow of traffic in Florida.

The bill:

- Directs the Department of Highway Safety and Motor Vehicles (DHSMV) to provide information about this act in driver's license educational materials;
- Prohibits a driver from continuing to operate a vehicle in the left lane of a multi-lane highway when the driver knows, or should reasonably know, he or she is being overtaken (and establishes exceptions to this prohibition);
- Increases from two or more to three or more, the number of driving infractions committed simultaneously in order to qualify as aggressive careless driving;
- Includes the failure to yield to overtaking vehicles to the infractions considered acts of aggressive careless driving;
- Establishes penalties for aggressive careless driving; and

- Provides for the distribution of money received from increased fines associated with penalties, including financial support of trauma centers and emergency medical services organizations throughout Florida.

The effective date of the act is October 1, 2011.

This bill substantially amends the following sections of the Florida Statutes: 316.003, 316.083, 316.1923, 318.121, 318.18, and 318.19.

The bill creates two undesignated sections of Florida Law.

Section 316.650, F.S, is reenacted for the purpose of incorporating amendments made by this act.

II. Present Situation:

Road Rage and Aggressive Driving

According to the National Highway Traffic Safety Administration (NHTSA), "aggressive driving" comprises following too closely, driving at excessive speeds, weaving through traffic, running stoplights and signs, and other forms of negligent or inconsiderate driving.[1] Occasionally, aggressive driving transforms into confrontation, physical assault, and even murder. A study on road deaths and injuries shows that:

> road death and injury rates are the result, to a considerable extent, of the expression of aggressive behavior. . . Those societies with the greatest amount of violence and aggression in their structure will show this by externalizing some of this violence in the form of dangerous and aggressive driving. . . [2]

"Road Rage" is the label that has emerged to describe the angry and violent behaviors at the extreme of the aggressive driving continuum. A literature review commissioned by the American Automobile Association (AAA) Foundation for Traffic Safety defines road rage as:

> an incident in which an angry or impatient motorist or passenger intentionally injures or kills another motorist, passenger, or pedestrian, or attempts or threatens to injure or kill another motorist, passenger, or pedestrian.[3]

The willful intent to injure other individuals or to cause damage, although directed at a specific target, presents an immediate danger to all in the vicinity of those engaged in acts of road rage. There are numerous accounts in which road rage incidents inadvertently involve drivers or pedestrians not targeted in the incident.

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[1] National Highway Traffic Safety Administration, *Aggressive Driving Enforcement: Evaluations of Two Demonstration Programs* (Mar. 2004) (DOT HS 809 707), available at: http://www.nhtsa.dot.gov/people/injury/research/AggDrivingEnf/images/AggresDrvngEnforce-5.0.pdf (last visited February 1, 2011).

[2] Whitlock, F.A., *Death on the Road: A Study in Social Violence*. London (Tavistock Publications 1971).

[3] Daniel B. Rathbone and Jorg C. Huckabee, AAA Foundation for Traffic Safety, *Controlling Road Rage: A Literature Review and Pilot Study* (June 1999), available at: http://www.aaafoundation.org/resources/index.cfm?button=roadrage (last visited February 1, 2011).

Aggressive driving maneuvers, such as tailgating and speeding, can also be seen as the result of the driving environment, and they are also connected with the issue of congestion.[4] Studies show most incidents happen between the hours of four and six o'clock in the evening, times in which traffic congestion is more than likely a factor or the primary cause of an accident. In addition, there is strong evidence correlating the number of lane change maneuvers to accidents, and speed to accidents. Some researchers have theorized the root cause of these aggressive behaviors is passive-aggressive driving, i.e., the failure to move to the right from a left lane of a multi-lane highway when being overtaken by faster traffic. The theory contends that because slower moving traffic often refuses to yield to vehicles wishing to pass, those faster moving vehicles resort to aggressive driving such as "bobbing and weaving" from lane to lane.

On most roads, drivers are made relatively equal by the prescribed limits of the law regardless of individual differences in capability and status. The vast majority of cars are fully capable of exceeding 70 mph, yet all cars are directed by law to adhere to the same upper and lower limits. Drivers must adhere to the limitations placed on their speed and movement, prescribed directly (by speed limits, or variations in the number of lanes available) and indirectly (by congestion). For this reason, it is easier for the driver to ascribe frustration at being impeded by an ambiguous source, especially if there is no logical reason for the obstruction (to the impeded driver).[5] This is an example of the possible escalating frustration, which may transform from driving aggressively into an instance of road rage.

Current Florida law in relation to "driving on right side of roadway" requires vehicles moving at a lesser rate of speed to drive in the right hand lane as soon as it is reasonable to proceed into that lane. Exceptions and exemptions include: when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn at an intersection or into a private road or driveway.[6] Violations of this law are noncriminal offenses. However, enforcement of these provisions has been minimal.

Aggressive driving is considered a traffic violation, while road rage results in criminal offense(s). Currently nine states have laws pertaining to aggressive driving as described above (including Florida). Most, if not all acts under the umbrella of what is considered road rage, are labeled criminal offenses with applicable punishments. Road rage, if not accompanied by some other type of violation, is not considered a punishable crime in any existing statute. Some crimes considered to be an act of road rage if carried out while driving include: *Criminal Damage; Using Threatening, Abusive, or Insulting Words or Behavior* (thereby causing fear or provocation)*; Wounding with Intent; Common Assault; Assault with a Deadly Weapon; Murder; Manslaughter; and Vehicular Homicide.*

[4]Dominic Connell and Matthew Joint, *Driver Aggression,* Road Safety Unit Group Public Policy (November 1996), available at: http://www.aaafoundation.org/resources/index.cfm?button=agdrtext#Driver%20Aggression (last visited February 1, 2011).
[5] *Id.*
[6] Section 316.081(1), (2), and (3), F.S.

Florida Aggressive Driving Laws

Section 316.1923, F.S., describes, "aggressive careless driving" as committing two or more of the following acts simultaneously or in succession:

- Exceeding the posted speed as defined in s. 322.27(3)(d)5.b., F.S;
- Unsafely or improperly changing lanes as defined in s. 316.085, F.S.;
- Following another vehicle too closely as defined in s. 316.0895(1), F.S.;
- Failing to yield the right-of-way as defined in ss. 316.079, 316.0815, or 316.123, F.S.;
- Improperly passing as defined in ss. 316.083, 316.084, or 316.085, F.S.; or
- Violating traffic control and signal devices as defined in ss. 316.074 and 316.075, F.S.

These violations carry separate penalties for each offense. Section 316.1923, F.S., does not, however, provide for any penalties to be administered for the act of aggressive driving itself. Law enforcement officers, by law are to check off a box, which is included on a ticket or an accident report form, when the officer believes the traffic violation or crash was due to aggressive careless driving. This information is recorded and used by DHSMV.

Current law provides that drivers overtaking other drivers must use the proper signal, and those being overtaken must yield the right of way to the overtaking vehicle. In addition, vehicles being overtaken may not increase speed until the attempted pass is complete or it is reasonably safe to do so.[7] Some of the infractions may require a mandatory court hearing.[8]

Trauma Centers, Emergency Medical Services/Funding from Traffic Violations

Trauma centers are governed by ch. 395, part II, F.S. A trauma center is defined as "a type of hospital that provides trauma surgeons, neurosurgeons and other surgical and non-surgical specialists and medical personnel, equipment and facilities for immediate or follow-up treatment for severely injured patients, 24 hours-a-day, 7-days-a-week."[9] Florida currently has 22 trauma centers. There are seven Level I Centers, thirteen Level II Centers (four of which are also Pediatric Centers), and two centers specializing solely in pediatrics. "Florida is divided into 19 trauma service areas to facilitate planning for system development."[10]

Trauma centers are defined in s. 395.4001, F.S. as follows:

A Level I trauma center:

- Has formal research and education programs for the enhancement of trauma care; is verified by the department to be in substantial compliance with Level I trauma center and pediatric trauma center standards; and has been approved by the Department of Health (department) to operate as a Level I trauma center.
- Serves as a resource facility to Level II trauma centers, pediatric trauma centers, and general hospitals through shared outreach, education, and quality improvement activities.

[7] Section 316.083, F.S.
[8] Section 318.19, F.S.
[9] The Department of Health, Division of Emergency Medical Operations website, *Office of Trauma*, located at: < http://www.doh.state.fl.us/demo/trauma/center.htm> (Last visited on February 16, 2011).
[10] Comm. On Appropriations, Fla. Senate, *Review of Trauma Care Planning and Funding in Florida* (Interim Project Report 2004-108)(Nov. 2003).

- Participates in an inclusive system of trauma care, including providing leadership, system evaluation, and quality improvement activities.

A Level II trauma center:

- Is verified by the department to be in substantial compliance with Level II trauma center standards and has been approved by the department to operate as a Level II trauma center.
- Serves as a resource facility to general hospitals through shared outreach, education, and quality improvement activities.
- Participates in an inclusive system of trauma care.

A Pediatric trauma center is defined as a hospital that is verified by the department to be in substantial compliance with pediatric trauma center standards as established by rule of the department and has been approved by the department to operate as a pediatric trauma center. "Pediatric trauma centers are required to participate in collaborative research and conduct education programs for the enhancement of pediatric trauma care."[11]

Emergency Medical Services are defined in s. 401.107, F.S., as the activities or services to prevent or treat a sudden critical illness or injury and to provide emergency medical care and prehospital emergency medical transportation to sick, injured, or otherwise incapacitated persons in this state. "Florida's trauma system helps to ensure that emergency medical services providers provide pre-hospital care and transport of injured residents and visitors to the nearest trauma center."[12]

Florida law provides for the distribution of fines from various traffic violations to be deposited into the department's Administrative Trust Fund and the department's Emergency Medical Services Trust Fund to support trauma centers and emergency medical services according to various allocation methodologies.[13]

III. Effect of Proposed Changes:

Section 1. Creates the "Highway Safety Act."

Section 2. Provides findings and expresses the legislative intent of the Highway Safety Act to reduce road rage and aggressive careless driving, reduce the incidence of drivers' interfering with the movement of traffic, minimize crashes, and promote the orderly, free flow of traffic on the roads and highways of Florida.

Section 3. Amends s. 316.003, F.S., which defines terms used in the "Florida Uniform Traffic Control Law," by defining the term "road rage" to mean:

> The act of a driver or passenger to intentionally or unintentionally, due to a loss of emotional control, injure or kill another driver, passenger, or pedestrian, or to attempt or threaten to injure or kill another driver, passenger, or pedestrian.

[11] The Department of Health, Division of Emergency Medical Operations website, *Office of Trauma*, located at: <http://www.doh.state.fl.us/demo/trauma/center.htm> (Last visited on February 16, 2011).
[12] *Id.*
[13] *See* for example ss. 318.14, 318.18, 318.21, 395.4065, and 401.113, F.S.

Section 4. Amends s. 316.083, F.S., to provide that on roads, streets, or highways having two or more lanes that allow movement in the same direction, a driver may not continue to operate a motor vehicle in the furthermost left-hand lane if the driver knows, or reasonably should know, that he or she is being overtaken in that lane from the rear by a motor vehicle traveling at a higher rate of speed.

The bill provides that this prohibition does not apply to a driver operating a motor vehicle in the furthermost left-hand lane if:

- The driver is driving the legal speed limit and is not impeding the flow of traffic in the furthermost left-hand lane;
- The driver is in the process of overtaking a slower motor vehicle in the adjacent right-hand lane for the purpose of passing the slower moving vehicle so that the driver may move to the adjacent right-hand lane;
- Conditions make the flow of traffic substantially the same in all lanes or preclude the driver from moving to the adjacent right-hand lane;
- The driver's movement to the adjacent right-hand lane could endanger the driver or other drivers;
- The driver is directed by a law enforcement officer, road sign, or road crew to remain in the furthermost left-hand lane; or
- The driver is preparing to make a left turn.

A driver simultaneously violating these provisions and the provisions of s. 316.183, F.S. (relating to Unlawful Speed) shall receive a uniform noncriminal traffic citation for the unlawful speed violation.

Section 5. Amends s. 316.1923, F.S., by adding "failing to yield to overtaking vehicles" to the list of offenses that constitute aggressive careless driving. In addition, the number of acts performed simultaneously, or in succession, constituting aggressive careless driving is increased from two or more to three or more.

The bill provides that any person convicted of aggressive careless driving is to be cited for a moving violation and punished as provided in ch. 318, F.S., and by the accumulation of points as provided in s. 322.27, F.S., for each act of aggressive careless driving. Under s. 322.27(3)(d)7. and 8., F.S., a driver will accumulate 3 points for this moving violation or 4 points if it results in a crash.

Section 6. Amends s. 318.121, F.S. to authorize additional fines for aggressive careless driving provided for in the bill to be included in ch. 318, F.S.

Section 7. Amends s. 318.18, F.S. to include subsection (22), to read:

In addition to any penalties or points imposed under s. 316.9123, F.S., (section 5 of the bill), a person convicted of aggressive careless driving must also pay:

- Upon a first conviction, a fine of $100.
- Upon a second or subsequent "conviction," a fine of not less than $250 but not more than $500 and be subject to a mandatory hearing under s. 318.19, F.S.

The moneys collected from the increased fine are to be remitted by the clerk of court to the Department of Revenue (DOR) for deposit into the department's Administrative Trust Fund. The department is required to transfer $200,000 in the first year and $50,000 in the second and third years after this bill takes effect into the Highway Safety Operating Trust Fund to offset the cost of providing educational materials related to the act. The remaining funds deposited into the department's Administrative Trust Fund under this act, are to be allocated as follows:

- Twenty-five percent is to be allocated equally among all Level I, Level II, and pediatric trauma centers in recognition of readiness costs for maintaining trauma services;
- Twenty-five percent is to be allocated among Level I, Level II, and pediatric trauma centers based on each center's relative volume of trauma cases as reported in the department's Trauma Registry;
- Twenty-five percent is to be transferred to the Emergency Medical Services Trust Fund and used by the department for making matching grants to emergency medical services organizations as defined in s. 401.107(4), F.S.; and
- Twenty-five percent is to be transferred to the Emergency Medical Services Trust Fund and made available to rural emergency medical services as defined in s. 401.107(5), F.S., and must be used solely to improve and expand prehospital emergency medical services in Florida. Additionally, these moneys may be used for the improvement, expansion, or continuation of services provided.

Section 8. Amends s. 318.19, F.S., to include second or subsequent violations of s. 316.1923(1), F.S., (Aggressive Careless Driving) in the list of infractions requiring a mandatory court hearing.

Section 9. Requires DHSMV to provide information about the Highway Safety Act in all newly printed driver's license educational materials after October 1, 2011.

Section 10. Reenacts s. 316.650, F.S., for the purpose of incorporating the amendments made by this act.

Section 11. Establishes an effective date of October 1, 2011.

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:

The provisions of this 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.

C. Trust Funds Restrictions:

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:

Persons convicted of aggressive careless driving are to pay $100 in addition to all fines associated with each individual violation. Upon a second or subsequent conviction, violators will have to pay a fine of no less than $250 and no more than $500 in addition to any other fines associated with each individual violation.

C. Government Sector Impact:

According to the DHSMV, 40 hours of programming would be required to include "aggressive careless driving" as a moving violation for the purpose of assessing points specified in s. 322.27, F.S. This would be absorbed in the DHSMV's normal course of work without the need for an additional appropriation.[14]

The bill provides that $200,000 will be transferred to the DHSMV Highway Safety Operating Trust Fund in the first year and $50,000 for the 2 subsequent years to fund the cost of developing educational materials related to this bill. Additional fine revenue collected will be distributed to the DOH Administrative Trust Fund for use by certain trauma centers and emergency medical services organizations, of which the total amount is indeterminate.

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 on February 22, 2011:
Authorizes the additional fines for aggressive careless driving provided for in the bill to be included in ch. 318, F.S.

- Transfers the additional fines for aggressive careless driving provided for in the bill from s. 316.1923, F.S., to s. 318.18, F.S.
- Changes the effective date to October 1, 2011.

[14] Department of Highway Safety and Motor Vehicles, *agency Bill Analysis: SB 244,* 6 (Dec. 17, 2010).

CS by Transportation on February 7, 2011:
The CS clarified that the clerk of the court is to remit funds collected from fines accruing from this act to the Department of Revenue (DOR). DOR will then deposit $200,000 (in year 1) and $50,000 (in years 2 and 3) into the Highway Safety Operating Trust Fund

B. Amendments:

None.

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 Budget Committee

BILL:	CS/SB 246
INTRODUCER:	Health Regulation Committee and Senator Joyner and others
SUBJECT:	Human Trafficking
DATE:	March 31, 2011 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	O'Callaghan	Stovall	HR	**Fav/CS**
2.	Cellon	Cannon	CJ	**Favorable**
3.	Bradford	Meyer, C.	BC	**Pre-meeting**
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

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

I. Summary:

The bill requires operators of massage establishments to maintain valid work authorization documents on the premises for employees who are not U.S. citizens, and present these documents to a law enforcement officer upon request. The bill makes it unlawful for a massage establishment operator to knowingly use a massage establishment for the purpose of lewdness, assignation, or prostitution. Criminal penalties are established for a violation of any of the provisions set forth in the bill.

The effective date of this bill is October 1, 2011.

This bill creates section 480.0535, and substantially amends section 921.0022, of the Florida Statutes.

II. Present Situation:

Human Trafficking

Human trafficking is a form of modern-day slavery. Victims of human trafficking are young children, teenagers, men and women. Victims of human trafficking are subjected to force, fraud, or coercion, for the purpose of sexual exploitation or forced labor.[1]

The International Labor Organization (ILO), the United Nations agency charged with addressing labor standards, employment, and social protection issues, estimates that there are at least 12.3 million adults and children in forced labor, bonded labor, and commercial sexual servitude at any given time.[2] The Federal Government has estimated that the number of persons trafficked into the United States each year range from 14,500-17,500.[3] Additionally, an estimated 200,000 American children are at risk for trafficking into the sex industry each year, according to the U.S. Department of Justice.[4]

After drug dealing, trafficking of humans is tied with arms-dealing as the second largest criminal industry in the world, and is the fastest growing. Many victims of human trafficking are forced to work in prostitution or the sex entertainment industry. However, trafficking also occurs in forms of labor exploitation, such as domestic servitude, restaurant work, janitorial work, sweatshop factory work, and migrant agricultural work.[5]

Traffickers use various techniques to instill fear in victims and to keep them enslaved. Some traffickers keep their victims under lock and key. However, the more frequent practice is to use less obvious techniques including:

- Debt bondage - financial obligations, honor-bound to satisfy debt.
- Isolation from the public - limiting contact with outsiders and making sure that any contact is monitored or superficial in nature.
- Isolation from family members and members of their ethnic and religious community.
- Confiscation of passports, visas or identification documents.
- Use or threat of violence toward victims or families of victims.
- The threat of shaming victims by exposing circumstances to family.
- Telling victims they will be imprisoned or deported for immigration violations if they contact authorities.
- Control of the victims' money, and holding their money for "safe-keeping."[6]

[1] U.S. Department of Health and Human Services, Administration for Children & Families, *About Human Trafficking*, available at http://www.acf.hhs.gov/trafficking/about/index.html# (Last visited on January 31, 2011).
[2] *See* U.S. Department of State, *The 2009 Trafficking in Persons (TIP) Report*, June 2009, available at http://www.state.gov/g/tip/rls/tiprpt/2009/ (Last visited on February 1, 2011).
[3] Sonide Simon, *Human Trafficking and Florida Law Enforcement*, Florida Criminal Justice Executive Institute, pg. 2, March 2008, available at http://www.fdle.state.fl.us/Content/getdoc/e77c75b7-e66b-40cd-ad6e-c7f21953b67a/Human-Trafficking.aspx (Last visited on February 1, 2011).
[4] *Id.* at 3.
[5] *Supra* fn. 1.
[6] *Id.*

Federal Trafficking Law

In 2000, Congress enacted the Trafficking Victims Protection Act (TVPA) to "combat trafficking in persons, a contemporary manifestation of slavery whose victims are predominantly women and children, to ensure just and effective punishment of traffickers, and to protect their victims."[7] The TVPA not only criminalizes human trafficking, but also requires that victims, who might otherwise be treated as criminals (e.g. engagement in prostitution), be treated as victims of crime and be provided with health and human services, if they cooperate with prosecutions.

The Trafficking Victims Protection Reauthorization Act of 2003 (TVPRA 2003), Pub. L. 108-193, reauthorized the TVPA and added responsibilities to the U.S. Government's anti-trafficking portfolio. In particular, the TVPRA 2003 mandated new information campaigns to combat sex tourism, added refinements to the federal criminal law provisions, and created a new civil action that allows victims to sue their traffickers in federal district court. In addition, the TVPRA 2003 required an annual report from the Attorney General to Congress.[8]

The Trafficking Victims Protection Reauthorization Act of 2005 (TVPRA 2005), Pub. L. 109-164, reauthorized the TVPA and authorized new anti-trafficking resources, including grant programs to assist state and local law enforcement efforts and expand victim assistance programs to U.S. citizens or resident aliens subjected to trafficking; authorized pilot programs to establish residential rehabilitative facilities for trafficking victims, including one program aimed at juveniles; and provided extraterritorial jurisdiction over trafficking offenses committed overseas by persons employed by or accompanying the federal government.[9]

The William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA 2008), Pub. L. 110-457, reauthorized the TVPA for 4 years and authorized new measures to combat human trafficking. The TVPRA 2008:

- Created new crimes imposing severe penalties on those who obstruct or attempt to obstruct the investigations and prosecutions of trafficking crimes;
- Changed the standard of proof for the crime of sex trafficking by force, fraud, or coercion by requiring that the government merely prove that the defendant acted in reckless disregard of the fact that such means would be used;
- Broadened the reach of the crime of sex trafficking of minors by eliminating the requirement to show that the defendant knew that the person engaged in commercial sex was a minor in cases where the defendant had a reasonable opportunity to observe the minor;
- Expanded the crime of forced labor by providing that "force" is a means of violating the law; imposed criminal liability on those who, knowingly and with intent to defraud, recruit workers from outside the U.S. for employment within the U.S. by making materially false or fraudulent representations;

[7] Trafficking Victims Protection Act of 2000, Pub. L. No. 106-386, (2000).

[8] Attorney General's Annual Report to Congress and Assessment of U.S. Government Activities to Combat Trafficking in Persons, pg. 2 (July 2010), available at http://www.justice.gov/ag/annualreports/tr2009/agreporthumantrafficking2009.pdf (Last visited on February 1, 2011).

[9] *Id.* at 3.

- Enhanced the penalty for conspiring to commit trafficking-related crimes; and
- Penalized those who knowingly benefit financially from participating in a venture that engaged in trafficking crimes.[10]

Between Fiscal Years 2001-2009, the FBI's Civil Rights Division and U.S. Attorneys' Offices, under authority of the TVPA, prosecuted 645 defendants, secured 466 convictions and guilty pleas, and opened 1,187 new investigations.[11]

Florida Statewide Task Force on Human Trafficking

The Florida Statewide Task Force on Human Trafficking was created in 2009[12] with the express purpose of examining the problem of human trafficking and recommending strategies and actions for reducing or eliminating the unlawful trafficking of men, women, and children into Florida. The Florida State University Center for the Advancement of Human Rights (CAHR) was directed to submit a statewide strategic plan to the task force by November 1, 2009.[13] The strategic plan was required to address the following five subjects:

- A description of available data on human trafficking in Florida;
- Identification of available victim programs and services;
- Evaluation of public awareness strategies;
- Assessment of current laws; and
- A list of recommendations produced in consultation with governmental and non-governmental organizations.[14]

The CAHR's strategic plan is broken up into five goals or objectives to meet the five subjects required to be addressed by the CAHR under ch. 2009-95, Laws of Florida. In summary, the strategic plan provided the following:

- Labor trafficking is the most prevalent type of human trafficking in Florida, while domestic minor sex trafficking is also prevalent and the most under-reported and under-prosecuted human trafficking offense in Florida.
- There is a need to have and maintain an up-to-date resource directory for all persons and organizations that assist victims of trafficking in Florida.
- Public awareness is at the heart of Florida being able to successfully assist victims of human trafficking statewide and public awareness campaigns must have broad support, involve diverse activities, and have an accurate and concise message, while also being culturally sensitive.
- Although Florida has made progress in its human trafficking laws, more training is needed to carry out enforcement of such laws and further reforms should be considered.

[10] *Id.*
[11] *Id.* at 48.
[12] *See* ch. 2009-95, Laws of Florida.
[13] Florida State University, Center for the Advancement of Human Rights, *Florida Strategic Plan on Human Trafficking*, available at http://www.dcf.state.fl.us/initiatives/humantrafficking/docs/FSUStrategicPlan2010.pdf (Last visited on January 31, 2011).
[14] *Id.*

- There is a need for state government training and awareness of human trafficking so that government employees and contractors may learn how they might encounter human trafficking and how they should respond; Florida needs to provide effective and safe services for victims; and law enforcement needs more training for more effective responses and needs to develop and sustain partnerships within communities.[15]

The task force was required to propose a plan of implementation of the strategic plan by October 1, 2010.[16]

Human Trafficking in Florida

The exact number of persons trafficked in Florida is difficult to determine because little data is available due to the reluctance of victims to report trafficking, the ease with which traffickers can move and operate, and until recently, little historical experience by law enforcement and prosecutors in cases of human trafficking. However, Florida is ranked as one of the top states in the nation for human trafficking cases, with immigrants and non-English speaking persons especially vulnerable.[17]

The CAHR has found that Asian massage parlors are often used to disguise sex trafficking. Women are trafficked in from Korea, Vietnam, Thailand or China using tourist visas. The women are then forced to work off their debt of being smuggled in, which is typically $50,000 to $100,000.[18] Officials in Florida have discovered a very pronounced pattern of "moving targets" with some massage establishments operating a "taxi service," transporting women to other massage establishments throughout the country as often as every 7 to 14 days.[19] Massage establishments engaged in trafficking will also often close and re-open frequently to avoid having to hold trafficked women in a single location.[20]

Currently in Florida, all law enforcement recruits receive mandatory training in recognizing and investigating human trafficking cases. Also, the U.S. Justice Department currently operates human trafficking task forces in Miami, Homestead, Naples, Fort Myers, and Tampa-Clearwater.

Florida Laws on Human Trafficking, Sex Trafficking, and Prostitution

"Human trafficking" is defined under s. 787.06(2)(c), F.S., to mean transporting, soliciting, recruiting, harboring, providing, or obtaining another person for transport.

Section 787.06(3), F.S., provides that it is a second-degree felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, F.S., (maximum imprisonment of 15 years, maximum fine of $10,000, or penalties applicable for a habitual offender) for any person to knowingly:

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[15] *Id.*

[16] Senate Health Regulation Committee professional staff requested a copy of the implementation plan on January 31, 2011, from a task force member, and is awaiting a response.

[17] Terry S. Coonan, *Human Rights in the Sunshine State: A proposed Florida Law on Human Trafficking*, 31 FLA. ST. U. L. REV. 289 (Winter 2004).

[18] Email received from Terry Coonan, Executive Director of the FSU Center for the Advancement of Human Rights (CAHR), on February 1, 2011. A copy of the email is on file with the Senate Health Regulation Committee.

[19] Terry Coonan, CAHR, *Rationale for the Proposed Revisions*. Document on file with the Committee on Health Regulation staff.

[20] *Supra* fn. 13.

- Engage, or attempt to engage, in human trafficking with the intent or knowledge that the trafficked person will be subjected to forced labor or services; or
- Benefit financially by receiving anything of value from participation in a venture that has subjected a person to forced labor or services.

"Sex trafficking" is regulated under ch. 796, F.S., relating to prostitution. Section 796.045, F.S., provides that any person who knowingly recruits, entices, harbors, transports, provides, or obtains by any means a person, knowing that force, fraud, or coercion will be used to cause that person to engage in prostitution, commits the offense of sex trafficking, a second-degree felony. A person commits a first-degree felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, F.S., (maximum imprisonment of 30 years, maximum fine of $10,000, or penalties applicable for a habitual offender) if the offense of sex trafficking is committed against a person who is under the age of 14 or if such offense results in death.

Section 796.07, F.S., makes it unlawful to, among other things, own, establish, maintain, or operate any place, structure, building, or conveyance for the purpose of lewdness, assignation, or prostitution. A person who commits this offense is guilty of:

- A misdemeanor of the second-degree for the first violation, punishable as provided in s. 775.082, F.S., or s. 775.083, F.S., (maximum imprisonment of 60 days or maximum fine of $500);
- A misdemeanor of the first-degree for the second violation, punishable as provided in s. 775.082, F.S., or s. 775.083, F.S., (maximum imprisonment of 1 year or maximum fine of $1,000); or
- A felony of the third degree for the third or subsequent violation, punishable as provided in s. 775.082, F.S., s. 775.083, F.S., or s. 775.084, F.S., (maximum imprisonment of 5 years, maximum fine of $5,000, or penalties applicable for a habitual offender).

"Prostitution" is defined under s. 796.07, F.S., to mean the giving or receiving of the body for sexual activity for hire but excludes sexual activity between spouses. "Lewdness" means any indecent or obscene act and "assignation" means the making of any appointment or engagement for prostitution or lewdness, or any act in furtherance of such appointment or engagement.

Florida Regulation of Massage Therapists and Massage Establishments

Massage therapists and massage establishments in Florida are regulated by the Board of Massage Therapy (board) in the DOH under the Massage Practice Act, ch. 480, F.S., and Chapter 64B7, Florida Administrative Code. A person must be licensed as a massage therapist to practice massage for compensation, unless otherwise specifically exempted under the Massage Practice Act.[21] In order to be licensed as a massage therapist, an applicant must:

- Be at least 18 years old or have received a high school diploma or graduate equivalency diploma;
- Complete a course of study at a board-approved massage school or apprenticeship program; and

[21] Section 480.047(1)(a), F.S. *See also* s. 480.033(4), F.S.

- Pass an examination,[22] which is currently offered in English and in Spanish.[23]

Li**c**ensed massage therapists may practice in a licensed massage establishment, at a client's residence or office, or at a sports event, convention or trade show.[24] Sexual misconduct, defined as a violation of the professional relationship through the use of such relationship to engage or attempt to engage in sexual activity outside the scope of the profession, is strictly prohibited.[25]

A person may be approved by the board to become an apprentice to study massage under the instruction of a licensed massage therapist, if the person meets the qualifications stated in Rule 64B7-29.002, Florida Administrative Code. To qualify for an apprenticeship, the applicant must have secured the sponsorship of a sponsoring massage therapist, complete a DOH application, pay a $100 fee, and must not be enrolled simultaneously as a student in a board-approved massage school.[26]

Section 480.43, F.S., provides that a massage establishment license is required at any facility where massage therapy services are offered by a licensed massage therapist and directs the board to adopt application criteria. It also provides that massage establishment licenses may not be transferred to a new owner, but may be transferred to a new location if the new location is inspected and approved by the board and an application and inspection fee has been paid. A license may be transferred from one business name to another if approved by the board and if an application fee has been paid.

The board's rules include insurance requirements, compliance with building codes, and safety and sanitary requirements, and require a licensed massage therapist to be onsite any time a client is receiving massage services.[27] Upon receiving an application, the DOH inspects the establishment to ensure it meets the licensure requirements.[28] Once licensed, the DOH inspects the establishment at least annually.[29]

An application for a massage establishment license may be denied for an applicant's conviction of crimes related to the practice of massage, and must be denied for convictions of enumerated crimes within 15 years of application[30] and for past sexual misconduct.[31]

It is a misdemeanor of the first degree to operate an unlicensed massage establishment.[32] Currently, upon receiving a complaint that unlicensed activity is occurring, the DOH's Medical Quality Assurance inspectors coordinate with local law enforcement. Unlicensed practice of massage therapy is punishable as a third-degree felony.[33] The DOH may issue cease and desist

[22] Section 480.042, F.S.
[23] Rule 64B7-25.001(3), F.A.C.
[24] Section 480.046(1)(n), F.S.
[25] Section 480.0485, F.S. *See also* Rule 64B7-26.010, F.A.C.
[26] *See* rule 64B7-27.005, for the apprentice fee amount.
[27] Rule 64B7-26.003, F.A.C.
[28] Rule 64B7-26.004, F.A.C.
[29] Rule 64B7-26.005, F.A.C.
[30] Section 456.0635, F.S.
[31] Section 456.063, F.S.
[32] Section 480.047, F.S.
[33] Section 456.065, F.S.

notices, enforceable by filing for an injunction or writ of mandamus and seek civil penalties against the unlicensed party in circuit court.[34] The DOH may also impose, by citation, an administrative penalty up to $5,000. While the DOH has investigative authority, it does not have arrest authority or sworn law enforcement personnel.

I-551 Permanent Residence Card, Employment Authorization Document
The U.S. Citizen and Immigration Service (USCIS) within the Department of Homeland Security (DHS) is the federal department responsible for granting lawful permanent residence.[35] A permanent resident is someone who has been granted authorization to live and work in the U.S. on a permanent basis. As proof of that status, a person is granted a Permanent Resident Card or Alien Registration Receipt Card. A Permanent Resident Card is officially called "Form I-551," and commonly called a "green card."[36]

Individuals who are temporarily in the U.S. and eligible[37] for employment authorization may file a Form I-765, Application for Employment Authorization, to request an Employment Authorization Document (EAD).[38] An EAD card, commonly called a "work permit," provides its holder the legal right to work in the U.S.

III. Effect of Proposed Changes:

Section 1 creates s. 480.0535, F.S., to require a person, who operates a massage establishment pursuant to s. 480.043, F.S., to maintain valid work authorization documents on the premises for *each* employee who is not a U.S. citizen and to present to a law enforcement officer, upon request, the work authorization documents for each employee who is not a U.S. citizen. Valid work authorization documents include:

- A valid I-551 permanent residence card; or
- A valid government-issued employment authorization document.

The bill prohibits a person operating a massage establishment from knowingly using a massage establishment licensed pursuant to s. 480.043, F.S., including any location, structure, trailer, conveyance or any other part thereof, for the purpose of lewdness, assignation, or prostitution.

The bill provides a cross-reference to s. 796.07, F.S., to define the terms lewdness, assignation, and prostitution.

A person who violates any provisions of the bill commits:

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[34] *Id.*
[35] U.S. Immigration Support, *USCIS*, available at http://www.usimmigrationsupport.org/uscis.html (Last visited on February 1, 2011).
[36] U.S. Immigration Support, *Form I-551 (Green Card)*, available at: http://www.usimmigrationsupport.org/form-i-551-greencard.html (Last visited on February 1, 2011).
[37] Employment authorization eligibility is codified in Federal Regulations at 8 C.F.R. §274a.12, available at http://law.justia.com/us/cfr/title08/8-1.0.1.2.54.2.1.1.html (Last visited on February 1, 2011).
[38] U.S. Citizen and Immigration Service, *I-765, Application for Employment Authorization*, available at http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=73ddd59cb7a5d010VgnVCM10000048f3d6a1RCRD&vgnextchannel=db029c7755cb9010VgnVCM10000045f3d6a1RCRD (Last visited on February 1, 2011).

- A misdemeanor of the second degree for the first violation, punishable as provided in s. 775.082, F.S., or s. 775.083, F.S., (maximum imprisonment of 60 days or maximum fine of $500);
- A misdemeanor of the first-degree for the second violation, punishable as provided in s. 775.082, F.S., or s. 775.083, F.S., (maximum imprisonment of 1 year or maximum fine of $1,000); or
- A felony of the third-degree for the third or subsequent violation, punishable as provided in s. 775.082, F.S., s. 775.083, F.S., or s. 775.084, F.S., (maximum imprisonment of 5 years, maximum fine of $5,000, or penalties applicable for a habitual offender).

Section 2 amends s. 921.0022, F.S., to rank third and subsequent violations of s. 480.0535, F.S., as level 5 offenses under the Criminal Punishment Code for the purpose of sentencing.

Section 3 provides an effective date of October 1, 2011.

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:

The provisions of this 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.

C. Trust Funds Restrictions:

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:

Operators or owners of massage establishments may incur nominal administrative costs to comply with the requirements set forth in the bill. The provisions of the bill might prevent or deter human trafficking in massage establishments.

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 Health Regulation on February 8, 2011:
The CS differs from the bill in that it:

- Removes the requirement that individuals providing or offering to provide massage services for compensation or on behalf of a massage establishment or business possess, and show to law enforcement upon request, license cards issued by the Department of Health and other identifying documentation.
- Clarifies that the employment authorization documents to be maintained by the massage establishment operators are to be "government-issued" employment authorization documents.
- Provides a cross-reference for the definitions of the terms "lewdness," "assignation," and "prostitution."
- Makes a technical correction in the Criminal Punishment Code relating to a description of the offenses provided for in the bill.

B. Amendments:

None.

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 Budget Committee

BILL:	CS/SB 312
INTRODUCER:	Health Regulation Committee and Senator Richter
SUBJECT:	Practice of Denistry
DATE:	March 31, 2011 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	O'Callaghan	Stovall	HR	**Fav/CS**
2.	Naf	Roberts	GO	**Favorable**
3.	Bradford	Meyer, C.	BC	**Pre-meeting**
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 committee substitute (CS) requires all Florida licensed dentists and dental hygienists to complete a workforce survey as a part of their licensure renewal, beginning in 2012. The CS provides certain information that is to be collected by the Department of Health (DOH) pursuant to a survey instrument adopted by the Board of Dentistry (Board). The Board is required to issue a nondisciplinary citation to any dentist or dental hygienist who fails to complete the survey within 90 days after the renewal of his or her license to practice as a dentist or dental hygienist. This citation must inform, and the Board must notify, the dentist or dental hygienist that his or her license will not be renewed for any subsequent license renewal unless he or she completes the survey.

The DOH is required to collect, update, and disseminate dental workforce data and maintain a database to serve as a statewide source of such data. The DOH, in conjunction with the Board, is required to develop strategies to maximize federal and state programs that provide incentives for dentists to practice in federally-designated shortage areas. The DOH and Board must use existing resources to support these activities.

The CS establishes an advisory body to assist the DOH and the Board in addressing matters relating to the state's dental workforce.

The CS also authorizes a professional corporation or limited liability company composed of dentists to pay for prescription drugs purchased by a dentist and designates the dentist as the purchaser and owner of the prescription drugs.

The CS corrects a technical problem in the statutes relating to the appointment of a dental representative to the Board of Directors of the Florida Healthy Kids Corporation, which resulted from the passage of two bills in the 2009 Regular Session dealing with the board membership.

This bill has an insignificant fiscal impact on state government which the Department of Health can absorbed within existing resources. There is an insignificant positive fiscal impact to the private sector.

This CS amends the following sections of the Florida Statutes: 499.01 and 624.91.

The CS creates three undesignated sections of law.

II. Present Situation:

Dentists and dental hygienists are licensed and regulated by the DOH under ch. 466, F.S., related to dentistry, dental hygiene, and dental laboratories, and ch. 456, F.S., related to general provisions for health professionals and occupations. Licenses for both professions are renewed biennially.[1] Section 466.0285, F.S., requires a business entity that employs a dentist or dental hygienist in the operation of a dental office to be a professional corporation or limited liability company composed of dentists.

Dental Workforce Initiatives

According to the Institute of Medicine's U.S. Oral Health Workforce in the Coming Decade: Workshop Summary, "The current oral health workforce fails to meet the needs of many segments of the U.S. population."[2] The inability of the dental workforce to provide assistance and basic oral health care to all people in Florida contributes to the number of individuals experiencing poor general health. Dental workforce planning is an essential component of ensuring that there is an adequate and appropriate supply of well-trained health care providers to meet the state of Florida's current and future dental health care service needs.[3]

In the last few years, the DOH has actively addressed dental workforce issues. In January of 2008, the State Surgeon General established the Florida Health Practitioner Oral Healthcare Workforce Ad Hoc Committee (Ad Hoc Committee). The mission of the Ad Hoc Committee was to evaluate and address the complex range of oral health workforce concerns that impact

[1] Section 466.013(2), F.S.
[2] The workshop summary is available at http://www.iom.edu/Reports/2009/OralHealthWorkforce.aspx (Last visited on January 14, 2011).
[3] *See* DOH, *The Florida Oral Health Workforce Workgroup Report 2009*, December 2009, available at: http://www.doh.state.fl.us/Family/dental/OralHealthcareWorkforce/index.html (Last visited on January 14, 2011).

Florida's ability to recruit or retain available practicing dental providers (dentists, dental hygienists, and dental assistants), especially for Florida's disadvantaged and underserved populations. The Ad Hoc Committee published the Health Practitioner Oral Healthcare Workforce Ad Hoc Committee Report in February 2009, which provided recommendations on dental workforce and access to oral health care.[4]

The DOH received a $200,000 federal grant in 2008 to develop a statewide needs assessment and a strategic planning report to be used to improve the state's dental workforce and service delivery infrastructure for the underserved.[5] This grant helped support an Oral Health Workforce Workgroup (the Workgroup) to continue the work of the Ad Hoc Committee and a contract for a statewide needs assessment. The two main objectives of the needs assessment were to conduct a statewide analysis of Florida's oral health workforce relative to traditionally underserved populations and to evaluate access to dental care among low-income children, including children with special health care needs, children in the Medicaid and State Children's Health Insurance Program (SCHIP) programs and to identify the child and family characteristics that are associated with better access to care.[6]

Building on the efforts of previous activities, the Workgroup outlined implementation steps that address Florida's oral health workforce needs. The workgroup proposed eight goals, with specific recommendations to support each goal. These goals include:

- Increase education and preventive efforts;
- Improve data collection;
- Increase provider participation in the Medicaid program;
- Increase utilization of allied dental staff;
- Integrate oral health education and prevention into general health and medical programs;
- Increase training opportunities for providers;
- Improve the state oral health infrastructure; and,
- Increase efforts to recruit practitioners to provide care to disadvantaged populations.[7]

The DOH has recently completed a voluntary workforce survey for all Florida licensed dentists and dental hygienists and the DOH is currently analyzing the collected data.[8] The compliance rate of those voluntarily completing the survey was about 90 percent.[9]

The DOH received an additional federal grant in September 2009, to further implement workforce strategies. A third oral health workgroup is operating as part of the Oral Health Florida Coalition.[10]

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[4] The Ad Hoc Committee Report is available at http://www.doh.state.fl.us/Family/dental/OralHealthcareWorkforce/200903Dental_Workforce_Report.pdf (Last visited on January 14, 2011).
[5] *Supra* fn. 3.
[6] *Id.*
[7] *Id.*
[8] Professional committee staff received this information via email from a DOH representative on January 18, 2011. A copy of the email is on file with the Health Regulation Committee.
[9] Per Memoranda to the Senate Health Regulation Committee Staff from the Florida Dental Association dated March 3, 2010, on file with the committee.

Physician Workforce Assessment and Development

In 2007, the Florida Legislature established a structure to facilitate physician workforce assessment and planning in s. 381.4018, F.S. The legislative intent and responsibilities focused on, among other things, the need to ensure that there is an adequate and appropriate supply of well-trained physicians to meet this state's future health care service needs by ensuring the availability and capacity of quality graduate medical schools and students who are well-prepared for a medical education in this state.[11]

Florida Health Services Corps

The Florida Health Services Corp (Corps) is established in s. 381.0302, F.S., to encourage qualified medical professionals to practice in underserved locations where there are shortages of such personnel. The program offers scholarships, loan repayment assistance, and financial assistance for relocation to allopathic, osteopathic, chiropractic, podiatric, dental, physician assistant, and nursing students in return for service in a public health care program or in a medically underserved area. In addition, members of the Corps are agents of the state under s. 768.28(9), F.S., related to sovereign immunity and the waiver of sovereign immunity, while providing uncompensated services to medically indigent persons who are referred by the DOH.[12]

Advisory Bodies

Section 20.03, F.S., defines "council" or "advisory council" to mean an advisory body created by specific statutory enactment and appointed to function on a continuing basis for the study of the problems arising in a specified functional or program area of state government and to provide recommendations and policy alternatives.

Section 20.052, F.S., provides that an advisory body created by specific statutory enactment as an adjunct to an executive agency must be established, evaluated, or maintained in accordance with the following provisions:

- It may be created only when it is found to be necessary and beneficial to the furtherance of a public purpose;
- It must be terminated by the Legislature when it is no longer necessary and beneficial to the furtherance of a public purpose;
- The Legislature and the public must be kept informed of the numbers, purposes, memberships, activities, and expenses of the advisory body;
- It may not be created or reestablished unless it meets a statutorily defined purpose; its powers and responsibilities conform with the definitions for governmental units in s. 20.03; F.S., its members, unless expressly provided otherwise in the State Constitution, are appointed for 4-year staggered terms; and its members, unless expressly provided otherwise by specific statutory enactment, serve without additional compensation or honorarium, and are

[10] DOH Bill Analysis, Economic Statement and Fiscal Note for SB 312, dated December 29, 2010, on file in the Senate Health Regulation Committee.
[11] Section 381.4018(2), F.S.
[12] Section 381.0302(11), F.S.

authorized to receive only per diem and reimbursement for travel expenses as provided in s. 112.061, F.S; and
- Any private citizen members must be appointed by the Governor, the head of the department, the executive director of the department, or a Cabinet officer.

Further, unless an exemption is otherwise specifically provided by law, all meetings of an advisory body adjunct to an executive agency are public meetings under s. 286.011, F.S. Minutes, including a record of all votes cast, must be maintained for all meetings. Records of an abolished advisory body must be appropriately stored by the executive agency to which it was made adjunct.

Health Care Clinic Establishment Permit

The Florida Drug and Cosmetic Act (Act) is found in part I of ch. 499, F.S. The DOH[13] is responsible for administering and enforcing efforts to prevent fraud, adulteration, misbranding, or false advertising in the preparation, manufacture, repackaging, or distribution of drugs, devices, and cosmetics.[14] The DOH issues 20 different types of permits to persons (defined to also include business entities) who qualify to engage in activity regulated under the Act.[15] The regulatory structure provides for prescription drugs to be under the responsibility of a permit at all times, until a prescription drug is dispensed to a patient, in which case the prescription from the practitioner represents the authority for the patient to possess the prescription drug.[16]

One of the permits issued by the DOH under the Act is the Health Care Clinic Establishment (HCCE) permit. The biennial fee for the HCCE permit is $255 and the permit is valid for 2 years, unless suspended or revoked.[17]

The HCCE permit was established in 2008 to enable a business entity (medical practice) to purchase prescription drugs. In 2009, the Legislature broadened the array of business entities eligible to qualify for the HCCE permit.[18] The HCCE permit is an optional permit that a medical practice may obtain in order to purchase and own prescription drugs in the business entity's name. The HCCE permit is not required if a practitioner in the clinic or practice wants to purchase and own prescription drugs in his or her own name using his or her professional license that authorizes that practitioner to prescribe prescription drugs.

Under the requirements of the permit, a qualifying practitioner[19] or a veterinarian licensed under ch. 474, F.S., is designated to be responsible for complying with all legal and regulatory requirements related to the purchase, recordkeeping, storage, and handling of the prescription drugs purchased and possessed by the business entity. Both the qualifying practitioner and the

[13] However, as of October 1, 2011, all of the DOH's responsibilities under the Act will be transferred to the Department of Business and Professional Regulation. *See* Section 27, ch. 2010-161, Laws of Florida.
[14] Section 499.002(2), F.S.
[15] *See* s. 499.01(1), F.S.
[16] Section 499.03, F.S.
[17] *See* ch. 64F-12.018, F.A.C., Fees.
[18] *See* ch. s. 2, ch. 2009-221, Laws of Florida.
[19] The health care practitioners defined in s. 456.001, F.S., that are authorized to prescribe prescription drugs include a: medical physician, osteopathic physician, physician assistant, advanced registered nurse practitioner, optometrist, podiatric physician, dentist, or chiropractic physician.

permitted health care clinic must notify the DOH within 10 days after any change in the qualifying practitioner.

The Florida Healthy Kids Corporation

The Florida Healthy Kids Corporation is established in s. 624.91, F.S., to provide comprehensive health insurance coverage to children without adequate health care services. The primary recipients are school-age children with a family income below 200 percent of the federal poverty level[20] who do not qualify for Medicaid.

The 2009 Legislature enacted two laws amending membership of the Board of Directors for the Florida Healthy Kids Corporation, both by creating a subparagraph 11. Chapter 2009-41, Laws of Florida (L.O.F.) which added one member, appointed by the Governor, from among three members nominated by the Florida Dental Association. Chapter 2009-113, L.O.F., added the Secretary of Children and Family Services, or his or her designee. According to the rules of statutory construction found in the preface to the Florida Statutes, when amendatory acts are irreconcilable, the "last passed" version is placed in the text, absent legislative intent to the contrary. As a result, the dental representative is not included in the statutory list of members of the Board of Directors of the Florida Healthy Kids Corporation.

III. Effect of Proposed Changes:

Section 1 creates an undesignated section of law to require dentists and dental hygienists to complete a dental workforce survey as a part of their licensure renewal beginning in 2012. The Board is required to adopt procedures and forms for the survey. A dentist or dental hygienist responding to the survey must include a statement that the information provided is true and accurate to the best of his or her knowledge and belief. The CS requires the survey to elicit the following information from the licensee:

- The name of the dental school or dental hygiene program that the dentist or dental hygienist graduated from and the year of graduation;
- The year that the dentist or dental hygienist began practicing or working in this state;
- The geographic location of the dentist's or dental hygienist's practice or address within the state;
- For a dentist in private practice:
  - The number of full-time dental hygienists employed by the dentist during the reporting period,
  - The number of full-time dental assistants employed by the dentist during the reporting period,
  - The average number of patients treated per week by the dentist during the reporting period, and
  - The settings where the dental care was delivered;
- Anticipated plans of the dentist to change the status of his or her license or practice;

[20] For 2010, the federal poverty levels were $10,830 for one person; $14,570 for a family of two; $18,310 for a family of three; and $22,050 for a family of four. *See* U.S. Department of Health and Human Services, *The 2010 Poverty Guidelines for the 48 Contiguous States and the District of Columbia*, available at http://aspe.hhs.gov/poverty/10fedreg.shtml (Last visited on January 14, 2011).

- The dentist's areas of specialty or certification;
- The year that the dentist completed a specialty program recognized by the American Dental Association;
- For the hygienist:
  - The average number of patients treated per week by the hygienist during the reporting period, and
  - The settings where the dental care was delivered;
- The dentist's memberships in professional organizations;
- The number of pro bono hours provided by the dentist or dental hygienist during the last biennium;
- Information concerning the availability and trends relating to critically needed services, including, but not limited to, the following types of care provided by the dentist or dental hygienist:
  - Dental care to children having special needs;
  - Geriatric dental care;
  - Dental services in emergency departments;
  - Medicaid services; and,
  - Other critically needed specialty areas, as determined by the advisory body.

The CS provides that licensure renewal in 2012 is not contingent upon the completion and submission of the dental workforce survey, however the Board may not renew the license of any dentist or dental hygienist for subsequent renewals until the survey is completed and submitted by the licensee. If a dentist or dental hygienist fails to complete the survey within 90 days after the renewal of his or her license to practice as a dentist or dental hygienist, the Board of Dentistry is required to issue a nondisciplinary citation to the dentist or dental hygienist. The nondisciplinary citation must notify the dentist or dental hygienist that his or her license will not be renewed for any subsequent license renewal unless he or she completes the survey.

The Board is also required to notify each dentist or dental hygienist that the survey must be completed before the subsequent license renewal when the license renewal notice is sent to the licensee.

Section 2 creates an undesignated section of law to require the DOH to serve as the coordinating body for the purpose of collecting and regularly updating and disseminating dental workforce data. The DOH is required to work with stakeholders, including the Florida Dental Association and the Florida Dental Hygiene Association, to assess and share the workforce data in a timely fashion with all interested parties. The DOH is required to maintain a database of dental workforce data.

The DOH, in conjunction with the Board, is required to develop strategies to maximize federal and state programs that provide incentives for dentists to practice in federally-designated shortage areas. The CS requires strategies to include programs such as the Florida Health Services Corp. In addition, the DOH and the Board are required to act as a clearinghouse for collecting and disseminating information concerning the dental workforce and adopt rules to administer this section.

The CS creates an advisory body of at least 15 members. The required members include the following: the State Surgeon General or his or her designee; the dean of each dental school accredited in the United States and based in this state or his or her designee; a representative from the Florida Dental Association, Florida Dental Hygiene Association, and the Board; and a dentist from each of the dental specialties recognized by the American Dental Association's Commission on Dental Accreditation. The members of the advisory body are to serve without compensation. The DOH and the Board are to work in conjunction with the advisory body to address matters relating to the Florida's dental workforce. The advisory body is also required to provide input on developing questions for the dental workforce survey.

Section 3 creates an undesignated section of law requiring the DOH and the Board to implement the provisions of this act within existing resources.

Section 4 amends s. 499.01, F.S., to authorize a professional corporation or limited liability company composed of dentists to pay for prescription drugs purchased by a dentist, using the dentist's professional license, and designates that dentist as the purchaser and owner of the prescription drugs.

Section 5 amends s. 624.91, F.S., to add a representative from the Florida Dental Association to the Board of Directors of the Florida Healthy Kids Corporation.

Section 6 provides an effective date of July 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this CS 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:

CS for SB 314 is the linked bill, which exempts personal identifying information contained in the dental workforce surveys from the public records requirements under s. 119.07(1), F.S., and article I, subsection 24(a), of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this CS 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:

The CS authorizes a dentist to purchase and pay for prescription drugs without obtaining the health care clinic establishment permit, which allows a dental practice that is a health

care clinic establishment to avoid the $255 biennial fee for the health care clinic establishment permit.

B. Private Sector Impact:

A dentist or dental hygienist who does not complete the dental workforce survey will not be able to renew his or her dental or dental hygienist license beginning in 2014. If false or misleading information is intentionally provided on the workforce survey, the dentist or dental hygienist providing such information may be subject to administrative or criminal penalties.[21]

C. Government Sector Impact:

The DOH and the Board are required to adopt rules related to the dental workforce survey and convene meetings of the advisory group. Although the CS requires the DOH to implement the CS within existing resources, the DOH has indicated that a .05 full time equivalent (FTE) administrative assistant is required to assist with the activities of the advisory group. If meetings of the advisory group are not handled electronically, then the DOH estimates it will cost approximately $41,000 annually in related travel expenses to convene the 15 members four times per year. These costs can be absorbed within existing agency resources.[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 on January 25, 2011:
The CS differs from the bill in that it:

- Clarifies that all information collected from the dental workforce survey is to be assessed and shared in a timely fashion with all communities of interest, instead of collected in a timely fashion (which occurs automatically upon licensure renewal); and,
- Clarifies that the advisory body formed in the CS is to provide input as to developing questions for the "dental" workforce survey, not "dentist" workforce surveys, which is in keeping with the rest of the CS.

[21] *See* ss. 456.072, 837.06, and 456.067, F.S.
[22] *Supra* fn. 10.

B. Amendments:

None.

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 Budget Committee

BILL:	SB 330
INTRODUCER:	Senator Gaetz
SUBJECT:	Political Speech; Military Service Mispresentations
DATE:	March 31, 2011 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Fox	Roberts	EE	**Favorable**
2.	Fox	Phelps	RC	**Favorable**
3.	Fleming	Carter	MS	**Favorable**
4.	Roberts	Roberts	GO	**Favorable**
5.	Sneed	Meyer, C.	BC	**Pre-meeting**
6.				

I. Summary:

Senate Bill 330 makes it an administrative violation of the Florida Election Code for candidates to misrepresent the fact that they served, or are currently serving, in the U.S. military; a civil penalty of up to $5,000 may be assessed for each violation by the Florida Elections Commission or the administrative law judge (ALJ) hearing the case, as appropriate.

This bill creates Section 104.2715 of the Florida Statutes.

II. Present Situation:

Section 104.271, Florida Statutes, makes it a violation of the Florida Election Code for a candidate to knowingly make a false statement about an opposing candidate in an election, an offense punishable by an administrative fine of up to $5,000:

> Any candidate who, in a primary or other election, with actual malice makes or causes to be made any statement about an opposing candidate which is false is guilty of a violation of this code.[1]

This appears to be the only provision in the Code that directly addresses false political speech.

Interestingly, what SB 330 proposes is strikingly similar to the federal Stolen Valor Act, which makes it a crime to falsely represent having been awarded a military honor, declaration, medal,

[1] § 104.241(2), F.S.

badge, etc. There is currently a disagreement among courts in different federal judicial circuits with respect to the constitutionality of that statute.[2]

III. Effect of Proposed Changes:

Senate Bill 330 subjects candidates to a civil fine of up to $5,000 for falsely representing in an election that they have served, or are serving, in the nation's military. It provides for the expedited hearing of complaints by the Florida Elections Commission or an ALJ at the Division of Administrative Hearings (DOAH), as appropriate, and further authorizes the Commission to adopt rules to provide for such expedited hearing.

Also worth noting are the facts that any person may file a complaint with the Florida Elections Commission; and, any fine assessed is deposited in the State's General Revenue Fund.

The bill takes effect July 1, 2011.

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:

Minimal; may result in some minor, additional revenue from violation penalties.

[2] *See U.S. v. Alvarez*, 617 F.3d 1198 (9th Cir. 2010) (holding that Stolen Valor Act violates First Amendment free speech rights); *but see*, *U.S. v. Robbins*, 2011 WL 7384 (W.D. Va. 2011) (false statements of fact implicated by the federal statute are *not protected* by the First Amendment). Although *Alvarez* is the only *appellate* decision interpreting the Stolen Valor Act, the U.S. Court of Appeals for the Ninth Circuit has a reputation in the legal community for adopting outlier positions rejected by other circuits. Indeed, the federal district judge in *Robbins* expressly refused to follow the 2-1 majority decision in *Alvarez*, choosing instead to adopt the dissent's position that *false* speech is *not entitled* to first amendment protection.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill grants specific penalty power to the administrative law judge at DOAH, to account for the recent First District Court of Appeals decision in *Davis v. Florida Elections Commission.*[3]

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.

[3] 44 So.3d 1211 (Fla. 1st DCA 2010) (ALJ has no statutory authority to institute penalties for election violations originating with the Florida Elections Commission) .

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 Budget Committee

BILL:	CS/SB 382
INTRODUCER:	Budget Subcommittee on Finance and Tax and Senator Bogdanoff
SUBJECT:	Tax Certificates
DATE:	March 31, 2011 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Gizzi	Yeatman	CA	**Favorable**
2.	Babin	Diez-Arguelles	BFT	**Fav/CS**
3.	Babin	Meyer, C.	BC	**Pre-meeting**
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

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

I. Summary:

This bill allows tax collectors to recover reimbursement for fees paid to vendors for providing electronic tax deed application services.

The bill removes language permitting a tax collector to accept an application for obtaining a tax deed on a part of a parcel of property covered by a tax certificate.

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

II. Present Situation:

Property Tax Assessments

Chapters 193-195, Florida Statutes, address property assessment procedures. Local property appraisers assess all real and tangible personal property located within the county. The assessment process begins by determining the property's just value. Property appraisers are required to utilize the factors outlined in s. 193.011, F.S., to determine the property's just value as of January 1 of each year.

Article VII, section 4, of the Florida Constitution, requires that all property be assessed at just value for ad valorem tax purposes. Just value has been interpreted by the courts to mean fair market value, or what a willing buyer would pay a willing seller for the property in an arm's length transaction.[1] The State Constitution provides exceptions to this requirement for agricultural land, land producing high water recharge to Florida's aquifers, and land used exclusively for noncommercial recreational purposes, all of which may be assessed solely on the basis of their character or use. Additionally, tangible personal property that is held as inventory may be assessed at a specified percentage of its value or may be totally exempted.[2]

Article VII, of the State Constitution, also limits the amount by which assessed value may increase in a given year for certain classes of property and permits a number of tax exemptions. These include exemptions for homesteads and charitable, religious, or literary properties, as well as tax limitations under the Save Our Homes provisions. After calculating the assessed value of the property, the appraiser subtracts the value of any applicable exemptions to determine the taxable value.

The property appraiser's assessment roll must be completed and submitted to the executive director of the Department of Revenue for approval by July 1 of each year unless good cause is shown for extension.[3] As provided by ch. 195, F.S., the Department of Revenue has general supervision over the assessment and valuation of property. Taxpayers receive a Notice of Proposed Property Taxes (TRIM notice) in August of each year. This notice provides the taxable value of the property and the millage rate[4] necessary to fund each taxing authority's proposed budget based on the certified tax rolls submitted by the property appraiser.

Chapter 194, F.S., provides taxpayers the right to appeal the property appraiser's assessment by filing a petition with the Value Adjustment Board[5] (VAB) within 25 days after the TRIM notice is mailed, or to contest the assessment in circuit court.

The governing boards of local governments prepare a tentative budget for operating expenses following certification of the tax rolls by the tax collector. The millage rate is then set based on the amount of revenue needed to cover those expenses. The millage rate proposed by each taxing authority must be based on not less than 95 percent of the taxable value according to the certified tax rolls. The Department of Revenue is responsible for ensuring that millage rates are in compliance with the maximum millage rate requirements set forth by law as well as the constitutional millage limits. A public hearing on the proposed millage rate and tentative budget must be held within 65 to 80 days of the certification of the rolls, and a final budget and millage

[1] *See Walter v. Shuler*, 176 So.2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So.2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So.2d 4 (Fla. 1973).
[2] Art. VII, Sec. 4(c), Fla. Const.; Section 196.185, F.S.
[3] Section 193.1142, F.S.
[4] The millage rate is the rate at which the property is taxed and is set by the governing board of each local government based on how much revenue is needed for operating expenses. *See* s. 200.069, F.S. *See also* Florida Department of Revenue website, *Local Government Property Tax Process*, available at http://dor.myflorida.com/dor/property/taxpayers/pdf/ptoinfographic.pdf (last visited on March 7, 2011).
[5] The Value Adjustment Board for each county consists of two members of the county commission, one of whom shall be elected chairperson, one member of the school board, and two citizen members (one, appointed by the county commission, who must own a homestead within the county, and one, appointed by the school board, who must own a business that occupies commercial space located within the school district). *See* s. 194.015, F.S.

rate must be announced prior to end of said hearing.[6] The millage rate may be changed administratively without a public hearing if the aggregate change in value from the original certification of value is more than 1% for municipalities, counties, school boards, and water management districts, or more than 3% for other taxing authorities.

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 mail 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.[7] 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.[8] On April 30, the tax collector sends an additional tax notice to taxpayers 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.[9]

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 struck off to the person who will pay the taxes, interest, cost and charges and will demand the lowest rate of interest under the maximum rate of interest."[10] Tax certificates that are not sold are issued to the county at the maximum interest rate (18%). The sale of the tax certificate acts as first lien on the property that is superior to all other liens; but it does not convey any property rights to the investor.[11]

In 2003, section 197.432, Florida Statutes, was amended to permit tax collectors to conduct tax certificate sales through electronic means.[12] 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.[13]

A property owner can redeem a tax certificate anytime before a tax deed is issued or the property is placed on the list of lands available for sale. The person redeeming or purchasing the tax certificate is required to pay the investor or county "all taxes, interest, costs, charges, and [any] omitted taxes" and a $6.25 fee to the tax collector.[14]

The tax certificate holder is entitled to apply for a tax deed on the property on or after April 1 of the second year following the sale of the certificate and before the expiration of seven years from issuance. The tax certificate holder applies by filing the certificate with the county tax collector

[6] Section 200.065, F.S.
[7] 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."
[8] Section 197.333, F.S.
[9] Section 197.343, F.S.
[10] Section 197.432 (5), F.S.
[11] Section 197.122, F.S., *see also* s. 197.432, F.S.
[12] Chapter 2003-22, L.O.F.; HB 267 (2003)
[13] 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.
[14] Section 197.472, F.S.

and paying all other tax certificates held on the same property, any current taxes that are due, and certain additional fees and costs. The tax collector is authorized to collect a tax application fee of $75 at the time of application for the tax deed.[15]

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 the List of Lands available for taxes.[16] Property that is placed on the list of lands available for taxes, 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.[17] A tax certificate that is not 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.

III. Effect of Proposed Changes:

Section 1 amends s. 197.502, F.S., to allow tax collectors to charge tax deed applicants for the reimbursement of fees charged by a vendor to the tax collector for providing electronic tax deed application services.

The bill removes language permitting a tax collector to accept an application for obtaining a tax deed on a part of a parcel of property covered by a tax certificate.

Section 2 provides that this act shall take effect on July 1, 2011.

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.

[15] Section 197.502(1), F.S.
[16] Section 197.542, F.S.
[17] Section 197.502(8), F.S.

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.

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 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 Rules 12D-13.060 and 12D-13.064.[18]

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 Budget Subcommittee on Finance and Tax on March 11, 2011:
The CS makes grammatical and stylistic changes to the bill. Also, the CS makes 2 substantive changes. The substantive changes are as follows:

- The CS removes the original bill's language limiting tax deed applications to be made on a portion of the property covered by a tax certificate "*only after a separation had been received from the property appraiser"*; and
- The CS deletes current statutory language permitting tax deed applications on portions of property covered by tax deed certificates.

B. Amendments:

None.

[18] Department of Revenue, *Senate Bill 382 Fiscal Analysis* (Jan. 26, 2011) (on file with the Senate Committee on Community Affairs).

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 Budget Committee

BILL:	CS/SB 400
INTRODUCER:	Criminal Justice Committee, Senator Wise, and others
SUBJECT:	Treatment-based Drug Court Programs
DATE:	March 31, 2011
REVISED:	03/15/11

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Cannon	CJ	**Fav/CS**
2.	Boland	Maclure	JU	**Favorable**
3.	Sneed	Meyer, C.	BC	**Pre-meeting**
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

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

I. Summary:

This bill expands post adjudicatory treatment-based drug court programs as a sentencing option by increasing the total number of sentencing points an offender may have accumulated and still qualify for the program, and by providing that an offender who violates his or her probation or community control for any reason may be admitted to the program.

This bill could have a positive fiscal impact on the Department of Corrections resulting from fewer new commitments to state prison.

This bill substantially amends the following sections of the Florida Statutes: 397.334, 921.0026, 948.01, 948.06, and 948.20.

II. Present Situation:

Postadjudicatory drug courts are designed to divert drug-addicted offenders from the prison system by providing supervised community treatment services in lieu of incarceration.

Drug Court Overview

Section 397.334, F.S., authorizes the establishment of drug courts, and s. 948.08, Florida Statutes, mandates the type of offenders that *pretrial* drug courts may serve.

In 2009, *postadjudicatory* drug courts were targeted by the Legislature for definition and expansion. The expansion was largely due to the documented success of the programs in diverting offenders from prison. In March of 2009, the Office of Program Policy Analysis and Government Accountability (OPPAGA) reported that, based on available data, Florida's postadjudicatory drug courts appeared to reduce prison admissions among offenders who successfully complete the program.

OPPAGA analyzed prison admissions for a group of 674 offenders who graduated from post-adjudicatory drug courts in 2004 and compared their subsequent prison admissions to a similar group of 8,443 offenders who were sentenced to drug offender probation. Over a three-year period, offenders who successfully completed drug court were 80 percent less likely to go to prison than the matched comparison group. Forty-nine percent of those who did not graduate from the program were incarcerated during the three-year follow-up period.[1]

According to the report, both the programs' treatment and supervision components are significant factors in reducing prison admissions.[2]

Ideally, drug courts operate as special court dockets that hear cases involving drug addicted offenders. Judges order participating offenders to attend community treatment programs under close supervision by the court. The participant undergoes an intensive regimen of substance abuse treatment, case management, drug testing, and monitoring. Although treatment is tailored to each offender's individual substance abuse treatment needs, drug court programs generally require at least one year of intensive individual and/or group substance abuse treatment.

Section 397.334, F.S., sets forth the following strategy and principles for the operation of Florida's drug courts:

> (4) The treatment-based drug court programs shall include therapeutic jurisprudence principles and adhere to the following 10 key components, recognized by the Drug Courts Program Office of the Office of Justice Programs of the United States Department of Justice and adopted by the Florida Supreme Court Treatment-Based Drug Court Steering Committee:
> (a) Drug court programs integrate alcohol and other drug treatment services with justice system case processing.
> (b) Using a nonadversarial approach, prosecution and defense counsel promote public safety while protecting participants' due process rights.
> (c) Eligible participants are identified early and promptly placed in the drug court program.
> (d) Drug court programs provide access to a continuum of alcohol, drug, and other related treatment and rehabilitation services.

[1] OPPAGA Report 09-13, March 2009, *State's Drug Courts Could Expand to Target Prison-bound Adult Offenders.*
[2] *Id.*

(e) Abstinence is monitored by frequent testing for alcohol and other drugs.
(f) A coordinated strategy governs drug court program responses to participants' compliance.
(g) Ongoing judicial interaction with each drug court program participant is essential.
(h) Monitoring and evaluation measure the achievement of program goals and gauge program effectiveness.
(i) Continuing interdisciplinary education promotes effective drug court program planning, implementation, and operations.
(j) Forging partnerships among drug court programs, public agencies, and community-based organizations generates local support and enhances drug court program effectiveness.

Participants in drug court must comply with more demanding requirements than those offenders serving regular probation. In addition to reporting to court several times each month, drug court participants receive regular drug testing, individual and group substance abuse treatment and counseling, and are monitored by both a probation officer and drug court case manager. Most drug courts also provide ancillary services such as mental health treatment, trauma and family therapy, and job skills training to increase the probability of participants' success.

Drug courts generally use graduated sanctions when offenders violate program requirements by such actions as testing positive on drug tests, missing treatment sessions, or failing to report to court. These sanctions may include mandatory community service, extended probation, or jail time.

Sentencing Points as Sentencing Mechanism

The Criminal Punishment Code applies to defendants whose non-capital felony offenses were committed on or after October 1, 1998.[3] Each non-capital felony offense is assigned a level ranking that reflects its seriousness.[4] There are ten levels, and Level 10 is the most serious level.[5] The primary offense, additional offenses, and prior offenses are assigned level rankings.[6] Points accrue based on the offense level. The higher the level, the greater the number of points. The primary offense accrues more points than an additional or prior offense of the same felony degree. Points may also accrue or be multiplied based on factors such as victim injury, legal status, community sanctions, and motor vehicle theft among others.

The total sentence points scored is entered into a mathematical computation that determines the lowest permissible sentence. If the total sentence points equals or is less than 44 points, the lowest permissible sentence is a nonstate prison sanction (usually community supervision), though the sentencing range is the minimum sanction up to the maximum penalty provided in s. 775.082, F.S. If the total sentence points exceeds 44 points, a prison sentence is the lowest permissible sentence, though the judge may sentence up to the maximum penalty provided in

[3] s. 921.002, F.S.
[4] The level ranking is assigned either by specifically listing the offense in the appropriate level in the offense severity ranking chart of the Code, s. 921.0022, F.S., or, if unlisted, being assigned a level ranking pursuant to s. 921.0023, F.S., based on the felony degree of the offense.
[5] s. 921.0022, F.S.
[6] s. 921.0024, F.S. All information regarding the Code is from this statute, unless otherwise indicated.

s. 775.082, F.S.[7] Sentence length (in months) for the lowest permissible sentence is determined by subtracting 28 points from the total sentence points and decreasing the remaining total by 25 percent.

A sentence may be "mitigated," which means that the length of a state prison sentence may be reduced or a nonprison sanction may be imposed even if the offender scores a prison sentence, if the court finds any permissible mitigating factor. Section 921.0026, F.S., contains a list of mitigating factors. This is called a "downward departure" sentence.

A mitigating factor was added with the passage of the postadjudicatory drug court expansion in 2009:

> 921.0026 Mitigating circumstances.—
> (2) Mitigating circumstances under which a departure from the lowest permissible sentence is reasonably justified include, but are not limited to:
> (m) The defendant's offense is a nonviolent felony, the defendant's Criminal Punishment Code scoresheet total sentence points under s. 921.0024 are 52 points or fewer, and the court determines that the defendant is amenable to the services of a postadjudicatory treatment-based drug court program and is otherwise qualified to participate in the program as part of the sentence. For purposes of this paragraph, the term "nonviolent felony" has the same meaning as provided in s. 948.08(6).[8]

An offender cannot appeal a sentence within the permissible range (lowest permissible sentence to the maximum penalty), but can appeal an illegal sentence. The state attorney can appeal a downward departure sentence.

Postadjudicatory Drug Court Expansion in 2009
As previously noted, in 2009 the parameters under which an offender could be sentenced to complete a postadjudicatory drug court program were both statutorily defined and expanded beyond "traditional" local criteria. The target population consisted of felony defendants or offenders who have a substance abuse or addiction problem that is amenable to treatment. Entry into the postadjudicatory drug court program was also expanded to include offenders who violate their probation or community control solely due to a failed or suspect drug test.

Whether having violated community supervision or before the court for sentencing on a substantive law violation, the candidate for the expanded postadjudicatory drug court program may not score more than 52 sentencing points, must be before the court for sentencing on a nonviolent felony, and must show by a drug screening and the court's assessment that he or she is amenable to substance abuse or addiction treatment. The defendant or offender must agree to enter the program.[9] The recommendation of the state attorney and victim, if any, must be

[7] If the sentence scored exceeds the maximum penalty in s. 775.082, F.S., the scored sentence is both the minimum sentence and the maximum penalty.
[8] Section 921.0026(2)(m), F.S.
[9] Sections 397.334, 921.0026(m), 948.01(7), 948.06(2)(i), 948.20, and F.S.

considered by the court.[10] Successful completion of the program is a condition of a probation or community control sentence.[11]

The drug court assumes jurisdiction of the case until such time as the offender successfully completes the program, is terminated from the program, or until the sentence is completed.[12]

Measuring Success of the 2009 Postadjudicatory Drug Court Expansion
It should be remembered that the statutory revisions which expanded the availability of postadjudicatory drug court to a larger pool of offenders have statewide application. However, the research and administrative focus has been on the areas of the state where the Legislature expected the expansion to have the most positive effect on prison costs and where extra funding was directed for the programs.

The Legislature appropriated $19 million federal Byrne grant money, over a two-year period, to the Office of the State Courts Administrator (OSCA) to pay for additional postadjudicatory drug court coordinators, data collection and reporting, service providers, program administration, Department of Corrections costs and to compensate prosecutors and public defenders who handle these drug court cases within 8 counties.[13]

The number of participating counties was reduced from 9 to 8 following Duval county's withdrawal from the program in May 2010. Currently the participants are:

- 1st Circuit; Escambia County
- 5th Circuit; Marion County
- 6th Circuit; Pinellas County
- 7th Circuit; Volusia County
- 9th Circuit; Orange County
- 10th Circuit; Polk County
- 13th Circuit; Hillsborough County
- 17th Circuit; Broward County

The 2009 legislation required the Office of Program Policy Analysis and Governmental Accountability (OPPAGA) to evaluate the effectiveness of postadjudicatory drug court programs and issue a report by October 1, 2010. Since the expansion programs became operational in early 2010, OPPAGA had a limited amount of data to review before its report was due.

OPPAGA found that expansion drug courts are generally meeting Florida drug court standards. Of the standards that were measurable at the time of the OPPAGA report, it was concluded that all of the programs are providing services along with the frequent judicial contact as expected for

[10] Section 397.334(3), F.S.
[11] Section 948.01(7), F.S.
[12] Section 948.01(7), 948.06(2)(i), F.S.
[13] 3 of the 8 state attorneys and 3 of the 8 participating public defenders accepted the grant money.

drug court programs, and early identification and placement of offenders in the program is the norm.[14]

Expansion drug courts, as currently implemented, are unlikely to significantly reduce state prison costs. According to the October 2010 OPPAGA report, without changes, the anticipated cost savings to the state are not likely to be met for three main reasons:

1) *Because of the interplay of several factors, the initial estimate of potential prison inmates who might be diverted from prison to postadjudicatory drug court was overly ambitious, which has translated to overstated estimated savings to date.*
Estimated savings were calculated using data that included the historical drug crime-related prison admissions, by jurisdiction, in order to determine which counties and circuits should yield the largest pool of potential candidates for postadjudicatory drug court. Based upon this data, the jurisdictions were chosen for the focus of the drug court expansion and receipt of the federal grant money. Losing Duval County as a participant adversely effected the program's savings outcome to date because the anticipated number of offenders from that county (200) were included in the potential defendants or offenders diverted. Also, Duval County has not been replaced with another county participant.[15]

   Additionally, the program was slower to become operational than originally anticipated. This resulted in fewer cases being processed and a smaller number of offenders being sentenced to the expanded program, to date, than originally planned.[16]

   There has been some reported resistance to implementing the program under the expanded participant parameters set forth in the 2009 statutes. Specifically, offenders who may meet the statutory criteria for admission to the program are apparently not always being considered for it.[17] According to the OPPAGA report, the state attorney's office in each of the 8 counties screen the cases to determine whether the defendant meets the court's eligibility criteria.[18] It is possible that some offenders are rejected during the screening process or that the courts have standards for candidates that are more restrictive than anticipated.[19]

   There is also anecdotal evidence that some eligible defendants and offenders may be choosing not to participate in the prison-diversion program. These variables were not taken into consideration, or perhaps were not quantifiable, when cost savings were estimated by the Office of Economic and Demographic Research, Office of the State Courts Administrator and other participants in the planning and implementation process.[20]

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[14] "Without Changes, Expansion Drug Courts Unlikely to Realize Expected Cost Savings," Office of Program Policy Analysis and Governmental Accountability Report No. 10-54, October 2010, pgs. 2-3.
[15] Briefing document for Legislative Budget Commission presentation by State Court System, July 2009; Adult Post-Adjudicatory Drug Court Expansion Program, Status Update (draft on file with Florida Senate Criminal Justice Committee) dated February 14, 2011, OSCA.
[16] Adult Post-Adjudicatory Drug Court Expansion Program, Status Update (draft on file with Florida Senate Criminal Justice Committee) dated February 14, 2011, OSCA.
[17] *Id.* at pgs. 4-5.
[18] *Id.* at pg. 2.
[19] *Id.* at pg. 4. OPPAGA indicates that the postadjudicatory eligibility criteria set forth, for the first time, in the Florida Statutes in 2009 varied from the "traditional" criteria that had been implemented at the local level.
[20] Briefing document for Legislative Budget Commission presentation by State Court System, July 2009.

2) *Current eligibility criteria restrict admissions.*
Although OSCA reports 811 admissions statewide through January 2011, this is well below the expected number of admissions and below the program capacity.[21] OPPAGA indicates that restricting the admissions in violation of probation or community control cases to only those where the *sole violation* is a failed substance abuse test has omitted a large pool of offenders. This is so because 74 percent of all violations for a failed drug test occur with *other technical violations*.[22] Reaching this pool of offenders would require a change in statutory eligibility criteria.

Also, although the 2009 criteria does not exclude offenders with a felony history of violent offenses, they have "traditionally" been excluded from drug courts due to federal grant restrictions. The Byrne grant funds that have been appropriated to expand postadjudicatory drug court do not carry those restrictions, however, the courts and perhaps other practitioners have been reluctant to include this pool of offenders in the postadjudicatory drug court program.[23]

3) *The postadjudicatory drug courts are serving offenders who were not intended by the Legislature to be a part of the program.*
Under the Florida Criminal Punishment Code, an offender or defendant who scores less than 44 total sentencing points is unlikely to be sentenced to a term in prison absent special circumstances.[24] When the points are equal to or exceed 44, the lowest permissible sentence is a term of incarceration, absent mitigating factors or other appropriate sentencing alternatives.

The 2009 postadjudicatory drug court expansion provided statutory authority to admit offenders with sentencing points of 52 or less into the program as a condition of community supervision, in lieu of a prison sentence. The goal was to *divert* qualified offenders *who, without the alternative sentencing, might otherwise have gone to prison* to a program that both showed a quantifiable success rate and that costs far less than incarceration.[25] It appears, however, that -- by a 2-to-1 margin -- the offenders who are receiving postadjudicatory drug court sentences score from 1 to 43 points.[26] Serving this particular pool of offenders is not achieving the anticipated cost savings the Legislature intended.

[21] "Without Changes, Expansion Drug Courts Unlikely to Realize Expected Cost Savings," Office of Program Policy Analysis and Governmental Accountability Report No. 10-54, October 2010, pgs. 3-4; Status Update (draft on file with Florida Senate Criminal Justice Committee) dated February 14, 2011, OSCA.
[22] Based upon Department of Corrections data as reported by OPPAGA, "Without Changes, Expansion Drug Courts Unlikely to Realize Expected Cost Savings," Office of Program Policy Analysis and Governmental Accountability Report No. 10-54, October 2010, pg. 4.
[23] *Id.* at pgs. 4-5.
[24] *Id.* at pg. 6.
[25] *Id.* at pgs. 5-6; OPPAGA Report 09-13, March 2009, *State's Drug Courts Could Expand to Target Prison-bound Adult Offenders.*
[26] *Id.* at pg. 6. Of the 323 offenders in the program at the time of the report, 216 scored less than 44 points.

OPPAGA suggests the following changes in the postadjudicatory drug court program:

- Expand the admission criteria to include all technical violations of community supervision if there is a nexus to substance abuse and give courts discretion, statutorily, to include offenders with prior violent offenses.
- Include additional counties in the expansion program.
- Require the expansion drug courts to serve predominantly prison-bound offenders and consider shifting funding from counties that do not comply.

OPPAGA also suggests that the federal grant dollars could be shifted to other prison-diversion programs rather than have the funds revert to the federal government.[27]

III. Effect of Proposed Changes:

This bill provides for additional sentencing options for a statutorily restricted population of defendants and community supervision offenders who might successfully, and safely, be diverted from the prison system into existing postadjudicatory drug court programs. The target population consists of offenders who have a substance abuse or addiction problem that is amenable to treatment and who are currently in the criminal justice system because of a nonviolent felony offense.

Entry into the postadjudicatory drug court program is also expanded to include offenders who violate their probation or community control for any reason.

Whether having violated community supervision or before the court for sentencing on a substantive law violation, the candidate for a postadjudicatory drug court program may not score more than 60 sentencing points, shall be before the court for sentencing on a nonviolent felony, and must show by a drug screening and the court's assessment that he or she is amenable to substance abuse or addiction treatment. The defendant or offender must agree to enter the program. The state attorney and victim, if any, must be consulted. Successful completion of the program is a condition of a probation or community control sentence.

The bill becomes effective July 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

[27] *Id.* at pgs. 6-7.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Because the sentencing decisions remain with the courts, the Department of Corrections reported that it cannot predict how many offenders will be sentenced into the program and diverted from prison.[28] Likewise, the Criminal Justice Impact Conference reported a finding of an indeterminate or unquantifiable impact on prison beds.[29]

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 Criminal Justice on February 22, 2011:
Deletes the provision in the bill that would have given the court discretion to allow offenders who have a prior violent felony conviction into the postadjudicatory drug court program.

B. Amendments:

None.

[28] Fla. Dep't of Corrections, Analysis of SB 400, Feb. 3, 2011 (on file with the Committee on Judiciary).
[29] Office of Economic and Demographic Research, Criminal Justice Impact Conference, *Conference Results*, *available at* http://edr.state.fl.us/Content/conferences/criminaljusticeimpact/index.cfm.

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 Budget Committee

BILL:	SB 464
INTRODUCER:	Senator Latvala
SUBJECT:	Assault or Battery of a Law Enforcement Officer
DATE:	March 31, 2011 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson	Cannon	CJ	**Favorable**
2.	Sookhoo	Spalla	TR	**Favorable**
3.	Sadberry	Meyer, C.	BC	**Pre-meeting**
4.				
5.				
6.				

I. Summary:

The bill codifies an existing alert program that was created by executive order in 2008. This type of program often goes by the name "blue alert," though the precise name of the current Florida program is the Florida Law Enforcement Officer (LEO) Alert Plan.

This bill requires the Florida Department of Law Enforcement (FDLE) in cooperation with the Department of Highway Safety and Motor Vehicles (DHSMV) and the Department of Transportation (DOT) to issue a blue alert should a law enforcement officer experience harm, go missing, or determine a threat to the general public or other officers as a result of a suspect fleeing the scene. The bill specifies other conditions that must be met before the alert may issue and when the alert issues. It also creates an exception for display of traffic emergency information in lieu of blue alert information.

This bill creates s. 784.071 of the Florida Statutes.

II. Present Situation:

It appears that Florida was the first state to implement a "blue alert" program, which goes by the name Florida Law Enforcement Officer (LEO) Alert Plan. According to FDLE staff, to activate the alert, the following four criteria must be met:

- The offender(s) killed or critically injured a law enforcement officer.
- The law enforcement agency's investigation must conclude that the offender(s) pose a serious public risk.
- There must be a detailed description of the offender's vehicle, including tag or partial tag, to broadcast to the public.

- The activation must be recommended by the local law enforcement agency of jurisdiction.

The FDLE has provided the following additional information regarding the Florida program:

> On May 5, 2008, Florida Governor Charlie Crist signed Executive Order Number 08-81 establishing the Florida Law Enforcement Officer (LEO) Alert. This alert, which uses some of the technologies employed in an Amber Alert, was established in response to the increasing number of law enforcement officers in the state who were killed or injured in the line of duty. In some of these cases, the offender or offenders used vehicles to flee and attempt to escape.
>
> Under this plan, the Florida Department of Law Enforcement (FDLE), the Florida Department of Transportation (FDOT), and the Department of Highway Safety and Motor Vehicles' Florida Highway Patrol (FHP) will immediately broadcast important information about an offender(s) who has seriously injured or killed a law enforcement officer.
>
> The information will be broadcast through dynamic highway message signs and other appropriate notification methods to increase the chances of capturing the suspect(s) responsible for injuring or killing a law enforcement officer.
>
> To activate a LEO Alert, the following steps must occur in this order:
>
> 1. The local law enforcement agency of jurisdiction will call FDLE's Florida Fusion Center (FFC) desk at 850-410-7645. This LEO Alert point of contact is manned 24 hours a day, seven days a week.
>
> 2. FDLE's on-call supervisor will work with the investigating agency to offer assistance, ensure the activation criteria have been met and determine if the alert will be displayed regionally or statewide.
>
> 3. FDLE will work with the investigating agency to prepare information for public release, including suspect and/or vehicle information, as well as agency contact information.
>
> 4. FDLE will contact the Florida Highway Patrol's Orlando Regional Communications Center (ORCC) to send the LEO Alert. The ORCC communications supervisor will relay that information to other regional communication centers where the activation is taking place.
>
> 5. FDLE will contact FDOT's Orlando Regional Transportation Management Center to develop the message content using the FDOT-approved template which includes vehicle information, tag number and other identifiers.
>
> 6. FDOT will display the message until the offender(s) is captured or for a maximum of six hours. The alert will be displayed on dynamic highway message signs on all requested

highways unless a traffic emergency occurs, which requires a motorist safety message to be displayed. FDOT also will record a LEO Alert message on the 511 system when the LEO Alert is activated.

7. The same activation steps will be used if there is revised vehicle information or a broadcast area is changed.

8. Once FDLE is notified that the offender(s) has been captured, FDLE will contact the appropriate parties to cancel the alert. FHP then will notify its other offices of the cancellation.

Each activation will be reviewed by a committee of state agency partners and law enforcement representatives to ensure that criteria and goals are met and that each activation took place in a timely fashion.

According to information provided by the Officer Down Memorial Page, Inc., there have been 9 line-of-duty deaths of Florida law enforcement officers in 2011 and 6 of those deaths were the result of gunfire. According to FDLE staff, no alerts have issued since the program's inception. As previously noted, more is required than an officer's death by gunfire to activate an alert. It should also be noted that every line-of-duty death case is different. Some may involve gunfire, while others may not. Cases may not involve the use of a vehicle by the offender or vehicle information may not be available. In some cases, the suspect is quickly apprehended or is shot or killed. Further, the alert must be recommended by the local law enforcement agency of jurisdiction.

III. Effect of Proposed Changes:

Section 1: This bill requires FDLE in cooperation with DHSMV and DOT to issue a "blue alert" through the emergency alert system if all of the following conditions are met:

- A law enforcement officer has been killed, suffered serious bodily injury, or has been assaulted with a deadly weapon.
- A law enforcement officer is missing while in the line of duty evidencing concern for the officer's safety.
- A suspect has fled the scene of the offense.
- The law enforcement agency investigating the offense determines that the suspect poses an imminent threat to the public or to other law enforcement officers.
- A detailed description of the suspect's vehicle, or other means of escape, or the license plate of the suspect's vehicle is available for broadcasting.
- Dissemination of available information to the public may help avert further harm or assist in the apprehension of the suspect.
- If the law enforcement officer is missing, there is sufficient information available relating to the officer's last known location and physical description, and the description of any vehicle involved, including the license plate number or other identifying information, to be broadcast to the public and other law enforcement agencies, which could assist in locating the missing officer.

Section 2: This bill also requires a blue alert be immediately disseminated to the public through the emergency alert system by broadcasting the alert on television, radio, and the dynamic

message signs that are located along the state's highways. Should a traffic emergency arise requiring information pertaining to the traffic emergency be displayed on highway message signs, the agency responsible for displaying information on the highway message sign is not in violation of this bill.

Section 3: This act will take effect on October 1, 2011.

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:

Since there is already an existing blue alert program, it appears unlikely that the codification of this program would have any additional impact on private entities involved in the alert, such as television and radio stations broadcasting the alert.

C. Government Sector Impact:

According to the FDLE, "[t]here is no fiscal impact associated with this legislation. This bill codifies an existing program (Law Enforcement Officer Alert) created by Executive Order Number 08-81 in 2008."

VI. Technical Deficiencies:

None.

VII. Related Issues:

For comparison purposes, the criteria for activating a blue alert in Texas (the second state to adopt a blue alert program) are similar to Florida's criteria. Texas requires the following per the Texas Department of Public Safety's Blue Alert Request Instructions:

- A law enforcement officer must have been killed or seriously injured by an offender.
- The investigating law enforcement agency must determine that the offender poses a serious risk or threat to the public and other law enforcement personnel.
- A detailed description of the offender's vehicle, vehicle tag, or partial tag must be available for broadcast to the public.
- The investigating law enforcement agency of jurisdiction must recommend activation of the Blue Alert to the State Operations Center (Texas Division of Emergency Management).

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.

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 Budget Committee

BILL:	SB 514
INTRODUCER:	Senator Garcia
SUBJECT:	Vehicle Crashes Involving Death
DATE:	March 31, 2011 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dugger	Cannon	CJ	**Favorable**
2.	Maclure	Maclure	JU	**Favorable**
3.	Sadberry	Meyer, C.	BC	**Pre-meeting**
4.				
5.				
6.				

I. Summary:

The bill provides that a person who is arrested for failure to stop a vehicle at the scene of an accident involving the death of any person and who has previously been convicted of leaving the scene of an accident, racing on highways, driving under the influence (DUI), or felony driving while license suspended, revoked, canceled, or disqualified[1] must be held in custody until first appearance for a bail determination. This change prevents judges who issue warrants for failure to stop a vehicle at the scene of an accident involving death from setting a predetermined bond amount in an arrest warrant. It also prevents local jurisdictions from placing the offense on a bond schedule with predetermined bond amounts.

The bill substantially amends section 316.027 and reenacts section 921.0022, Florida Statutes.

II. Present Situation:

Duty to Remain at the Scene of an Accident

Section 316.027(1)(b), F.S., provides that the driver of any vehicle involved in a crash occurring on public or private property that results in the death of any person must immediately stop the vehicle at the scene of the crash (or as close as possible) and remain at the scene until he or she

[1] Under s. 322.34(2), F.S., for example, the first and second convictions of knowingly driving while license suspended, revoked, canceled, or disqualified are classified as second- and first-degree misdemeanors, respectively. However, a third or subsequent conviction under the statute is classified as a third-degree felony.

has fulfilled the requirements of s. 316.062, F.S.[2] Any person who willfully violates this provision commits a first-degree felony.[3]

First Appearance and Bond

Section 901.02, F.S., provides that a law enforcement officer may arrest a person who commits a crime if the officer obtains an arrest warrant signed by a judge. At the time of the issuance of the warrant, the judge may set a bond amount[4] or, in some circumstances,[5] require that the arrestee be held until first appearance for determination of bail.[6] A person arrested on a warrant with a predetermined bond amount may immediately bond out of jail following an arrest by posting the bond amount.

Current law requires the state to bring an arrestee before a judge for a first appearance within 24 hours of arrest.[7] At first appearance, a judge determines if there is probable cause to hold the arrestee, provides the arrestee notice of the charges, and advises the arrestee of his or her rights. If an arrestee is eligible for bail, the judge conducts a hearing in accordance with s. 903.046, F.S.

A law enforcement officer may arrest a person who commits a felony without a warrant if the officer reasonably believes a felony has been committed.[8] In this case, the arrestee is generally held until first appearance for a determination of probable cause and bail. In some jurisdictions, a bond schedule with predetermined bond amounts for certain offenses is agreed to and provided by judicial officers to the county detention facility. If an arrestee meets the requirements of the bond schedule, the arrestee may bond out of jail for the predetermined bond amount. This eliminates the need for an arrestee to make a first appearance before a judge.

III. Effect of Proposed Changes:

The bill is named the "Ashley Nicole Valdes Act." It requires a person who has been arrested for failure to stop a vehicle at the scene of an accident involving death to be held in custody for the court to set bail at first appearance if the person has previously been convicted of leaving the scene of an accident, racing on highways, DUI, or felony driving while his or her license is

[2] Section 316.062, F.S., provides that a driver of a vehicle involved in a crash resulting in death or injury or damage to any vehicle or other property driven or attended by any person must provide his or her name, address, and vehicle registration number, and also a driver's license, to a police officer or other person involved in the crash. The driver of any vehicle involved in a crash must report the incident to the nearest police department.
[3] A first-degree felony is punishable by imprisonment up to 30 years and a maximum $10,000 fine under ss. 775.082(3)(b), 775.083(1)(b), and 775.084, F.S.
[4] A bond amount can also include the amount of "no bond." A defendant is held with no bond if a warrant is issued for an offense where the defendant has committed a dangerous crime, there is a substantial probability the defendant committed the crime, the facts of the crime indicate the defendant has a disregard for the safety of the community, and the defendant poses such a harm to the community that no conditions of release can reasonably protect the community (e.g., homicide, robbery, sexual battery). Section 907.041(4)(c)5., F.S.
[5] For example, s. 741.2901(3), F.S., provides that a defendant arrested for domestic violence shall be held in custody until brought before the court for admittance to bail under ch. 903, F.S. At first appearance, the court must consider the safety of the victim if the defendant is released.
[6] Section 903.046, F.S., provides criteria a judge may consider in determining a bail amount.
[7] Fla. R. Crim. P. 3.130(a) and s. 903.046, F.S.
[8] Section 901.15(3), F.S.

suspended, revoked, canceled, or disqualified.[9] This change prevents judges who issue warrants for failure to stop a vehicle at the scene of an accident involving death from setting a predetermined bond amount in an arrest warrant. It also prevents local jurisdictions from placing the offense on a bond schedule with predetermined bond amounts.

The bill also reenacts s. 921.0022(3)(g), F.S., the Criminal Punishment Code, for the purpose of incorporating the bill's amendments to a reference in that statute.

The bill provides an effective date of October 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may have an impact on those who violate this statute, as they will assume the potential personal financial effects of being held in jail until first appearance for a bail determination (e.g., lost wages).

C. Government Sector Impact:

There may be a potential jail bed impact since defendants arrested under the provisions of the bill will be required to remain in jail until first appearance. However, because first appearance must occur within 24 hours of arrest, any impact is likely to be minimal.

VI. Technical Deficiencies:

None.

[9] Leaving accident scene (ss. 316.027 and 316.061, F.S.); racing on highways (s. 316.191, F.S.); DUI (s. 316.193, F.S.); driving while license is suspended, revoked, canceled, or disqualified (s. 322.34, F.S.).

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.

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 Budget Committee

BILL:	SB 626
INTRODUCER:	Senators Thrasher, Lynn, and Dean
SUBJECT:	Shands Teaching Hospital and Clinics, Inc.
DATE:	March 31, 2011 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brown	Stovall	HR	**Favorable**
2.	Brown	Matthews	HE	**Favorable**
3.	Bradford	Meyer, C.	BC	**Pre-meeting**
4.				
5.				
6.				

I. Summary:

The bill clarifies statutory provisions relating to the corporations known as Shands Teaching Hospital and Clinics, Inc. (Shands UF), Shands Jacksonville Medical Center, Inc. (Shands Jax), and Shands Jacksonville Healthcare, Inc. (Shands Health), and provisions regarding the purpose of the corporations. The bill authorizes the corporations to create subsidiaries and affiliates, and provide liability insurance to them.

The University of Florida President is granted removal authority of members of the Shands UF Board of Directors.

The bill provides the UF's Board of Trustees the right to control Shands UF and Shands Jax.

Application of sovereign immunity is extended to Shands UF, Shands Jax, Shands Health, and any not-for-profit subsidiaries.

The Department of Financial Services advises that there is no fiscal impact to the State Risk Management Trust Fund from this bill because the fund does not provide liability coverage to the University of Florida or any Shands entity.

This bill substantially amends section 1004.41 of the Florida Statutes.

II. Present Situation:

The Relationship Between Shands and the University of Florida (UF)

Shands Teaching Hospital opened in 1958 in Gainesville for the purpose of serving the needs of the UF's School of Medicine. Over the next 21 years, the hospital operated as a part of the UF. In the late 1970s, however, a legislative task force concluded that a not-for-profit corporation should be formed to provide the hospital with local governance while retaining the role as a UF teaching hospital. Shands Teaching Hospital and Clinics, Inc. (Shands UF) was created for that purpose in 1980 pursuant to state law enacted in 1979.[1]

Shands UF and Shands Jacksonville Medical Center, Inc. (Shands Jax) are the established UF teaching hospitals and are affiliated with the University's colleges in the J. Hillis Miller Health Science Center (UF HSC). Shands Jacksonville HealthCare, Inc. (Shands Health) was created as the not-for-profit parent of Shands Jax.

Sovereign Immunity

The term "sovereign immunity" originally referred to the English common law concept that the government may not be sued because "the King can do no wrong." Sovereign immunity bars lawsuits against the state or its political subdivisions for the torts of officers, employees, or agents of such governments unless the immunity is expressly waived.

Article X, s. 13, of the Florida Constitution recognizes sovereign immunity and gives the Legislature the right to waive immunity. Section 768.28, F.S., contains the limited waiver of sovereign immunity applicable to the state. Accordingly, officers, employees, and agents of the state are generally exempt from tort liability for damages unless certain high-level intent can be shown. However, these provisions are considered to represent a limited waiver as they allow for some recovery, currently capped at $100,000 per person or $200,000 per incident.[2] Limits may be exceeded through the claims process, initiated through the filing of a legislative claims bill. Still, the review and award of a claim is entirely at the prerogative of the Legislature.

State agencies and subdivisions, for purposes of sovereign immunity, are defined to include:

> The executive departments, the Legislature, the judicial branch, and the independent establishments of the state, including state university boards of trustees, counties and municipalities; and corporations primarily acting as instrumentalities or agencies of the state, counties, or municipalities….[3]

The State Risk Management Trust Fund

The Department of Financial Services (DFS) administers a program of risk management for the state in conjunction with a state self-insurance fund, designated as the State Risk Management Trust Fund (the Fund), which provides insurance for various types of proceedings against the state.[4] The Fund covers, unless specifically excluded by the DFS, all departments of the state of Florida and their employees, agents, and volunteers, under conditions and parameters set in statute.[5] The Bureau of Claims Administration within the DFS Division of Risk Management

[1] *See* ch. 79-248, L.O.F.
[2] s. 768.28(5), F.S.; ch. 2010-26, L.O.F., effective October 1, 2011, increases the caps to $200,000 per person and $300,000 per incident, to apply to claims arising on or after that effective date.
[3] s. 768.28(2), F.S.
[4] See s. 284.30, F.S.
[5] See s. 284.31, F.S.

investigates and makes appropriate dispositions on all general liability, automobile liability, federal civil rights, employment, and court-awarded attorney fee claims for damages filed against the state of Florida due to the alleged negligent acts of state employees.

Florida Case Law

Shands Teaching Hospital and Clinics, Inc. v. Lee[6]
The First District Court of Appeal specifically denied recognition of Shands UF as a corporation primarily acting as an instrumentality of the state. The court based its conclusion on a legislative provision which directed Shands UF, in concert with the Board of Regents, to study and develop a plan to become more self-sufficient and fiscally independent. This, the court determined, indicated legislative intent to imbue Shands UF with local autonomy and flexibility, outside of the auspice of direct state control and state treatment.

Prison Rehabilitative Industries v. Betterson[7]
The First District Court of Appeal concluded that since statutory authority provided for extensive government control over the day-to-day operations of the Prison Rehabilitative Industries and Diversified Enterprises (PRIDE), PRIDE was properly a corporation primarily acting as an instrumentality of the state, and therefore subject to the benefits of sovereign immunity.

Stoll v. Noel[8]
The Florida Supreme Court upheld the classification of physicians hired as part-time consultants at a health care facility run by the state Department of Health and Rehabilitative Services as agents of the state due to the degree of control retained or exerted by the state concerning final authority over care and treatment and thus entitlement to statutory immunity.

Pagan v. Sarasota County Public Hospital Board[9]
The Second District Court of Appeal asserted that structure dictates control in finding that a hospital board's structural control of a physicians' group made the group a corporation primarily acting as an instrumentality or agency of the state. In so doing, the court deemed noteworthy that the board created the nonprofit group through government funding, elected its entire board, and retained the power to dissolve it.[10]

Governance and Control of Shands Entities
The relationship between the University of Florida and the Shands entities has evolved since Shands Teaching Hospital and Clinics, Inc., was created in 1980 and since the First District Court of Appeal issued its 1985 ruling in *Shands Teaching Hospital and Clinics, Inc. v. Lee*. The University has established a significant degree of practical governance and operational control over Shands entities, as indicated by the following:

- The Shands UF, Shands Jax, and Shands Health governing boards are under the common control of the president of the University of Florida or the president's designee, the senior vice president for health affairs (VPHA).

[6] 478 So.2d 77, 79 (Fla. 1st DCA 1985)
[7] 648 So.2d 778, 780 (Fla. 1st DCA 1995)
[8] 694 So.2d 701, 703 (Fla. 1997)
[9] 884 So.2d 257 (Fla. 2nd DCA 2004)
[10] *Id*. at 259.

- The VPHA, the University Board of Trustees, and university officers, faculty, and employees have the authority to maintain a controlling majority of each Shands entity's board of directors and have continually exercised this authority.
- The University president or the VPHA:
    - Serves as board chairman and has board appointment and removal authority;
    - Serves as president of Shands UF;
    - Actively oversees administration by the chief executive officer of each Shands entity; and
    - Has officer appointment and removal authority except for the chief executive officers. (The chief executive officers are appointed or removed by the board of each entity, under the common control of the president of the University or the president's designee.)
- Any changes to the charter of Shands UF must be approved by the university board of trustees, and any changes to the Shands Jax charter or bylaws must be approved by the University-controlled board of Shands Health.
- Shands UF operates a university teaching hospital on property leased by the university.

The University of Florida J. Hillis Miller Health Center Self-Insurance Program

The Florida Board of Governors[11] has created the University of Florida J. Hillis Miller Health Center Self-Insurance Program (UF SIP) to provide comprehensive general and professional liability protection for the University of Florida's Board of Trustees in support of the colleges of the UF HSC at the Gainesville and Jacksonville campuses and their employees, agents, and students.[12]

The UF SIP also provides professional liability protection to Shands UF and Shands Jax, their not-for-profit health care affiliates, and their employees and agents. Professional liability protection is provided to Shands hospitals and to their professional health care employees in the amount of $2 million per claim, with no annual aggregate.

III. Effect of Proposed Changes:

The UF College of Health Professions is renamed the College of Public Health and Health Professions. This appears to be a ministerial change as public health is already offered as a degree program.

Provisions relating to Shands Jacksonville (Shands Jax), Shands Health, and the Jacksonville campus of the University of Florida (UF) are statutorily separated from provisions relating to the Gainesville campus of the UF and Shands Teaching Hospital and Clinics (currently referred to in statute as a private, not-for-profit corporation).

Regarding Shands UF:

[11] *See* s. 7(d), Article IX, State Constitution.
[12] *See* s. 1004.24, F.S.

- Its mission is expanded from the operation of Shands UF and ancillary facilities to supporting the university board of trustees' (UBOT) mission of community service and patient care, education and training and clinical research.
- Board of Directors removal authority is added to the existing appointment authority granted to the university president or the president's designee.
- The use of hospital facilities and personnel for community service and patient care is added to other allowable uses, as detailed in UBOT agreements.
- Comprehensive general liability insurance currently authorized for Shands affiliates by the UBOT is permitted for subsidiaries.
- Shands UF, with approval of the UBOT, is authorized to create for-profit and not-for-profit corporate subsidiaries and affiliates.
- The UBOT is afforded control of Shands UF, and Shands UF and any not-for-profit subsidiaries of Shands UF are granted sovereign immunity.

Regarding Shands Jacksonville (Shands Jax) and Shands Health:

- They exist as private not-for-profit corporations organized to support the UBOT mission of community service and patient care, education and training, and clinical research.
- Shands Jax is a teaching hospital affiliated with the UBOT, located on the UF Jacksonville campus.
- Shands Jax and Shands Health, with approval of the UBOT, are authorized to create for-profit and not-for-profit corporate subsidiaries and affiliates.
- The UBOT is afforded control of Shands Jax and Shands Health. Shands Jax, Shands Health, and any not-for-profit subsidiary of Shands Jax is granted sovereign immunity.

This bill alternately grants these entities sovereign immunity, while, at the same time, endowing the UBOT with increased authority over Shands and its associated entities. However, the UBOT is a state agency, part of the executive branch of state government.[13] Therefore, it could be argued that Shands UF, Shands JAX, and Shands Health are eligible for sovereign immunity through their relationship with the UBOT.

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:

By designating certain not-for-profit corporations and subsidiaries as instrumentalities of the state, the bill could render those entities subject to the provisions of Article I, Section 24, of the Florida Constitution relating to access to public records and meetings.

[13] s. 1001.705(1)(d), F.S.

It is unclear whether those corporations and subsidiaries would qualify for the exemptions provided under s. 395.3036, F.S. In 1987, a newspaper alleged that Shands Teaching Hospital and Clinics, Inc., was in violation of the sunshine law and the public records law.[14] The court opined that because Shands Teaching Hospital and Clinics, Inc., is not a unit of government or private entity acting on behalf of a public agency, it was not subject to the public records law.[15]

C. Trust Funds Restrictions:

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:

By deeming Shands UF, Shands Jacksonville, Shands Health, and any not-for-profit subsidiaries of Shands UF or Shands Jacksonville as instrumentalities of the state for the purposes of sovereign immunity, the bill could reduce claim payouts by the UF SIP.

The extension of sovereign immunity to Shands UF, Shands Jax, Shands Health, and any not-for-profit subsidiaries would give these entities a competitive advantage in the marketplace by reducing the cost of insurance. There is precedence for extending sovereign immunity in these situations. The 2010 Legislature explicitly recognized the sovereign immunity of any not-for-profit subsidiaries of the H. Lee Moffitt Cancer Center and Research Institute.[16]

C. Government Sector Impact:

The DFS advises that there is no fiscal impact to the State Risk Management Trust Fund because the Fund does not provide liability coverage to the University of Florida or any Shands entity.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

[14] *Campus Communications, Inc., v. Shands Teaching Hospital and Clinics, Inc*., 512 So.2d 999 (Fla. 1st DCA 1987).
[15] *Id*.
[16] ch. 2010-85, L.O.F.

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.

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 Budget Committee

BILL:	SB 634
INTRODUCER:	Senator Simmons
SUBJECT:	Citizens Property Ins. Corp./Prohibited Activities
DATE:	March 31, 2011 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Knudson	Burgess	BI	**Favorable**
2.	Wood	Yeatman	CA	**Favorable**
3.	Leadbeater	Meyer, C.	BC	**Pre-meeting**
4.				
5.				
6.				

I. Summary:

This bill repeals s. 215.55951, F.S. The statute prohibits Citizens Property Insurance Corporation (Citizens) from seeking a rate or assessment increase based on either amendments to s. 215.5595, F.S. made by ch. 2008-66, L.O.F., or transfers enacted in ch. 2008-66, L.O.F., to the Insurance Capital Build-Up Incentive Program.

This bill repeals section 215.55951, Florida Statutes.

II. Present Situation:

Section 215.55951, F.S., prohibits Citizens from justifying a rate or assessment increase based on amendments enacted by ch. 2008-66, L.O.F., to s. 215.5595, F.S., the Insurance Capital Build-Up Incentive Program ("the Program"). The Legislature created the Program in 2006 to provide surplus note loans to insurers of up to $25 million, repayable over 20 years at the 10-year Treasury bond rate. The Program was funded with a $250 million dollar appropriation from the General Revenue Fund. To receive a loan, an insurer was required to contribute an equal amount of new capital, commit to meeting a specified minimum premium-to-surplus writing ratio for residential policies covering windstorm, and maintain at least a $50 million surplus after receiving program funds. Thirteen insurers received surplus note loans pursuant to the 2006 Program totaling $247.5 million dollars.[1]

[1] In 2009, the Legislature required all principal, interest, and late fees received from insurers to be transferred to General Revenue.

Chapter 2008-66, L.O.F., revised the requirements for the Program, and committed an additional $250 million to write new loans. The 2008 Program loans were intended to be funded by the transfer of $250 million from Citizens surplus to the General Revenue Fund. The State Board of Administration would then have made quarterly transfers to Citizens of the principal and interest payments made on surplus loans funded by the transfer. The Legislature enacted s. 215.55951, F.S., prohibiting Citizens from using the 2008 amendments or transfers to justify rate or assessment increases. However, Governor Crist vetoed the transfer of Citizens surplus to fund the Program. As a result, no insurers received loans pursuant to the 2008 iteration of the Program due to a lack of funding.

III. Effect of Proposed Changes:

Section 1 repeals s. 215.55951, F.S., which currently prohibits Citizens from justifying a rate or assessment increase based on amendments enacted in ch. 2008-66, L.O.F., to the Insurance Capital Build-Up Incentive Program. Chapter 2008-66, L.O.F., funded the program by requiring Citizens to transfer $250 million to the General Revenue Fund for transfer to the SBA to fund the Capital Build-Up Incentive Program. No loans were issued using Citizens monies because the transfer was vetoed by the Governor.

Section 2 provides an effective date of July 1, 2011.

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:

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.)

None.

B. Amendments:

None.

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 Budget Committee

BILL:	SB 636
INTRODUCER:	Senator Simmons
SUBJECT:	Repeal Obsolete Insurance Provisions
DATE:	March 31, 2011 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Arzillo	Burgess	BI	**Favorable**
2.	Roberts	Roberts	GO	**Favorable**
3.	Leadbeater	Meyer, C.	BC	**Pre-meeting**
4.				
5.				
6.				

I. Summary:

Senate Bill 636 repeals outdated or obsolete language relating to the following topics:

- Refund to Citizens Property Insurance Corporation of funds not committed or reserved for insurers in the Insurance Capital Build-Up Incentive Program,
- Requirements of pre-suit notice for suits brought against the Florida Automobile Joint Underwriting Association (FAJUA),
- Form filings for compliance with the mandatory catastrophic ground cover collapse coverage,
- Report on the development of a sinkhole database,
- Feasibility study for Florida sinkhole coverage facility, and
- Effective date of insurers' mandatory windstorm and contents coverage in property insurance policies.

This bill amends the following sections of the Florida Statutes: 215.5595, 627.311, 627.706, 627.7065, and 627.712. The bill repeals the following section of the Florida Statute: 627.7077.

II. Present Situation:

Citizens Property Insurance Refund

In 2006, the Legislature created the Insurance Capital Build-Up Incentive Program (Program) to provide insurance companies low-cost capital to write additional residential property insurance

to Florida residents.[1] The Program's goal is to increase the availability of residential property insurance coverage and to restrain increases in property insurance premiums. To accomplish this goal, the State loaned funds, in the form of surplus notes, to new or existing authorized residential property insurers. In order to receive these funds, the participating insurers agreed to write additional residential property insurance in Florida and to contribute new capital to their respective companies.

In order to finance these notes, the Legislature, in 2006, appropriated $250 million non-recurring funds from the General Revenue Fund to the Program. The Legislature required any unexpended balance to be reverted back to the General Revenue Fund on June 30, 2007. However, by June 28, 2007, the program had exhausted the Legislative appropriation.[2]

In 2008, the Legislature enacted CS/CS/SB 2860, which required Citizens Property Insurance Corporation (Citizens) to transfer $250 million to the General Revenue Fund for transfer to the Program.[3] The Program was required to return any unexpended balance to the General Revenue Fund on January 15, 2009. However, SB 2860 was vetoed by Governor Crist.[4]

Pre-Suit Notice for Suits Brought against FAJUA

The FAJUA was created to provide low-cost automobile insurance to those Florida residents that cannot procure automobile insurance. FAJUA is governed under s. 627.311(3), F.S. and every automobile insurer registered with the State is required to be a member of FAJUA. Subparagraph 627.311(3)(k)2., F.S. required that before a legal action is brought against FAJUA under s. 624.155, F.S., the Department of Financial Services (DFS) and FAJUA must be given 90 days written notice of the violation giving rise to the lawsuit.[5] However, under s. 624.155, F.S., the notice requirement for a lawsuit against an "authorized insurer" is only 60 days. Therefore, an alleged violation by FAJUA requires an additional 30 days notice. By its own provision, s. 627.311(3)(k)2., F.S., was to expire on October 1, 2007, unless reenacted by the Legislature prior to that date. The Legislature has not reenacted that subparagraph.

Form Filings for the Mandatory Catastrophic Ground Cover Collapse Coverage

In the 2007A Special Session, the Legislature required that every insurer authorized to sell property insurance in Florida must provide coverage for catastrophic ground cover collapse and

[1] Section 215.5595, F.S.
[2] Information obtained from the Final Report of the Insurance Capital Build-Up Incentive Program available at http://www.sbafla.com/fsb/LinkClick.aspx?fileticket=TYIOUbPBbDM%3d&tabid=975&mid=2692 (last viewed February 1, 2011).
[3] Section 16, ch. 2008-66, L.O.F.
[4] On May 28, 2008, Governor Charlie Crist line-item vetoed section 16 of CS/CS/SB 2860 which required the $250 million transfer from Citizens to the General Revenue Fund for use in the Capital Build Up Program. CS/HB 5057 also required the $250 million transfer and this entire bill was vetoed on June 10, 2008. (Letter to Secretary Kurt S. Browning, Secretary of State, from Governor Charlie Crist dated June 10, 2008).
[5] Section 624.155, F.S., specifies the insurer violations which require pre-suit notice to the DFS and to the insurer. These violations include: unfair claim settlement practices, illegal dealings in premiums, refusal to insure, favored agent or insurer, illegal dealings for life or disability insurance, life or disability insurance discrimination based on policyholder having the sickle cell trait, return of auto insurance premium upon cancellation of the policy by the policyholder, not settling claims in good faith, claims payments made to policyholders without an accompanying statement relating to the coverage, and failure to settle a claim under one portion of an insurance policy in order to influence settlement under other portions of the policy.

make available, for an appropriate premium, coverage for sinkhole losses.[6] Catastrophic ground cover collapse coverage pays the homeowner for property damage caused by the abrupt collapse of the ground cover with a visible ground cover depression resulting in structural damage to the building when the structure is condemned and ordered to be vacated. For damages that do not reach this threshold, the homeowner can choose to purchase additional sinkhole coverage, which also requires structural damage, but does not require an abrupt collapse visible to the naked eye, resulting in condemnation by a governmental agency. Insurers were required to make a form filing with the Office of Insurance Regulation by June 1, 2007 to implement these coverage requirements.

Report on the Development of a Sinkhole Database

Section 627.7065, F.S., creates a sinkhole information database for the purpose of tracking current and past sinkhole activity and making the information available for prevention and remediation activities. The Department of Financial Services and the Insurance Consumer Advocate, in consultation with the Florida Geological Survey and the Department of Environmental Protection, was charged with implementing the database. The Florida Geological Survey is responsible for recording reports of sinkhole activity in the database, which is downloadable and available to the public.[7] In order to create the database, the Department of Environmental Protection, in consultation with the Department of Financial Services, was required to submit a report of database recommendations and other similar matters by December 31, 2005 to the Governor, the Chief Financial officer, and the Legislative presiding officers.

Feasibility Study for Florida Sinkhole Facility

Pursuant to s. 627.7077, F.S., the Florida State University College of Business Department of Risk Management and Insurance was directed by the Legislature to perform a feasibility and cost-benefit study of a Florida Sinkhole Insurance Facility. Specifically, the study was to examine the availability, coverage options, and costs associated with various sinkhole insurance programs.[8] A draft report was due to the Legislature and the Financial Services Commission by February 1, 2005, and the final report was due by April 1, 2005.

Effective date of insurers' mandatory windstorm and contents coverage

Section 627.712, F.S. requires residential property insurers to offer windstorm coverage for property insurance policies, but allows policyholders to exclude windstorm coverage and contents coverage, if specified requirements are met. The effective date of the statute, as specified in s. 627.712(7), F.S., was June 1, 2007. However, the statute allowed the Office of Insurance Regulation to extend the effective date to October 1, 2007, with the approval of the Financial Services Commission.

[6] Section 30, ch. 2007-1, L.O.F.
[7] Department of Environmental Protection, Florida Geological Survey-Data and Maps. http://www.dep.state.fl.us/geology/gisdatamaps/SIRs_database.htm, (As of February 25, 2011).
[8] Final Report: Insurance Study of Sinkholes; Submitted to the State of Florida, April 2005. http://www.floir.com/pdf/Sinkhole_Study_042005.pdf, (As of February 25, 2011).

III. Effect of Proposed Changes:

Section 1 deletes s. 215.5595(11), F.S., which requires the State Board of Administration to refund to Citizens all uncommitted Insurance Capital Build-Up Incentive Program funds that were to have been transferred from Citizens to the Program through SB 2860. The transfer of funds was never performed due to the Governor's veto of SB 2860; thus, the bill repeals this obsolete language from the statute.

Section 2 deletes s. 627.311(3)(k)2., F.S., which contains the 90 day pre-suit notice requirement for suits brought against FAJUA under s. 624.155, F.S. By its own terms, s. 627.311(3)(k)2., F.S., was to expire on October 1, 2007, unless reenacted by the Legislature prior to that date. Because the Legislature did not reinstate s. 627.311(3)(k)2., F.S., prior to October 1, 2007, that subparagraph expired and is obsolete. Therefore, the bill deletes obsolete language from the statute.

Section 3 deletes s. 627.706(3), F.S., which required insurers to file a form implementing the mandated coverage of catastrophic ground cover collapse and the optional sinkhole coverage with the Office of Insurance Regulation (OIR) by June 1, 2007. Since the time for filing has passed, and all insurers have filed with OIR, the bill deletes the obsolete language from the statute.

Section 4 deletes s. 627.7065(5), F.S., because the report of sinkhole database recommendations was filed by the Department of Environmental Protection before the deadline of December 31, 2005.

Section 5 repeals s. 627.7077, F.S., because the Florida State University College of Business Department of Risk Management and Insurance submitted the report on the feasibility of a Florida Sinkhole Insurance Facility, required by the statute, to the Legislature on April 1, 2005.[9]

Section 6 deletes s. 627.712(7), F.S., which provides an effective date of June 1, 2007, or at the latest, October 1, 2007, of the statute requiring residential property insurers to offer windstorm coverage for property insurance policies. This date has passed, and insurance companies are now required to offer windstorm coverage.

Section 7 provides that this act take effect July 1, 2011.

Other Potential Implications:

None.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

[9] *See* Note 6.

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:

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.)

None.

B. Amendments:

None.

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 Budget Committee

BILL:	SB 638
INTRODUCER:	Senator Simmons
SUBJECT:	Residential Property/Evaluation Grant Program
DATE:	March 8, 2011 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Burgess	Burgess	BI	**Favorable**
2.	Wood	Yeatman	CA	**Favorable**
3.	Leadbeater	Meyer, C.	BC	**Pre-meeting**
4.				
5.				
6.				

I. Summary:

This bill amends s. 627.0629, F.S., and deletes subsection (8) relating to a grant program for the evaluation of residential property structural soundness. This program, for homeowners insured by Citizens Property Insurance Corporation (Citizens) in the high risk account to obtain evaluations of the wind resistance of their homes, was to be administered by Citizens "to the extent that funds are provided for this purpose in the General Appropriations Act (GAA)."[1] However, no such appropriation has been awarded in recent years.

This bill substantially amends section 627.0629, Florida Statutes.

II. Present Situation:

In 1997, the Legislature enacted s. 627.0629(8), F.S.,[2] which established a grant program for homeowners insured by the Florida Windstorm Underwriting Association (FWUA) to obtain evaluations of the wind resistance of their homes. The Department of Community Affairs is required by statute to establish by rule standards to govern evaluation, recommendations for retrofitting, the eligibility of those who would perform the evaluations, and the selection of the applicants to obtain the grants. The program would be administered by the FWUA. All provisions of the program, however, are to be effected "to the extent that funds are provided for this purpose in the General Appropriations Act (GAA)." In 2002, the Florida Legislature combined the FWUA with the Florida Residential Property and Casualty Joint Underwriting Association (RPCJUA) and thereby created Citizens. At that point, Citizens assumed the

[1] Section 627.0629(8)(b), F.S.
[2] Chapter 97-55, s. 4, Laws of Fla.

responsibility for administering the structural soundness evaluation grant program, to the extent that funds are provided by the GAA.

Representatives for Citizens state that no grants have been awarded since the inception of the corporation in 2002 because funds have not been provided by the GAA.[3] Representatives of the Division of Emergency Management within the Department of Community Affairs report that the agency has not promulgated rules to establish the grant program because funds have not been provided by the GAA, which is a precondition for the program.[4]

III. Effect of Proposed Changes:

Section 1 deletes s. 627.0629(8), F.S., relating to a grant program for the evaluation of residential property structural soundness. The program is conditioned on funds being provided in the GAA, and no funds have been provided for that purpose. Accordingly, no grants have been awarded under s. 627.0629(8), F.S. The presently unfunded program, intended to provide homeowners a way to evaluate the wind resistance of their homes with respect to preventing damage from hurricanes, is terminated by this bill.

Current subsection (9) is renumbered as subsection (8).

The Office of Insurance Regulation (OIR) states that this bill has no impact on the OIR.[5]

Section 2 provides an effective date of July 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

[3] Conversation with Christine Ashburn, Director of Legislative and External Affairs, Citizens Property Insurance Corporation (Mar. 9, 2011).
[4] Conversation with Will Booher, Director of External Affairs, Department of Community Affairs Division of Emergency Management (Mar. 9, 2011).
[5] Office of Insurance Regulation, *Senate Bill 638 Response* (Feb. 3, 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:

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.)

None.

B. Amendments:

None.

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 Budget Committee

BILL:	SB 702
INTRODUCER:	Senator Flores
SUBJECT:	Umbilical Cord Blood Banking
DATE:	March 21, 2011
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	O'Callaghan	Stovall	HR	**Favorable**
2.	Munroe	Maclure	JU	**Favorable**
3.	Bradford	Meyer, C.	BC	**Pre-meeting**
4.				
5.				
6.				

I. Summary:

This bill requires the Department of Health (DOH) to post on its Internet website resources and an electronic link to materials relating to umbilical cord blood which have been developed by the Parent's Guide to Cord Blood Foundation, Inc., including:

- An explanation of the potential value and uses of umbilical cord blood;
- An explanation of the differences between using one's own cord blood cells or another's in the treatment of disease;
- An explanation of the differences between public and private umbilical cord blood banking;
- The options available to a mother relating to stem cells that are contained in the umbilical cord blood after the delivery of her newborn, including donating, storing, or discarding the stem cells;
- The medical processes involved in the collection of cord blood;
- Criteria for medical or family history that can affect a family's consideration of umbilical cord blood banking;
- Options for ownership and future use of donated umbilical cord blood;
- The average cost of public and private umbilical cord blood banking;
- The availability of public and private cord blood banks to residents of Florida; and
- An explanation of which racial and ethnic groups are in particular need of publicly donated cord blood samples based on certain medical data.

This bill requires the DOH to encourage health care providers who provide health care services directly related to a woman's pregnancy to make available to the pregnant woman before her third trimester, or at the woman's next scheduled appointment with the provider during her third

trimester, the information required under the bill to be posted by the DOH on its Internet website. This bill also absolves any health care provider or health care facility, including any employee or agent of the provider or facility, of any liability from a civil action, any criminal prosecution, or any disciplinary action if the provider or facility acted in good faith to comply with the provisions of the bill.

This bill has an insignificant fiscal impact on state government which the Department of Health has determined can be absorbed within existing resources. There is no fiscal impact to the private sector.

This bill creates an undesignated section of law.

II. Present Situation:

Umbilical Cord Blood Banking[1]

After a baby is delivered, the mother's body releases the placenta, which is the temporary organ that transferred oxygen and nutrients to the baby while in the mother's uterus. Historically, the umbilical cord and placenta were discarded after birth. However, during the 1970s, researchers discovered that umbilical cord blood could supply the same kinds of blood-forming (hematopoietic) stem cells as a bone marrow donor. Consequently, umbilical cord blood began to be collected and stored.

Blood-forming stem cells are primitive cells found primarily in the bone marrow that are capable of developing into the three types of mature blood cells contained in our blood: red blood cells, white blood cells, and platelets. Cord blood stem cells may also have the potential to give rise to other cell types in the body.

Some serious illnesses (such as certain cancers, blood diseases, and immune system disorders) require radiation and chemotherapy treatments to kill diseased cells in the body. These treatments also kill many "good" cells along with the bad, including healthy stem cells that live in the bone marrow. Depending on the type of disease and treatment needed, a patient may need a bone marrow transplant (from a donor whose marrow cells closely match their own). Blood-forming stem cells from a donor are transplanted into the ill person, and those cells then manufacture new, healthy blood cells and enhance the person's blood-producing and immune system capability.

Collection of Cord Blood

Collection of the cord blood takes place shortly after birth in both vaginal and cesarean (C-section) deliveries. The cord blood is collected using a specific kit that parents must order usually at least by the 34th week of pregnancy from their chosen cord blood bank. The kit may

[1] The following information under this subheading is adapted from KidsHealth from Nemours, *Banking Your Newborn's Cord Blood*, *available at* http://kidshealth.org/parent/_cancer_center/treatment/cord_blood.html (last visited Mar. 17, 2011). Nemours is a nonprofit organization established in 1936, which supports several children's health facilities and supports clinical research for children's health needs. *See* KidsHealth from Nemours, *About Nemours*, *available at* http://kidshealth.org/parent/kh_misc/nemours.html (last visited Mar. 3, 2011).

include a family medical history questionnaire, a consent form, and the collection materials. The informed consent must be signed prior to the onset of active labor and before the cord blood collection. The consent must contain information pertaining to what tests are to be performed on the cord blood and how the parents will be informed should the test results be abnormal.[2]

After a vaginal delivery, the umbilical cord is clamped on both sides and cut. In most cases, an experienced obstetrician or nurse collects the cord blood before the placenta is delivered. One side of the umbilical cord is unclamped, and a small tube is passed into the umbilical vein to collect the blood. After blood has been collected from the cord, needles are placed on the side of the surface of the placenta that was connected to the fetus to collect more blood and cells from the large blood vessels that fed the fetus.

During cesarean births, cord-blood collection is more complicated because the obstetrician's primary focus in the operating room is tending to the surgical concerns of the mother. After the baby has been safely delivered and surgery has concluded, the cord blood can be collected. However, less cord blood is usually collected when delivery is by C-section. The amount collected is critical because the more blood collected, the more stem cells collected. If using the stem cells ever becomes necessary, having more stem cells to implant increases the chances of engraftment, which means a successful transplantation.

After cord blood collection has taken place, the blood is placed into bags or syringes and is usually taken by courier to the cord-blood bank. Once there, it is typed, screened for infectious diseases and for hereditary hematologic diseases, and given an identifying number.[3] Then the stem cells are separated from the rest of the blood and are stored cryogenically (frozen in liquid nitrogen) in a collection facility, also known as a cord blood bank.

Storage and Use of Blood-forming Stem Cells

Because cord blood research only began in the 1970s, the maximum time for storage and potential usage for blood-forming stem cells are still being determined. Blood-forming stem cells that have been stored for more than a decade have been used successfully in transplants.

If the blood-forming stem cells are needed, blood-forming stem cells can be taken from storage, thawed, and used in either "autologous" procedures (when someone receives his or her own umbilical cord blood in a transplant) or "allogeneic" procedures (when a person receives umbilical cord blood donated from someone else, such as a sibling, close relative, or anonymous donor).

The primary reason that parents consider banking their newborn's cord blood is because they have a child or close relative with, or a family medical history of, diseases that can be treated with bone marrow transplants. Some diseases that more commonly involve bone marrow transplants include certain kinds of leukemia or lymphoma, aplastic anemia, severe sickle cell anemia, and severe combined immunodeficiency.

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[2] American Academy of Pediatrics, *Frequently Asked Questions about Cord Blood Banking*, *available at* http://www.aap.org/advocacy/releases/jan07cordbloodfaq.htm (last visited Mar. 3, 2011).
[3] *Id.*

In most cases, stem cell transplants are performed only on children or young adults. The larger the size of the person, the more blood-forming stem cells are needed for a successful transplant. Umbilical cord blood stem cells are not adequate in quantity to complete an adult's transplant. In addition, it is unknown whether stem cells taken from a relative offer more success than those taken from an unrelated donor. Stem cells from cord blood from both related and unrelated donors have been successful in many transplants, because blood-forming stem cells taken from cord blood are "naïve," which is a medical term for early cells that are still highly adaptable and are less likely to be rejected by the recipient's immune system. Therefore, donor cord-blood stem cells do not need to be a perfect match to create a successful bone marrow transplant.

Physical, Emotional, and Financial Concerns

The physical risks to the health of the mother and baby at the time of collection of the cord blood are low, but they do exist. Clamping the umbilical cord too soon after birth may increase the amount of collected blood, but it could cause the baby to have a lower blood volume and possible anemia soon after birth.

The American Academy of Pediatrics (AAP) has expressed concern that cord blood banks may capitalize on the fears and emotions of vulnerable new parents by providing misleading information about the statistics of bone marrow transplants. Parents of children of ethnic or racial minorities, adopted children, or children conceived through in vitro fertilization may be especially encouraged to bank cord blood because it is statistically harder to find a match in these cases.[4]

In 1999, the AAP stated that the academy does not recommend cord-blood banking for families who do not have a history of disease, because research has not yet determined the likelihood that a child would ever need his or her own stem cells, nor has it confirmed that transplantation using self-donated cells rather than cells from a relative or stranger is safer or more effective. According to the AAP, "private storage of cord blood as 'biological insurance' is unwise. However, banking should be considered if there is a family member with a current or potential need to undergo a stem cell transplantation."[5]

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[4] For a successful transplant, the tissue type of a bone marrow donor or a cord blood unit needs to match the patient's as closely as possible. Tissue types are inherited. Therefore, patients are more likely to match someone who shares their racial or ethnic heritage, and patients from racially or ethnically diverse communities can have a harder time finding a match. Because cord blood does not need to match a patient as closely as donated bone marrow, cord blood transplants may offer hope to these patients. More than 40 percent of minority patients who received a transplant used cord blood. National Marrow Donor Program, *Cord Blood Donation: Frequently Asked Questions*, *available at* http://www.marrow.org/HELP/Donate_Cord_Blood_Share_Life/Cord_Blood_Donation_FAQs/index.html (last visited Mar. 17, 2011).

[5] American Academy of Pediatrics, News Release, *Cord Blood Banking For Future Transplantation Not Recommended*, July 6, 1999, *available at* http://www.nationalcordbloodprogram.org/AAP%20News%20Release%20-%20AAP%20CORD%20BLOOD%20BANKING%20FOR%20FUTURE%20TRANSPLANTATION%20NOT%20RECOMMENDED.htm (last visited Mar. 17, 2011). *See also* American Academy of Pediatrics, News Release, *AAP Encourages Public Cord Blood Banking*, January 2, 2007, *available at* http://www.aap.org/advocacy/releases/jan07cordblood.htm (last visited Mar. 18, 2011), wherein the AAP stated, "Storing cord blood at private banks for later personal or family use as a general 'insurance policy' is discouraged."

Although typically there is no cost or a nominal cost for donating cord blood to a public cord blood bank, the price of banking cord blood with a private cord blood bank can be quite expensive. There are usually two fees associated with cord blood banking with a private cord blood bank. The first is the initial fee, which pays for enrollment and the collection and storage of the cord blood for at least the first year, and the second is an annual storage fee. Some facilities offer a variety of options for the initial fee with predetermined periods of storage. The initial fee ranges from $900 to $2,100 depending on the predetermined period of storage. Annual storage fees beyond the initial storage fee are approximately $100.[6]

Parent's Guide to Cord Blood Foundation, Inc.

The Parent's Guide to Cord Blood Foundation, Inc. (Foundation), is a nonprofit foundation, which was incorporated in 2007.[7]

The primary mission of the Foundation is to educate parents with accurate and current information about cord blood medical research and cord blood storage options.[8] The second mission of the Foundation is to conduct and publish statistical analyses on medical research or policy developments that could expand the likelihood of cord blood usage.[9]

The Foundation's website, which has been operational since 1998, explains the medical motivations for banking umbilical cord blood, and the difference between public bank donations versus paying for private storage of umbilical cord blood. In addition, the Foundation's website contains:[10]

- A list of all public cord blood banks that collect donations in the United States, irrespective of their business model or accreditations.[11]
- A compilation of private United States cord blood banks.[12]
- An international list of private/family cord blood banks, which is sorted by geographic region.
- An international list of private cord blood banks.
- A table of private banks, which compares their prices and accreditations at a glance.[13]

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[6] American Pregnancy Association, *Cord Blood Banking*, *available at* http://www.americanpregnancy.org/labornbirth/cordbloodbanking.html (last visited Mar. 18, 2011).
[7] Parent's Guide to Cord Blood Foundation, Inc., *Parent's Guide to Cord Blood Foundation*, *available at* http://parentsguidecordblood.org/content/usa/aboutus/index.shtml?navid=1 (last visited Mar. 18, 2011).
[8] Parent's Guide to Cord Blood Foundation, Inc., *Mission Statement*, *available at* http://parentsguidecordblood.org/index.shtml (last visited Mar 18, 2011).
[9] *Id.*
[10] *Id.*
[11] Parent's Guide to Cord Blood Foundation, Inc., *Public Cord Blood Banks in the USA*, *available at* http://parentsguidecordblood.org/content/usa/banklists/publicbanks_new.shtml?navid=15 (last visited Mar. 4, 2011). According to the Foundation's website, there are 38 public cord blood banks in the U.S. and only 2 provide banking services specifically in Florida. However, 8 cord blood banks provide banking services in all states.
[12] Parent's Guide to Cord Blood Foundation, Inc., *Family Cord Blood Banks in the USA*, *available at* http://parentsguidecordblood.org/content/usa/banklists/listusa.shtml?navid=16 (last visited Mar. 4, 2011). The Foundation's website lists 32 private cord blood banks, 6 of which provide services in Florida.
[13] The table is available at: http://parentsguidecordblood.org/content/usa/banklists/summary.shtml?navid=17#us (last visited Mar. 4, 2011).

- A consumer questionnaire that provides a guide to evaluate the services of private banks.
- A summary of diseases that have been treated by blood stem cells.[14]

The Foundation reports[15] that its website has been accredited by the international standard for medical websites, Health on the Net Foundation (HONF), since 2001.[16]

III. Effect of Proposed Changes:

This bill requires the Department of Health (DOH) to post on its Internet website resources and an electronic link to materials relating to umbilical cord blood which have been developed by the Parent's Guide to Cord Blood Foundation, Inc., including:

- An explanation of the potential value and uses of umbilical cord blood, including cord blood cells and stem cells, for individuals who are, or who are not, biologically related to a mother or her newborn child;
- An explanation of the differences between using one's own cord blood cells, a biologically related person's cord blood stem cells, or a biologically unrelated person's cord blood stem cells in the treatment of disease;
- An explanation of the differences between public and private umbilical cord blood banking;
- The options available to a mother relating to stem cells that are contained in the umbilical cord blood after the delivery of her newborn, including donating to a public umbilical cord blood bank, storing the stem cells in a private umbilical cord blood bank for use by immediate and extended family members, storing the stem cells for use by family members through a program that provides free services if there is an existing medical need, or discarding the stem cells;
- The medical processes involved in the collection of cord blood;
- Criteria for medical or family history that can affect a family's consideration of umbilical cord blood banking, including the likelihood of using a baby's cord blood to serve as a match for a family member who has a medical condition;
- Options for ownership and future use of donated umbilical cord blood;
- The average cost of public and private umbilical cord blood banking;
- The availability of public and private cord blood banks to residents of Florida, including a list of public cord blood banks and the hospitals they serve, a list of private cord blood banks, and the availability of free family banking and sibling donor programs if there is an existing medical need by a family member; and

[14] The summary of diseases that have been treated by blood stem cells, is available at: http://parentsguidecordblood.org/content/usa/medical/diseases.shtml?navid=37 (last visited Mar. 4, 2011).
[15] *Supra* note 8.
[16] "The Health On the Net Foundation (HONF) promotes and guides the deployment of useful and reliable online health information, and its appropriate and efficient use. Created in 1995, HONF is a non-profit, non-governmental organization, accredited to the Economic and Social Council of the United Nations. For 15 years, HONF has focused on the essential question of the provision of health information to citizens, information that respects ethical standards. To cope with the unprecedented volume of healthcare information available on the Net, the HONF code of conduct offers a multi-stakeholder consensus on standards to protect citizens from misleading health information." Health On the Net Foundation, Home Page, http://www.hon.ch/ (last visited Mar. 18, 2011).

- An explanation of which racial and ethnic groups are in particular need of publicly donated cord blood samples based on medical data developed by the Health Resources and Services Administration of the U.S. Department of Health and Human Services.

This bill requires the DOH to encourage health care providers who provide health care services directly related to a woman's pregnancy to make available to the pregnant woman before her third trimester, or at the woman's next scheduled appointment with the provider during her third trimester, the information required under the bill to be posted by the DOH on its Internet website.

This bill also absolves any health care provider or health care facility, including any employee or agent of the provider or facility, of any liability from a civil action, any criminal prosecution, or any disciplinary action if the provider or facility acted in good faith to comply with the provisions of the bill.

The bill provides an effective date of July 1, 2011.

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:

The provisions of this 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.

C. Trust Funds Restrictions:

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.

D. Other Constitutional Issues:

The bill absolves a health care provider or health care facility, including any employee or agent of the provider or facility, of any liability from a civil action, any criminal prosecution, or any disciplinary action if the provider or facility acted in good faith to comply with the provisions of the bill. If immunity from civil liability is legislatively accorded to a private entity, a potential constitutional challenge would be that the law violates the right of access to the courts. Section 21, Article I of the State Constitution, provides that the courts shall be open to all for redress for an injury. To impose a barrier or limitation on a litigant's right to file certain actions, the immunity from liability would have to meet the test announced by the Florida Supreme Court in *Kluger v. White*.[17] Under the test, the Legislature would have to provide a reasonable alternative remedy or commensurate benefit, or make a legislative showing of overpowering public necessity

[17] See *Kluger v. White*, 281 So. 2d 1 (Fla. 1973).

for the abolishment of the right and no alternative method of meeting such public necessity. When the Legislature restructures a cause of action, such as limiting a civil action to situations where providers or facilities did not act in good faith when providing certain information to pregnant women, the cause of action is not constitutionally suspect as a violation of the access to courts provision of the State Constitution because the cause of action is not completely destroyed, although recovery for negligence may be more difficult.[18]

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The DOH reports that they will absorb any costs associated with implementing the bill and that the time required for periodic updates to the DOH's website and encouragement of providers to disseminate information on cord blood banking can be accomplished with existing staff and by using the existing network of maternal and child health partners.[19]

VI. Technical Deficiencies:

None.

VII. Related Issues:

The DOH reports that the Foundation's website is copyrighted and requires permission from the copyright owner to repeat the information contained on the website. Therefore, the DOH reports that it will need to include a disclaimer on its website advertising the Foundation's link that access to the website through the DOH does not give the viewer of the information on the website or the DOH permission to copy or redistribute any information from the Foundation's website.[20]

VIII. Additional Information:

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

None.

[18] *Id.* at 4.
[19] Florida Department of Health, *Bill Analysis, Economic Statement, and Fiscal Note for SB 702*, dated Feb. 11, 2011. A copy of this analysis is on file with the Senate Health Regulation Committee.
[20] *Id.*

B. Amendments:

None.

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 Budget Committee

BILL:	CS/SB 960
INTRODUCER:	Environmental Preservation and Conservation Committee and Senator Bennett
SUBJECT:	Liquefied Petroleum Gas
DATE:	March 29, 2011 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiggins	Yeatman	EP	**Fav/CS**
2.	McCarthy	Cooper	CM	**Favorable**
3.	Blizzard	Meyer, C.	BC	**Pre-meeting**
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

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

I. Summary:

This bill requires the Department of Agriculture and Consumer Services (department) and other state agencies to enforce standards relating to the separation distance between liquefied petroleum gas (LP) containers and structures, property lines, and sources of ignition contained in the 2011 edition of the National Fire Protection Association (NFPA) 58, also known as the Liquefied Petroleum Gas Code. The bill also amends the definition of "propane" to reflect the national standard

The bill amends sections 527.06 and 527.21, Florida Statutes.

II. Present Situation:

The National Fire Protection Association (NFPA) 58, Liquefied Petroleum Gas Code

The National Fire Protection Association (NFPA) is an international nonprofit organization that was established in 1896 to reduce the risks and effects of fires by establishing building consensus

codes.[1] The NFPA 58, also known as the Liquefied Petroleum Gas Code, applies to "the storage, handling, transportation, and use of LP-Gas[es]," which is defined by the code to mean "gasses at normal room temperature and atmospheric pressure [that] liquefy under moderate pressure and readily vaporize upon release of the pressure."[2]

The Bureau of Liquefied Petroleum Gas Inspection (bureau) within the department is the primary agency charged with the regulation of liquefied petroleum (LP) gas wherever the product is stored, distributed, transported and used in Florida. The bureau also has statutory authority[3] over the licensing, inspection, enforcement, accident investigation and training of LP gas in the state. The department, the Department of Community Affairs' Florida Building Code Commission (FBC) and the Department of Financial Services' Office of the State Fire Marshal (OSFM) each adhere to fire safety codes put forth by the National Fire Prevention Association (NFPA)[4] regarding the regulation of LP gas.

Section 527.06(3), F.S., provides the department with the authority to adopt rules that are in substantial conformity with NFPA's published safety standards. Subsection (3), specifically provides that:

> Rules in substantial conformity with the published standards of the National Fire Protection Association shall be deemed to be in substantial conformity with the generally accepted standards of safety concerning the same subject matter.

Recently, the NFPA approved a 2011 version of the NFPA 58 LP gas code, which reduces the setback requirements for propane tanks[5] from ten feet to five feet from a building, adjoining property line, other petroleum tank, or any source of ignition. Current department rules mandate a ten-foot setback for propane tanks. The department has started the rule-making process to implement the new national standards. However, as a result of Executive Order 11-01[6], the FBC cannot commence with the rulemaking until the proposed rule is reviewed and approved by the Office of Fiscal Accountability and Regulatory Reform. Likewise, the OSFM has not yet initiated rulemaking.

Many cell phone companies in the state use backup electrical generators at their cell tower sites and switching stations. These generators are usually powered by LP gas with tanks in excess of 125 gallons, thus falling under the purview of the 2011 version of the NFPA 58 LP gas code.

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[1] National Fire Protection Association Website, *Overview*, available online at http://www.nfpa.org/categoryList.asp?categoryID=495&URL=About%20NFPA/Overview (last visited on March 18, 2011).
[2] National Fire Protection Association Website, *Document Scope of NFPA 58* available online at http://www.nfpa.org/aboutthecodes/AboutTheCodes.asp?DocNum=58 (last visited on March 18, 2011).
[3] Chapter 527, F.S.
[4] NFPA 1, NFPA 54 , and NFPA 58 (http://www.nfpa.org/categoryList.asp?categoryID=124&URL=Codes%20&%20Standards)
[5] The set back only applies to stationary engine containers with a fill valve that has an integral manual shutoff value.
[6] http://www.flgov.com/wp-content/uploads/2011/01/scott.eo_.one_.pdf

III. Effect of Proposed Changes:

Section 1 amends 527.06, F.S., to require the department, the FBC, and the OSFM to enforce the same LP gas container separation distances as adopted in the 2011 version of the NFPA 58 gas code. By enacting this legislation, the footprint of cell phone towers and switching stations may be reduced, depending upon the tanks used to store the LP gas for the backup generators. The bill also provides for the statutory language regarding the 2011 version of the NFPA 58 gas code to expire once the department, the FBC, and the OSFM have adopted the 2011 version.

Section 2 amends 527.21, F.S., to specify that the definition for propane is defined by the NFPA 58 Liquefied Petroleum Gas Code.

Section 3 provides that this act shall take effect July 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

To the extent that the new code reduces set back requirements for propane tanks from buildings and sources of ignition, the private sector may save on construction costs.

C. Government Sector Impact:

The Department of Agriculture and Consumer Services and other state agencies will be required to enforce the same NFPA 58 LP gas container separation requirements. The provisions in this bill will not have a fiscal impact to the department.

VI. Technical Deficiencies:

None.

VII. Related Issues:

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 Environmental Protection and Conservation Committee on March 10, 2011:
The CS provides for repeal under certain circumstances.

B. Amendments:

None.

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 Budget Committee

BILL:	CS/SB 968
INTRODUCER:	Environmental Preservation and Conservation Committee and Senator Dean
SUBJECT:	Boating Safety
DATE:	March 29, 2011 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiggins	Yeatman	EP	**Fav/CS**
2.	Gizzi	Yeatman	CA	**Favorable**
3.	DeLoach	Meyer, C.	BC	**Pre-meeting**
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

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

I. Summary:

This bill allows boaters who can present proof of boater safety course completion and photo identification to operate a motor vessel without waiting to receive the Florida Fish and Wildlife Conservation Commission (commission) Boating Identification card in the mail. The Boater Education Certificate must include the student's first and last name, date of birth, and the date he or she passed the course examination.

This bill amends sections 327.395 and 327.54, Florida Statutes.

II. Present Situation:

Section 327.395, F.S., requires a person born after January 1, 1988, to have a boater safety identification card to operate a vessel powered by a motor of 10 horsepower or greater. In order to obtain a boater safety identification card, the person must have completed a commission-approved boater education course that meets the minimum eight-hour instruction requirement established by the National Association of State Boating Law Administrators. A person may also obtain a boater safety identification card by passing a course equivalency examination approved

by the Florida Fish and Wildlife Conservation Commission or pass a temporary certificate examination developed or approved by commission.

The boater safety course may be taken in person at one of commission's state offices at no charge. An applicant may also take the course online at a cost of up to $30. Commission lists the approved online courses on their website.[1] The U.S. Coast Guard also offers a commission-approved course for $35.

The commission may appoint liveries, marinas, or other agents to administer the boater safety course, as long as the entities adhere to the commission's established guidelines. These private entities offer the course for approximately $30. However, these entities may not issue a boater safety card on the premises. These private entities must send a $2 exam fee to the commission, in addition to providing proof that the applicant successfully passed the course. The commission also allows the private entities to charge and keep an additional $1 service fee.[2]

Once the commission has received documented proof that the applicant successfully completed the course, then the commission will mail a boater safety identification card to the applicant. It currently takes the commission up to ten days to mail a card to an applicant who has successfully completed the boating safety course and has provided all of the necessary identification documentation. Incomplete applications may take longer, as the commission must contact the applicant and retrieve any missing information.

III. Effect of Proposed Changes:

Section 1 amends s. 327.395(6), F.S., to allow the operation of a vessel without a commission-issued Boater Identification card, for up to 90 days, for a boater who can prove boater safety course completion and provide photo identification. In order to prove boater safety course completion, the boater must be able to provide a Boater Education Certificate that includes the student's first and last name, date of birth, and the date he or she passed the course examination.

Section 2 amends s. 327.54(2), F.S., to provide an exemption to allow liveries to accept boater education certificates that contain specific data, under specified conditions outlined in s. 327.395, F.S., as proof of successfully completing the Boater Education Course.

Section 3 provides an effective date of July 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

[1] The Florida Fish and Wildlife Conservation Commission, *Boating Safety Education*, available online at http://myfwc.com/boating/safety-education/boating-courses/ (last visited on March 15, 2011).
[2] *See* s. 327.395(4), F.S.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The CS would allow liveries to accept the Boater Education Certificate as proof that the course was successfully completed. The Boater Education Certificate must include the boater's first and last name, date of birth, and the date that he or she passed the course.

Private entities may see an increase in business if they are allowed to accept the Boater Education Certificate as individuals may rent boats on the premises after successfully completing the boater education course.

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 the Committee on Environmental Preservation and Conservation on March 10, 2011:
The CS provides boaters who can present proof of boater safety course completion and photo identification to begin boating without waiting to receive the commission Boating ID card.

B. Amendments:

None.

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 Budget Committee

BILL:	SB 1142
INTRODUCER:	Senator Dockery
SUBJECT:	Adverse Possession
DATE:	March 31, 2011
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Maclure	Maclure	JU	**Favorable**
2.	Wolfgang	Yeatman	CA	**Favorable**
3.	Babin	Meyer, C.	BC	**Pre-meeting**
4.				
5.				
6.				

I. Summary:

This bill amends the current statutory process for gaining title to real property via an adverse possession claim without color of title. Specifically, the bill:

- Includes occupation and maintenance as one of the forms of proof of possession of property subject to an adverse possession claim;
- Requires the property appraiser to provide notice to the owner of record that an adverse possession claim was made;
- Specifies that the Department of Revenue must develop a uniform adverse possession return;
- Requires the adverse possessor to provide a "full and complete" legal description of the property on the return;
- Requires the adverse possessor to attest to the truthfulness of the information provided in the return under penalty of perjury;
- Requires an adverse possessor to describe, on the return, how he or she is using the property subject to the adverse possession claim;
- Includes emergency rulemaking authority for the Department of Revenue related to the adverse possession return;
- Prescribes procedures governing an adverse possession claim against a portion of an identified parcel of property, or against property that does not currently have a unique parcel identification number;
- Specifies when the property appraiser may add and remove the adverse possessor to and from the parcel information on the tax roll;
- Requires property appraisers to include a notation of an adverse possession claim in any searchable property database maintained by the property appraiser;

- Provides for priority of property tax payments made by owners of record by allowing for refunds of tax payments made by adverse possessors who submit a payment prior to the owner of record; and
- Provides that tax notices must be sent to the owner of property subject to an adverse possession claim even if the county commission has authorized the tax collector to not send out tax notices for bills under a certain amount.

This bill substantially amends sections 95.18 and 197.212, Florida Statutes, and creates section 197.3335, Florida Statutes.

II. Present Situation:

Origins of Adverse Possession

The doctrine of adverse possession "dates back at least to sixteenth century England and has been an element of American law since the country's founding."[1] The first adverse possession statute appeared in the United States in North Carolina in 1715.[2]

Adverse possession is defined as "'[a] method of acquisition of title to real property by possession for a statutory period under certain conditions.'"[3] Under the common law, an adverse possessor must generally establish five elements in relationship to possession. The possession must be:

- Open;
- Continuous for the statutory period;
- For the entirety of the area;
- Adverse to the record owner's interests; and
- Notorious.[4]

In most jurisdictions, state statutory law prescribes the limitations period – the period in which the record owner must act to preserve his or her interests in the property – while the state's body of common law governs the nature of use and possession necessary to trigger the running of the statutory time period.[5] As legal scholars have noted, "[a]dverse possession decisions are inherently fact-specific."[6] Therefore, an adverse possessor must establish "multiple elements whose tests are elastic and provide the trier of fact with flexibility and discretion."[7]

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[1] Alexandra B. Klass, *Adverse Possession and Conservation: Expanding Traditional Notions of Use and Possession*, 77 U. COLO. L. REV. 283, 286 (Spring 2006).
[2] Brian Gardiner, *Squatters' Rights and Adverse Possession: A Search for Equitable Application of Property Laws,* 8 IND. INT'L & COMP. L. REV. 119, 129 (1997).
[3] *Id*. at 122 (quoting BLACK'S LAW DICTIONARY 53 (6th ed. 1990)).
[4] *Id.*
[5] Klass, *supra* note 1, at 287.
[6] Geoffrey P. Anderson and David M. Pittinos, *Adverse Possession After House Bill 1148*, 37 COLO. LAW 73, 74 (Nov. 2008).
[7] *Id.*

Adverse Possession in Florida

In Florida, there are two ways to acquire land by adverse possession, which are prescribed by statute.[8] First, an individual adversely occupying property may claim property under color of title if he or she can demonstrate that the claim to title is the derivative of a recorded written document and that he or she has been in possession of the property for at least seven years.[9] It is irrelevant whether the recorded document is legally valid or is fraudulent or faulty. To demonstrate possession, the adverse possessor must prove that he or she cultivated or improved the land, or protected the land by a substantial enclosure.[10] Alternatively, in the event a person occupies land continuously without color of title – i.e., without any legal document to support a claim for title – the person may seek title to the property by filing a return with the county property appraiser's office within one year of entry onto the property, and paying all property taxes and any assessed liens during the possession of the property for seven consecutive years.[11] Similar to claims made with color of title, the adverse possessor may demonstrate possession of the property by showing that he or she:

- Protected the property by a substantial enclosure (typically a fence); or
- Cultivated or improved the property.[12]

Florida courts have noted that "[p]ublic policy and stability of our society . . . requires strict compliance with the appropriate statutes by those seeking ownership through adverse possession."[13] Adverse possession is not favored, and all doubts relating to the adverse possession claim must be resolved in favor of the property owner of record.[14] The adverse possessor must prove each essential element of an adverse possession claim by clear and convincing evidence.[15] Therefore, the adverse possession claim cannot be "established by loose, uncertain testimony which necessitates resort to mere conjecture."[16]

Abuse of the Adverse Possession Process

Despite certain policy considerations supporting the application of adverse possession in Florida,[17] abuse of the statute may be occurring in certain contexts because the adverse possessor

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[8] *Candler Holdings Ltd. I v. Watch Omega Holdings, L.P.*, 947 So. 2d 1231, 1234 (Fla. 1st DCA 2007). In addition to adverse possession, a party may gain use of adversely possessed property by acquiring a prescriptive easement upon a showing of 20 years of adverse use.

[9] Section 95.16, F.S. *See also Bonifay v. Dickson*, 459 So. 2d 1089 (Fla. 1st DCA 1984). The Florida Legislature, by acts now embodied in statute, reduced the period of limitations as to adverse possession to seven years but left at 20 years the period for acquisition of easements by prescription. *Crigger v. Florida Power Corp*., 436 So. 2d 937, 945 (Fla. 5th DCA 1983).

[10] Section 95.16, F.S.

[11] Section 95.18(1), F.S. The 1939 Legislature added to what is now s. 95.18(1), F.S., a provision which required that an adverse possessor without color of title must file a tax return and pay the annual taxes on the property during the term of possession. Chapter 19254, s. 1, Laws of Fla. (1939). A 1974 amendment to the statute eliminated the requirement that taxes be paid annually. Chapter 74-382, s. 1, Laws of Fla.

[12] Section 95.18(2), F.S.

[13] *Candler Holdings Ltd. I*, 947 So. 2d at 1234.

[14] *Id.*

[15] *Id.* (citing *Bailey v. Hagler*, 575 So. 2d 679, 681 (Fla. 1st DCA 1991)).

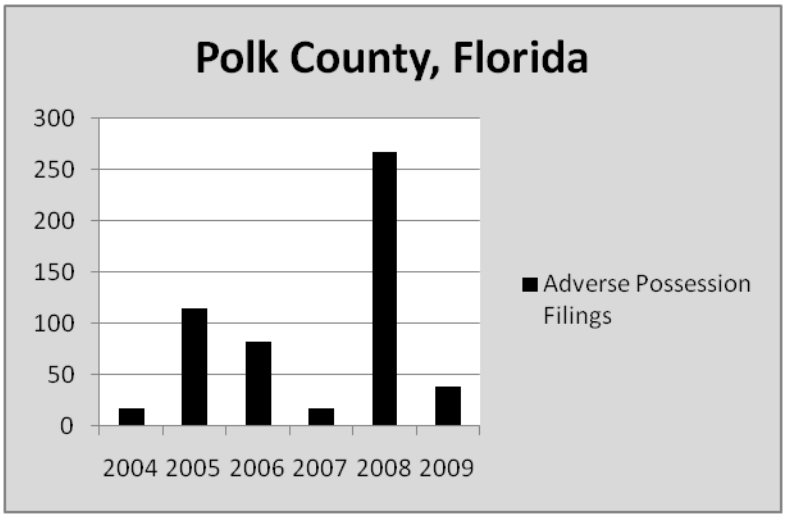
[16] *Id.* (quoting *Grant v. Strickland*, 385 So. 2d 1123, 1125 (Fla. 1st DCA 1980)).

[17] *See* Comm. on Judiciary, Fla. Senate, *Review of the Requirements for Acquiring Title to Real Property through Adverse Possession* (Interim Report 2010-123) (Oct. 2009), 2, *available at* http://archive.flsenate.gov/data/Publications/2010/Senate/reports/interim_reports/pdf/2010-123ju.pdf.

may acquire title to property in instances where the record owner attempts to pay taxes and monitors the property. Some landowners in Florida[18] have expressed concern that individuals are capitalizing on the current adverse possession laws to gain title to adjoining properties, and that the burden to overcome these claims unfairly rests with the property owner of record. For example, in some counties, adjoining landowners have filed numerous adverse possession returns on several properties and have paid property taxes on those parcels in an attempt to claim title to the property by adverse possession despite any good faith claim to title. There is no boundary line dispute or other good faith belief that the title to the property lawfully belongs to the adverse possessor. In order to protect the owner's property interests, he or she may be required to initiate litigation to eject the adverse possessor or to receive a judgment declaring his or her rights to the property. Significant legal fees and other costs may be associated with countering adverse possession claims.

Adverse Possession Trends in Florida

Some counties in Florida have experienced an influx of adverse possession claims, while other counties have received very few filings, or none at all, in recent years. For example, the following figure illustrates the number of adverse possession returns submitted to the Polk County Property Appraiser's Office in recent years:[19]



Currently, Polk County has more than 500 adverse possession returns on record. In Orange County, there are 51 adverse possession returns on record out of 434,940 total parcels. The Brevard County Property Appraiser's Office has between 100 and 150 adverse possession returns on record. Although the incidence of adverse possession claims appears to be more prevalent in rural areas in Florida, urban areas also experience adverse possession claims.

[18] Senate professional staff interviewed landowners subject to adverse possession claims, as well as real property practitioners, to gauge their experiences with the process. In some instances the record landowner may reside in another state. This absence from Florida may further impair the landowner's ability to oppose an adverse possession claim.
[19] Data provided by the Polk County Property Appraiser's Office.

Senate Review of the Adverse Possession Framework

During the 2009-10 interim, the Florida Senate Committee on Judiciary (committee) studied the current adverse possession framework in Florida and identified potential reforms to the adverse possession process for landowners, particularly those who are subject to adverse possession claims.[20] Problems associated with the current adverse possession framework identified by the report include:

- **Notice to owners of record.** In some counties, owners of record may not receive notice that an adverse possession claim is being pursued against their property. The report recommended requiring the adverse possessor or the property appraiser to provide actual or constructive notice to the owner of record of the disputed property, if the owner can be determined, upon the submission of an adverse possession return to the property appraiser.
- **Enhancements to adverse possession return.** The adverse possession return, the first step in initiation of the adverse possession process, is not used uniformly throughout the state and does not require adverse possessors to submit significant information that protects the interests of owners of record without interfering with a person's right to pursue legitimate adverse possession claims. To address these concerns, the report recommended:
    - Adopting a uniform return for adverse possession claims to promote uniformity throughout the state;
    - Providing that the adverse possessor must give a detailed description of his or her possession and use of the disputed property on the return; and
    - Requiring adverse possessors to attest to the truthfulness of the information required in the return under penalty of perjury.
- **Adverse possession notations.** Some property appraisers do not provide a clear notation in the public property database maintained on their websites of an adverse possession claim. In these counties, a property owner cannot search the property appraiser's website to quickly discern whether an adverse possession claim has been filed against a particular parcel. The report recommended requiring property appraisers to include clear notations that adverse possession filings have been made in their public searchable property databases.
- **Administration of adverse possession claims.** Property appraisers do not currently have guidance regarding how to administer the adverse possession return once it has been submitted by the adverse possessor. The report noted that the Legislature could explore the option of prescribing the process for adding the adverse possessor to the parcel information on the tax roll, as well as when a property appraiser may remove the adverse possessor from that parcel information and remove the adverse possession return from the official records.
- **Priority of tax payments.** Under the current statutory framework, if an adverse possessor makes an annual property tax payment prior to the owner of record, the tax collector cannot accept a subsequent payment from the owner of record. The report noted that the Legislature could explore the option of establishing priority of tax payments to

[20] Comm. on Judiciary, Fla. Senate, *supra* note 17.

improve an owner of record's ability to pay taxes on his or property even if the adverse possessor makes the first tax payment.

The committee report included additional options available to the Legislature to discourage abuse of the adverse possession process and to improve the administration of these claims for the benefit of record landowners, adverse possessors, and those governmental entities that are responsible for the administration of these claims.

III. Effect of Proposed Changes:

The bill amends the current process for gaining title to real property via an adverse possession claim without color of title.

Possession of the Property

The bill makes several changes to the current language included in the adverse possession (without color of title) statute for clarity, including a change designed to account for the establishment of "possession" in urban areas, and to make clear that property will be deemed to be possessed by the adverse possessor when:

- It is protected by a substantial enclosure;
- It has been usually cultivated or improved; or
- It has been occupied and maintained.

In effect, a person claiming adverse possession may establish possession under the statute by satisfying any of these three criteria. Because properties subject to adverse possession claims in urban areas may not, in some instances, be amenable to protection by a substantial enclosure, or cultivation or improvement, the bill allows the adverse possessor to establish possession by occupying and maintaining the property.

Adverse Possession Return

The bill makes several changes to the information contained in the adverse possession return submitted by an adverse possessor to initiate the adverse possession claim. The bill requires the Department of Revenue (DOR) to develop a uniform adverse possession return to be used throughout the state. In addition to the information contained on the current form developed by DOR, the bill requires the adverse possessor to provide a "full and complete legal description of the property" on the return.[21] The adverse possessor must also attest to the truthfulness of the information contained on the form under penalty of perjury.[22]

[21] The Department of Revenue created a sample return form for use by property appraisers, which included the following information: date of filing; date of entering into possession of the property; name and address of the claimant; legal description of the property; notarization clause; and receipt (to be completed by the property appraiser or a designated representative upon submission of the return). *See* Florida Dep't of Revenue, Form DR-452, *Form for Return of Real Property in Attempt to Establish Adverse Possession without Color of Title* (rev. Aug. 1993).

[22] A person who knowingly made a false declaration on the return would be guilty of the crime of perjury by false written declaration, which is a third-degree felony, punishable by imprisonment not to exceed five years and a fine not to exceed $5,000. Section 92.525(3), F.S.

Finally, under the bill, the adverse possessor must provide a description of his or her use of the property in the return. For example, the adverse possessor may state in the return that he or she has fenced-in the property subject to the claim, or is allowing his or her cattle to graze over the subject property.

Emergency Rulemaking Authority

The bill grants the Department of Revenue (DOR) the authority to adopt emergency rules related to the changes to the adverse possession return. More specifically, the bill provides that the executive director of the DOR is authorized to adopt emergency rules for the purpose of implementing the additions and changes to the adverse possession return form created by DOR. These emergency rules may remain in effect for six months after the rules are adopted and may be renewed during the pendency of procedures to adopt final rules addressing the adverse possession return.

Notice to Owner of Record

The bill requires the property appraiser to provide notice to the owner of record that an adverse possession return was submitted. The property appraiser must send to the owner of record a copy of the return, via regular mail. The property appraiser is also required to inform the owner of record that, under the provisions created in the bill and discussed in greater detail below, any tax payment made by the owner of record prior to April 1 following the year in which the tax is assessed will have priority over any tax payment made by the adverse possessor.

Property Appraiser's Administration of the Return

Upon submission of the return, the property appraiser must complete a receipt acknowledging submission of the return. The bill authorizes the property appraiser to refuse to accept a return if it fails to comply with the requirements prescribed in the bill. Under the bill, upon receipt of the adverse possession return, the property appraiser must add a notation at the beginning of the first line of the legal description on the tax roll that an adverse possession claim has been initiated. Until a recent bulletin by the Department of Revenue advising otherwise, some property appraisers were adding the adverse possessor as an additional "owner" on the tax roll.[23] The property appraiser is also required to maintain the adverse possession return in the property appraiser's records.

Claim Against a Portion of a Parcel or Against Property Without a Parcel Number

The bill prescribes procedures when an adverse possession claim is made against a *portion* of property with a unique parcel identification number. The person claiming adverse possession shall provide a legal description of the portion sufficient for the property appraiser to identify the portion. If the property appraiser cannot identify the portion of property from the description, the person must obtain a survey of the portion of property. If the whole property already has been assigned a parcel identification number, the property appraiser may not assign a new parcel

[23] Florida Dep't of Revenue, *Florida Department of Revenue Property Tax Information Bulletin*: *Return of Real Property in Attempt to Establish Adverse Possession without Color of Title, Form DR-452* (Jan. 25, 2010).

number to the portion of the property subject to the claim. The property appraiser shall assign a fair and just value to the portion of the property subject to the claim.

The bill also prescribes procedures when an adverse possession claim is made against property that does not yet have a parcel identification number. The person claiming adverse possession shall provide a legal description of the property sufficient for the property appraiser to identify it. If the property appraiser cannot identify the property from the description, the person must obtain a survey of the property. The property appraiser shall assign a parcel identification number to the property and assign a fair and just value to the property.

Removal of Notation from Parcel Information

The bill also delineates when the property appraiser may remove the adverse possessor from the parcel information contained in the tax roll. Under the bill, the property appraiser must remove the notation to the legal description on the tax roll that an adverse possession return has been submitted if:

- The adverse possessor notifies the property appraiser in writing that he or she is withdrawing the claim;
- The owner of record provides a certified copy of a court order, entered after the date of the submission of the return, establishing title in the owner of record;
- The property appraiser receives a recorded deed, filed after the date of the submission of the return, transferring title of the same property subject to the claim from the adverse possessor to the owner of record; or
- The tax collector or owner of record submits to the property appraiser a receipt demonstrating that the owner of record has made an annual tax payment for the property subject to the adverse possession claim during the period that the person is claiming adverse possession.

If any one of these events occurs, the property appraiser must also remove the adverse possession return from the property appraiser's records.

Adverse Possession Filing Notation

The bill requires every property appraiser who maintains a public searchable database to provide a clear and obvious notation in the parcel information of the database maintained by the property appraiser that an adverse possession return has been submitted for the particular parcel. Those property appraisers who do not currently offer a searchable database to the public are not subject to this requirement, unless they offer a searchable database to the public in the future.

Tax Payments

The bill provides for priority of property tax payments made by owners of record whose property is subject to an adverse possession claim. Under current law, if an adverse possessor makes a tax payment prior to the owner of record, the tax collector is not authorized to accept a subsequent payment by the owner of record. Under the bill, if an adverse possessor makes an annual tax payment on property subject to the adverse possession claim, and the owner of record subsequently makes a tax payment prior to April 1, the tax collector is required to accept the

owner of record's payment. Within 60 days, the tax collector must then refund the adverse possessor's tax payment. The bill specifies that the refund to the adverse possessor is not subject to approval from the Department of Revenue.[24]

The bill also specifies that, upon receipt of a subsequent payment for the same annual tax assessment for a particular parcel, the tax collector must determine if an adverse possession return has been submitted on the particular parcel. If a return has been submitted, the tax collector must refund the payment made by the adverse possessor and afford the owner of record priority of payment, as specified in the bill.

In addition, the bill sets forth the tax-payment and refund procedures when only a portion of an identified parcel of property is subject to an adverse possession claim.

The bill excludes properties subject to adverse possession claims from the minimum tax bill provision. Therefore, tax notices must be sent to the owner of property subject to an adverse possession claim even if the county commission has authorized the tax collector to not send out tax notices for bills under a certain amount.

Effective Date

The bill has an effective date of July 1, 2011, and applies to adverse possession claims in which the return was submitted on or after this date, except for the procedural provisions governing the property appraiser's administration of the adverse possession claims included in proposed s. 95.18(4)(c) and (d) (requiring the property appraiser to add a notation of the adverse possession filing and maintain a copy of the return) and (7), F.S. (delineating when the property appraiser may remove the adverse possession notation). These provisions will apply to adverse possession claims in which the return was submitted before, on, or after July 1, 2011.

Other Potential Implications:

Establishment of priority of tax payments made by owners of record whose properties are subject to an adverse possession claim would represent a significant policy shift that could effectively preclude an adverse possessor from obtaining title to property, because the adverse possessor may be unable to satisfy the tax-payment element of the adverse possession statute. The current statutory framework contemplates that the tax payment is a necessary step for the person claiming adverse possession to gain title to the property. Therefore, current practice by tax collectors is to accept a payment made by an adverse possessor if made prior to a payment by the owner of record.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

By requiring a property appraiser to send a notice by regular mail to the owner of record when an adverse possession return is submitted, local governments are required to take

[24] Currently, certain refunds of $400 or more must be approved by the Department of Revenue prior to the tax collector's remittance of the refund. *See* s. 197.182(1)(i), F.S.

action requiring the expenditure of funds. However, the measure would appear to be exempt from the State Constitution's restrictions governing local mandates because the fiscal impact appears to be insignificant due to the minimal number of adverse possession claims generally submitted in a county each year.[25]

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

This bill specifically applies some of its procedural provisions retroactively to existing cases in which a person has submitted an adverse possession return to the property appraiser. Retroactive operation is disfavored by courts and generally "statutes are prospective, and will not be construed to have retroactive operation unless the language employed in the enactment is so clear it will admit of no other construction."[26] The Florida Supreme Court has articulated four issues to consider when determining whether a statute may be retroactively applied:

- Is the statute procedural or substantive?
- Was there an unambiguous legislative intent for retroactive application?
- Was a person's right vested or inchoate?
- Is the application of the statute to these facts unconstitutionally retroactive?[27]

The general rule of statutory construction is that a procedural or remedial statute may operate retroactively, but that a substantive statute may not operate retroactively without clear legislative intent. Substantive laws either create or impose a new obligation or duty, or impair or destroy existing rights, and procedural laws enforce those rights or obligations.[28] The provisions that this bill applies retroactively relate to the property appraisers' administration of the return by adding or removing the return from their records. These procedural steps by the property appraiser would not appear to impair the vested rights of persons pursuing adverse possession claims.

Additionally, the bill makes it clear that it is the Legislature's intent to apply the law retroactively. "Where a statute expresses clear legislative intent for retroactive application, courts will apply the provision retroactively."[29] A court will not follow this

[25] FLA. CONST. art. VII, s. 18(d).
[26] Norman J. Singer and J.D. Shambie Singer, *Prospective or retroactive interpretation*, 2 SUTHERLAND STATUTORY CONSTR. s. 41:4 (6th ed. 2009).
[27] *Weingrad v. Miles*, 29 So. 3d 406, 409 (Fla. 3d DCA 2010) (internal citations omitted).
[28] *See Alamo Rent-A-Car, Inc. v. Mancusi*, 632 So. 2d 1352, 1358 (Fla. 1994); *In re Rules of Criminal Procedure*, 272 So. 2d 65, 65 (Fla. 1972).
[29] *Weingrad*, 29 So. 3d at 410.

rationale, however, if applying a statute retroactively will impair vested rights, create new obligations, or impose new penalties.[30] This bill does not appear to do any of these things.

Accordingly, the retroactive application of certain procedural provisions included in the bill does not appear to raise constitutional concerns.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Some landowners whose properties are subject to adverse possession claims may be relieved from certain litigation costs associated with opposing the claim.

C. Government Sector Impact:

Those property appraisers maintaining a public database may experience a minimal fiscal impact associated with the new requirement to provide a clear-and-obvious notation in the parcel information of any public searchable property database maintained by the property appraiser that an adverse possession return has been submitted. In addition, the property appraiser may experience a minimal increase in administrative costs associated with providing notice to the owner of record that the claim has been filed, as well as determining when an adverse possessor may be removed from the parcel information on the tax roll.

Tax collectors may also experience an increase in administrative costs associated with processing payments by adverse possessors and remitting refunds to adverse possessors when duplicate tax payments are made by owners of record. Because the number of adverse possession filings in most counties is minimal, these costs are not likely to be significant.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

[30] *Id.* at 411.

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.